

Texas Historical Statutes Project

1958 SUPPLEMENT
TO
VERNON'S TEXAS STATUTES 1948



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**VERNON'S
TEXAS STATUTES
1958 SUPPLEMENT**

**Including General and Permanent Laws,
of the
55th Legislature, Regular Session
and
First and Second Called Sessions**

TABLES and INDEX

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

**KANSAS CITY, MO.
VERNON LAW BOOK COMPANY**

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1958 SUPPLEMENT

This Supplement to Vernon's Texas Statutes includes the laws of a general and permanent nature enacted at the Regular Session and the First and Second Called Sessions of the 55th Legislature. The sessions convened and adjourned as follows:

| | Convened | Adjourned |
|---------------------------|-------------------|-------------------|
| Regular Session ----- | January 8, 1957 | May 23, 1957 |
| First Called Session ---- | October 14, 1957 | November 12, 1957 |
| Second Called Session -- | November 13, 1957 | December 3, 1957 |

This volume supplements the 1948 edition of Vernon's Texas Statutes and the 1950, 1952, 1954 and the 1956 Supplements. Many important new laws were enacted at the 1957 sessions including the new Mental Health Code and the State Purchasing Act of 1957.

The constitutional amendments approved by the voters on November 6, 1956 and November 5, 1957 are also included.

To assist the user in readily locating any article or section affected by legislation from 1949 through 1957, a special Table of Articles has been prepared and is printed on the colored pages herein.

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

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

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

VERNON LAW BOOK COMPANY

March, 1958

Cite This Book by Article

Vernon's Texas Civ. St., 1958 Supp. Art. —.

Vernon's Texas P. C., 1958 Supp. Art. —.

Vernon's Texas C. C. P., 1958 Supp. Art. —.

Vernon's Texas Probate Code, § —.

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

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| 703a | New | 1956 | 971a | New | 1950 |
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| 717j | New | 1956 | 974c—4 | New | 1950 |
| 717k | New | 1956 | 974d—2 | New | 1950 |
| 717l | New | 1958 | 974d—3 | New | 1954 |
| 752a | Am. | 1956 | 974d—4 | New | 1956 |
| 752y—4 | New | 1958 | 974d—5 | New | 1956 |
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| § 7 | Am. | 1954 | § 8 | Am. | 1950 |
| 1109e | New | 1950 | § 9 | Am. | 1950 |
| 1109f | New | 1956 | § 9 | Am. | 1958 |
| 1109g | New | 1956 | § 12 | Am. | 1958 |
| 1109h | New | 1958 | § 13 | Am. | 1958 |
| 1109i | New | 1958 | § 14 | Am. | 1950 |
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| 1696a | New | 1956 | § 17 | Am. | 1952 |
| 1702a—1 | Am. | 1958 | § 17 | Am. | 1956 |

ARTICLES AFFECTED FROM 1949 TO 1957

| Civ.St. | | Vernon's | Civ.St. | | Vernon's |
|--------------------------|---------------|-----------------|----------------|---------------|-----------------|
| Art. | Effect | Texas | Art. | Effect | Texas |
| | | St.Supp. | | | St.Supp. |
| 1970—339A | New | 1956 | 2328b—3 | New | 1952 |
| § 8 | Am. | 1956 | § 8 | Am. | 1954 |
| § 18 | Am. | 1956 | § 11 | Am. | 1954 |
| 1970—340 | New | 1950 | § 12 | Am. | 1954 |
| 1970—340.1 | New | 1958 | 2329 | Rep. | 1950 |
| 1970—341 | New | 1952 | 2338—1 | Am. | 1950 |
| 1970—342 | New | 1954 | § 4 | Am. | 1952 |
| 1970—343 | New | 1956 | § 4 | Am. | 1954 |
| 1970—344 | New | 1958 | 2338—2 | New | 1950 |
| 1970—345 | New | 1958 | 2338—2a | New | 1958 |
| 1970a—1 | New | 1958 | 2338—3 | New | 1950 |
| 1995 | | | §§ 2-4 | Am. | 1952 |
| (9) | Am. | 1954 | §§ 6-9 | Am. | 1952 |
| (9a) | New | 1954 | §§ 12-14 | Am. | 1952 |
| (17a) | New | 1956 | 2338—3a | New | 1958 |
| 2039a | Am. | 1950 | 2338—4 | New | 1952 |
| § 1 | Am. | 1954 | 2338—5 | New | 1954 |
| § 2 | Am. | 1954 | 2338—6 | New | 1954 |
| § 4 | Am. | 1954 | 2338—7 | New | 1956 |
| 2039c | Am. | 1950 | 2338—7a | New | 1958 |
| 2075 | Am. | 1956 | 2338—8 | New | 1958 |
| 2093e | New | 1950 | § 2 | Am. | 1958 |
| 2094 | Am. | 1950 | § 6 | Am. | 1958 |
| 2094 | Am. | 1958 | § 9 | Am. | 1958 |
| 2095 | Am. | 1950 | 2338—9 | New | 1958 |
| 2122 | Am. | 1954 | 2350, | | |
| 2133 | Am. | 1957 | § 2a | New | 1950 |
| 2135 | Am. | 1956 | § 2b | New | 1952 |
| (4) | Am. | 1954 | 2350(6) | Am. | 1950 |
| (17) | New | 1958 | 2350(6) | Am. | 1954 |
| 2168a | Am. | 1950 | 2350m, | | |
| 2226 | Am. | 1950 | § 3a | New | 1956 |
| 2226 | Am. | 1954 | § 3b | New | 1956 |
| 2268a | New | 1950 | 2350n | New | 1952 |
| 2320b, § 4 | Rep. | 1952 | 2351 | Am. | 1950 |
| 2320c | New | 1950 | 2351a—4 | New | 1950 |
| 2323a | New | 1952 | 2351a—5 | New | 1952 |
| 2324 | Am. | 1956 | 2351a—6 | New | 1958 |
| 2325 | Rep. | 1956 | 2351d | New | 1950 |
| 2326 | Am. | 1950 | 2351e | New | 1950 |
| 2326 | Am. | 1954 | 2351f | New | 1952 |
| 2326a | Am. | 1958 | 2351g | New | 1956 |
| 2326i | New | 1950 | 2351h | New | 1958 |
| 2326j | New | 1950 | 2352d | Am. | 1956 |
| 2326j | Am. | 1958 | § 1 | Am. | 1952 |
| 2326j—1 | New | 1958 | 2368a, | | |
| 2326j—1 | Am. | 1958 | § 2 | Am. | 1950 |
| 2326j—2 | New | 1958 | § 2a | New | 1954 |
| 2326k | New | 1952 | § 2b | New | 1954 |
| 2326k combined with 2326 | | 1954 | §§ 5, 6 | Am. | 1952 |
| 2326l | New | 1958 | 2368a—1 | New | 1950 |
| 2327c | New | 1950 | 2368a—2 | New | 1954 |
| 2327d | New | 1952 | 2368a—3 | New | 1954 |
| 2327d | Am. | 1956 | 2368a—4 | New | 1956 |
| 2328a, § 3 | Am. | 1954 | 2368a—5 | New | 1958 |
| 2328b—1 | New | 1952 | 2368f | New | 1950 |
| § 2-A | New | 1954 | 2370a | New | 1950 |
| 2328b—2 | New | 1952 | 2370a | Expired | 1952 |
| | | | 2370b | New | 1958 |

VERNON'S TEXAS STATUTES

| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|--------|-------------------------------|------------------|--------|-------------------------------|
| 2371 | Am. | 1952 | 2615d | Am. | 1958 |
| 2372a—1 | New | 1954 | 2615e | New | 1950 |
| 2372d—2 | New | 1950 | 2616a | New | 1950 |
| 2372d—3 | New | 1952 | 2618 | Am. | 1954 |
| 2372h, § 6 | Am. | 1950 | 2620 | Am. | 1950 |
| 2372i | New | 1950 | 2620a | New | 1950 |
| 2372j | New | 1950 | 2624 | Am. | 1958 |
| 2372k | New | 1952 | 2624b | New | 1958 |
| 2372l | New | 1954 | 2624c | New | 1958 |
| 2372m | New | 1956 | 2628d | New | 1956 |
| 2372m | Am. | 1956 | 2632d | New | 1954 |
| 2372n | New | 1956 | 2632e | New | 1958 |
| 2428 | Am. | 1953 | § 1 | Am. | 1958 |
| 2460a | New | 1954 | 2633a | New | 1950 |
| § 5 | Am. | 1956 | 2637j | New | 1952 |
| § 5a | New | 1956 | 2643b—1 | New | 1952 |
| 2461 | Am. | 1950 | 2643d | New | 1950 |
| 2462 | Am. | 1950 | § 1 | Am. | 1956 |
| 2464 | Am. | 1950 | 2643e | New | 1950 |
| 2465 | Am. | 1950 | 2643f | New | 1952 |
| 2465 | Am. | 1952 | 2643f—1 | New | 1956 |
| 2465 | Am. | 1954 | 2643g | New | 1954 |
| 2468 | Am. | 1950 | 2643g | Am. | 1956 |
| 2469 | Am. | 1950 | 2647 | Am. | 1950 |
| 2470 | Am. | 1950 | 2647c | Am. | 1950 |
| 2471 | Am. | 1950 | 2647d—2647g | New | 1950 |
| 2477 | Am. | 1950 | 2647h | New | 1958 |
| 2477 | Am. | 1954 | 2650 | Rep. | 1954 |
| 2481 | Am. | 1958 | 2651a | New | 1950 |
| 2482 | Am. | 1958 | 2652 | Rep. | 1954 |
| 2483 | Am. | 1954 | 2654b—1, § 5 | New | 1954 |
| 2484 | Am. | 1950 | 2654c | Am. | 1958 |
| 2484 | Am. | 1954 | 2654c(6) | Am. | 1954 |
| 2484b | New | 1950 | 2654d—1 | New | 1950 |
| 2529 | Am. | 1956 | 2654d—1 | Am. | 1958 |
| 2530a | New | 1954 | 2654f | New | 1950 |
| 2543c | Am. | 1952 | 2654—1 to 2654—7 | New | 1950 |
| 2553 | Am. | 1950 | 2654—1, | | |
| 2570—2583 | Rep. | 1956 | § 4 | New | 1952 |
| 2583a | New | 1952 | § 4a | New | 1954 |
| 2583a | Rep. | 1956 | 2654—3a | New | 1952 |
| 2589d | New | 1954 | § 1 | Am. | 1956 |
| 2589e | New | 1954 | 2663b—2 | New | 1956 |
| 2592a | New | 1950 | 2671 | Am. | 1956 |
| 2597 | Am. | 1950 | 2673 | Am. | 1956 |
| 2603a, | | | 2673a—2673i | New | 1950 |
| § 4 | Am. | 1958 | 2675—1 note | New | 1950 |
| § 5 | Am. | 1958 | 2675c—1 | New | 1956 |
| § 8 | Am. | 1956 | 2676 | Am. | 1958 |
| 2603g | New | 1954 | 2688c | New | 1950 |
| 2603h | New | 1958 | 2688c | Am. | 1954 |
| 2605 | Rep. | 1952 | 2688c | Am. | 1958 |
| 2606b | New | 1950 | § 2 | Am. | 1952 |
| 2613 | Am. | 1952 | 2696 | Am. | 1954 |
| 2613a—3 | Am. | 1954 | 2698 | Am. | 1954 |
| § 1 | Am. | 1958 | 2700 | Am. | 1950 |
| 2613a—7 | New | 1956 | 2701 | Am. | 1954 |
| 2613a—8 | New | 1958 | 2742o | New | 1950 |
| 2613c | New | 1956 | 2744a—1 | New | 1950 |
| 2615d | New | 1950 | | | |

ARTICLES AFFECTED FROM 1949 TO 1957

| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|--------|-------------------------------|-----------------|--------|-------------------------------|
| 2744e-4, | | | 2802e-1 | Am. | 1956 |
| § 5 | Am. | 1952 | 2802f-3 | New | 1954 |
| § 7 | Am. | 1952 | 2802i-28 | New | 1950 |
| 2744e-5 | New | 1950 | 2802i-29 | New | 1952 |
| 2744e-6 | New | 1950 | 2802i-30 | New | 1958 |
| 2745b | New | 1950 | 2802j | New | 1952 |
| 2745c | New | 1958 | 2803c | New | 1950 |
| 2746 | Am. | 1950 | 2804a | New | 1954 |
| 2746a | Am. | 1958 | 2805a | New | 1950 |
| 2750a-2 | New | 1954 | 2806d | New | 1950 |
| 2750a-2 | Am. | 1956 | 2806e | New | 1950 |
| 2756c | New | 1954 | 2806e | Am. | 1956 |
| § 2a | New | 1958 | 2815-2 | New | 1950 |
| 2763 | Am. | 1952 | 2815-2 | Rep. | 1952 |
| 2766a | New | 1956 | 2815g-1a | Am. | 1952 |
| 2767 | Am. | 1956 | 2815g-1b | New | 1958 |
| 2767-1 | New | 1956 | 2815g-39 | | |
| 2773 | Am. | 1954 | to | | |
| 2774b | New | 1952 | 2815g-43 | New | 1950 |
| 2774c | New | 1954 | 2815g-44 | | |
| 2774d | New | 1958 | to | | |
| 2775a | New | 1954 | 2815g-46 | New | 1952 |
| 2775a-1 | New | 1956 | 2815g-47 | New | 1954 |
| 2777d | Am. | 1950 | 2815g-48 | New | 1956 |
| 2779b | New | 1954 | 2815g-49 | New | 1956 |
| § 1 | Am. | 1956 | 2815g-50 | New | 1956 |
| 2783c, | | | 2815g-51 | New | 1958 |
| § 1 | Am. | 1952 | 2815h, | | |
| § 2 | Am. | 1952 | § 7a(1) | New | 1952 |
| §§ 4-6 | Am. | 1952 | § 7b | Am. | 1950 |
| § 8 | Am. | 1952 | § 17 | Am. | 1958 |
| 2783d, | | | § 17(a) | Am. | 1950 |
| § 5 | Am. | 1954 | § 17(a) | Am. | 1958 |
| § 6 | Am. | 1950 | 2815h-6 | New | 1950 |
| 2783e | New | 1950 | 2815h-7 | New | 1952 |
| 2783f | New | 1954 | 2815h-8 | New | 1958 |
| 2784e-1 | New | 1956 | 2815j-2 | New | 1950 |
| 2784e-1 | Am. | 1958 | 2815k, | | |
| 2784f | New | 1950 | § 6 | Am. | 1950 |
| 2784g | New | 1954 | § 8(1) | New | 1950 |
| 2785 | Am. | 1954 | 2815k-1 | Am. | 1952 |
| 2786 | Am. | 1958 | 2815m-1 | New | 1950 |
| 2786c | New | 1952 | 2815n | New | 1950 |
| 2786d | New | 1954 | § 2a | New | 1958 |
| 2786d | Am. | 1958 | 2815o-2815s | New | 1950 |
| 2786e | New | 1954 | 2815o-1 | New | 1952 |
| 2786f | New | 1954 | 2815r, §§ 3, 4 | Am. | 1952 |
| 2788a | New | 1950 | 2815r-1 | New | 1956 |
| § 1 | Am. | 1958 | § 5a | New | 1958 |
| 2789 | Am. | 1950 | § 6a | New | 1958 |
| 2789d | New | 1952 | 2815s-1 | New | 1956 |
| 2789e | New | 1958 | 2815t | New | 1952 |
| 2790a-6 | New | 1950 | 2816 | Am. | 1954 |
| 2790d-8 | New | 1950 | 2816a | Am. | 1954 |
| 2790e, § 11 | Am. | 1956 | 2817 | Am. | 1954 |
| 2790l | New | 1950 | 2817a | Am. | 1954 |
| 2790m | New | 1950 | 2819 | Am. | 1954 |
| 2802-1 | New | 1956 | 2820 | Am. | 1954 |
| 2802e-1 | Am. | 1950 | 2821 | Am. | 1950 |
| 2802e-1 | Am. | 1952 | 2821 | Am. | 1954 |

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| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|--------|-------------------------------|------------------|-------------|-------------------------------|
| 2822a | Am. | 1954 | 2922-1 | | |
| 2833 | Am. | 1956 | § 5(2) | Am. | 1954 |
| 2835c | New | 1954 | § 5(4) | Am. | 1954 |
| 2843 | Am. | 1950 | § 5(7) | Am. | 1954 |
| 2844 | Rep. | 1950 | § 8 | Am. | 1954 |
| 2844a | Rep. | 1950 | 2922-1a | New | 1954 |
| 2851 | Am. | 1954 | 2922-2 to 2922-8 | Rep. | 1952 |
| 2850 | Rep. | 1954 | 2922-11 | | |
| 2874 | Am. | 1954 | to | | |
| 2875 | Am. | 1956 | 2922-22 | New | 1950 |
| 2875 | Am. | 1958 | 2922-13, | | |
| 2876c | Am. | 1954 | § 1(4) | Am. | 1952 |
| 2876k | New | 1958 | § 1(4) | Am. | 1954 |
| 2877 | Am. | 1954 | § 1(4) a | Am. | 1958 |
| 2880a | Rep. | 1956 | 2922-14 | Am. | 1958 |
| 2882 | Rep. | 1956 | § 1-a | New | 1956 |
| 2883 | Rep. | 1956 | § 1-b | New | 1956 |
| 2890 | Rep. | 1956 | § 1-c | New | 1956 |
| 2891 | Rep. | 1956 | 2922-15, | | |
| 2891b | New | 1956 | § 1 | Am. | 1954 |
| 2898-1 | Rep. | 1952 | § 2 | Am. | 1952 |
| 2900a | New | 1958 | § 2 | Am. | 1958 |
| 2901a | New | 1958 | 2922-16, | | |
| 2906 | Am. | 1958 | § 2 | Am. | 1956 |
| 2906-1 | New | 1958 | § 3 | Am. | 1954 |
| 2906-2 | New | 1958 | § 4 | Am. | 1956 |
| 2906-3 | New | 1958 | § 5 | Am. | 1956 |
| 2908b | New | 1950 | 2922-16a | New | 1958 |
| §§ 2, 3 | Am. | 1952 | 2922-23 | New | 1952 |
| 2909b | New | 1956 | 2922-24 | New | 1958 |
| 2909c | New | 1956 | 2923-2942a | Rep. | 1952 |
| 2909d | New | 1958 | 2943 | Am. | 1952 |
| 2911 | Am. | 1956 | 2944-2956 | Rep. | 1952 |
| 2919c | New | 1950 | 2956a | New | 1950 |
| 2919d | New | 1952 | 2956a | Rep. | 1952 |
| § 5a | New | 1956 | 2957-2977 | Rep. | 1952 |
| 2919e | New | 1954 | 2977a | Inoperative | 1950 |
| 2919e-1 | New | 1956 | 2978 | Rep. | 1952 |
| 2919e-2 | New | 1956 | 2978a | Am. | 1950 |
| 2919f | New | 1956 | 2978a | Rep. | 1952 |
| 2919g | New | 1958 | 2978b | New | 1950 |
| 2922a | New | 1950 | 2978b | Rep. | 1952 |
| 2922f | Am. | 1950 | 2980 | Am. | 1950 |
| 2922f | Am. | 1958 | 2980-2997c | Rep. | 1952 |
| 2922l | | | 2997d | New | 1950 |
| (3) | New | 1950 | 2997d | Rep. | 1952 |
| (4) | New | 1950 | 2998-3007 | Rep. | 1958 |
| (5) | New | 1952 | 3008 | Am. | 1950 |
| (6) | New | 1952 | 3008-3011 | Rep. | 1952 |
| (6), § 1 | Am. | 1956 | 3012 | Am. | 1950 |
| (7) | New | 1956 | 3012-3026 | Rep. | 1952 |
| (8) | New | 1956 | 3020a | Am. | 1950 |
| (8) | Am. | 1958 | 3026a | Am. | 1952 |
| 2922-1 | Am. | 1950 | 3027 | Rep. | 1952 |
| 2922-1 | Am. | 1956 | 3028 | Am. | 1950 |
| § 1(19) | Am. | 1952 | 3028 | Rep. | 1952 |
| § 4(5) | Am. | 1958 | 3029-3040 | Rep. | 1952 |
| § 5 | Am. | 1952 | 3040a | New | 1950 |
| § 5(1) | Am. | 1954 | 3040a-3083 | Rep. | 1952 |

ARTICLES AFFECTED FROM 1949 TO 1957

| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|--------|-------------------------------|-----------------|--------|-------------------------------|
| 3084 | Am. | 1950 | 3238c | New | 1956 |
| 3084-3105 | Rep. | 1952 | 3241 | Am. | 1954 |
| 3106 | Am. | 1950 | 3252-3254 | Rep. | 1954 |
| 3106-3108 | Rep. | 1952 | 3254a-1 | Am. | 1950 |
| 3109 | Am. | 1950 | 3254c | Am. | 1950 |
| 3109-3116f | Rep. | 1952 | 3254c-1 | New | 1952 |
| 3116g | New | 1952 | 3254d, | | |
| 3117-3121 | Rep. | 1952 | § 16 | Am. | 1950 |
| 3122-3124 | Am. | 1950 | § 17 | New | 1950 |
| 3122-3127 | Rep. | 1952 | 3254d-1 | New | 1952 |
| 3128 | Am. | 1950 | 3255b | New | 1952 |
| 3128-3153 | Rep. | 1952 | 3263a | Rep. | 1954 |
| 3153a | New | 1950 | 3263c | New | 1950 |
| 3153a-3154 | Rep. | 1952 | 3266(3) | Am. | 1956 |
| 3154(a) | New | 1952 | 3290-3703 | Rep. | 1956 |
| 3155-3158 | Rep. | 1952 | 3582a | New | 1952 |
| 3158a | New | 1952 | 3597a | New | 1950 |
| 3159-3173 | Rep. | 1952 | 3726a | New | 1958 |
| 3174a | New | 1950 | 3731a | New | 1952 |
| 3174b | New | 1950 | § 7 | Am. | 1954 |
| 3174b-1 | New | 1956 | 3731b | New | 1958 |
| 3174b-1 | Rep. | 1958 | 3871c | New | 1958 |
| 3174b-2 | New | 1956 | 3737d | New | 1950 |
| 3174b-3 | New | 1956 | 3737d | Rep. | 1956 |
| 3174b-4 | New | 1958 | 3737d-1 | New | 1956 |
| 3177 | Am. | 1952 | 3737e | New | 1952 |
| 3183a | Am. | 1950 | 3867-3871 | Rep. | 1956 |
| 3183c | New | 1952 | 3871a | New | 1956 |
| 3183d | New | 1954 | 3871b | New | 1956 |
| 3183e | New | 1956 | 3872 | Am. | 1954 |
| 3186 | Rep. | 1958 | 3875 | Am. | 1954 |
| 3186a | Rep. | 1958 | 3881a-3881d | New | 1954 |
| 3193 | Rep. | 1958 | 3881e | New | 1958 |
| 3193-1 | New | 1956 | 3883h | New | 1956 |
| 3193-1 | Rep. | 1958 | 3883i | New | 1956 |
| 3194-3196 | Rep. | 1958 | 3883i | Am. | 1958 |
| 3196b | New | 1950 | 3886f | Am. | 1950 |
| 3196c | New | 1952 | § 1 | Am. | 1956 |
| 3196c-1 | New | 1958 | § 3a | New | 1956 |
| 3196d | New | 1952 | 3886g | New | 1952 |
| 3196d | Rep. | 1958 | 3886h | New | 1954 |
| 3201a | New | 1954 | 3886h | Am. | 1958 |
| 3201b | New | 1954 | 3887b | New | 1954 |
| 3201b-1 | New | 1956 | 3888 | Am. | 1952 |
| 3202-a | Am. | 1954 | 3888 | Am. | 1954 |
| 3202-c | New | 1950 | 3888b | New | 1954 |
| 3205a | New | 1950 | 3899b, § 3 | Am. | 1954 |
| 3206 | Rep. | 1954 | 3902f-1 | New | 1954 |
| 3207a | Am. | 1950 | 3902h-2 | New | 1956 |
| 3207a | Am. | 1958 | 3902i | New | 1950 |
| 3207a, § 1 | Am. | 1958 | 3902j | New | 1952 |
| 3207b | New | 1950 | 3902j | Am. | 1958 |
| 3220-1 | Rep. | 1954 | 3903e | New | 1950 |
| 3222a | New | 1958 | 3912e, | | |
| 3223-3232 | Rep. | 1950 | § 13 | Am. | 1950 |
| 3232a | New | 1950 | § 15 | Am. | 1950 |
| 3232a | Rep. | 1958 | § 17 | Am. | 1950 |
| 3232b | New | 1958 | § 19(q) | Am. | 1956 |
| 3233-3238 | Rep. | 1956 | 3912e-4b | New | 1950 |
| 3238b | New | 1952 | 3912e-4c | New | 1952 |

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| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|-------------|-------------------------------|-----------------|--------|-------------------------------|
| 3912e—4d | New | 1954 | 4192b—4284 | Rep. | 1956 |
| 3912e—4d | Am. | 1956 | 4285 | Am. | 1954 |
| 3912e—5a | New | 1956 | 4285—4329 | Rep. | 1956 |
| 3912e—5a | Rep. | 1958 | 4331, § 8 | Rep. | 1952 |
| 3912e—5b | New | 1956 | 4335 | Am. | 1952 |
| 3912e—5c | New | 1958 | 4336 | Am. | 1952 |
| 3912e—14 | | | 4341a | New | 1952 |
| to | | | 4346 | Am. | 1954 |
| 3912e—16 | New | 1950 | 4353 | Am. | 1952 |
| 3912f—4 | New | 1950 | 4357 | Am. | 1954 |
| 3912g | New | 1950 | 4357 | Am. | 1958 |
| 3912h | New | 1950 | 4358 | Am. | 1954 |
| 3912i | New | 1958 | 4359 | Am. | 1954 |
| 3918 | Am. | 1956 | 4365 | Am. | 1954 |
| 3920 | Rep. | 1952 | 4379b, § 3 | Am. | 1954 |
| 3921 | Am. | 1952 | 4382 | Am. | 1954 |
| 3921a | New | 1952 | 4382a | New | 1954 |
| 3924 | Am. | 1950 | 4386c | New | 1954 |
| 3927 | Am. | 1958 | § 1 | Am. | 1956 |
| 3927a | New | 1958 | 4386d | New | 1954 |
| 3930 | Am. | 1958 | 4393b | New | 1954 |
| 3936g | New | 1950 | 4413 | | |
| 3936g—1 | New | 1952 | (4a) | New | 1958 |
| 3936h | New | 1950 | (18a) | New | 1958 |
| 3936h | Am. | 1952 | (29a) | New | 1950 |
| 3936i | New | 1952 | (29b) | New | 1958 |
| 3936j | New | 1954 | (31), § 1 | Am. | 1952 |
| 3936k | New | 1954 | (32) | New | 1954 |
| 3937 | Am. | 1950 | (33) | New | 1958 |
| 3937 | Am. | 1952 | 4413b—1 | New | 1950 |
| 3939 | Am. | 1950 | 4418b | Am. | 1958 |
| 3939 | Am. | 1952 | 4418b—1 | New | 1956 |
| 3943d | New | 1952 | 4436a—1, § 1 | Am. | 1958 |
| 3943e | New | 1952 | 4437a, | | |
| 3959 | Am. | 1950 | § 3 | Am. | 1952 |
| 3959a | New | 1950 | § 6A(e) | Am. | 1956 |
| 3972a | Inoperative | 1952 | 4437c—1 | New | 1954 |
| 3975a | New | 1958 | 4437e | New | 1958 |
| 4000 | Am. | 1950 | 4442b | Rep. | 1954 |
| 4025a | New | 1952 | 4442c | New | 1954 |
| 4025b | New | 1958 | 4445, | | |
| 4026b | New | 1956 | § 3 | Am. | 1950 |
| 4032 | Rep. | 1952 | § 4 | Am. | 1950 |
| 4032a | Rep. | 1950 | 4445a | New | 1950 |
| 4032b | New | 1950 | 4447a | New | 1950 |
| 4032b—1 | New | 1958 | 4473 | Am. | 1952 |
| 4032c | New | 1956 | 4476—3, | | |
| 4050c | New | 1950 | § 3(a, b, c) | Am. | 1958 |
| 4050c—1 | New | 1958 | § 8 | Am. | 1958 |
| 4050d | New | 1952 | § 14a | New | 1956 |
| 4075a | New | 1950 | 4476a, | | |
| 4102—4123a | Rep. | 1956 | § 1 | Am. | 1950 |
| 4123a—1 | Am. | 1950 | § 2 | Am. | 1950 |
| 4123a—1 to 4167 | Rep. | 1956 | § 2 | Am. | 1956 |
| 4168 | Am. | 1950 | § 2(e) | Rep. | 1958 |
| 4168—4191 | Rep. | 1956 | § 4 | Am. | 1950 |
| 4192 | Am. | 1952 | § 4(c) | Am. | 1956 |
| 4192 | Rep. | 1956 | § 5 | Am. | 1950 |
| 4192a | Rep. | 1950 | § 7 | Am. | 1956 |
| 4192b | New | 1950 | § 9 | Am. | 1950 |

ARTICLES AFFECTED FROM 1949 TO 1957

| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|--------|-------------------------------|-----------------|--------|-------------------------------|
| 4477, | | | 4528c | | |
| rule 34a | Am. | 1952 | § 8 | Am. | 1958 |
| rule 35a | Am. | 1950 | § 9 | Am. | 1956 |
| rule 36a | Am. | 1952 | § 9 | Am. | 1958 |
| rule 38a | Am. | 1952 | § 10 | Am. | 1958 |
| rule 39a | Am. | 1952 | § 13 | Am. | 1956 |
| rule 39a | Am. | 1958 | 4542a | Am. | 1954 |
| rule 40a | Am. | 1952 | § 4 | Am. | 1952 |
| rule 43a | Am. | 1952 | § 7 | Am. | 1958 |
| rule 47a | Am. | 1952 | § 8 | Am. | 1952 |
| rule 47a | Am. | 1958 | § 9 | Am. | 1952 |
| rule 51a | Am. | 1952 | § 12 | Am. | 1958 |
| rule 51a | Am. | 1958 | § 13 | Am. | 1958 |
| rule 53a | Am. | 1952 | § 14 | Am. | 1952 |
| rule 54a | Am. | 1950 | § 17 | Am. | 1952 |
| rule 54a | Am. | 1952 | § 17 | Am. | 1958 |
| rule 54a | Am. | 1958 | § 19 | Am. | 1952 |
| rules 77-86 | Rep. | 1952 | § 20 | Am. | 1958 |
| 4477a | New | 1952 | 4542b | New | 1958 |
| 4477-1(c) | Am. | 1952 | 4549 | Am. | 1952 |
| 4477-2 | New | 1950 | 4551 | Am. | 1958 |
| § 6A | New | 1956 | 4551a | Am. | 1952 |
| 4478a | New | 1954 | 4551a | Am. | 1954 |
| 4492 | Am. | 1954 | 4551a(5) | New | 1956 |
| 4494h | Am. | 1950 | 4551b | Am. | 1952 |
| 4494k | New | 1950 | 4551b | Am. | 1954 |
| 4494l | New | 1950 | 4551b | Am. | 1958 |
| § 4 | Am. | 1956 | 4551c | Am. | 1954 |
| 4494m | New | 1950 | 4551d | New | 1952 |
| 4494n | New | 1954 | 4551e | New | 1952 |
| 4494n | Am. | 1956 | § 1 | Am. | 1958 |
| 4494o | New | 1958 | § 3 | Am. | 1958 |
| 4494p | New | 1958 | § 10(g) | Am. | 1958 |
| 4498a | New | 1954 | § 10(h) | Am. | 1958 |
| 4499 | Am. | 1954 | § 15 | Am. | 1958 |
| 4499a | New | 1954 | 4561 | Am. | 1952 |
| 4500 | Am. | 1954 | 4562 | Am. | 1952 |
| 4501 | Am. | 1952 | 4565 | Am. | 1952 |
| 4501 | Am. | 1954 | 4565-a | Am. | 1952 |
| 4502 | Am. | 1954 | 4565d(1) | Am. | 1958 |
| 4504 | Am. | 1950 | 4565g | Am. | 1958 |
| 4506 | Am. | 1954 | 4567 | Am. | 1952 |
| 4507 | Rep. | 1954 | 4569 | Am. | 1952 |
| 4508 | Rep. | 1954 | 4570 | Am. | 1952 |
| 4509 | Am. | 1954 | 4571 | Am. | 1952 |
| 4510 | Am. | 1950 | 4572 | Rep. | 1952 |
| 4510 | Am. | 1954 | 4575 | Am. | 1952 |
| 4512b | New | 1950 | 4576a-4581 | Rep. | 1954 |
| §§ 4a, 4b | New | 1958 | 4582a | Rep. | 1954 |
| §§ 8a, 8b | New | 1958 | 4582b | New | 1954 |
| § 11 | Am. | 1958 | 4584 | Am. | 1954 |
| § 14 | Am. | 1958 | 4590a | Rep. | 1952 |
| § 14a | New | 1958 | 4590c | New | 1950 |
| 4526 | Am. | 1950 | § 4 | Am. | 1956 |
| 4528b | New | 1950 | § 5 | Am. | 1956 |
| 4528c | New | 1952 | § 7 | Am. | 1952 |
| § 3a | New | 1958 | § 8 | Am. | 1956 |
| § 4(c) | Am. | 1958 | 4590d | New | 1950 |
| § 4½ | Am. | 1958 | § 10 | Am. | 1954 |
| § 5 | Am. | 1958 | § 11(1) | Am. | 1952 |
| | | | § 19a | New | 1954 |

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| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|------------------|--------|-------------------------------|-----------------|--------|-------------------------------|
| 4590e | New | 1952 | 5139A | Am. | 1958 |
| 4591 | Am. | 1952 | 5139B | New | 1952 |
| 4591 | Am. | 1958 | 5139D | New | 1950 |
| 4591d, | | | 5139(E) | New | 1950 |
| § 1a | New | 1956 | 5139(E) | Am. | 1952 |
| § 1b | New | 1956 | 5139F | New | 1952 |
| § 1c | New | 1956 | 5139F | Am. | 1958 |
| § 1c | Am. | 1958 | 5139G | New | 1952 |
| 4591e | New | 1956 | 5139G | Am. | 1956 |
| 4594 | Am. | 1956 | 5139H | New | 1952 |
| 4597-4601 | Rep. | 1954 | 5139H-1 | New | 1956 |
| 4602 | Am. | 1958 | 5139H-2 | New | 1956 |
| 4612a | New | 1950 | 5139H-3 | New | 1958 |
| 4614 | Am. | 1958 | 5139I | New | 1954 |
| 4616 | Am. | 1958 | 5139J to 5139O | New | 1956 |
| 4617 | Am. | 1958 | 5139P-5139X | New | 1958 |
| 4623 | Am. | 1958 | 5142 | Am. | 1950 |
| 4624a | New | 1950 | 5142a, | | |
| 4629 | Am. | 1954 | § 1 | Am. | 1950 |
| 4631 | Am. | 1958 | §§ 3-5 | Am. | 1950 |
| 4632 | Am. | 1956 | § 6 | Am. | 1958 |
| 4639a | Am. | 1954 | 5142a-1 | New | 1956 |
| 4639b | New | 1956 | 5142a-2 | New | 1958 |
| 4679-4698a | Rep. | 1952 | 5142b, | | |
| 4698b | New | 1950 | § 1 | Am. | 1950 |
| 4698b-4704 | Rep. | 1952 | § 1 | Am. | 1956 |
| 4705 | Am. | 1950 | § 5 | Am. | 1950 |
| 4705-4724 | Rep. | 1952 | § 7 | Am. | 1950 |
| 4725 | Am. | 1950 | § 15 | Am. | 1950 |
| 4725-4764b | Rep. | 1952 | § 15 | Am. | 1956 |
| 4764c | New | 1950 | § 17 | Am. | 1950 |
| 4764c, 4765 | Rep. | 1952 | 5142c | New | 1950 |
| 4766 | Am. | 1950 | § 5 | Am. | 1956 |
| 4667, 4768 | Rep. | 1952 | 5142c-1 | New | 1950 |
| 4682b, § 1A | New | 1950 | 5142c-2 | New | 1956 |
| 4769 | Am. | 1950 | 5142d | New | 1950 |
| 4769 | Am. | 1952 | 5143c | New | 1950 |
| 4769½ | New | 1952 | § 4 | Am. | 1956 |
| 4769a | New | 1952 | § 5 | Am. | 1956 |
| 4770 to 4860a-19 | Rep. | 1952 | 5143d | New | 1958 |
| 4860a-20 | Am. | 1950 | 5154g | New | 1956 |
| 4860a-20 to 4928 | Rep. | 1952 | 5155 | Am. | 1958 |
| 4929 | Am. | 1950 | 5159c | New | 1956 |
| 4929 | Rep. | 1952 | 5165a | New | 1954 |
| 4929a | New | 1950 | 5172a, § 5 | Am. | 1954 |
| 4929a to 4931 | Rep. | 1952 | 5190½ | New | 1958 |
| 4932 | Am. | 1950 | 5221a-4 | Rep. | 1950 |
| 4932-5012 | Rep. | 1952 | 5221a-5 | New | 1950 |
| 5012a | Am. | 1950 | 5221a-6 | New | 1950 |
| 5012a-5068b | Rep. | 1950 | 5221b-1 | Am. | 1950 |
| § 7 | Am. | 1950 | 5221b-1(b) | Am. | 1956 |
| 5068c, 5068d | Rep. | 1952 | 5221b-1(c) | Am. | 1958 |
| 5068e | New | 1950 | 5221b-1(d) | Am. | 1956 |
| 5068e to 5068-7 | Rep. | 1952 | 5221b-1(d) | Am. | 1958 |
| 5074a | New | 1952 | 5221b-1a | Rep. | 1956 |
| 5115 | Am. | 1958 | 5221b-2 | Am. | 1950 |
| 5118a | New | 1956 | 5221b-2 | Am. | 1956 |
| 5139 | Am. | 1950 | 5221b-3 | Am. | 1950 |
| 5139 | Am. | 1954 | 5221b-3 | Am. | 1956 |
| 5139A | New | 1952 | (a, b) | Am. | 1958 |

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| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|--------|-------------------------------|-----------------|--------|-------------------------------|
| 5221b-4 | Am. | 1950 | 5366 | Am. | 1956 |
| 5221b-4 | Am. | 1956 | 5368b | Rep. | 1950 |
| (b) | Am. | 1958 | 5370 | Am. | 1950 |
| (h) | Am. | 1958 | 5371 | Am. | 1958 |
| 5221b-5 | Am. | 1950 | 5382a | Rep. | 1954 |
| 5221b-5 | Am. | 1956 | 5382b | New | 1950 |
| (c) | Am. | 1958 | § 7 | Am. | 1952 |
| (c) (7) | Am. | 1954 | 5382b-1 | New | 1954 |
| (d) | Am. | 1958 | 5382c | New | 1952 |
| 5221b-6 | Am. | 1950 | 5382d | New | 1952 |
| (c) | Am. | 1956 | § 13a | New | 1956 |
| (c) (1) | Am. | 1958 | 5382d-1 | New | 1956 |
| 5221b-7(c) | Am. | 1958 | 5382e | New | 1954 |
| 5221b-8 (c) | Am. | 1956 | 5399a-5399f | Rep. | 1954 |
| 5221b-8(f) | Rep. | 1958 | 5414a-1 | New | 1956 |
| 5221b-9 | | | 5415c | New | 1958 |
| (a) | Am. | 1956 | 5421b-1 | New | 1956 |
| (e) | Am. | 1956 | 5421c, | | |
| (g) | Am. | 1958 | § 8 | Am. | 1954 |
| (h) | Am. | 1956 | § 8 | Am. | 1958 |
| 5221b-9b | Am. | 1956 | 5421c-7 | New | 1956 |
| 5221b-11 | Am. | 1950 | §§ 1-3 | Am. | 1958 |
| 5221b-12 | | | §§ 7, 8 | New | 1958 |
| (a) | Am. | 1956 | 5421c-8 | New | 1958 |
| (b) | Am. | 1956 | 5421i | Am. | 1952 |
| (d) | Am. | 1956 | 5421j-1 | New | 1958 |
| (e) | Am. | 1958 | 5421k-2 | New | 1958 |
| (j) | Am. | 1956 | 5421m | New | 1950 |
| 5221b-13(a) | Am. | 1956 | § 2 | Am. | 1958 |
| 5221b-14 | | | §§ 2(A) to 2(C) | New | 1958 |
| (a) | Am. | 1956 | § 3 | Am. | 1952 |
| (a) | Am. | 1958 | § 3 | Am. | 1958 |
| (e) | Am. | 1956 | § 6 | Am. | 1958 |
| 5221b-17 | Am. | 1950 | § 9 | Am. | 1952 |
| 5221b-17 | Am. | 1956 | § 9(a) | Am. | 1958 |
| 5221b-17 | Am. | 1958 | § 10 | Am. | 1952 |
| 5221b-18 | Rep. | 1958 | § 10 | Am. | 1958 |
| 5221b-22a | Am. | 1950 | § 10(A) | New | 1956 |
| 5221b-22aa | New | 1958 | § 11 | Am. | 1952 |
| 5221c, | | | § 11 | Am. | 1956 |
| § 3 | Am. | 1956 | § 12 | Am. | 1958 |
| § 5 | Am. | 1952 | § 13 | Am. | 1958 |
| § 5 | Am. | 1958 | § 14 | Am. | 1952 |
| § 12 | Am. | 1952 | § 14 | Am. | 1954 |
| § 12 | Am. | 1958 | § 15 | Am. | 1956 |
| 5221d | New | 1956 | § 16 | Am. | 1952 |
| 5221e | New | 1958 | § 16 | Am. | 1956 |
| 5248 | Am. | 1950 | § 16(A) | New | 1956 |
| 5248g | New | 1950 | § 17 | Am. | 1952 |
| § 1 | Am. | 1956 | § 17 | Am. | 1956 |
| 5248h, 5248i | New | 1950 | § 17 | Am. | 1958 |
| 5254a, §§ 1, 2 | Am. | 1958 | § 18 | Am. | 1952 |
| 5282a | New | 1956 | § 18 | Am. | 1956 |
| 5320a | New | 1952 | § 19 | Am. | 1956 |
| 5326 | Am. | 1952 | § 19 | Am. | 1958 |
| 5326h | New | 1950 | § 19(A) | New | 1956 |
| 5326i | New | 1950 | § 19(A) | Am. | 1958 |
| 5326j | New | 1952 | § 21 | Am. | 1956 |
| 5330a, § 2 | Am. | 1952 | § 21 | Am. | 1958 |
| 5337-1 | New | 1958 | § 21(A) | New | 1956 |

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| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|--------|-------------------------------|-----------------|--------|-------------------------------|
| 5421m | | | 5890a | Rep. | 1954 |
| § 23 | Am. | 1952 | 5890b, | | |
| § 24 | Am. | 1956 | § 1 | Am. | 1958 |
| § 25 | Am. | 1956 | § 5 | New | 1950 |
| § 30 | New | 1952 | 5891 | Rep. | 1954 |
| § 31 | New | 1952 | 5891c, | | |
| § 32 | New | 1956 | §§ 1-4 | Am. | 1952 |
| 5421n | New | 1954 | § 5(a) | New | 1952 |
| 5421o | New | 1956 | § 5(b) | New | 1952 |
| 5429b | New | 1950 | § 7 | Am. | 1952 |
| 5429c | New | 1950 | 5892 | Am. | 1954 |
| 5429d | New | 1952 | 5893-5900 | Rep. | 1954 |
| 5429e | New | 1954 | 5916 | Rep. | 1954 |
| 5433a | New | 1954 | 5921a | Am. | 1950 |
| 5434 | Am. | 1954 | 5921b | New | 1954 |
| 5438d | New | 1956 | 5922a | New | 1954 |
| 5452 | Am. | 1952 | 5923a | New | 1954 |
| 5473 | Am. | 1958 | 5923-1 | New | 1958 |
| 5476 | Am. | 1954 | 5923-101 | New | 1958 |
| 5476 | Am. | 1958 | 6008, | | |
| 5476a | New | 1954 | § 2(k) | Am. | 1950 |
| 5476a | Am. | 1958 | § 3 | Am. | 1950 |
| 5476b | New | 1954 | § 7 | Am. | 1950 |
| 5476b | Am. | 1958 | § 21 | Rep. | 1950 |
| 5476c | New | 1958 | 6008-1, § 5 | Am. | 1950 |
| 5476d | New | 1958 | 6008a, | | |
| 5499a | New | 1954 | § 3(h) | Am. | 1950 |
| 5500 | Am. | 1950 | § 3(i) | Am. | 1950 |
| 5506a | Am. | 1954 | 6008a-1 | New | 1950 |
| 5506c, | | | 6008b | New | 1950 |
| § 2 | Am. | 1956 | § 3 | Rep. | 1956 |
| § 7 | Am. | 1956 | 6020a | Am. | 1956 |
| 5517 | Am. | 1954 | 6029a | New | 1956 |
| 5541 | Am. | 1952 | 6050, | | |
| 5547-1 | | | § 4 | New | 1956 |
| to | | | § 4a | New | 1956 |
| 5547-108 | New | 1958 | 6052a | New | 1952 |
| 5550-5561 | Rep. | 1958 | 6053, | | |
| 5561b | New | 1950 | § 6 | Am. | 1950 |
| 5561b | Am. | 1952 | § 6(c) | New | 1952 |
| 5561b | Rep. | 1958 | § 7 | Am. | 1950 |
| 5561b-1 | New | 1956 | § 7(c) | New | 1952 |
| 5561b-1 | Rep. | 1958 | § 8 | Am. | 1950 |
| 5561c | New | 1954 | § 10 | Am. | 1950 |
| § 18 | Am. | 1958 | § 10(c) | New | 1952 |
| 5577a | New | 1954 | § 11 | Am. | 1950 |
| 5670-5674 | Rep. | 1952 | § 11 | Am. | 1952 |
| 5692 | Am. | 1954 | § 12 | Am. | 1952 |
| 5766 | Am. | 1958 | § 18 | Am. | 1952 |
| 5769b | New | 1950 | 6066b | New | 1950 |
| 5769b | Rep. | 1954 | 6066c | New | 1954 |
| 5769b-1 | New | 1954 | 6067a | New | 1950 |
| 5769c | New | 1950 | 6070e | New | 1950 |
| 5790a | New | 1950 | 6070f | New | 1956 |
| 5798a-2, | | | 6074-6077a | Rep. | 1950 |
| § 1 | Am. | 1950 | 6077h-1 | New | 1952 |
| § 2 | Am. | 1952 | 6077h-2 | New | 1954 |
| 5845 | Am. | 1950 | 6077i | Rep. | 1950 |
| 5845 | Am. | 1958 | 6077o | New | 1950 |
| 5845a | New | 1958 | 6077p | New | 1950 |

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| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|--------|-------------------------------|-----------------|--------|-------------------------------|
| 6077q | New | 1958 | 6228d | New | 1950 |
| 6077r | New | 1958 | 6228d | Am. | 1952 |
| 6079b | Am. | 1956 | 6243a, | | |
| 6079b | Am. | 1958 | § 1 | Am. | 1952 |
| 6079c | New | 1950 | § 6 | Am. | 1954 |
| 6079c | Am. | 1952 | § 7 | Am. | 1954 |
| § 3 | Am. | 1958 | § 9 | Am. | 1954 |
| § 12a | New | 1958 | § 10 | Am. | 1954 |
| 6079c—1 | New | 1956 | § 11 | Am. | 1954 |
| 6079d | New | 1954 | 6243e, | | |
| 6079e | New | 1958 | § 3A | New | 1958 |
| 6081i | New | 1952 | § 6 | Am. | 1950 |
| 6110-6132 | Rep. | 1956 | § 6 | Am. | 1954 |
| 6132a | New | 1956 | § 6 | Am. | 1958 |
| 6142b | New | 1956 | §§ 6A, 6B | New | 1958 |
| 6144 | New | 1954 | § 7 | Am. | 1954 |
| 6145 | Rep. | 1952 | § 7 | Am. | 1958 |
| 6145 | New | 1958 | § 7A | New | 1954 |
| 6145—2, § 6 | Am. | 1952 | § 7A | Am. | 1958 |
| 6145—3 | New | 1958 | §§ 7B, 7C | New | 1958 |
| 6166a—1 | New | 1958 | § 9 | Am. | 1958 |
| 6166d | Am. | 1952 | § 10 | Am. | 1958 |
| 6166m | Am. | 1952 | § 10a | Am. | 1956 |
| 6166q | Rep. | 1952 | § 10A | Am. | 1958 |
| 6166y | Am. | 1956 | § 10B | New | 1958 |
| 6166z1 | Am. | 1954 | § 12 | Am. | 1956 |
| 6184l | Am. | 1950 | § 12 | Am. | 1958 |
| 6196 | Rep. | 1954 | § 12A | New | 1958 |
| 6203c, § 9 | Am. | 1950 | § 21 | Am. | 1956 |
| 6203c—1 | New | 1956 | § 21 | Am. | 1958 |
| 6203d | Am. | 1956 | § 23 | Am. | 1956 |
| 6205 | Am. | 1952 | §§ 23A, 23B | New | 1958 |
| 6221 | Am. | 1950 | § 27A | New | 1958 |
| 6221 | Am. | 1954 | 6243e—1 | Rep. | 1950 |
| 6221 | Am. | 1958 | 6243f, | | |
| 6227a | New | 1950 | § 1 | Am. | 1952 |
| 6228a | Am. | 1954 | § 7 | Am. | 1952 |
| 6228a | Am. | 1958 | § 7 | Am. | 1958 |
| § 1 | Am. | 1950 | § 8 | Am. | 1952 |
| § 1(P.R.) | Am. | 1952 | § 8 | Am. | 1958 |
| § 3 | Am. | 1950 | § 10 | Am. | 1952 |
| § 3(E) | Am. | 1952 | § 11 | Am. | 1952 |
| § 4(A) | Am. | 1952 | § 17 | Am. | 1956 |
| § 5 | Am. | 1950 | 6243g | Am. | 1958 |
| § 5(A) | Am. | 1956 | § 3A | Am. | 1952 |
| § 5(B) | Am. | 1952 | § 3A(h) | Am. | 1954 |
| § 5(G) | Am. | 1956 | § 3A(d) | New | 1954 |
| § 5(I) | Am. | 1952 | § 12 | Am. | 1952 |
| § 5(J) | New | 1958 | § 12 | Am. | 1954 |
| § 6 | Am. | 1950 | § 13 | Am. | 1954 |
| § 9a | New | 1952 | § 13A | New | 1952 |
| 6228a—1 | New | 1954 | § 16 | Am. | 1952 |
| 6228a—2 | New | 1956 | § 16 | Am. | 1954 |
| 6228a—3 | New | 1958 | 6243g—1 | Am. | 1956 |
| 6228b | New | 1950 | 6243h | Am. | 1950 |
| § 4 | Am. | 1952 | § II(12) | Am. | 1956 |
| § 8 | Am. | 1956 | § IV | Am. | 1956 |
| § 8a | New | 1956 | 6243h—1 | New | 1950 |
| 6228c | New | 1950 | 6243h—2 | New | 1952 |
| 6228c—1 | New | 1952 | 6243i | New | 1950 |

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| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|------------------|--------|-------------------------------|-----------------|--------|-------------------------------|
| 6243i | Rep. | 1952 | 6687b, | | |
| 6243j | New | 1952 | § 5 | Am. | 1954 |
| 6252-2 | New | 1950 | § 5a | New | 1954 |
| 6252-3 | New | 1950 | § 15 | Am. | 1952 |
| 6252-4 | New | 1952 | § 15 | Am. | 1956 |
| 6252-5 to 6252-6 | New | 1952 | § 15 | Am. | 1958 |
| 6252-6, | | | § 15a | New | 1954 |
| § 4(c) | Am. | 1954 | § 19 | Am. | 1952 |
| § 5(g) | Am. | 1954 | § 19 | Am. | 1956 |
| 6252-7 | New | 1954 | 6701a, | | |
| 6252-8 | New | 1954 | § 1 | Am. | 1954 |
| 6252-9 | New | 1958 | § 3 | Am. | 1950 |
| 6258 | Am. | 1954 | 6701c | Rep. | 1956 |
| 6268 | Am. | 1950 | 6701c-1 | New | 1954 |
| 6550a | Rep. | 1954 | § 2 | Am. | 1956 |
| 6550(a) | New | 1954 | § 4 | Am. | 1956 |
| 6550b | Rep. | 1954 | § 5 | Am. | 1956 |
| 6560-6573 | Rep. | 1954 | 6701c-2 | New | 1954 |
| 6573a | Am. | 1950 | 6701d, | | |
| 6573a | Am. | 1956 | § 2 | Am. | 1954 |
| 6602(4) | Am. | 1956 | § 44 | Am. | 1954 |
| 6626 | Am. | 1952 | § 69 | Am. | 1952 |
| 6626a | New | 1958 | § 104 | Am. | 1954 |
| 6636 | Am. | 1956 | § 104(a) | Am. | 1956 |
| 6644 | Am. | 1954 | § 104(d) | New | 1958 |
| 6673a | Am. | 1954 | § 105 | Am. | 1954 |
| 6673e-1 | New | 1958 | § 106 | Am. | 1950 |
| 6673e-2 | New | 1958 | § 106(a) | Am. | 1956 |
| 6674n | Am. | 1956 | § 106(d) | New | 1956 |
| 6674n-1 | New | 1952 | § 108A | New | 1956 |
| 6674q-5 | Rep. | 1952 | § 108B | New | 1956 |
| 6674t | New | 1952 | § 126 | Am. | 1956 |
| 6674t-1 | New | 1958 | § 127 | Am. | 1956 |
| 6674u | New | 1954 | § 131 | Am. | 1954 |
| 6674v | New | 1954 | § 136 | Am. | 1952 |
| 6674w to 6674w-5 | New | 1958 | § 139 | New | 1952 |
| 6675a-2 | Am. | 1954 | § 140 | Am. | 1952 |
| 6675a-2 | Am. | 1958 | § 140 | Am. | 1954 |
| 6675a-3 | Am. | 1956 | § 141 | Am. | 1952 |
| 6675a-3aa | Am. | 1956 | § 141 | Am. | 1954 |
| 6675a-5 | Am. | 1952 | § 142 | Am. | 1952 |
| 6675a-5 | Am. | 1958 | § 142 | Am. | 1954 |
| 6675a-5a | New | 1958 | § 148 | Am. | 1954 |
| 6675a-6 | Am. | 1958 | §§ 158-165 | New | 1954 |
| 6675a-6a | Am. | 1958 | 6701d-1 | New | 1954 |
| 6675a-7 | Am. | 1958 | 6701d-2 | New | 1954 |
| 6675a-8 | Am. | 1958 | 6701e | New | 1952 |
| 6675a-8a | Am. | 1956 | 6701f | New | 1952 |
| 6675a-8a | Am. | 1958 | 6701g | New | 1952 |
| 6675a-8b | Am. | 1950 | § 1 | Am. | 1954 |
| 6675a-8b | Rep. | 1956 | § 1 | Am. | 1956 |
| 6675a-8c | Am. | 1958 | § 3 | Am. | 1954 |
| 6675a-10 | Am. | 1958 | § 3 | Am. | 1956 |
| 6675a-11 | Am. | 1952 | § 4 | Am. | 1954 |
| 6675a-12a | Am. | 1952 | § 4 | Am. | 1956 |
| 6675a-13 | Am. | 1952 | 6701h | New | 1952 |
| 6687b, | | | 6701i | New | 1958 |
| § 3(4a) | New | 1952 | 6701j | New | 1958 |
| § 4 | Am. | 1958 | 6701½ | New | 1958 |
| § 4a | New | 1958 | 6703a | New | 1956 |

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| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|------------|-------------------------------|-----------------|--------|-------------------------------|
| 6704 | Am. | 1954 | 6937 | Am. | 1956 |
| 6711 | Am. | 1954 | 6954 | Am. | 1950 |
| 6716—1, | | | 6954 | Am. | 1954 |
| § 5 | Am. | 1958 | 6954 | Am. | 1956 |
| § 6 | Am. | 1958 | 6954 | Am. | 1958 |
| § 15 | Am. | 1958 | 6965 | Am. | 1954 |
| 6745 | Am. | 1952 | 6967 | Am. | 1954 |
| 6762 | Am. | 1958 | 7005—1 | New | 1958 |
| 6795b—1, | | | 7009 | Am. | 1956 |
| § 1 | Am. | 1956 | 7047 | | |
| § 2 | Am. | 1950 | (2d) | Am. | 1952 |
| § 5a | New | 1950 | (40b) | Am. | 1952 |
| § 7 | Am. | 1950 | (41a) | New | 1950 |
| § 7(a) | New | 1950 | (41a) | Am. | 1952 |
| § 7(b) | New | 1950 | (46) | Am. | 1952 |
| 6795c | New | 1956 | (46f) | Am. | 1950 |
| 6812b | New | 1952 | 7047a—2 | Am. | 1952 |
| 6812c | New | 1954 | 7047a—3 | Am. | 1950 |
| 6819a | Rep. | 1952 | 7047a—3 | Am. | 1952 |
| 6819a—3 | Am. | 1952 | 7047—4 | Am. | 1952 |
| 6819a—4 | Rep. | 1950 | 7047a—6 | | |
| 6819a—5 | New | 1950 | to | | |
| 6819a—6 | New | 1950 | 7047a—15 | Am. | 1952 |
| 6819a—6 | Rep. | 1952 | 7047a—15a | New | 1952 |
| 6819a—6 | Rep. | 1958 | 7047a—16 | Am. | 1952 |
| 6819a—7 | | | 7047a—19 | Am. | 1954 |
| to | | | 7047a—19 | Am. | 1958 |
| 6819a—9 | New | 1952 | 7047a—19a | New | 1954 |
| 6819a—9(a) | Rep. | 1956 | 7047a—19a | Rep. | 1958 |
| 6819a—9 | Rep. | 1958 | 7047a—19b | New | 1954 |
| 6819a—10 | New | 1956 | 7047a—19b | Rep. | 1958 |
| 6819a—10 | Rep. | 1958 | 7047b, | | |
| 6819a—11 | New | 1956 | § 1 | Am. | 1952 |
| 6819a—12 | | | § 1(1) | Am. | 1956 |
| to | | | § 1(3) | Am. | 1954 |
| 6819a—18 | New | 1958 | § 1(3) | Am. | 1956 |
| 6820 | Am. | 1950 | § 1½ | New | 1950 |
| 6820 | Am. | 1956 | § 2(12) | Am. | 1950 |
| 6823 | Am. | 1950 | § 3—a | Rep. | 1952 |
| 6823 | Am. | 1954 | 7047c—1, | | |
| 6824 note | New | 1950 | § 2 | Am. | 1950 |
| 6839e | New | 1950 | § 2 | Am. | 1956 |
| 6839f | New | 1952 | § 2a | New | 1950 |
| 6839g | New | 1956 | § 2½ | New | 1956 |
| 6851a | New | 1952 | § 3 | Am. | 1950 |
| 6877—2 | New | 1954 | § 3 | Am. | 1956 |
| 6889b | New | 1950 | § 30a | New | 1950 |
| 6889c | New | 1952 | 7047d, § 3 | Am. | 1954 |
| 6889d | New | 1954 | 7047k, | | |
| 6889d | Superseded | 1956 | § 1 | Am. | 1952 |
| 6889e | New | 1956 | § 3(c) | Am. | 1952 |
| 6889—3 | New | 1952 | § 5a | Am. | 1952 |
| 6889—3A | New | 1956 | § 6 | Am. | 1952 |
| 6889—4 | New | 1952 | 7047k—1 | New | 1950 |
| § 5 | Am. | 1954 | § 2 | Am. | 1952 |
| 6889—5 | New | 1952 | 7047l, | | |
| 6899d—1 | New | 1956 | § 1 | Am. | 1952 |
| 6930 | Am. | 1954 | § 1½ | New | 1950 |
| 6935 | Am. | 1956 | 7047l—1 | New | 1956 |

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| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|--------|-------------------------------|-----------------|--------|-------------------------------|
| 7047m, | | | 7082 | Am. | 1952 |
| § 1 | Am. | 1952 | 7083a, § 2 | Am. | 1958 |
| § 1½ | New | 1950 | (1) | Am. | 1956 |
| 7047n | New | 1950 | (2) | Am. | 1956 |
| 7047o | New | 1950 | (4) | Am. | 1956 |
| 7048a | New | 1950 | (4-a) | Am. | 1950 |
| § 10(a) (4) | Am. | 1952 | (4-b) | New | 1950 |
| 7048b | New | 1952 | (4-c) | New | 1956 |
| 7048b | Am. | 1956 | 7084 | Am. | 1950 |
| 7057a, | | | 7084 | Am. | 1952 |
| § 2(1) | Am. | 1952 | 7084 | Am. | 1956 |
| § 2A | New | 1950 | (2) | Am. | 1958 |
| 7057e | New | 1950 | 7084½ | New | 1950 |
| 7057f | New | 1952 | 7085 | Am. | 1950 |
| 7060 | Am. | 1952 | 7086 | Am. | 1950 |
| 7060½ | New | 1950 | (1) | Am. | 1956 |
| 7060a | Am. | 1952 | 7087 | Am. | 1950 |
| § 1 | Am. | 1956 | 7089 | Am. | 1950 |
| 7060b | New | 1950 | (1) | Am. | 1956 |
| 7063 | Am. | 1954 | 7089a-7089h | Rep. | 1950 |
| 7064 | Am. | 1952 | 7090-7092 | Am. | 1950 |
| 7064½ | New | 1950 | 7091 | Am. | 1956 |
| 7064a | New | 1950 | 7092 | Am. | 1956 |
| 7064a | Am. | 1952 | 7092a | New | 1950 |
| 7064a-1 | New | 1950 | 7093 | Am. | 1950 |
| 7065b-1 | Am. | 1952 | 7094 | Am. | 1950 |
| (a) | Am. | 1958 | 7094 | Am. | 1952 |
| (c) | Am. | 1958 | 7094 | Am. | 1956 |
| (g) | Am. | 1958 | 7094 | Am. | 1958 |
| (n) | Am. | 1958 | 7095 | Am. | 1950 |
| (q) | New | 1958 | 7096 | Am. | 1952 |
| 7065b-2 | Am. | 1952 | 7097 | Am. | 1950 |
| (a) | Am. | 1956 | 7105a | New | 1956 |
| (b) | Am. | 1954 | 7122 | Am. | 1956 |
| (b) | Am. | 1958 | 7122-a | New | 1958 |
| 7065b-3 | Am. | 1952 | 7150(20) | New | 1956 |
| 7065b-5 | Am. | 1958 | 7151 | Am. | 1952 |
| (a) | Am. | 1956 | 7212 | Am. | 1950 |
| 7065b-7(a) | Am. | 1958 | 7228-7241 | Rep. | 1952 |
| 7065b-8 | Am. | 1956 | 7258a | Am. | 1954 |
| 7065b-13 | Am. | 1952 | 7264b | Rep. | 1952 |
| 7065b-13 | Am. | 1954 | 7298 | Am. | 1952 |
| 7065b-14 | Am. | 1952 | 7298 | Am. | 1954 |
| (a) | Am. | 1956 | 7298a | New | 1958 |
| (g) | Am. | 1956 | 7321a | Am. | 1952 |
| 7065b-14a | New | 1956 | 7331 | Am. | 1954 |
| 7065b-14b | New | 1956 | 7332 | Am. | 1952 |
| 7065b-18 | Am. | 1952 | 7333 | Am. | 1952 |
| 7065b-22 | Am. | 1952 | 7335b | New | 1952 |
| 7065b-25 | Am. | 1952 | 7336f | Am. | 1952 |
| 7065b-26 | Am. | 1952 | § 2 | Am. | 1956 |
| 7065b-27 | Am. | 1952 | 7345b | New | 1952 |
| 7066b(aa) | New | 1956 | § 8 | Am. | 1954 |
| 7066b | Am. | 1952 | 7345b-2 | New | 1956 |
| 7066c | New | 1950 | 7345e | New | 1950 |
| 7070 | Am. | 1952 | 7425c | New | 1952 |
| 7070a | New | 1950 | 7425d | New | 1956 |
| 7072 | Rep. | 1954 | 7428-1 | New | 1952 |
| 7080 | Am. | 1952 | 7428-2 | New | 1952 |
| 7081 | Am. | 1952 | 7436a | New | 1958 |

ARTICLES AFFECTED FROM 1949 TO 1957

| Civ.St. Art. | Effect | Vernon's Texas St.Supp. | Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|--------|-------------------------------|-----------------|--------|-------------------------------|
| 7448-7465 | Rep. | 1954 | 7880-16 | Am. | 1958 |
| 7465a | New | 1954 | 7880-19 | Am. | 1958 |
| § 16 | Am. | 1958 | 7880-20a | New | 1956 |
| 7466f | New | 1950 | 7880-23 | Am. | 1958 |
| 7466g | New | 1950 | 7880-38a, § 1 | Am. | 1956 |
| 7466h | New | 1952 | 7880-43 | Am. | 1958 |
| 7466i | New | 1954 | 7880-74a | New | 1952 |
| 7467b | New | 1950 | 7880-75c | New | 1950 |
| 7467c | New | 1954 | 7880-76 | Am. | 1958 |
| 7470 | Am. | 1954 | 7880-76c, | | |
| 7470 | Am. | 1958 | § 1 | Am. | 1952 |
| 7470a | Rep. | 1954 | § 2 | Am. | 1952 |
| 7470b | New | 1954 | § 7 | Am. | 1952 |
| 7472d-1 | New | 1958 | § 8 | Am. | 1952 |
| 7472e | New | 1956 | § 11 | Am. | 1952 |
| 7477 | Am. | 1954 | § 17a | New | 1952 |
| 7477a | New | 1954 | 7880-90a | Am. | 1952 |
| 7478-7487 | Rep. | 1954 | 7880-111(c) | New | 1958 |
| 7488 | Rep. | 1954 | 7880-117 | Am. | 1953 |
| 7490 | Rep. | 1954 | 7880-147c1 | Am. | 1958 |
| 7491 | Rep. | 1954 | 7880-147c6a | New | 1958 |
| 7492 | Am. | 1954 | 7880-147c8 | New | 1952 |
| 7492a | New | 1954 | 7880-147c9 | New | 1956 |
| 7493 | Am. | 1954 | 7880-147c10 | New | 1958 |
| 7500a | Am. | 1954 | 7880-147z1 | New | 1952 |
| 7512 | Rep. | 1954 | 7880-147z1 | Rep. | 1958 |
| 7515 | Am. | 1954 | 7880-147z2 | New | 1956 |
| 7515a | New | 1954 | 7880-147z3 | New | 1958 |
| 7519a | New | 1954 | 7880-147z4 | New | 1958 |
| 7519a | Am. | 1958 | 7880-147z5 | New | 1958 |
| 7519b | New | 1954 | 7880-147z6 | New | 1958 |
| 7519b | Am. | 1958 | 7893a | New | 1952 |
| 7531 | Am. | 1954 | 7922 | Am. | 1956 |
| 7531a | New | 1954 | 7930-4 | Am. | 1958 |
| 7537b | New | 1957 | 7930-5 | Am. | 1956 |
| 7550a | New | 1957 | 7941b | New | 1952 |
| 7564 | Rep. | 1954 | 7941c | New | 1952 |
| 7569 | Rep. | 1954 | 7987 | Am. | 1954 |
| 7583 | Am. | 1950 | 7987 | Am. | 1958 |
| 7589b | New | 1958 | 8120 | Am. | 1956 |
| 7612 | Am. | 1956 | 8120 | Am. | 1958 |
| 7612a | Am. | 1956 | 8120a | New | 1950 |
| 7612b | New | 1956 | 8152a | New | 1952 |
| 7621a | New | 1954 | 8161d | New | 1950 |
| 7622b-1 | New | 1958 | 8176b | New | 1956 |
| 7652b | New | 1956 | 8176b-1 | New | 1958 |
| 7661 | Am. | 1950 | 8176c | New | 1958 |
| 7718c | New | 1954 | 8217a | New | 1954 |
| 7807n | New | 1957 | 8224 | Am. | 1958 |
| 7880-1 notes | New | 1958 | 8225 | Am. | 1952 |
| 7880-3c | New | 1950 | 8227a | New | 1956 |
| (A5) | Am. | 1956 | 8235a, | | |
| (A6e) | New | 1956 | § 3 | Am. | 1956 |
| (A9) | Am. | 1956 | § 3 | Am. | 1958 |
| (B3) | Am. | 1956 | § 4 | Am. | 1956 |
| (B4) | Am. | 1956 | § 9 | Am. | 1956 |
| (B10) | New | 1956 | 8244a | New | 1956 |
| (D4a) | Am. | 1956 | | | |
| (D5) | New | 1956 | | | |

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| Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-------------------|--------|-------------------------------|
| 8247b, § 1(b, c) | Am. | 1958 |
| § 7a | New | 1952 |
| § 18a | New | 1952 |
| § 18b | New | 1952 |
| § 18c | New | 1952 |
| 8247e | New | 1950 |
| 8247e | Am. | 1958 |
| § 2 | Am. | 1954 |
| § 3 | Am. | 1954 |
| 8247f | New | 1956 |
| 8263a, § 3a | New | 1952 |
| 8263e, § 18-a | New | 1950 |
| 8263f-1 | New | 1952 |
| 8263h, §§ 51, 52 | New | 1950 |
| 8263i | Am. | 1954 |
| 8263j | New | 1950 |
| 8263k | New | 1950 |
| 8274 | Am. | 1952 |
| 8274 | Am. | 1954 |
| 8274 | Am. | 1956 |
| 8280-2 to 8280-4 | New | 1950 |
| 8280-5 | New | 1954 |
| 8280-6 | New | 1954 |
| 8280-7 | New | 1956 |
| 8280-8 | New | 1958 |
| 8280-9 | New | 1958 |
| 8280-119, § 3(e) | Am. | 1958 |
| 8280-124, § 10(a) | New | 1958 |
| 8280-126, § 8(e) | Am. | 1958 |
| 8280-135, § 12 | Am. | 1958 |
| 8280-154 | Am. | 1958 |
| 8280-157, | | |
| § 3 | Am. | 1958 |
| § 6(d) | Am. | 1958 |
| § 6(f) | Am. | 1958 |
| § 15(a) | Am. | 1958 |
| § 15(e) | Am. | 1958 |
| 8280-160, § 13 | Am. | 1958 |
| 8280-162, § 1 | Am. | 1958 |
| 8280-167, | | |
| § 3-A | New | 1958 |
| § 12(a) | New | 1958 |
| 8280-172, § 4(a) | New | 1958 |
| 8280-187, § 1 | Am. | 1958 |
| 8280-188, | | |
| § 2a-1 | New | 1958 |
| § 8-A | New | 1958 |
| 8280-191 | | |
| to | | |
| 8280-209 | New | 1958 |
| 8280-210 | | |
| to | | |
| 8280-215 | New | 1958 |
| 8293 | Am. | 1950 |
| 8306, | | |
| § 6 | Am. | 1954 |
| § 7 | Am. | 1954 |
| § 7 | Am. | 1958 |
| § 7a | Am. | 1954 |

| Civ.St. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|--------|-------------------------------|
| 8306, | | |
| § 7b | Am. | 1954 |
| § 7c | Am. | 1958 |
| § 7d | Am. | 1958 |
| § 8 | Am. | 1958 |
| §§ 10-12 | Am. | 1958 |
| § 12c-2 | Am. | 1958 |
| § 12f | Am. | 1954 |
| § 15a | Am. | 1952 |
| § 15a | Am. | 1956 |
| § 20 | Am. | 1956 |
| § 26(d) | Am. | 1958 |
| § 28 | New | 1958 |
| 8306a | Am. | 1952 |
| 8306a | Am. | 1956 |
| 8307, | | |
| § 4 | Am. | 1954 |
| § 5 | New | 1958 |
| 8308, | | |
| § 1A | New | 1954 |
| § 16 | Am. | 1954 |
| § 18 | Rep. | 1954 |
| 8309, | | |
| § 1b | New | 1958 |
| § 2 | Am. | 1954 |
| 8309a | Am. | 1954 |
| 8309b, | | |
| § 2 | Am. | 1950 |
| § 2 | Am. | 1958 |
| § 3 | Am. | 1958 |
| § 4 | Am. | 1950 |
| § 7 | Am. | 1950 |
| § 7 | Am. | 1954 |
| § 10 | Am. | 1954 |
| § 13 | Am. | 1954 |
| § 14 | Am. | 1954 |
| § 14 | Am. | 1958 |
| § 15 | Am. | 1958 |
| § 18 | Am. | 1954 |
| 8390c | New | 1950 |
| § 3 | Am. | 1956 |
| § 3 | Am. | 1958 |
| § 6 | Am. | 1954 |
| § 9 | Am. | 1954 |
| § 10 | Am. | 1956 |
| § 15 | Am. | 1954 |
| § 17 | Am. | 1956 |
| 8309d | New | 1952 |
| 8309e | New | 1954 |
| 8309f | New | 1958 |
| 8310-8324 | Rep. | 1954 |

BUSINESS CORPORATION ACT

| Bus. Corp.Act Art. | Effect | Vernon's Texas St.Supp. |
|--------------------------|--------|-------------------------------|
| 1.01 to 11.01 | New | 1956 |
| 2.18, § A | Am. | 1958 |

ARTICLES AFFECTED FROM 1949 TO 1957

| Bus. Corp. Act Art. | Effect | Vernon's Texas St. Supp. | Ins. Code Art. | Effect | Vernon's Texas St. Supp. |
|---------------------------|--------|--------------------------------|----------------------|--------|--------------------------------|
| 2.19, | | | 1.08 | Am. | 1958 |
| § A | Am. | 1958 | 1.09 | Am. | 1958 |
| §§ E, F | New | 1958 | 1.09—1 to 1.09—3 | New | 1958 |
| 2.22, | | | 1.10(5) | Am. | 1956 |
| § A | Am. | 1958 | 1.14 | Am. | 1956 |
| § C | Am. | 1958 | 1.15 | Am. | 1956 |
| 2.29, § D | Am. | 1958 | 1.16 | Am. | 1956 |
| 3.02, § A | Am. | 1958 | 1.17 | Am. | 1956 |
| 3.05, § A | Am. | 1958 | 1.18 | Am. | 1956 |
| 4.07, | | | 1.19 | Am. | 1956 |
| § B | Am. | 1958 | 2.01 | Am. | 1956 |
| § C(2) | Am. | 1958 | 2.02 | Am. | 1956 |
| 5.09 | Am. | 1958 | 2.03 | Am. | 1956 |
| 5.10 | Am. | 1958 | 2.03—1 | New | 1956 |
| 5.11, § A | Am. | 1958 | 2.04 | Am. | 1956 |
| 8.01, § B | Am. | 1958 | 2.05 | Am. | 1956 |
| 8.14, § A | Am. | 1958 | 2.07, | | |
| 10.01, § A(13) | Am. | 1958 | § 1 | Am. | 1958 |
| | | | § 6 | Am. | 1956 |

ELECTION CODE

| Elec. Code Art. | Effect | Vernon's Texas St. Supp. |
|-----------------------|--------|--------------------------------|
| 1.01 to 14.12 | New | 1952 |
| 5.03 | Am. | 1957 |
| 5.05, subd. 6 | Am. | 1958 |
| 5.11 | Am. | 1958 |
| 6.01 | Am. | 1956 |
| 6.05 | Am. | 1958 |
| 6.06 | Am. | 1958 |
| 6.07 | Am. | 1956 |
| 7.14 | New | 1956 |
| § 7a | New | 1958 |
| § 15 | Am. | 1958 |
| 8.13 | Am. | 1958 |
| 12.02 | Am. | 1958 |
| 13.04A | New | 1956 |
| 13.08 | Am. | 1956 |
| 13.08a | New | 1958 |
| 13.09 | Am. | 1958 |
| 13.15 | Am. | 1956 |
| 13.34 | Am. | 1958 |
| 13.43a | New | 1958 |
| 14.08 | Am. | 1956 |

INSURANCE CODE

| Ins. Code Art. | Effect | Vernon's Texas St. Supp. |
|----------------------|--------|--------------------------------|
| 1.01 to 21.44 | New | 1952 |
| 1.02 | Am. | 1956 |
| 1.02 | Am. | 1958 |
| 1.03 | Am. | 1956 |
| 1.03 | Am. | 1958 |
| 1.04 | Am. | 1956 |
| 1.04 | Am. | 1958 |
| 1.05—1.07 | Am. | 1958 |
| 1.08 | Am. | 1956 |
| 3.60 | Am. | 1956 |
| 3.62—1 | New | 1958 |
| 3.69 | New | 1956 |
| 3.70—1 to 3.70—10 | New | 1956 |
| 4.01 | Am. | 1958 |
| 5.01 | Am. | 1954 |
| 5.04 | Am. | 1954 |
| 5.05 | Am. | 1954 |
| 5.09 | Am. | 1954 |
| 5.11 | Am. | 1954 |
| 5.13 | Am. | 1956 |

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| Ins. Code Art. | Effect | Vernon's Texas St.Supp. | Ins. Code Art. | Effect | Vernon's Texas St.Supp. |
|----------------------|--------|-------------------------------|----------------------|--------|-------------------------------|
| 5.26 | Am. | 1956 | 17.25, | | |
| 5.50 | Am. | 1956 | § 1 | Am. | 1956 |
| 5.54 | Am. | 1956 | § 4 | Am. | 1954 |
| 5.55 | Am. | 1954 | § 5 | Am. | 1956 |
| 5.58 | Am. | 1954 | § 7 | Am. | 1954 |
| 5.60 | Am. | 1954 | § 7 | Rep. | 1956 |
| 5.65 | Am. | 1954 | § 9 | Am. | 1954 |
| 5.76 | New | 1956 | § 9 | Am. | 1956 |
| 5.76 to 5.79 | New | 1954 | § 20 | Am. | 1956 |
| 6.04-6.08 | Am. | 1956 | § 22 | New | 1954 |
| 7.01-7.18 | Rep. | 1958 | § 22 | Rep. | 1956 |
| 8.05 | Am. | 1956 | 18.04 | Am. | 1956 |
| 8.10 | Am. | 1956 | 18.05 | Am. | 1956 |
| 8.18 | Am. | 1956 | 18.07 | Am. | 1956 |
| 9.01 | Am. | 1956 | 18.09 | Am. | 1956 |
| 9.01a | New | 1958 | 18.11 | Am. | 1956 |
| 9.02 | Am. | 1956 | 18.23 | Am. | 1956 |
| 9.03 | Am. | 1956 | 19.03 | Am. | 1956 |
| 9.06 | Am. | 1956 | 19.06 | Am. | 1956 |
| 9.07 | Am. | 1956 | 19.10 | Am. | 1956 |
| 9.09 | Am. | 1958 | 19.11 | Am. | 1956 |
| 9.11 | Am. | 1956 | 19.12 | Am. | 1956 |
| 9.25 | Am. | 1956 | 21.07, § 6 | Am. | 1956 |
| 10.08 | Am. | 1956 | 21.07-1 | New | 1956 |
| 10.40, § 3 | Am. | 1956 | 21.07-2 | New | 1956 |
| 11.01 | Am. | 1956 | 21.11 | Am. | 1956 |
| 11.02 | Am. | 1954 | 21.21 | Am. | 1958 |
| 11.02 | Am. | 1956 | 21.28 | Am. | 1956 |
| 11.10 | Am. | 1954 | 21.38, | | |
| 11.10 | Am. | 1956 | § 2 | Am. | 1958 |
| 11.11 | Am. | 1956 | §§ 5-7 | Am. | 1958 |
| 11.12 | Am. | 1954 | 21.39 | Am. | 1956 |
| 11.12 | Am. | 1956 | 21.44 | New | 1956 |
| 11.17 | Am. | 1954 | 21.45 | New | 1956 |
| 11.17 | Am. | 1956 | 21.46 to 21.48 | New | 1958 |
| 11.19 | Am. | 1956 | | | |
| 14.61, § 1(c) | Am. | 1956 | | | |
| 14.63 | New | 1956 | | | |
| 15.04 | Am. | 1956 | | | |
| 15.06 | Am. | 1956 | | | |
| 15.08 | Am. | 1956 | | | |
| 15.11 | Am. | 1956 | | | |
| 16.01, § 2 | Am. | 1956 | | | |
| 16.06 | Am. | 1954 | | | |
| 16.06 | Am. | 1956 | | | |
| 16.07 | Am. | 1954 | | | |
| 16.11 | Am. | 1954 | | | |
| 17.02 | Am. | 1956 | | | |
| 17.03 | Am. | 1956 | | | |
| 17.05 | Am. | 1954 | | | |
| 17.06 | Am. | 1954 | | | |
| 17.06 | Am. | 1956 | | | |
| 17.09 | Am. | 1956 | | | |
| 17.11 | Am. | 1954 | | | |
| 17.11 | Am. | 1956 | | | |
| 17.16 | Am. | 1954 | | | |
| 17.16 | Am. | 1956 | | | |
| 17.17 | Am. | 1954 | | | |
| 17.22 | Am. | 1956 | | | |

| PROBATE CODE | | |
|-----------------------|--------|-------------------------------|
| Prob. Code Sec. | Effect | Vernon's Texas St.Supp. |
| 1-435 | New | 1956 |
| 3(aa) | Am. | 1958 |
| 33 | Am. | 1958 |
| 78(c) | Am. | 1958 |
| 124 | Am. | 1958 |
| 137(d) | Am. | 1958 |
| 144(d) | New | 1958 |
| 145 | Am. | 1958 |
| 146 | Am. | 1958 |
| 157 | Am. | 1958 |
| 193 | Am. | 1958 |
| 194 | Am. | 1958 |
| 201 | Am. | 1958 |
| 202 | Am. | 1958 |
| 219 | Rep. | 1958 |
| 228 | Am. | 1958 |
| 241 | Am. | 1958 |
| 253 | Am. | 1958 |
| 367(c)7 | Am. | 1958 |

ARTICLES AFFECTED FROM 1949 TO 1957

| Prob. Code Sec. | Effect | Vernon's Texas St.Supp. | P.C. Art. | Effect | Vernon's Texas St.Supp. |
|-----------------|--------|-------------------------|------------|--------|-------------------------|
| 368(b) | Am. | 1958 | 666-11 | | |
| 370 | Am. | 1958 | to | | |
| 399 | Am. | 1958 | 666-13 | Am. | 1950 |
| 400 | Am. | 1958 | 666-15 | Am. | 1950 |
| 401 | Am. | 1958 | 666-15 | Am. | 1952 |
| | | | (13) | Am. | 1958 |
| | | | (17) | Am. | 1956 |
| | | | 666-15a1 | Am. | 1950 |
| | | | 666-17 | Am. | 1950 |
| | | | (1) | Am. | 1952 |
| | | | (1) | Am. | 1954 |
| | | | (2) | Am. | 1952 |
| | | | (3) (g) | New | 1956 |
| | | | (14) (a) | Am. | 1956 |
| | | | (15) | Am. | 1952 |
| | | | (22) | Am. | 1954 |
| | | | 666-21 | Am. | 1952 |
| | | | 666-21a | Am. | 1950 |
| | | | 666-21a | Am. | 1952 |
| | | | 666-21¼ | New | 1956 |
| | | | 666-21½ | New | 1952 |
| | | | 666-21½ | New | 1950 |
| | | | 666-23a(4) | Am. | 1958 |
| | | | 666-25b | New | 1956 |
| | | | 666-27½ | New | 1952 |
| | | | 666-30 | Am. | 1950 |
| | | | 666-32 | Am. | 1954 |
| | | | 666-32 | Am. | 1956 |
| | | | 666-33 | Am. | 1954 |
| | | | 666-36 | Am. | 1954 |
| | | | 666-36½ | New | 1950 |
| | | | 666-37 | Am. | 1954 |
| | | | 666-39 | Am. | 1954 |
| | | | 666-40 | Am. | 1954 |
| | | | 666-41a | Am. | 1950 |
| | | | 666-42 | Am. | 1950 |
| | | | 666-44 | Rep. | 1950 |
| | | | 666-49a | New | 1950 |
| | | | 666-50 | New | 1950 |
| | | | 666-51a | New | 1950 |
| | | | 666-52 | New | 1950 |
| | | | 666-52 | Am. | 1954 |
| | | | 666-53 | | |
| | | | to | | |
| | | | 666-56 | New | 1950 |
| | | | 667-2a | New | 1958 |
| | | | 667-3 | Am. | 1950 |
| | | | 667-5 | Am. | 1950 |
| | | | 667-5 | Am. | 1954 |
| | | | 667-5A | Rep. | 1950 |
| | | | 667-6 | Am. | 1958 |
| | | | 667-7 | Am. | 1954 |
| | | | 667-9 | Am. | 1954 |
| | | | 667-10½ | Am. | 1958 |
| | | | 667-17 | Am. | 1950 |
| | | | 667-19 | Am. | 1950 |
| | | | 667-19 | Am. | 1954 |
| | | | 667-19B | Am. | 1950 |
| | | | 667-19B | Am. | 1954 |

PENAL CODE

| P.C. Art. | Effect | Vernon's Texas St.Supp. |
|---------------|--------|-------------------------|
| 34 | Am. | 1958 |
| 101a | Rep. | 1952 |
| 105 | Am. | 1956 |
| 131c-1, § 26a | New | 1950 |
| 157a | New | 1956 |
| 158 | Am. | 1958 |
| 159 | Am. | 1958 |
| 160-a | New | 1950 |
| 160-b | New | 1950 |
| 179-183 | Rep. | 1958 |
| 183-1 | New | 1958 |
| 183-2 | New | 1958 |
| 296 | Am. | 1954 |
| 301d | Am. | 1950 |
| 353b | New | 1950 |
| 353c | New | 1958 |
| 427a | Rep. | 1958 |
| 430a | Rep. | 1950 |
| 432 | Am. | 1950 |
| 432 | Am. | 1952 |
| 438c | Am. | 1952 |
| 438d | New | 1952 |
| 474 | Am. | 1950 |
| 480 | Am. | 1952 |
| 483 | Am. | 1952 |
| 483 | Am. | 1958 |
| 489c | New | 1950 |
| § 1 | Am. | 1958 |
| 527 | Am. | 1956 |
| 527 | Am. | 1958 |
| 527a | Am. | 1956 |
| 527b | Am. | 1956 |
| 534 | Am. | 1950 |
| 534a | New | 1950 |
| 534a | Am. | 1954 |
| 535b | New | 1950 |
| § 2 | Am. | 1956 |
| 535c | New | 1950 |
| § 2 | Am. | 1956 |
| 535d | New | 1950 |
| § 3 | Am. | 1956 |
| 567b | Am. | 1952 |
| § 1a | New | 1958 |
| 590a | Rep. | 1952 |
| 642a | New | 1952 |
| 642b | New | 1952 |
| 642c | New | 1952 |
| 666-3a | Am. | 1950 |
| 666-8 | Am. | 1958 |

VERNON'S TEXAS STATUTES

| Vernon's Texas | | | Vernon's Texas | | |
|-----------------|--------|----------|----------------|--------|----------|
| P.C. Art. | Effect | St.Supp. | P.C. Art. | Effect | St.Supp. |
| 667—19C | New | 1952 | 742—a to 742—c | New | 1950 |
| 667—19D | New | 1954 | 743 | Am. | 1954 |
| 667—20 | Am. | 1950 | 744—a | New | 1950 |
| 667—23 | Am. | 1950 | 744—b | New | 1950 |
| 667—23 | Am. | 1952 | 747 | Am. | 1954 |
| 667—23 | Am. | 1956 | 752c, | | |
| 667—23½ | New | 1950 | § 4 | Am. | 1950 |
| 667—23¼ | Am. | 1954 | § 4 | Am. | 1952 |
| 667—23½ | Am. | 1954 | 753 | Am. | 1952 |
| 667—23a | New | 1950 | 753 | Am. | 1954 |
| 667—24a | Am. | 1950 | 753 | Am. | 1958 |
| 667—24¼ | New | 1952 | 754 | Am. | 1954 |
| 667—25 | Am. | 1954 | 754a | Am. | 1952 |
| 667—28 | | | (2) | Am. | 1954 |
| to | | | (5) | New | 1956 |
| 667—31 | New | 1950 | 754b | New | 1950 |
| 667—32 | New | 1954 | 754b | Am. | 1952 |
| 696a, § 1(a, b) | Am. | 1958 | 759—762a | Rep. | 1954 |
| 700b, § 2 | Am. | 1952 | 778 | Am. | 1952 |
| 701b | Rep. | 1954 | 778a | Am. | 1952 |
| 705b—1 | Am. | 1952 | 779 | Am. | 1952 |
| 705c, § 3a | New | 1952 | 802 | Am. | 1954 |
| 705c | Rep. | 1956 | 802a—1 | New | 1956 |
| 705d | New | 1956 | 802b | Am. | 1952 |
| 709 | Am. | 1952 | 802d | New | 1952 |
| 712 | Am. | 1956 | 802e | New | 1958 |
| 719e | New | 1950 | 872a, | | |
| 725b | Am. | 1956 | § 2 | Am. | 1950 |
| § 1 | Am. | 1954 | § 3(a) | Am. | 1954 |
| § 4 | Rep. | 1954 | § 3(a) | Am. | 1956 |
| § 5 | Am. | 1954 | § 3(c) | Am. | 1950 |
| § 9 | Am. | 1954 | § 3(c) | Am. | 1954 |
| § 18a | New | 1954 | § 3(c) | Am. | 1956 |
| § 23 | Am. | 1954 | § 5 | Am. | 1952 |
| § 23(2) | Am. | 1958 | § 5c | New | 1958 |
| § 24a | Rep. | 1954 | § 5½ | New | 1952 |
| 725c | New | 1954 | § 6 | Am. | 1952 |
| §§ 3, 4 | Am. | 1956 | § 6 | Am. | 1954 |
| 725d | New | 1956 | § 8 | Am. | 1952 |
| 726 | Rep. | 1958 | § 8 | Am. | 1956 |
| 726—1 | New | 1958 | 827a—1 | New | 1952 |
| 726—2 | New | 1958 | 827a—2 | New | 1954 |
| 726b | New | 1950 | 827a—2 | Am. | 1956 |
| § 2 | Am. | 1956 | 827a—3 | New | 1956 |
| 726c | New | 1952 | 827b, | | |
| § 2(g) | Am. | 1956 | § 2A | New | 1950 |
| § 3(2) (b) | Am. | 1956 | § 2A | Am. | 1954 |
| § 3(2) (d) | Rep. | 1956 | § 2A | Am. | 1958 |
| § 6 | Am. | 1956 | § 3 | Am. | 1958 |
| § 13 | Am. | 1956 | 827e—1 | New | 1958 |
| 734a, | | | 861b | New | 1958 |
| § 20 | Am. | 1952 | 872f | New | 1950 |
| § 20a | New | 1952 | 879f—6 | New | 1952 |
| § 22—A | Am. | 1958 | 879g—2a | Am. | 1950 |
| § 26 | Am. | 1952 | 880 | Am. | 1950 |
| 734b | Am. | 1954 | 880 | Am. | 1954 |
| 735 | Am. | 1952 | 880 | Am. | 1958 |
| 740 | Am. | 1950 | 880a | New | 1958 |
| 741 | Am. | 1950 | 880b | New | 1958 |
| 741 | Am. | 1954 | 882a | New | 1954 |

ARTICLES AFFECTED FROM 1949 TO 1957

| P.C. Art. | Effect | Vernon's Texas St.Supp. | P.C. Art. | Effect | Vernon's Texas St.Supp. |
|--------------|--------|-------------------------------|-----------------|--------|-------------------------------|
| 888 | Am. | 1958 | 1344-1346 | Rep. | 1952 |
| 893 | Am. | 1954 | 1350 | Am. | 1952 |
| 895a | New | 1950 | subd. 1 | Am. | 1958 |
| 895b | New | 1952 | 1351a, § 1-b | New | 1954 |
| § 2 | Am. | 1954 | 1370 | Am. | 1950 |
| 895c | New | 1958 | 1377 | Am. | 1950 |
| 908 | Am. | 1954 | 1378a, §§ 11-13 | Am. | 1952 |
| 908 | Am. | 1956 | 1379 | Am. | 1954 |
| 912 | Am. | 1952 | 1398 | Am. | 1952 |
| 923b | Rep. | 1958 | 1402a | New | 1956 |
| 923ll-1 | Am. | 1950 | 1404b | New | 1952 |
| 923m | Am. | 1958 | 1404b | Am. | 1956 |
| 923m-1 | New | 1958 | 1435a | New | 1958 |
| 924a | New | 1956 | 1436-1, | | |
| 934b-1 | Rep. | 1950 | §§ 7-9 | Am. | 1952 |
| 934b-2 | New | 1950 | § 30(a) | New | 1956 |
| 934c | New | 1952 | § 57 | Am. | 1952 |
| 941b | New | 1950 | § 57 | Am. | 1956 |
| 952l-7 | Am. | 1950 | § 57a | New | 1956 |
| 952l-11, | | | 1436c | New | 1952 |
| § 1c | New | 1950 | 1436d | New | 1954 |
| § 1c | Am. | 1958 | 1456a | New | 1956 |
| 978f-3 | New | 1952 | 1477 | Am. | 1952 |
| 978f-4 | New | 1954 | 1489 | Am. | 1954 |
| 978f-5 | New | 1956 | 1492 | Am. | 1954 |
| 978h, § 2 | Am. | 1956 | 1493 | Am. | 1954 |
| 978k, § 11a | New | 1958 | 1525b, | | |
| 978k-1 | New | 1958 | § 22a | New | 1954 |
| 978l-5 | New | 1950 | § 22b | New | 1954 |
| § 4 | Am. | 1952 | 1526-1532 | Rep. | 1954 |
| 978l-6 | New | 1950 | 1583(6) | Rep. | 1956 |
| 978n-1 | New | 1950 | 1583-1, | | |
| 978o | New | 1954 | § 3a | New | 1952 |
| 1042b, § 3 | Am. | 1954 | § 6 | Am. | 1956 |
| 1083a | Am. | 1952 | § 7 | Am. | 1952 |
| 1083a | Rep.* | 1956 | 1583-2 | Am. | 1950 |
| 1106(b) | Am. | 1956 | § 1 | Am. | 1952 |
| (c) | New | 1952 | § 1 | Am. | 1954 |
| 1111d, | | | § 1-a | Rep. | 1952 |
| § 2 | Am. | 1952 | 1593a | Rep. | 1950 |
| § 4 | Am. | 1952 | 1648a | New | 1958 |
| § 5 | Am. | 1952 | 1690b(d) | Am. | 1956 |
| § 5½ | New | 1950 | (j) | Am. | 1956 |
| § 7a | New | 1954 | (k) | Am. | 1956 |
| 1111m | New | 1956 | 1693 | Am. | 1954 |
| 1112a | Rep. | 1954 | 1700 | New | 1954 |
| 1137m | New | 1956 | 1712 | Am. | 1950 |
| 1146a | New | 1950 | 1716(1) | Am. | 1952 |
| 1147 | Am. | 1950 | 1721 | New | 1950 |
| 1147 | Am. | 1956 | 1721A | New | 1956 |
| 1148 | Am. | 1950 | 1722 | New | 1952 |
| 1260a | New | 1950 | 1723 | New | 1952 |
| 1321a | New | 1952 | 1724 | New | 1958 |
| 1321b | New | 1952 | 1725 | New | 1958 |
| 1333A | New | 1950 | | | |

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

VERNON'S TEXAS STATUTES

| CODE OF CRIMINAL PROCEDURE | | | Vernon's Texas St. Supp. | C.C.P. Art. | Effect | Vernon's Texas St. Supp. |
|-----------------------------------|---------------|------------------|---|------------------------|---------------|---|
| C.C.P. Art. | Effect | St. Supp. | | | | |
| 52—1 note | Am | 1952 | 667 | Am. | 1954 | |
| 52—8 note | New | 1952 | 670 | Am. | 1956 | |
| 52—24b | New | 1956 | 678 | Am. | 1954 | |
| 52—24c | New | 1956 | 727a | Am. | 1954 | |
| 52—61a | New | 1958 | 732a | New | 1952 | |
| 52—158a | New | 1952 | 755 | Am. | 1952 | |
| 52—159a | New | 1952 | 759a | New | 1952 | |
| 52—159b | New | 1956 | § 1(D) | Am. | 1954 | |
| 52—160a, § 5 | New | 1956 | § 2 | Am. | 1954 | |
| 52—160b | New | 1950 | § 2 | Am. | 1956 | |
| 52—161, § 15a | New | 1954 | § 3 | Rep. | 1956 | |
| 271c | New | 1958 | 760d | New | 1952 | |
| § 4 | Am. | 1958 | 760e | New | 1952 | |
| § 6 | Am. | 1958 | 768 | Am. | 1958 | |
| 275a | New | 1958 | 775a | Rep. | 1958 | |
| 277, § 2 | New | 1952 | 781b | Rep. | 1958 | |
| 332a | New | 1954 | § 17 | Rep. | 1954 | |
| 333 | Am. | 1952 | 781b—1 | New | 1956 | |
| 338 | Am. | 1952 | 781b—2 | New | 1956 | |
| 338b | New | 1952 | 781c | New | 1952 | |
| 348 | Am. | 1952 | 781d | New | 1958 | |
| 367f | New | 1950 | 802 | Am. | 1952 | |
| 367g | New | 1950 | 807 | Am. | 1957 | |
| 367h | New | 1952 | 809 | Am. | 1950 | |
| 367i | New | 1956 | 921—932 | Rep. | 1958 | |
| 367j | New | 1958 | 932—1 | New | 1958 | |
| 486a | New | 1952 | 932—2 | New | 1958 | |
| 494 | Am. | 1958 | 932a | Rep. | 1958 | |
| 494a | New | 1952 | 932b | New | 1958 | |
| 494b | New | 1952 | 959—966 | Rep. | 1958 | |
| 563 | Am. | 1954 | 970b | New | 1954 | |
| 564 | Am. | 1954 | 989a | New | 1956 | |
| 591 | Am. | 1956 | 1008a | New | 1952 | |
| 591 | Am. | 1958 | 1038 | Am. | 1954 | |
| 597 | Am. | 1952 | 1052 | Am. | 1950 | |
| 597 | Am. | 1958 | 1052 | Am. | 1954 | |
| 601—a | Am. | 1950 | 1056 | Am. | 1954 | |
| 601—A | Am. | 1958 | 1056 | Am. | 1956 | |
| 623 | Am. | 1956 | 1058 | Am. | 1952 | |
| 658 | Am. | 1954 | 1061 | Am. | 1956 | |
| 659 | Am. | 1954 | 1068 | Am. | 1956 | |
| 662 | Rep. | 1954 | 1070 | Am. | 1956 | |
| 663 | Rep. | 1954 | 1074 | Am. | 1954 | |

JUDGES AND OFFICERS

SUPREME COURT

J. E. HICKMAN, CHIEF JUSTICE
W. ST. JOHN GARWOOD, ASSOCIATE JUSTICE FRANK P. CULVER, Jr., ASSOCIATE JUSTICE
MEADE F. GRIFFIN, ASSOCIATE JUSTICE RUEL C. WALKER, ASSOCIATE JUSTICE
ROBERT W. CALVERT, ASSOCIATE JUSTICE JAMES R. NORVELL, ASSOCIATE JUSTICE
CLYDE E. SMITH, ASSOCIATE JUSTICE JOE R. GREENHILL, ASSOCIATE JUSTICE
GEORGE H. TEMPLIN, CLERK
CARL B. LYDA, CHIEF DEPUTY CLERK

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

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PHIL D. WOODRUFF, ASSOCIATE JUSTICE EWING WERLEIN, ASSOCIATE JUSTICE
ROLA HAMM, CLERK

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FRANK A. MASSEY, CHIEF JUSTICE
THOMAS J. RENFRO, ASSOCIATE JUSTICE BEN W. BOYD, ASSOCIATE JUSTICE
MRS. K. M. BURKHALTER, CLERK
LIDA SWANSON, DEPUTY CLERK

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ROBERT G. HUGHES, ASSOCIATE JUSTICE RAYMOND GRAY, ASSOCIATE JUSTICE
MRS. R. E. MOORE, CLERK

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W. O. MURRAY, CHIEF JUSTICE
JACK POPE, ASSOCIATE JUSTICE H. D. BARROW, ASSOCIATE JUSTICE
ROBERT L. COOK, CLERK

JUDGES AND OFFICERS

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JUSTIN G. BURT, CLERK

Sixth District—Texarkana

T. C. CHADICK, CHIEF JUSTICE
WILLIAM J. FANNING, ASSOCIATE JUSTICE MATT DAVIS, ASSOCIATE JUSTICE
M. E. MERRILL, CLERK

Seventh District—Amarillo

E. L. PITTS, CHIEF JUSTICE
ERNEST O. NORTHCUTT, ASSOCIATE JUSTICE
ALTON B. CHAPMAN, ASSOCIATE JUSTICE
ELMO PAYNE, CLERK

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ALAN R. FRASER, ASSOCIATE JUSTICE HOLVEY WILLIAMS, ASSOCIATE JUSTICE
E. J. REDDING, CLERK

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R. L. MURRAY, CHIEF JUSTICE
JOHN R. ANDERSON, ASSOCIATE JUSTICE L. B. HIGHTOWER, ASSOCIATE JUSTICE
ELIZABETH LE BLANC, CLERK

Tenth District—Waco

FRANK G. McDONALD, CHIEF JUSTICE
JAKE TIREY, ASSOCIATE JUSTICE JOSEPH W. HALE, ASSOCIATE JUSTICE
RUTH SAPP, CLERK

Eleventh District—Eastland

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

WILL WILSON, ATTORNEY GENERAL

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OF
THE STATE OF TEXAS

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BEN RAMSEY -----Lieutenant Governor -----San Augustine
WILL WILSON -----Attorney General -----Dallas
ZOLLIE C. STEAKLEY ---Secretary of State -----Austin
JESSE JAMES -----State Treasurer -----Austin
JOHN C. WHITE -----Commissioner of Agriculture ---Wichita Falls
J. EARL RUDDER -----Commissioner of General Land Office ---Brady
ROBERT S. CALVERT ---Comptroller of Public Accounts -----Austin
JAMES M. FALKNER ---Banking Commissioner -----Austin
CHARLES H. CAVNESS --State Auditor -----Austin

•

SENATE

PRESIDENT ----- Ben Ramsey
 PRESIDENT PRO TEMPORE ----- Searcy Bracewell
 SECRETARY OF THE SENATE ----- Charles A. Schnabel, Jr.

| <i>Name</i> | <i>District</i> |
|---|-----------------|
| Aikin, A. M., Jr. ----- Paris ----- | 1 |
| Ashley, Carlos ----- Llano ----- | 16 |
| Bracewell, Searcy ----- Houston ----- | 6 |
| Bradshaw, Floyd ----- Weatherford ----- | 22 |
| Colson, Mrs. Neveille H. ----- Navasota ----- | 5 |
| Fly, Wm. S. ----- Victoria ----- | 18 |
| Fuller, Jep S. ----- Port Arthur ----- | 4 |
| Gonzalez, Henry B. ----- San Antonio ----- | 26 |
| Hardeman, Dorsey B. ----- San Angelo ----- | 25 |
| Hazlewood, Grady ----- Amarillo ----- | 31 |
| Herring, Charles F. ----- Austin ----- | 14 |
| Hudson, Hubert R. ----- Brownsville ----- | 27 |
| Kazen, Abraham, Jr. ----- Laredo ----- | 21 |
| Krueger, Culp ----- El Campo ----- | 15 |
| Lane, Wardlow ----- Center ----- | 2 |
| Lock, Ottis E. ----- Lufkin ----- | 3 |
| Martin, Crawford C. ----- Hillsboro ----- | 12 |
| Moffett, George ----- Chillicothe ----- | 23 |
| Moore, William T. ----- Bryan ----- | 11 |
| Owen, Frank III ----- El Paso ----- | 29 |
| Parkhouse, George ----- Dallas ----- | 8 |
| Phillips, Jimmy ----- Angleton ----- | 17 |
| Ratliff, David W. ----- Stamford ----- | 24 |
| Reagan, Bruce A. ----- Corpus Christi ----- | 20 |
| Roberts, Ray ----- McKinney ----- | 9 |
| Rogers, Andy ----- Childress ----- | 30 |
| Secrest, Jarrard ----- Temple ----- | 13 |
| Smith, Preston ----- Lubbock ----- | 28 |
| Weinert, R. A. ----- Seguin ----- | 19 |
| Willis, Doyle ----- Fort Worth ----- | 10 |
| Wood, Bill D. ----- Tyler ----- | 7 |

*

HOUSE OF REPRESENTATIVES

SPEAKER ----- Waggoner Carr
 CHIEF CLERK ----- Mrs. Dorothy Hallman

| <i>Name</i> | | <i>District</i> |
|-------------------------|-----------------|-----------------|
| Anderson, Louis H. | Midland | 102 |
| Armor, L. L. | Sweetwater | 91 |
| Atwell, Ben | Hutchins | 51 Pl. 2 |
| Baker, Robert W. | Houston | 22 Pl. 4 |
| Ballman, Charles L. | Borger | 86 |
| Bartram, R. A. | New Braunfels | 67 |
| Bass, Sam H., Jr. | Freeport | 23 |
| Bell, Marshall O. | San Antonio | 68 Pl. 5 |
| Bishop, A. J., Jr. | Winters | 77 |
| Blaine, John E. | El Paso | 105 Pl. 2 |
| Blanchard, H. J. | Lubbock | 97 Pl. 2 |
| Bowers, Robert L., Jr. | Brownfield | 98 |
| Boysen, Stanley | Yoakum | 47 |
| Brashear, Paul | Cisco | 76 |
| Bristow, J. Gordon | Big Spring | 101 |
| Bryan, Jack C. | Buffalo | 43 |
| Bullock, Robert D. | Hillsboro | 54 |
| Burkett, Joe, Jr. | Kerrville | 78 |
| Byrd, D. B. (Bryan) | Huntington | 18 |
| Chapman, Joe N. | Sulphur Springs | 11 |
| Cline, Wm. A., Jr. | Wharton | 31 |
| Cloud, Ed. J. | Rule | 83 |
| Cole, Criss | Houston | 22 Pl. 7 |
| Coley, Harold H. | Conroe | 29 |
| Conley, Carl C. | Raymondville | 40f |
| Cory, R. H. | Victoria | 33 |
| Cotten, James M. | Weatherford | 72 |
| Cowen, Warren C. (Red) | Fort Worth | 60 Pl. 7 |
| Cox, John T. | (Temple, Rt. 5) | 63 Pl. 1 |
| Crosthwait, John L. | Dallas | 51 Pl. 1 |
| Day, J. C. (Jimmy), Jr. | Brookshire | 30 |
| De La Garza, Eligio | Mission | 38 Pl. 3 |
| Dewey, B. H., Jr. | Bryan | 44 |
| Duff, Miss Virginia | Ferris | 52 |
| Dugas, Louis, Jr. | (Orange) | 8 |
| Dungan, W. T. | McKinney | 50 |
| Ehrle, Will | Childress | 88 |
| Elliott, Wm. M. | Pasadena | 22 Pl. 2 |
| Ellis, J. T., Jr. | Weslaco | 38 Pl. 1 |
| Fenoglio, Anthony | Nocona | 71 |
| Ferrell, Ben | Tyler | 14 |
| Ford, George D. | Bogata | 3 |
| Foreman, Wilson | Austin | 65 Pl. 1 |
| Forsyth, B. Gordon | Corpus Christi | 36 Pl. 1 |

HOUSE OF REPRESENTATIVES

| <i>Name</i> | <i>District</i> |
|--------------------------------|-------------------------------|
| Glass, W. W. ----- | Jacksonville ----- 17 |
| Glusing, Ben. A. ----- | Kingsville ----- 37f |
| Goetz, George ----- | San Augustine ----- 6 |
| Green, Howard ----- | Fort Worth ----- 60 Pl. 6 |
| Hale, L. DeWitt ----- | Corpus Christi ----- 36 Pl. 3 |
| Harrington, D. Roy ----- | Port Arthur ----- 9 Pl. 3 |
| Heatly, W. S. (Bill) Jr. ----- | Paducah ----- 82 |
| Hefin, J. M. (Jim) ----- | Houston ----- 22 Pl. 8 |
| Hensley, Joe Lee ----- | San Antonio ----- 68 Pl. 2 |
| Hollowell, Bill ----- | Grand Saline ----- 26 |
| Holman, Dixon W. ----- | Fort Worth ----- 60 Pl. 1 |
| Holstein, L. L. ----- | Pandora ----- 58 |
| Hooks, J. C. ----- | Livingston ----- 19 |
| Hosey, Jean E. ----- | Galveston ----- 21 Pl. 1 |
| Huebner, John A., Sr. ----- | Bay City ----- 32 |
| Huffman, Reagan R. ----- | Marshall ----- 4 |
| Huffor, Earl ----- | Huntsville ----- 28 |
| Hughes, Charles E. ----- | Sherman ----- 48 |
| Hughes, Robt. H. "Bob" ----- | Dallas ----- 51 Pl. 7 |
| Hutchins, Edgar, Jr. ----- | Greenville ----- 25 |
| Isaacks, Maud (Miss) ----- | El Paso ----- 105 Pl. 1 |
| Jackson, Robert C., Jr. ----- | Corsicana ----- 42 |
| Jamison, Alonzo W., Jr. ----- | Denton ----- 59 |
| Johnson, Robert E. ----- | Dallas ----- 51 Pl. 6 |
| Jones, Obie ----- | Austin ----- 65 Pl. 2 |
| Joseph, Thomas R., Jr. ----- | Austin ----- 53 Pl. 1 |
| Kelly, Moyne L. ----- | Afton ----- 85 |
| Kennard, Don ----- | Fort Worth ----- 60 Pl. 3 |
| Kennedy, Harold G. ----- | Marble Falls ----- 74 |
| Kilpatrick, Rufus U. ----- | Beaumont ----- 9 Pl. 1 |
| Koliba, Homer L., Sr. ----- | Columbus ----- 46 |
| Korioth, Tony ----- | Sherman ----- 49f |
| Kothmann, Glenn H. ----- | San Antonio ----- 68 Pl. 4 |
| Latimer, Truett ----- | Abilene ----- 84 |
| Laurel, Oscar M. ----- | Laredo ----- 80 |
| Lee, John R. ----- | Kermit ----- 103 |
| McCoppin, George W. ----- | Texarkana ----- 1 Pl. 1 |
| McDonald, Scott ----- | Ft. Worth ----- 60 Pl. 4 |
| McGregor, Frank B. ----- | Waco ----- 53 Pl. 2 |
| McGregor, Malcolm ----- | (El Paso) ----- 105 Pl. 4 |
| McIlhany, Grainger W. ----- | Wheeler ----- 87 |
| Mann, Frank E. ----- | Houston ----- 22 Pl. 1 |
| Martin, Amos A. ----- | Paris ----- 10 |
| Matthew, C. T. "Pete" ----- | Yoakum ----- 34 |
| Mays, Abe M., Jr. ----- | Atlanta ----- 2 |
| Moore, Carlton, Sr. ----- | Houston ----- 22 Pl. 3 |
| Moore, Jim ----- | Fort Worth ----- 60 Pl. 2 |
| Mullen, Bob ----- | Alice ----- 70 |
| Murray, Menton J. ----- | Harlingen ----- 39 Pl. 1 |
| Myatt, Ted W. ----- | Burleson ----- 61 |

HOUSE OF REPRESENTATIVES

| <i>Name</i> | <i>District</i> |
|----------------------------------|-----------------------------|
| Oliver, W. T. ----- | Port Neches -----9 Pl. 2 |
| Osborn, Jesse M. ----- | Muleshoe -----96 |
| Parish, Harold B. ----- | Taft -----35 |
| Parsons, Sam H. ----- | Henderson -----16 |
| Patterson, Robert R. ----- | Snyder -----90 |
| Pipkin, Maurice S. ----- | Brownsville -----39 Pl. 2 |
| Pool, Joe R. ----- | Dallas -----51 Pl. 5 |
| Pressler, Paul ----- | Houston -----22 Pl. 6 |
| Puckett, Herman V., Jr. ----- | Quitman -----12 |
| Ramsey, V. L. ----- | Beckville -----5 |
| Richardson, Jack ----- | Uvalde -----79 |
| Roberts, Wesley ----- | Lamesa -----99 |
| Russell, Raymond R., Jr. ----- | San Antonio -----68 Pl. 3 |
| Sadler, Jerry ----- | Percilla -----27 |
| Sandahl, Charles L., Jr. ----- | Austin -----65 Pl. 3 |
| Sanders, Barefoot ----- | Dallas -----51 Pl. 4 |
| Saul, Leroy ----- | Kress -----89 |
| Schram, O. H. (Muggie) ----- | Taylor -----64 |
| Schwartz, A. R. ----- | Galveston -----21 Pl. 2 |
| Schwartz, Walter C. ----- | Brenham -----45 |
| Seeligson, Frates ----- | San Antonio -----68 Pl. 7 |
| Shackelford, E. E. (Shack) ----- | Kirbyville -----7 |
| Shannon, J. W. (Bill) ----- | Stephenville -----62 |
| Shannon, Tommy ----- | Fort Worth -----60 Pl. 5 |
| Shaw, W. E. (Bill) ----- | Forney -----41 |
| Sheridan, Ed ----- | San Antonio -----68 Pl. 1 |
| Sherrill, Hershel C. ----- | McDade -----57 |
| Slack, Richard C. ----- | Pecos -----104 |
| Smith, Max C. ----- | San Marcos -----66 |
| Smith, Will L. ----- | Beaumont -----9 Pl. 4 |
| Spilman, Wade F. ----- | McAllen -----38 Pl. 2 |
| Springer, Ted B. ----- | Amarillo -----94f |
| Stewart, Vernon J. ----- | Wichita Falls -----81 Pl. 1 |
| Storey, Cecil ----- | Longview -----13 |
| Strickland, R. L. ----- | San Antonio -----68 Pl. 6 |
| Stroman, W. A. ----- | San Angelo -----92 |
| Sudderth, Ben D. ----- | Browwood -----73 |
| Sutton, R. K. ----- | Dallas -----51 Pl. 3 |
| Talasek, Reuben D. ----- | Temple -----63 Pl. 2 |
| Terrell, L. C. ----- | De Kalb -----1 Pl. 2 |
| Thurmond, George M. ----- | (Del Rio) -----100 |
| Tunnell, Byron ----- | Tyler -----15f |
| Turman, James A. ----- | (Gober) -----24 |
| Walling, J. B. ----- | Wichita Falls -----81 Pl. 2 |
| Watson, Murray, Jr. ----- | Mart -----53 Pl. 3 |
| Welch, Jack ----- | Marlin -----55 |
| Wheeler, Bob ----- | (Tilden) -----69 |
| White, Richard C. ----- | El Paso -----105 Pl. 3 |
| Wilson, George Truett ----- | Newcastle -----75 |
| Wilson, J. Edgar ----- | Amarillo -----93 |

HOUSE OF REPRESENTATIVES

| <i>Name</i> | | <i>District</i> |
|-----------------------------|----------------------|-----------------|
| Winfree, J. E. ----- | Houston ----- | 22 Pl. 5 |
| Wohlford, Sam E. ----- | Stratford ----- | 95 |
| Woolsey, W. N. (Bill) ----- | Corpus Christi ----- | 36 Pl. 2 |
| Yezak, Herman ----- | Bremond ----- | 56 |
| Zbranek, J. C. (Zeke) ----- | Daisetta ----- | 20 |

CONSTITUTION OF THE STATE OF TEXAS

ADOPTED

ARTICLE I BILL OF RIGHTS

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| Sec. 11-a. Multiple convictions; denial of bail [New]. | Sec. 15-a. Commitment of persons of unsound mind [New]. |
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§ 11a. Multiple convictions; denial of bail

Sec. 11a. Any person accused of a felony less than capital in this State, who has been theretofore twice convicted of a felony, the second conviction being subsequent to the first, both in point of time of commission of the offense and conviction therefor may, after a hearing, and upon evidence substantially showing the guilt of the accused, be denied bail pending trial, by any judge of a court of record or magistrate in this State; provided, however, that if the accused is not accorded a trial upon the accusation within sixty (60) days from the time of his incarceration upon such charge, the order denying bail shall be automatically set aside, unless a continuance is obtained upon the motion or request of the accused; provided, further, that the right of appeal to the Court of Criminal Appeals of this State is expressly accorded the accused for a review of any judgment or order made hereunder. Adopted Nov. 6, 1956.

§ 15-a. Commitment of persons of unsound mind

Sec. 15-a. No person shall be committed as a person of unsound mind except on competent medical or psychiatric testimony. The Legislature may enact all laws necessary to provide for the trial, adjudication of insanity and commitment of persons of unsound mind and to provide for a method of appeal from judgments rendered in such cases. Such laws may provide for a waiver of trial by jury, in cases where the person under inquiry has not been charged with the commission of a criminal offense, by the concurrence of the person under inquiry, or his next of kin, and an attorney ad litem appointed by a judge of either the County or Probate Court of the county where the trial is being held, and shall provide for a method of service of notice of such trial upon the person under inquiry and of his right to demand a trial by jury. Adopted Nov. 6, 1956.

ARTICLE III**LEGISLATIVE DEPARTMENT**

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| <p>Sec. 49-c. Texas Water Development Board; bond issue; Texas Water Development Fund [New].</p> <p>51-b. Assistance for totally and permanently disabled individuals [New].</p> | <p>Sec. 51-c. Aid or compensation to persons improperly fined or imprisoned [New].</p> |
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§ 48a. Retirement fund; public schools, colleges and universities

Sec. 48a. In addition to the powers given the Legislature under Section 48, Article III, it shall have the right to levy taxes to establish a fund to provide retirement, disability and death benefits for persons employed in the public schools, colleges and universities supported wholly or partly by the State; provided that the amount contributed by the State to such fund each year shall be equal to the aggregate amount required by law to be paid into the fund by such employees, and shall not exceed at any time six per centum (6%) of the compensation paid each such person by the State and/or school districts, and shall in no one (1) year exceed the sum of Five Hundred Four Dollars (\$504.00) for any such person; and provided that no person shall be eligible for retirement who has not rendered ten years of creditable service in such employment, and in no case shall any person retire before either attaining the age fifty-five (55) or completing thirty (30) years of creditable service, but shall be entitled to refund of moneys paid into the fund.

The Legislature may authorize all moneys coming into such fund to be invested in bonds or other evidences of indebtedness of the United States, or of this State, or any county, city, school district, or other municipal corporation or district of this State; or in such other securities as are now or hereafter may be permitted by law as investments for the Permanent University Fund or for the Permanent School Fund of this State; provided a sufficient sum shall be kept on hand to meet payments as they become due each year under such retirement plan, as may be provided by law; and provided that the recipients of such retirement fund shall not be eligible for any other State pension retirement funds or direct aid from the State of Texas, unless such other State pension or retirement fund, contributed by the State, is released to the State of Texas as a condition to receiving such other pension aid; providing, however, that this section shall not amend, alter, or repeal Section 63 of Article 16 of the Constitution of Texas as adopted November, 1954, or any enabling legislation passed pursuant thereto. As amended Nov. 6, 1956.

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

Sec. 49-b. There is hereby created a Board to be known as the Veterans' Land Board, which shall be composed of the Commissioner of the General Land Office, and two citizens of the State who shall be appointed by the Governor with the advice and consent of the Senate. The Governor shall biennially appoint one such member to serve for a term of four years, with the initial appointments to the Board under this section to be for terms of two and four years, respectively, and all subsequent appointments to be according to provisions of this section. One such appointive

ADOPTED AMENDMENTS **Art. 3, § 49—b**

member shall be well versed in veterans' affairs and the other such appointive member shall be well versed in finances. The Commissioner of the General Land Office shall act as Chairman of the Board and shall be the administrator of the Veterans' Land Program under such terms and restrictions as may be now or hereafter provided by law. The compensation for said appointive members shall be as fixed by the Legislature, and each shall make bond in such amount as may be prescribed by the Legislature. The Veterans' Land Board may issue not to exceed Two Hundred Million Dollars (\$200,000,000) in bonds or obligations of the State of Texas for the purpose of creating a fund to be known as the Veterans' Land Fund. Such bonds shall be executed by said Board as an obligation of the State of Texas, in such form, denominations, and upon the terms as are now provided by law or as may hereafter be provided by law; provided, however, that said bonds shall bear a rate of interest not to exceed three per cent (3%) per annum, and that the same shall be sold for not less than par value and accrued interest.

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

The Veterans' Land Fund shall be used by the Board for the sole purpose of purchasing lands suitable for the purpose hereinafter stated, situated in this State, (a) owned by the United States, or any governmental agency thereof; (b) owned by the Texas Prison System, or any other governmental agency of the State of Texas; or (c) owned by any person, firm, or corporation. Provided, however, the portion of the Veterans' Land Fund not immediately committed for the purchase of lands may be invested in short term United States bonds or obligations until such funds are needed for the purchase of lands. The interest accruing thereon shall become a part of the Veterans' Land Fund.

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

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

All monies received and which have been received under the Constitutional Amendment as adopted by the people of Texas at the election held on November 13, 1951, and which have not been used for repurchase of land as provided herein by the Veterans' Land Board from the sale of lands and for interest on deferred payments, shall be credited to the Veterans' Land Fund for use in purchasing additional lands to be sold to Texas veterans of World War II, and to Texas veterans of service in the armed forces of the United States of America subsequent to 1945, as may be included within this program by legislative Act, in like manner as provided for the sale of lands purchased with the proceeds from the sales of the bonds, provided for herein, for a period ending December 1, 1959; provided, however, that so much of such monies as may be necessary during the period ending December 1, 1959, to pay the principal of and interest on the bonds heretofore issued and on bonds hereafter issued by the Veterans' Land Board, shall be set aside for that purpose. After De-

Art. 3, § 49—b **CONSTITUTION**

ember 1, 1959, all monies received by the Veterans' Land Board from the sale of the lands and interest on deferred payments, or so much thereof as may be necessary, shall be set aside for the retirement of bonds heretofore issued and to pay interest thereon, and any of such monies not so needed shall not later than the maturity date of the last maturing bond or bonds be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law. All bonds issued hereunder shall, after approval by the Attorney General of Texas, registration by the Comptroller of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute obligations of the State under the Constitution of Texas. Of the total Two Hundred Million Dollars (\$200,000,000) of bonds herein authorized, the sum of One Hundred Million Dollars (\$100,000,000) has heretofore been issued; said bonds heretofore issued are hereby in all respects validated and declared to be obligations of the State of Texas.

The additional bonds herein authorized may be sold in such installments as deemed necessary and advisable by the Veterans' Land Board. All monies received from the sale of land and for interest on deferred payments on land purchased with the proceeds of such additional bonds, shall be credited to the Veterans' Land Fund for use in purchasing additional lands to be sold to Texas veterans, as herein provided, in like manner as provided for the sale of lands purchased with the proceeds from the sales of the bonds provided for herein, for a period ending December 1, 1965; provided, however, that so much of such monies as may be necessary to pay interest on the additional bonds herein provided for shall be set aside for that purpose. After December 1, 1965, all monies received by the Veterans' Land Board from the sale of the lands and interest on payments, or so much thereof as may be necessary, shall be set aside for the retirement of said additional bonds and to pay interest thereon, and any of such monies not so needed shall not later than the maturity date of the last maturing bond be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law.

This amendment shall be effective on and after January 1, 1957. As amended Nov. 6, 1956.

§ 49—c. Texas Water Development Board; bond issue; Texas Water Development Fund

There is hereby created as an agency of the State of Texas the Texas Water Development Board to exercise such powers as necessary under this provision together with such other duties and restrictions as may be prescribed by law. The qualifications, compensation, and number of members of said Board shall be determined by law. They shall be appointed by the Governor with the advice and consent of the Senate in the manner and for such terms as may be prescribed by law.

The Texas Water Development Board shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount not to exceed One Hundred Million Dollars (\$100,000,000). The Legislature of Texas, upon two-thirds ($\frac{2}{3}$) vote of the elected Members of each House, may authorize the Board to issue additional bonds in an amount not exceeding One Hundred Million Dollars (\$100,000,000). The bonds authorized herein or permitted to be authorized by the Legislature shall be called "Texas Water Development Bonds," shall be executed in such form, denominations and upon such terms as may be prescribed by law, provided, however, that the bonds shall not bear more than four per cent (4%) interest per annum; they may be issued in such install-

ADOPTED AMENDMENTS **Art. 3, § 49—c**

ments as the Board finds feasible and practical in accomplishing the purpose set forth herein.

All moneys received from the sale of State bonds shall be deposited in a fund hereby created in the State Treasury to be known as the Texas Water Development Fund to be administered (without further appropriation) by the Texas Water Development Board in such manner as prescribed by law.

Such fund shall be used only for the purpose of aiding or making funds available upon such terms and conditions as the Legislature may prescribe, to the various political subdivisions or bodies politic and corporate of the State of Texas including river authorities, conservation and reclamation districts and districts created or organized or authorized to be created or organized under Article XVI, Section 59 or Article III, Section 52, of this Constitution, interstate compact commissions to which the State of Texas is a party and municipal corporations, in the conservation and development of the water resources of this State, including the control, storing and preservation of its storm and flood waters and the waters of its rivers and streams, for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs and other water storage projects, including any system necessary for the transportation of water from storage to points of treatment and/or distribution, including facilities for transporting water therefrom to wholesale purchasers, or for any one or more of such purposes or methods.

Any or all financial assistance as provided herein shall be repaid with interest upon such terms, conditions and manner of repayment as may be provided by law.

While any of the bonds authorized by this provision or while any of the bonds that may be authorized by the Legislature under this provision, or any interest on any of such bonds, is outstanding and unpaid, there is hereby appropriated out of the first moneys coming into the Treasury in each fiscal year, not otherwise appropriated by this Constitution, an amount which is sufficient to pay the principal and interest on such bonds that mature or become due during such fiscal year, less the amount in the sinking fund at the close of the prior fiscal year.

The Legislature may provide for the investment of moneys available in the Texas Water Development Fund, and the interest and sinking funds established for the payment of bonds issued by the Texas Water Development Board. Income from such investment shall be used for the purposes prescribed by the Legislature. The Legislature may also make appropriations from the General Revenue Fund for paying administrative expenses of the Board.

From the moneys received by the Texas Water Development Board as repayment of principal for financial assistance or as interest thereon, there shall be deposited in the interest and sinking fund for the bonds authorized by this Section sufficient moneys to pay the interest and principal to become due during the ensuing year and sufficient to establish and maintain a reserve in said fund equal to the average annual principal and interest requirements on all outstanding bonds issued under this Section. If any year prior to December 31, 1982 moneys are received in excess of the foregoing requirements then such excess shall be deposited to the Texas Water Development Fund, and may be used for administrative expenses of the Board and for the same purposes and upon the same terms and conditions prescribed for the proceeds derived from the sale of such State bonds. No grant of financial assistance shall be made under the

provisions of this Section after December 31, 1982, and all moneys thereafter received as repayment of principal for financial assistance or as interest thereon shall be deposited in the interest and sinking fund for the State bonds; except that such amount as may be required to meet the administrative expenses of the Board may be annually set aside; and provided, that after all State bonds have been fully paid with interest, or after there are on deposit in the interest and sinking fund sufficient moneys to pay all future maturities of principal and interest, additional moneys so received shall be deposited to the General Revenue Fund.

All bonds issued hereunder shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.

Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such acts shall not be void by reason of their anticipatory nature.

§ 51a. Payment of assistance to needy aged, needy blind and needy children

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-five Dollars (\$25) per person; and provided further that no payment in excess of Twenty-one Dollars (\$21) shall be paid out of state funds to an individual until and unless such additional amounts are matched by the Federal Government.

(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 how-

ADOPTED AMENDMENTS **Art. 3, § 51—c**

ever, 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-seven Million Dollars (\$47,000,000) per year.

The Legislature shall enact appropriate laws to make lists of the recipients of aid hereunder available for inspection.

Supplementing legislative appropriations for assistance payments authorized by this section, the following sums are allocated out of the Omnibus Tax Clearance Fund and are appropriated to the State Department of Public Welfare for the period beginning December 1, 1957 and ending August 31, 1959: Four Million, Nine Hundred Thousand Dollars (\$4,900,000) for Old Age Assistance, One Hundred, Seventy-Five Thousand Dollars (\$175,000) for Aid to the Blind, and Five Hundred, Twenty-five Thousand Dollars (\$525,000) for Aid to Dependent Children. Such allocations and appropriations shall be made available on the basis of equal monthly installments and otherwise shall be subject to the provisions of currently existing laws making allocations and appropriations for these purposes.

§ 51-b. Assistance for totally and permanently disabled individuals

Sec. 51-b. The Legislature shall have the power to provide by general laws, under such limitations and restrictions as may be deemed by the Legislature expedient, for assistance to needy individuals, who are citizens of the United States, who shall have passed their eighteenth (18th) birthday but have not passed their sixty-fifth (65th) birthday, who are totally and permanently disabled by reason of a mental or physical handicap or a combination of physical and mental handicaps and not feasible for vocational rehabilitation, and who are residents of the State of Texas, who have resided in this State for at least one (1) year continuously immediately preceding the application and who have resided in the State for at least an additional five (5) years during the nine (9) years immediately preceding the application for assistance; and providing further that no individual shall receive assistance under this program for the permanently and totally disabled during any period when he is receiving old age assistance, aid to the needy blind, or aid to dependent children, nor while he is residing permanently in any completely State supported institution; and provided further that not more than Twenty Dollars (\$20) a month out of State funds may be paid to any individual recipient; and provided further that the amount paid out of State funds to any individual may never exceed the amount paid to that individual out of Federal funds; and provided further that the amount paid out of State funds for assistance payments shall not exceed One Million, Five Hundred Thousand Dollars (\$1,500,000) per year.

The Legislature shall have the authority to accept from the Government of the United States such financial aid for individuals who are permanently and totally disabled as that Government may offer not inconsistent with the restrictions herein provided. Added Nov. 13, 1956.

§ 51-c. Aid or compensation to persons improperly fined or imprisoned

Sec. 51-c. The Legislature may grant aid and compensation to any person who has heretofore paid a fine or served a sentence in prison, or who may hereafter pay a fine or serve a sentence in prison, under the laws

Art. 7, § 11a

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of this State for an offense for which he or she is not guilty, under such regulations and limitations as the Legislature may deem expedient. Added Nov. 6, 1956.

ARTICLE VII

EDUCATION

UNIVERSITY

Sec.

11a. Investment of Permanent University Fund [New].

§ 11a. Investment of Permanent University Fund

Sec. 11a. In addition to the bonds now enumerated in Section 11 of Article VII of the Constitution of the State of Texas, the Permanent University Fund may be invested in first lien real estate mortgage securities guaranteed in any manner in whole by the United States Government or any agency thereof and in such corporation bonds, preferred stocks and common stocks as the Board of Regents of The University of Texas may deem to be proper investments for said fund; and the interest and dividends accruing from the securities listed in Section 11 and Section 11a, except the portion thereof which is appropriated by the operation of Section 18 of Article VII for the payment of principal and interest on bonds or notes issued thereunder, shall be subject to appropriation by the Legislature to accomplish the purposes declared in Section 10 of Article VII of this Constitution. In making each and all of such investments said Board of Regents shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital; provided, however, that not more than fifty per cent (50%) of said fund shall be invested at any given time in corporate stocks and bonds, nor shall more than one per cent (1%) of said fund be invested in securities issued by any one (1) corporation, nor shall more than five per cent (5%) of the voting stock of any one (1) corporation be owned; and provided, further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors. This amendment shall be self-enacting, and shall become effective upon its adoption, provided, however, that the Legislature shall provide by law for full disclosure of all details concerning the investments in corporate stocks and bonds and other investments authorized herein. Added Nov. 6, 1956.

§ 17. Tax rate for pensions and state building fund; additional tax for buildings and improvements at institutions; bonds; allocation of proceeds; maximum state tax

Sec. 17. In lieu of the State ad valorem tax on property of Seven Cents (7¢) on the One Hundred Dollars (\$100) valuation heretofore permitted to be levied by Section 51 of Article 3, as amended, there is hereby levied, in addition to all other taxes permitted by the Constitution of Texas, a State ad valorem tax on property of Two Cents (2¢) on the One Hun-

dred Dollars (\$100) valuation for the purpose of creating a special fund for the continuing payment of Confederate pensions as provided under Section 51, Article 3, and for the establishment and continued maintenance of the State Building Fund as provided in Section 51b, Article 3, of the Constitution.

Also, there is hereby levied, in addition to all other taxes permitted by the Constitution of Texas, a State ad valorem tax on property of Five Cents (5¢) on the One Hundred Dollars (\$100) valuation for the purpose of creating a special fund for the purpose of acquiring, constructing and initially equipping buildings, or other permanent improvements at the designated institutions of higher learning; and the governing board of each of such institutions of higher learning is fully authorized to pledge all or any part of said funds allotted to such institution as hereinafter provided, to secure bonds or notes issued for the purpose of acquiring, constructing and initially equipping such buildings or other permanent improvements at said respective institutions. Such bonds or notes shall be issued in such amounts as may be determined by the governing boards of said respective institutions, shall bear interest not to exceed three per cent (3%) per annum and shall mature serially or otherwise not later than September 1, 1968, and September 1, 1978, respectively; provided, the power to issue bonds or notes hereunder is expressly limited to a period of twenty (20) years from the effective date of this amendment; and provided further, that the Five Cent (5¢) tax hereby levied shall expire finally upon payment of all bonds or notes hereby authorized; provided, further, that the State tax on property as heretofore permitted to be levied by Section 9 of Article VIII, as amended, exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of the public free schools, shall never exceed Thirty Cents (30¢) on the One Hundred Dollars (\$100) valuation. All bonds 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 only through competitive bids and shall never be sold for less than their par value and accrued interest.

Funds raised from said Five Cent (5¢) tax levy for the ten-year period beginning January 1, 1958, shall be allocated by the Comptroller of Public Accounts of the State of Texas on June first of that year, based on the average long session full-time student equivalent enrollment (fifteen (15) semester credit hours shall constitute one full-time student) for the preceding five-year period of time, to the following State institutions of higher learning then in existence, to wit:

- Texas State College for Women at Denton
- Texas College of Arts and Industries at Kingsville
- Texas Technological College at Lubbock
- East Texas State Teachers College at Commerce
- North Texas State College at Denton
- Sam Houston State Teachers College at Huntsville
- Southwest Texas State Teachers College at San Marcos
- Stephen F. Austin State College at Nacogdoches
- Sul Ross State College at Alpine
- West Texas State College at Canyon
- Texas Southern University at Houston
- Lamar State College of Technology at Beaumont

Not later than June first of the beginning year of each succeeding ten-year period, the Comptroller of Public Accounts of the State of Texas,

based on the average long session full-time student equivalent enrollment (fifteen (15) semester credit hours shall constitute one full-time student) for the preceding five-year period of time, shall re-allocate, to the above-designated institutions of higher learning then in existence, all funds to be derived from said Five Cent (5¢) ad valorem tax for said ten-year period; and all such designated institutions of higher learning which participate in the allocation or re-allocation of such funds shall not thereafter receive any General Revenue funds for the acquiring or constructing of buildings or other permanent improvements for which said Five Cent (5¢) ad valorem tax is herein provided, except in case of fire, flood, storm, or earthquake occurring at any such institution, in which case an appropriation in an amount sufficient to replace the uninsured loss so incurred may be made by the Legislature out of any General Revenue funds. The State Comptroller of Public Accounts shall draw all necessary and proper warrants upon the State Treasury in order to carry out the purpose of this amendment; and the State Treasurer shall pay warrants so issued out of the special fund hereby created for said purpose. This amendment shall be self-enacting; provided, however, it shall not become operative or effective upon its adoption so as to supersede or repeal the former provisions of this Section, but shall become so operative and effective on January 1, 1958; provided, further, that nothing herein shall be construed as impairing the obligation incurred by any outstanding notes or bonds heretofore issued by any State institution of higher learning under this Section prior to the adoption of this amendment, but such notes or bonds shall be paid, both as to principal and interest, from the fund as heretofore allocated to any such institution under this Section, nor shall the provisions of this amendment affect in any way the prior allocation of the revenue for the ten-year period beginning January 1, 1948, as heretofore authorized by the provisions of Section 17 of Article VII of this Constitution as adopted August 23, 1947. Chapter 330, Acts, Regular Session, Fifty-third Legislature is repealed upon the effective date of this Amendment; but the principal and interest due on any obligations incurred by the governing boards of Lamar State College of Technology at Beaumont and of Texas Southern University at Houston under the provisions of said Chapter 330 prior to its repeal shall be paid from the allocations to Lamar State College of Technology and Texas Southern University from the funds raised by the Five Cent (5¢) ad valorem tax levy as provided in this Section, and the annual allocations to these institutions under this Section shall be first devoted to current requirements for meeting such obligations in accordance with their terms. As amended Nov. 16, 1956.

§ 18. Agricultural and Mechanical College System; University of Texas System; bonds or notes payable from income of Permanent University Fund

Sec. 18. For the purpose of constructing, equipping, or acquiring buildings or other permanent improvements for the Texas Agricultural and Mechanical College System, including the Agricultural and Mechanical College of Texas at College Station, Arlington State College at Arlington, Prairie View Agricultural and Mechanical College of Texas at Prairie View, Tarleton State College at Stephenville, Texas, Agricultural Experiment Stations, Texas Agricultural Extension Service, Texas Engineering Experiment Station, at College Station, Texas Engineering Extension Service, at College Station, and the Texas Forest Service, the Board of Directors of the Agricultural and Mechanical College of Texas is hereby au-

thorized to issue negotiable bonds or notes not to exceed a total amount of one-third ($\frac{1}{3}$) of twenty per cent (20%) of the value of the Permanent University Fund exclusive of real estate at the time of any issuance thereof; provided, however, no building or other permanent improvement shall be acquired or constructed hereunder for use by any part of The Texas Agricultural and Mechanical College System, except at and for the use of the general academic institutions of said System, namely, the Agricultural and Mechanical College of Texas, Arlington State College, Tarleton State College, and Prairie View A. and M. College, without the prior approval of the Legislature or of such agency as may be authorized by the Legislature to grant such approval; and for the purpose of constructing, equipping, or acquiring buildings or other permanent improvements for The University of Texas System, including the Main University of Texas at Austin, The University of Texas Medical Branch at Galveston, The University of Texas Southwestern Medical School at Dallas, The University of Texas Dental Branch at Houston, Texas Western College of The University of Texas at El Paso, The University of Texas M. D. Anderson Hospital and Tumor Institute at Houston, The University of Texas Postgraduate School of Medicine, The University of Texas School of Public Health, McDonald Observatory at Mount Locke, and the Marine Science Institute at Port Aransas, the Board of Regents of The University of Texas is hereby authorized to issue negotiable bonds and notes not to exceed a total amount of two-thirds ($\frac{2}{3}$) of twenty per cent (20%) of the value of the Permanent University Fund exclusive of real estate at the time of any issuance thereof; provided, however, no building or other permanent improvement shall be acquired or constructed hereunder for use by any institution of The University of Texas System, except at and for the use of the general academic institutions of said System, namely, the Main University and Texas Western College, without the prior approval of the Legislature or of such agency as may be authorized by the Legislature to grant such approval. Any bonds or notes issued hereunder shall be payable solely out of the income from the Permanent University Fund. Bonds or notes so issued shall mature serially or otherwise not more than thirty (30) years from their respective dates.

The Texas Agricultural and Mechanical College System and all of the institutions constituting such System as hereinabove enumerated, and The University of Texas System, and all of the institutions constituting such System as hereinabove enumerated, shall not, after the effective date of this Amendment, receive any General Revenue funds for the acquiring or constructing of buildings or other permanent improvements, except in case of fire, flood, storm, or earthquake occurring at any such institution, in which case an appropriation in an amount sufficient to replace the uninsured loss so incurred may be made by the Legislature out of General Revenue funds.

Said Boards are severally authorized to pledge the whole or any part of the respective interests of the Agricultural and Mechanical College of Texas and of The University of Texas in the income from the Permanent University Fund, as such interests are now apportioned by Chapter 42 of the Acts of the Regular Session of the Forty-second Legislature of the State of Texas, for the purpose of securing the payment of the principal and interest of such bonds or notes. The Permanent University Fund may be invested in such bonds or notes.

All bonds or notes issued pursuant hereto shall be approved by the Attorney General of Texas and when so approved shall be incontestable. This amendment shall be self-enacting and shall become effective January

1, 1958; provided, however, that nothing herein shall be construed as impairing any obligation heretofore created by the issuance of any outstanding notes or bonds under this section by the respective Boards prior to the adoption of this amendment but any such outstanding notes or bonds shall be paid in full, both principal and interest, in accordance with the terms of such contracts. As amended Nov. 6, 1956.

ARTICLE VIII**TAXATION AND REVENUE****§ 9. Maximum state tax; county, city and town levies; local road laws**

Sec. 9. The State tax on property, exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of the public free schools, shall never exceed Thirty-five Cents (35¢) on the One Hundred Dollars (\$100) valuation; and no county, city or town shall levy a tax rate in excess of Eighty Cents (80¢) on the One Hundred Dollars (\$100) valuation in any one (1) year for general fund, permanent improvement fund, road and bridge fund and jury fund purposes; provided further that at the time the Commissioners Court meets to levy the annual tax rate for each county it shall levy whatever tax rate may be needed for the four (4) constitutional purposes; namely, general fund, permanent improvement fund, road and bridge fund and jury fund so long as the Court does not impair any outstanding bonds or other obligations and so long as the total of the foregoing tax levies does not exceed Eighty Cents (80¢) on the One Hundred Dollars (\$100) valuation in any one (1) year. Once the Court has levied the annual tax rate, the same shall remain in force and effect during that taxable year; and the Legislature may also authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads; provided, that a majority of the qualified property tax paying voters of the county voting at an election to be held for that purpose shall vote such tax, not to exceed Fifteen Cents (15¢) on the One Hundred Dollars (\$100) valuation of the property subject to taxation in such county. And the Legislature may pass local laws for the maintenance of the public roads and highways, without the local notice required for special or local laws. This Section shall not be construed as a limitation of powers delegated to counties, cities or towns by any other Section or Sections of this Constitution. As amended Nov. 6, 1956.

ARTICLE XVI**GENERAL PROVISIONS****§ 1. Official Oath**

Section 1. Members of the Legislature, and all other elected officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation:

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered,

ADOPTED AMENDMENTS Art. 16, § 62

or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected. So help me God."

The Secretary of State, and all other appointed officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation:

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward to secure my appointment or the confirmation thereof. So help me God." As amended Nov. 6, 1956.

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

(a) The Legislature shall have the authority to levy taxes to provide a State Retirement, Disability and Death Compensation Fund for the officers and employees of the State, and may make such reasonable inclusions, exclusions, or classifications of officers and employees of this State as it deems advisable. The Legislature may also include officers and employees of judicial districts of the State who are or have been compensated in whole or in part directly or indirectly by the State, and may make such other reasonable inclusions, exclusions, or classification of officers and employees of judicial districts of this State as it deems advisable. Persons participating in a retirement system created pursuant to Section 1-a of Article V of this Constitution shall not be eligible to participate in the Fund authorized in this Subsection; and persons participating in a retirement system created pursuant to Section 48-a of Article III of this Constitution shall not be eligible to participate in the Fund authorized in this Subsection except as permitted by Section 63 of Article XVI of this Constitution. Provided, however, any officer or employee of a county as provided for in Article XVI, Section 62, Subsection (b) of this Constitution, shall not be eligible to participate in the Fund authorized in this Subsection, except as otherwise provided herein. The amount contributed by the State to such Fund shall equal the amount paid for the same purpose from the income of each such person, and shall not exceed at any time five per centum (5%) of the compensation paid to each such person by the State.

All funds provided from the compensation of such person or by the State of Texas for such Retirement, Disability and Death Compensation Fund, as are received by the Treasury of the State of Texas, shall be invested in bonds of the United States, or in bonds issued by any agency of the United States Government, the payment of the principal of and interest on which is guaranteed by the United States; or in such other securities as are now or hereafter may be permitted by law as investments for the Permanent University Fund or for the Permanent School Fund of this State, under the same limitations and restrictions imposed by the Constitution for investment of those funds and subject to such regulations as the Legislature may provide. However, a sufficient amount of said Fund shall be kept on hand to meet the immediate payment of the amount likely

Art. 16, § 62**CONSTITUTION**

to become due each year out of said Fund, such amount of funds to be kept on hand to be determined by the agency which may be provided by law to administer said Fund.

Should the Legislature enact enabling laws in anticipation of the adoption of this Amendment, such legislation shall not be invalid by reason of its anticipatory character.

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ARTICLE III

LEGISLATIVE DEPARTMENT

Sec. 5. Meetings; order of business

The Legislature shall meet every year, under the condition and limitation hereinafter set forth, at such time as may be provided by law, and at other times when convened by the Governor.

During the First Regular Session of each Legislature, which shall convene in January, 1959, and each succeeding two (2) years thereafter, the first thirty (30) days thereof shall be devoted to the introduction of bills and resolutions, acting upon emergency appropriations, passing upon the confirmation of the recess appointees of the Governor and such emergency matters as may be submitted by the Governor in special messages to the Legislature; provided that during the succeeding thirty (30) days of the First Regular Session of the Legislature the various committees of each House shall hold hearings to consider all bills and resolutions and other matters as may be submitted by the Governor; provided further that during the following sixty (60) days the Legislature shall act upon such bills and resolutions as may be then pending and upon such emergency matters as may be submitted by the Governor in special messages to the Legislature; provided, however, either House may otherwise determine its order of business by an affirmative vote of four-fifths ($\frac{4}{5}$) of its membership.

During the Second Regular Session of each Legislature, which shall convene in January 1960, and each succeeding two years thereafter, the Legislature shall be authorized to consider and act upon the following only:

a. Make annual appropriations for the general operation of the State government; which appropriations may be passed by a majority vote of each House.

b. Consider emergency matters submitted by the Governor; bills embodying such matters shall become law only if the same shall be passed by a two-thirds vote of the Members elected to each House.

Whenever the term "Biennial Session" appears in Article 17 of this Constitution, it shall be construed to mean "First Regular Session."

Any bill considered in the Second Regular Session of the Legislature must be introduced in that session.

Proposed by House Joint Resolution No. 1, Acts 1957, 55th Leg., p. 1633. For submission to the people in Nov. 1958.

Sec. 24. Compensation and expenses of members of Legislature

Members of the Legislature shall receive from the public Treasury a salary of Seven Thousand, Five Hundred Dollars (\$7,500) per annum and expenses of office in amount and manner as determined by law. The Legislature shall not provide for any per diem for a greater number than one hundred and twenty (120) days during the First Regular Session, sixty (60) days during the Second Regular Session, and thirty (30) days during any Called Session.

Proposed by House Joint Resolution No. 1, Acts 1957, 55th Leg., p. 1633. For submission to the people in Nov. 1958.

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Sec. 24a. Lieutenant Governor; Speaker of House of Representatives; temporary residence in State Capitol

In addition to other compensation provided herein, the Lieutenant Governor of the State of Texas and the Speaker of the House of Representatives shall be entitled to temporary residence in the State Capitol during their term of office in such quarters and under such conditions as the Legislature may provide.

Proposed by House Joint Resolution No. 1, Acts 1957, 55th Leg., p. 1634. For submission to the people in Nov. 1958.

Subsection 51a—1. Medical care payments for needy aged, needy blind, needy children and the permanently and totally disabled

The Legislature shall have the power to provide by General Laws and to make payment for same, under such limitations and restrictions as may be deemed by the Legislature expedient, for direct or vendor payments for medical care on behalf of needy recipients of Old Age Assistance, Aid to the Blind, or Aid to Dependent Children as provided for in Section 51a of Article III and on behalf of needy recipients of Aid to the Permanently and Totally Disabled as provided for in Section 51-b of Article III of the Constitution of the State of Texas. The payments for such medical care on behalf of such recipients shall be in addition to the direct assistance to such recipients, and shall be in such amounts as provided by the Legislature; provided, however, that the amounts paid out of State funds for such purposes shall never exceed the amounts paid out of Federal funds for such purposes.

The Legislature shall have the authority to accept from the Federal Government of the United States, such financial aid on behalf of the needy aged, needy blind, needy children, and needy permanently and totally disabled persons as such Government may offer not inconsistent with restrictions herein set forth.

Proposed by House Joint Resolution No. 36, Acts 1957, 55th Leg., p. 1642. For submission to the people in Nov. 1958.

ARTICLE V

JUDICIAL DEPARTMENT

Sec. 28. Vacancies in judicial offices

Vacancies In Offices Of Judges Of Superior Courts To Be Filled By The Governor.

Vacancies in the office of judges of the Supreme Court, the Court of Criminal Appeals, the Court of Civil Appeals and the District Courts shall be filled by the Governor until the next succeeding General Election; and vacancies in the office of County Judge and Justices of the Peace shall be filled by the Commissioners Court until the next succeeding General Election.

Proposed by House Joint Resolution No. 30, Acts 1957, 55th Leg., p. 1640. For submission to the people in Nov. 1958.

CONSTITUTION—PROPOSED AMENDMENTS

ARTICLE IX

COUNTIES

Sec. 5. City of Amarillo; Wichita County; Jefferson County; creation of hospital districts

(a) The Legislature may by law authorize the creation of two hospital districts, one to be coextensive with and have the same boundaries as the incorporated City of Amarillo, as such boundaries now exist or as they may hereafter be lawfully extended, and the other to be coextensive with Wichita County.

If such district or districts are created, they may be authorized to levy a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation of taxable property within the district; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified property taxpaying voters who have duly rendered their property for taxation. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of Seventy-five Cents (75¢) per One Hundred Dollars (\$100.00) valuation, and no election shall be required by subsequent changes in the boundaries of the City of Amarillo.

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

(b) The Legislature may by law permit the County of Potter (in which the City of Amarillo is partially located) to render financial aid to that district by paying a part of the expenses of operating and maintaining the system and paying a part of the debts of the district (whether assumed or created by the district) and may authorize the levy of a tax not to exceed Ten Cents (10¢) per One Hundred Dollars (\$100.00) valuation (in addition to other taxes permitted by this Constitution) upon all property within the county but without the City of Amarillo at the time such levy is made for such purposes. If such tax is authorized, the district shall by resolution assume the responsibilities, obligations, and liabilities of the county in the manner and to the extent hereinabove provided for political subdivisions having boundaries coextensive with the district, and the county shall not thereafter levy taxes (other than herein provided) for hospital purposes nor for providing hospital care for needy individuals of the county.

(c) The Legislature may by law authorize the creation of a hospital district within Jefferson County, the boundaries of which shall include only the area comprising the Jefferson County Drainage District No. 7 and the Port Arthur Independent School District, as such boundaries ex-

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isted on the first day of January, 1957, with the power to issue bonds for the sole purpose of purchasing a site for, and the construction and initial equipping of, a hospital system, and with the power to levy a tax of not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation of property therein for the purpose of paying the principal and interest on such bonds.

The creation of such hospital district shall not be final until approved at an election by a majority of the resident property taxpaying voters voting at said election who have duly rendered their property for taxation upon the tax rolls of either said Drainage or said School District, nor shall such bonds be issued or such tax be levied until so approved by such voters.

The district shall not have the power to levy any tax for maintenance or operation of the hospital or facilities, but shall contract with other political subdivisions of the state or private individuals, associations, or corporations for such purposes.

If the district hereinabove authorized is finally created, no other hospital district may be created embracing any part of the territory within its boundaries, but the Legislature by law may authorize the creation of a hospital district incorporating therein the remainder of Jefferson County, having the powers and duties and with the limitations presently provided by Article IX, Section 4, of the Constitution of Texas, except that such district shall be confirmed at an election wherein the resident qualified property taxpaying voters who have duly rendered their property within such proposed district for taxation on the county rolls, shall be authorized to vote. A majority of those participating in the election voting in favor of the district shall be necessary for its confirmation and for bonds to be issued.

(d) 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. 3, Acts 1957, 55th Leg., p. 1628. For submission to the people in Nov. 1958.

ARTICLE XI

MUNICIPAL CORPORATIONS

Sec. 11. Term of office exceeding two years in home rule and general law cities; vacancies

A Home Rule City may provide by charter or charter amendment, and a city, town or village operating under the general laws may provide by majority vote of the qualified voters voting at an election called for that purpose, for a longer term of office than two (2) years for its officers, either elective or appointive, or both, but not to exceed four (4) years; provided, however, that tenure under Civil Service shall not be affected hereby.

Provided, however, if any of such officers, elective or appointive, shall announce their candidacy, or shall in fact become a candidate, in any general, special or primary election, for any office of profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one (1) year, such announcement or such candidacy shall constitute an

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automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

A municipality so providing a term exceeding two (2) years but not exceeding four (4) years for any of its non-civil service officers must elect all of the members of its governing body by majority vote of the qualified voters in such municipality, and any vacancy or vacancies occurring on such governing body shall not be filled by appointment but must be filled by majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur.

Proposed by House Joint Resolution No. 48, Acts 1957, 55th Leg., p. 1645. For submission to the people in Nov. 1958.

ARTICLE XVI

GENERAL PROVISIONS

Sec. 56. Appropriations for development and dissemination of information concerning Texas resources

The Legislature of the State of Texas shall have the power to appropriate money and establish the procedure necessary to expend such money for the purpose of developing information about the historical, natural, agricultural, industrial, educational, marketing, recreational and living resources of Texas, and for the purpose of informing persons and corporations of other states through advertising in periodicals having national circulation, and the dissemination of factual information about the advantages and economic resources offered by the State of Texas; providing, however, that neither the name nor the picture of any living state official shall ever be used in any of said advertising, and providing that the Legislature may require that any sum of money appropriated hereunder shall be matched by an equal sum paid into the State Treasury from private sources before any of said money may be expended.

Proposed by Senate Joint Resolution No. 4, Acts 1957, 55th Leg., p. 1630. For submission to the people in Nov. 1958.

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

(b) Each county shall have the right to provide for and administer a Retirement, Disability and Death Compensation Fund for the appointive officers and employees of the county or precinct, or for the appointive and elective officers and for the employees of the county or precinct, provided same is authorized by a majority vote of the qualified voters of such county and after such election has been advertised by being published in at least one newspaper of general circulation in said county once each week for four consecutive weeks; provided that the amount contributed by the county to such Fund shall at least equal the amount paid for the same purpose from the income of each such person and shall not exceed at any time seven and one-half per centum (7½%) of the compensation paid to each such person by the county.

All funds provided from the compensation of each such person, or by the county, for such Retirement, Disability and Death Compensation Fund,

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as are received by the county, shall be invested in bonds of the United States, the State of Texas, or counties or cities of this state, or in bonds issued by any agency of the United States government, the payment of the principal of and interest on which is guaranteed by the United States, provided that a sufficient amount of said funds shall be kept on hand to meet the immediate payment of the amount likely to become due each year out of said Fund, such amount of funds to be kept on hand to be determined by the agency which may be provided by law to administer said Fund; and provided that the recipients of benefits from said Fund shall not be eligible for any other pension retirement funds or direct aid from the State of Texas, unless the Fund, the creation of which is provided for herein, contributed by the county, is released to the State of Texas as a condition to receiving such other pension aid.

Proposed by Senate Joint Resolution No. 6, Acts 1957, 55th Leg., p. 1631. For submission to the people in Nov. 1958.

Sec. 65. Transition from two year to four year terms of office

Staggering Terms Of Office.—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 (2) 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 (2) 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 (2) years if the designation of their office is an uneven number, and for a term of four (4) 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.

Provided, however, if any of the officers named herein shall announce their candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any office of profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one (1) year, such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

Proposed by House Joint Resolution No. 31, Acts 1957, 55th Leg., p. 1641. For submission to the people in Nov. 1958.

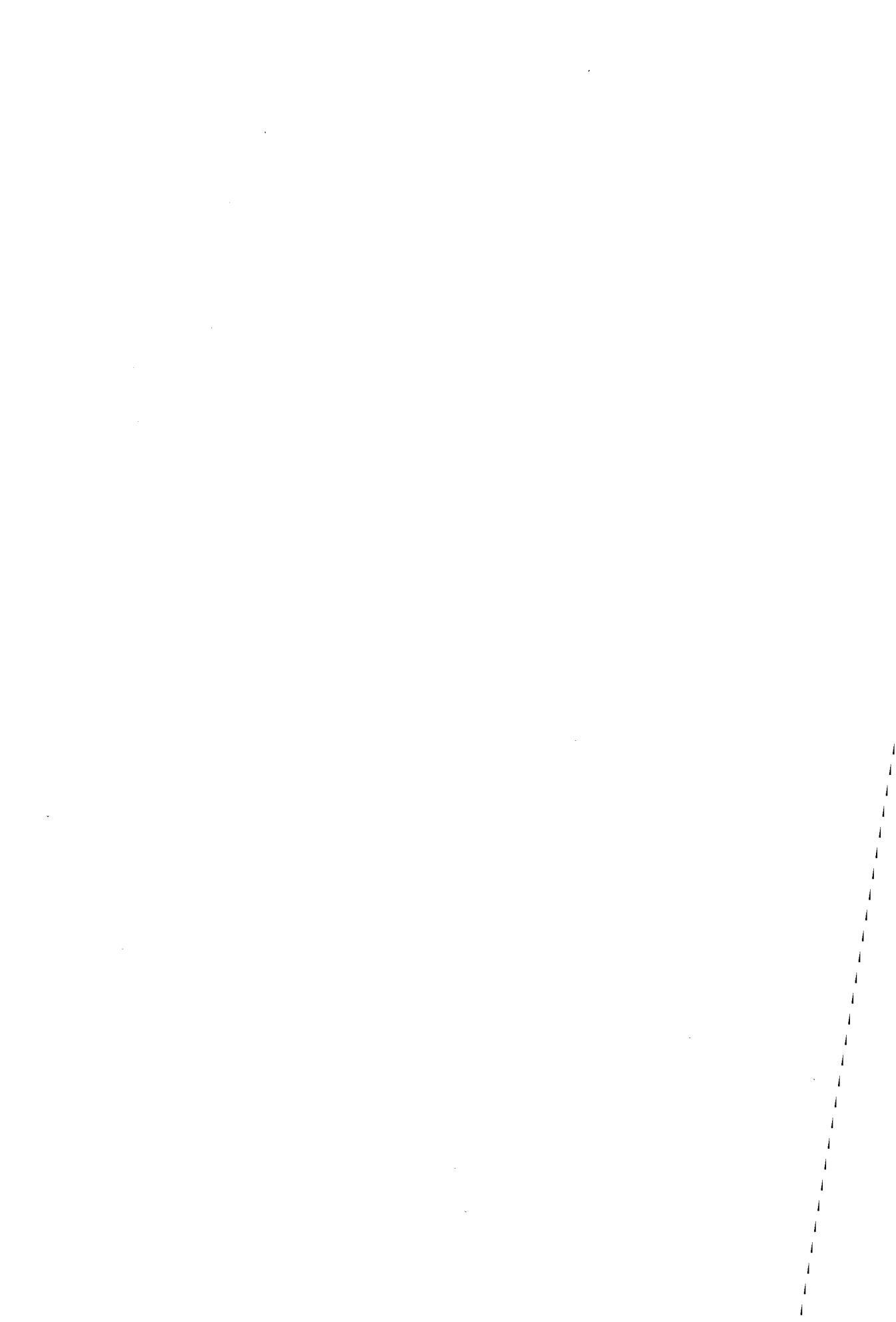
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Sec. 66. Texas Rangers; retirement and disability pension system for Rangers ineligible for membership in Employees Retirement System

The Legislature shall have authority to provide for a system of retirement and disability pensions for retiring Texas Rangers who have not been eligible at any time for membership in the Employees Retirement System of Texas as that retirement system was established by Chapter 352, Acts of the Fiftieth Legislature, Regular Session, 1947, and who have had as much as two (2) years service as a Texas Ranger, and to their widows; providing that no pension shall exceed Eighty Dollars (\$80) per month to any such Texas Ranger or his widow, provided that such widow was legally married prior to January 1, 1957, to a Texas Ranger qualifying for such pension.

These pensions may be paid only from the special fund created by Section 17, Article VII for a payment of pensions for services in the Confederate army and navy, frontier organizations, and the militia of the State of Texas, and for widows of such soldiers serving in said armies, navies, organizations or militia.

Proposed by House Joint Resolution No. 17, Acts 1957, 55th Leg., p. 1639. For submission to the people in Nov. 1958.



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| Art. 29b. Annual financial statements; publication by school, soil conservation, road, and other districts [New]. | Art. 29c. Certified mail with return receipt; use in lieu of registered mail authorized [New]. |
|--|---|

Art. 23. 5504, 3270 Definitions

The following meaning shall be given to each of the following words, unless a different meaning is apparent from the context:

1. "Property" includes real and personal property, and life insurance policies and the effects thereof.
2. "Person" includes a corporation.
3. "Written" or "in writing" includes any representation of words, letters or figures, whether by writing, printing or otherwise.
4. "Oath" includes affirmation.
5. "Swear" or "sworn" includes affirm.
6. "Signature" or "subscribe" includes the mark of a person unable to write.
7. "Justice" when applied to a magistrate, means justice of the peace.
8. "Preceding Federal Census" shall be construed to mean the United States Census of date preceding the action in question and each such subsequent Census as it occurs.
9. "Governing body," the governing or legislative body of any incorporated town, city or village, whether known as a council, commission, board of commissions, common council, board of aldermen, city council, or by whatever name such bodies may be known or designated.
10. "Official oath" means the oath required by Article 16, Section 1, of the Constitution of Texas.
11. "Comptroller" means the Comptroller of Public Accounts of the State of Texas.
12. "Land Commissioner" means the Commissioner of the General Land Office of Texas.
13. "Preceding" when used by way of reference to title, chapter or Article, means the next preceding.
14. "Succeeding" in like manner, means the next succeeding.
15. "Month" means a calendar month.
16. "Year" means a calendar year.
17. "Effects" includes all personal property and all interest therein.
18. "Affidavit" means a statement in writing of a fact or facts signed

by the party making it, and sworn to before some officer authorized to administer oaths, and officially certified to by such officer under his seal of office. As amended Acts 1957, 55th Leg., p. 1228, ch. 404, § 1.

Emergency. Effective June 6, 1957.

Art. 29b. Annual financial statements; publication by school, soil conservation, road, and other districts

The governing body of each school district, junior college district, road district, soil conservation district, water improvement district, water control and improvement district, fresh water supply district, drainage district, navigation district, river authority, conservation and reclamation district, or any other kind of district organized under Section 52 of Article III or Section 59 of Article XVI of the Constitution of Texas, shall cause to be prepared an annual financial statement showing the total receipts of each fund subject to its orders during the fiscal year, itemized according to source, such as taxes, assessments, service charges, grant of state money, gifts, or any other general source from which such funds are derived; showing total disbursements of such funds, itemized according to the nature of the expenditure; and showing the balance on hand in each fund at the close of the fiscal year. The presiding officer of such governing body shall submit such financial statements to some newspaper in each county in which the district or any part thereof is located, and the publication shall be made within two months after the close of the fiscal year. Provided, however, if the district is located in more than one county then such publication may be in any newspaper having a general circulation in said district. If there is no newspaper published in the county, then the publication shall be made in a newspaper in an adjoining county. Acts 1957, 55th Leg., p. 1240, ch. 410, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict.

Art. 29c. Certified mail with return receipt; use in lieu of registered mail authorized

All persons, firms, associations, corporations, and all municipalities, counties and other political subdivisions of the State, all State Departments, and State Agencies and boards, and all public officials are hereby authorized and empowered to use certified mail with return receipt requested, in lieu of registered mail in all instances where registered mail has heretofore been required or may hereafter be authorized by law. The mailing of any required notice of hearing, citation, bid request, or other notices, information or material by such certified mail shall have the same legal effect as if sent by registered mail, provided receipt for such certified mail is validated by official post office postmark. Provided, further, that where existing law now requires registered mail so as to provide insurance against loss of articles or material having an intrinsic value, then such insured articles or material shall continue to be sent by registered mail. Acts 1957, 55th Leg., p. 1266, ch. 424, § 1.

Emergency. Effective June 6, 1957.

Section 2 of the Act of 1957 repealed all conflicting laws and parts of laws. Section 3 was a severability provision.

TITLE 4—AGRICULTURE AND HORTICULTURE

Chap. **Art.**
15. Chicken Eggs [New] - - - - - 165—8

CHAPTER THREE—PINK BOLLWORM

Art. 69. Definitions

In this Chapter,

(1) "pink bollworm" shall mean the insect in its various stages of development, including the egg, larval, pupal, and adult stages.

(2) "cotton" or "cotton products" shall mean cotton in the seed, ginned lint cotton, cottonseed, cotton hulls, cotton in the bolls, cotton stalk, any and all character of cotton products (except oil and meal), and all other host plants to the pink bollworm, including okra and okra stalks. As amended Acts 1957, 55th Leg., p. 1291, ch. 431, § 1.

Emergency. Effective June 6, 1957.

Section 2 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 82a. Elective provisions; additional powers of Commissioner of Agriculture

Purpose of Act

Section 1. It is hereby declared to be the purpose of the Texas Legislature in the enactment of this law to grant additional powers to the Texas Commissioner of Agriculture to aid in furthering the enforcement of laws heretofore enacted, same being to eradicate menace to the cotton industry of *Pectinophora Gossypiella*, Saunders, commonly known as pink bollworm.

Election

Sec. 2. The cotton growers of this State shall have the opportunity to approve or reject the provisions of this Act. Immediately after the passage of this Act the Commissioner shall divide the State into districts of at least four (4) cotton-growing counties and shall designate a number for each of said districts so divided.

The Commissioner of Agriculture or his authorized agent shall upon receipt of a petition signed by not less than one hundred (100) eligible voters as hereinafter defined, establish and conduct each year the necessary election procedures and safeguards to ascertain the will of the cotton growers of the various districts to participate or not to participate under this Act. The election shall be conducted between September 1st and September 30th on the date that the Commissioner shall designate during the ginning season to determine whether the provisions of this Act shall apply for the following year. Notice of such election shall be given by publishing such notice in a newspaper or newspapers of general circulation in each county contained in the district once each week for three (3) consecutive weeks. Said elections shall be conducted and said ballots on the prescribed forms shall be collected at those polling places so designated by the Commissioner of Agriculture, which designation shall include at least one polling place in each county in the district. The election and collection of the ballots shall be conducted and supervised by representatives of the Commissioner of Agriculture on

such forms and under such rules as shall be determined by the Commissioner of Agriculture to assure a fair and just determination of the will of the growers of the district. Only cotton farmers of the district shall be eligible to vote and only one (1) vote shall be allowed for each grower regardless of the number of bales ginned or the volume of cotton grown by said grower. A grower under the terms of this Act shall be any person who has applied and received a permit to plant cotton pursuant to authority vested in the Commissioner of Agriculture under the provisions of Articles 68-82, Vernon's Civil Statutes of Texas, or who is the owner and holder of an allotment card issued by the United States Secretary of Agriculture through the County Agricultural Services and Conservation Committee.

Escrow account as security; payments into by cotton growers; forfeitures for violations; disposition of proceeds

Sec. 3. The Commissioner of Agriculture is hereby authorized to promulgate such additional rules and regulations necessary to establish a system whereby each cotton farmer in those districts approving by a majority vote under Section 2 above is required to pay into escrow account Seven Dollars and Fifty cents (\$7.50) per bale of cotton grown by such cotton farmer.

The sum of Seven Dollars and Fifty cents (\$7.50) per bale as herein authorized is to be deposited and to be held in escrow solely for the purpose of assuring the compliance by the permittee with the rules and regulations of the Commissioner of Agriculture and the conditions of the permit relating to planting and the destruction of cotton stalks. Under existing statutory authority of the Commissioner, applicants for growers' permits shall file such application with the Commissioner of Agriculture or his duly appointed agent on forms to be furnished by said Commissioner. These permits will authorize the planting of such cotton only during periods to be determined by the Commissioner of Agriculture. Each application for permit would provide that where a majority of growers in a district has approved the system the Commissioner of Agriculture is authorized upon receipt of such funds to deduct a portion thereof as escrow fees and to hold the balance for the benefits of the applicant until satisfactory destruction of cotton stalks has been completed. Upon satisfactory destruction of cotton stalks the grower shall be entitled to a refund of the balance of all moneys he has paid into the escrow account less the fee for escrow handling unless the grower has failed to comply with existing requirements for eradication of the pink bollworm menace within a reasonable time to be designated by the Commissioner.

Where a grower has willfully failed or refused to plow up or in other respects has not complied with the rules and regulations as promulgated by the Commissioner of Agriculture for the purposes of eradicating pink bollworm he shall forfeit that part of his Seven Dollars and Fifty Cents (\$7.50) per bale contribution which he is required to pay or compensate for the plow up or conditioning of property to render same safe from pink bollworm danger. The plow up or conditioning of the property shall be under the supervision of representatives of the Commissioner of Agriculture and such funds here designated shall be used to defray the costs of plow up. Any balances remaining to the credit of the defaulting grower over and above the costs of plow up and escrow fees so provided in the Act shall revert to and be payable to the grower depositor. The purpose here being not to penalize any failures but to assure plow

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

up and conditioning by the grower depositor or in the event he fails or refuses to do so to provide a method whereby it can be done by the Commissioner out of these deposited funds. Any further accumulation of funds unclaimed, including unused escrow fees, shall be disbursed as the Commissioner may authorize towards research and improvement of present controls whereby the menace of pink bollworm can be eliminated. At the end of each calendar year, the Commissioner shall account for all funds received and disposed of under this program.

The Seven Dollars and Fifty Cents (\$7.50) per bale surety as required herein shall be paid to a representative or authorized agent of the Commissioner of Agriculture at the gin where the cotton is ginned and at the time of ginning of each bale. Such agent or representative shall be required by the Commissioner to transfer the receipts to a depository to be selected as provided in Section 4 of this Act, such transfer to be made at least once a week.

The Commissioner is hereby authorized and instructed upon receipt of such funds to deduct as escrow fees not to exceed one per cent (1%) of the deposits received hereunder, to be expended for the purpose of paying compensation of inspectors, and defraying other necessary costs to carry out the provisions of this Act.

Selection of Depository

Sec. 4. The depository or depositories shall be any institution organized under the laws of this State or of the United States to conduct a depository or fiduciary business and which institution is domiciled in the district where the cotton growers have elected to be governed under this Act. Such depository shall be named and selected by the grower. If the grower fails to select such depository, the Commissioner of Agriculture shall make the selection.

The Commissioner of Agriculture is hereby authorized to supplement by such rules and regulations by him deemed necessary to supplement the program described herein so long as such rules and regulations are consistent with the provisions of this Act. Acts 1955, 54th Leg., p. 541, ch. 170, as amended Acts 1957, 55th Leg., p. 372, ch. 177, § 1.

Emergency. Effective May 6, 1957.

Section 2 of the amendatory Act of 1957 was a severability clause.

Section 5 of the Act of 1955 was a severability clause.

CHAPTER FOUR—AGRICULTURAL SEEDS

Art. 93b. Texas Seed Law

Definitions

Sec. 2. When used in this Act.

(e) Hybrids. The term "hybrid" means the first generation seed of a cross produced by controlling the pollination and by combining (1) two, three, or four inbred lines; (2) one inbred or a single cross with an open-pollinated variety; or (3) two varieties or species, except open-pollinated varieties of corn (*Zea mays*). The second generation and subsequent generations from such crosses shall not be regarded as hybrids. Hybrid designations shall be treated as variety names. As amended Acts 1957, 55th Leg., p. 139, ch. 60, § 2.

Emergency. Effective April 11, 1957.

Label Requirements

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

(a) For Agricultural Seeds.

(1) Commonly accepted name of (a) kind, or (b) kind and variety, or (c) kind and type, of each agricultural seed component in excess of five 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 all agricultural seeds. If the origin is unknown, that fact shall be so stated.

(4) Percentage by weight of all weed seeds.

(5) Primary and secondary noxious weed seeds will be shown at rate per pound.

(A) Nutgrass and Field Bindweed are prohibited from sale if present.

(B) Dodder, Curled Dock, Blueweed, Canada Thistle, and Johnson Grass in excess of 100 weed seed per pound are prohibited from sale, except that crops containing Johnson Grass in excess of 100 weed seed per pound may be labeled 'Pasture Mixture' and sold.

(C) Secondary noxious weed seed in excess of 200 weed seed per pound are prohibited from sale.

(D) Primary and secondary noxious weed seed in any combination in excess of 200 per pound are prohibited from sale.

(E) 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

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

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 noncertified, must have shown on the tag that the 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."

(11) Net Weight.

(b) For Vegetable Seed:

(1) Each bag or container of vegetable seed weighing one pound or more must have written on the container or attached a label showing the following information:

(A) Name and address of the person who labeled said seed.

(B) Kind and variety of seed.

(C) Percentage purity.

(D) Germination.

(E) Date of Test, and

(F) If present, name and number of noxious weed seeds per pound.

As amended Acts 1953, 53rd Leg., p. 744, ch. 292, § 1; Acts 1955, 54th Leg., p. 1144, ch. 431, § 2; Acts 1957, 55th Leg., p. 139, ch. 60, § 3.

Emergency. Effective April 19, 1957.

CHAPTER SIX—FRUITS AND VEGETABLES

Art. 118c—2. Repealed. Acts 1957, 55th Leg., p. 49, ch. 26, § 1. Eff. March 14, 1957.

Prior to repeal article was amended by Acts 1953, 53rd Leg., p. 70, ch. 52, § 1; Acts 1955, 54th Leg., p. 568, ch. 185, § 1.

Art. 118c—3. Sweet potatoes; inspection and classification; improvement of marketing opportunities

Inspection request; classification

Sec. 2. Any person may request an inspection and classification of sweet potatoes which he wishes to sell, offer for sale, or consign for sale, or transport in commercial quantities, and upon such request the Commissioner or his representative shall inspect, classify and grade such sweet potatoes in accordance with the provisions of this Act. Sweet potatoes entering into Texas from outside the State shall be subject to the provisions of this Act. As amended Acts 1957, 55th Leg., p. 1378, ch. 471, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Secs. 5, 6. Repealed. Acts 1957, 55th Leg., p. 1378, ch. 471, § 2.

The repealed sections 5 and 6, derived from Acts 1955, 54th Leg., p. 1170, ch. 451, required an inspection certificate to accompany sweet potatoes shipped, transported

or accepted for shipment, made violations of the act a misdemeanor and provided penalties.

CHAPTER SEVEN A—PLANT DISEASES AND PESTS

Art. 135b—1. Insecticides and fungicides; labeling; coloring; registration; analysis; forfeiture; fraud in sale; exemptions

Definitions

Section 1. (a) The term "agricultural insecticide" as used in this Act shall include any substance or mixture of substances offered for use for preventing, destroying, repelling, or mitigating any insects or pests which may infest agricultural crops, including fruits, vegetables, ornamentals, shade and forest trees, and shall also include the term "household insecticide" as defined by subdivision (b) of Section 1 of this Act.

(b) The term "household insecticide" as used in subdivision (a) shall include any substance or mixture of substances offered for use for preventing, destroying, repelling, or mitigating any insects or pests which may infest household goods.

(c) The term "Paris green" as used in this Act shall include the product sold as Paris green and chemically known as aceto-arsenate of copper.

(d) The term "calcium arsenate" as used in this Act shall include the product or products sold as calcium arsenate and consisting chemically of products derived from arsenic acid (H_3AsO_4) by replacing one (1) or more hydrogen atoms by calcium.

(e) The term "fungicide" as used in this Act includes any substances or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi, including rusts, smuts, mildew, molds, yeasts, and bacteria that may infest vegetation.

(f) The term "insect" shall include the forms of life to which the term insects is technically applied.

(g) The term "pests" shall include mites, ticks, rodents, weeds, ants, roaches, termites, moths, and all other things generally referred to as pests; provided, however, that the specific enumeration included herein shall not exclude under this definition those things generally referred to as pests. As amended Acts 1957, 55th Leg., p. 1264, ch. 422, § 1.

Effective 90 days after May 23, 1957,
date of adjournment.

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

Definitions

Sec. 2. For the purposes of this Act:

(a) The term "herbicide" shall mean 2, 4-Dichlorophenoxyacetic Acid (2, 4-D); 2, 4, 5-Trichlorophenoxyacetic Acid (2, 4, 5-T), 2-Methyl-4-chlorophenoxyacetic Acid (MCP), 2, 4, 5-Trichlorophenoxypropionic Acid (silvex), Polychlorinated benzoic acids, and their derivatives and formulations, and such other substances used for weed control as the Commissioner shall from time to time determine after public hearing to prevent a hazard to desirable vegetation through drift or other uncontrolled application.

(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.

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

(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, barter 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. As amended Acts 1957, 55th Leg., p. 1292, ch. 432, § 1.

Emergency. Effective June 6, 1957.

CHAPTER 15.—CHICKEN EGGS [NEW]

Art.

165—8. Handling and sale of chicken eggs.

Art. 165—8. Handling and sale of chicken eggs

Citation of act; enforcement

Section 1. This Act is named and may be cited as the Texas Egg Law and relates only to chicken eggs sold in the State of Texas. The law shall be administered and enforced by the Commissioner of Agriculture, hereinafter referred to as the Commissioner.

"Person" defined

Sec. 2. As used in the Act, the word "person" means an individual, firm, corporation, cooperative, or any other type of business entity.

Standards of quality

Sec. 3. (a). The standards of quality as determined by candling and conditions of shell, the grades and the standards of size as determined by weighing shall be the same as the standards and grades promulgated by the United States Department of Agriculture for shell eggs.

(b) All eggs which are offered for sale to consumers shall be graded according to consumer grades and weight classes, except as otherwise provided in Sections 4 and 11.

(c) All eggs which are offered for sale at wholesale shall be graded according to wholesale grades and weight classes, except as otherwise provided in Sections 4 and 11.

Ungraded eggs

Sec. 4. Eggs offered for sale but not graded or weighed shall comply with the provisions of Section 9 with the word "Ungraded" used instead of quality and size.

Inedible eggs

Sec. 5. It shall be unlawful to sell in bulk or in containers or sub-containers eggs that are or contain inedible eggs and which are not denatured, provided that not to exceed five per cent (5%) by count of inedibles shall be permitted when eggs are going to a dealer for candling and grading or to a breaking plant for breaking purposes. Eggs of the following descriptions are classed as inedible: Leakers, black rots, white rots, mixed rots, addled eggs, incubated eggs, eggs showing blood rings, eggs containing embryo chicks (at or beyond the blood ring stage), and any eggs unfit for human consumption due to causes other than those listed in this section.

Advertising shell eggs; descriptive words

Sec. 6. It shall be unlawful to sell or advertise shell eggs below the quality of Grade A as "fresh," "yard," "selected," "henery," "newlaid," "infertile," "cage," or other words of similar import or to represent the same to be fresh; provided, however, that this section shall not apply to producers of eggs when selling only the production of their own flocks.

Sanitary handling; rules and regulations

Sec. 7. After being received from the producer, all shell eggs for human consumption shall be properly handled to prevent undue deterioration.

All eggs shall be handled under reasonably sanitary conditions. The Commissioner is authorized to promulgate rules and regulations prescribing standards of sanitation for the handling of eggs.

Use of prefix "U. S." on grades and weight classes of shell eggs

Sec. 8. Unless the egg grading is under official United States Department of Agriculture supervision, it shall be unlawful to use the prefix "U.S." on grades and weight classes of shell eggs.

Containers for eggs; requirements

Sec. 9. All containers in which eggs for human consumption are offered for sale to food purveyors or consumers must:

- (a) be labelled according to size and grade in distinctly legible bold face type not less than one-fourth (1/4) inch in height;
- (b) not be deceptively labelled, advertised, or invoiced;
- (c) state the name of either the dealer, retailer, food purveyor, or agent by or for whom the eggs were graded and labelled;
- (d) not be advertised in a manner which indicated price without also indicating the full, correct and unabbreviated designation of size and grade of the eggs therein;
- (e) be labelled "cold storage eggs" if the eggs offered for sale therein have been held under refrigeration for a period of thirty (30) days or more.

In the case of eggs offered for sale uncartoned, a sign showing the proper designation of size and grade must be clearly displayed attached to the container. This sign must be distinctly legible in letters at least one (1) inch high.

Presumption of sale for human consumption

Sec. 10. It shall be presumed from the fact of possession by any person engaged in the sale of eggs that such eggs are for sale for human consumption as food unless they have been denatured or labelled in accordance with their specific intended uses other than human consumption.

Exemption of producers

Sec. 11. The producers of eggs when selling only the production of their own flocks shall be exempted from all provisions of this Act unless they claim some kind of grade, in which event they must conform to the requirements of the Act.

Enforcement of act

Sec. 12(a). The Commissioner or his duly authorized representative and inspectors under the supervision and control of the Commissioner shall enforce the provisions of this Act.

(b) Any authorized enforcement officer of the Commissioner may enter any place of business during ordinary business hours within the state where any eggs are held and may take for inspection representative samples of such eggs and containers for the purpose of determining whether or not any provision of this Act has been violated; provided, however, that the State Department of Agriculture shall reimburse the place of business, from which such eggs were taken for samples, the actual cost of such eggs.

(c) Any enforcement officer may while enforcing the provisions of this Act issue and enforce a written or printed "stop sale" order on any eggs held to be in violation of the Act, which shall prohibit further sales of any such eggs until such officer has evidence that the law has been complied with. In case of a dispute the egg vendor shall have the right of prompt reinspection by an authorized U. S. D. A. inspector. If upon reinspection the eggs shall fail to meet the specifications of such grades labelled, they shall be remarked or repackaged so as to meet the specifications for their grades, and the egg vendor shall be deemed to be operating in violation of the law.

(d) The Commissioner shall prescribe methods of selecting samples or lots or containers of eggs similar to methods prescribed by the United States Department of Agriculture, which shall be reasonably calculated to produce by such sampling fair representations of the entire lots or containers sampled. Any sample taken hereunder or an official certificate of the grade shall be prima facie evidence, in any court in this state, of the true condition of the entire lot in the examination of which said sample was taken.

(e) The Commissioner shall make and enforce such rules and regulations as are necessary to carrying out the provisions of this Act, provided such rules are approved in writing by the Attorney General of Texas, such approval to remain on file for public inspection.

Egg Marketing Advisory Board

Sec. 13. There shall be an Egg Marketing Advisory Board composed of the Commissioner, who will be chairman, and nine members appointed by the Governor, three each from (1) producers, (2) retailers, and (3) dealers, wholesalers, brokers, and processors as defined in Section 15. An Extension Service Representative designated by the Head of Poultry Science Department, Texas A. & M. College, shall serve as an ex-officio member of the Board.

The terms of members appointed by the Governor shall be for six (6) years, except that in the case of the first appointments one member from each group shall be appointed for two (2) years, one member from each group shall be appointed for four (4) years, and one member from each group shall be appointed for six (6) years. Vacancies shall be filled by appointment of the Governor for the unexpired term. All members must be residents of the State of Texas.

All members of the Board shall serve without pay but shall be reimbursed for their actual expenses incurred in attending to the work of the Board, subject to the approval of the Chairman.

The Board shall hold at least two meetings annually, and any additional meetings the Chairman deems necessary.

License to resell; exceptions

Sec. 14. It shall be unlawful for any person to buy or sell eggs within this state for subsequent resale without first obtaining a license from the Commissioner, with the following exceptions:

(a) Those who sell only eggs produced by their own flocks unless a grade is claimed;

(b) Hatcheries which buy eggs exclusively for hatching purposes;

(c) Hotels, restaurants, and other public eating places where all eggs purchased are served by the establishments;

(d) Food manufacturers purchasing eggs for use and used only in the manufacture of their products, save and except egg processors as defined in Section 15;

(e) Agents employed and carried on the payroll on a salary basis by persons licensed under this Act.

If the home office or principal place of business of the applicant for license is located outside of the State of Texas, the applicant must deposit with the Commissioner an instrument in writing appointing a resident agent within this state upon whom service may be had in actions filed by the state or taken by the Commissioner in the administration and enforcement of this Act.

License fee; enforcement fund; definitions

Sec. 15. In order to create a fund for the enforcement of the provisions of this Act, each licensee shall pay an annual license fee; provided, however, that no retailer as that term is defined herein shall be required to pay any license fee. The term "retailer" is defined to mean any person selling or offering for sale eggs to consumers only in this state. Licenses shall be classified under the following headings:

(a) Retailers. A retailer means a person selling or offering for sale eggs to consumers in this state.

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

(b) Dealers. A dealer means a person engaged in the business of buying eggs from producers on his own account and selling or transferring eggs to wholesalers, processors, retailers, or other persons.

(c) Wholesalers. A wholesaler means a person who assembles eggs in case lots and disposes of them in quantities to retailers or through other distribution channels.

(d) Processors. A processor means a person who operates a plant for the purpose of breaking eggs for freezing, drying, or commercial food manufacturing.

(e) Brokers. A broker means a person who never assumes ownership or possession of eggs, but is engaged in the business of acting as agent, for a fee or commission, in the sale or transfer of eggs between producers, dealers, or wholesalers as sellers and dealers, wholesalers, processors, or retailers as buyers.

Annual license fee; amounts; disposition

Sec. 16. The annual license fee for dealers, wholesalers, and processors shall be determined according to the average weekly volume of the month in which the licensee handled the most eggs during the preceding twelve (12) months ending on May 31st except that for a new business the fee shall be determined according to the average weekly volume of the month in which the licensee handled the most eggs through May of the first license year. In the case of a new business, a fee based on an estimate of the volume of business to be done shall be paid at the time the license is obtained, and an adjustment in the payment shall be made when the year's records are available.

The license year shall be twelve (12) months or any fraction thereof beginning on September 1st and ending on August 31st, except that licenses issued for new business during the month of August shall extend to August 31st of the following year. The license fee shall be paid prior to issuance of the initial license, and renewal fees shall be paid annually during the month of August. In the event this Act becomes effective prior to September 1, 1957, all licenses issued prior to September 1, 1957 shall extend to August 31, 1958.

The annual license fees shall be as follows:

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| (a) Dealers and Wholesalers at each Plant: | |
| 1 case (30 doz. eggs) to and including 9 | \$ 5.00 |
| 10 cases to and including 49 | 10.00 |
| 50 cases to and including 99 | 15.00 |
| 100 cases to and including 199 | 25.00 |
| 200 cases to and including 499 | 50.00 |
| 500 cases to and including 999 | 75.00 |
| 1,000 cases to and including 1,499 | 100.00 |
| 1,500 cases to and including 2,999 | 200.00 |
| 3,000 cases and up | 250.00 |
| (b) Processors: | |
| Less than 250 cases | \$ 20.00 |
| 250 cases to and including 499 | 30.00 |
| 500 cases to and including 999 | 40.00 |
| 1,000 cases and up | 50.00 |
| (c) Brokers | \$ 5.00 |

The proceeds of such license fees shall be paid into the State Treasury by the Commissioner and placed by the State Treasurer in a fund to be known as the Egg Law Enforcement Fund, and shall be used only for

the administration and enforcement of this Act, and the entire amount of fees so collected and deposited, or so much thereof as may be necessary, is hereby appropriated to the Special Department of Agriculture Fund for the policing, enforcing and administration of this Act, and in addition to all other appropriations which may heretofore or hereafter be made, the fees so collected under this Act during the biennium ending August 31, 1959 are hereby appropriated for the policing, administration and enforcement of this Act for said biennium.

Records of purchases and sales

Sec. 17 (a) Every licensed dealer, wholesaler, and processor shall keep on file within this state for a period of two (2) years a true and complete record of all eggs purchased or sold. This record shall show the name and address of the person from whom eggs were purchased and to whom sold, and also the number of dozens or cases included in each transaction and the date thereof. Provided, that in situations where such person is also a retailer, and said eggs have been purchased by him from the producers thereof in less than case lots, no connection need be made between the record of such eggs purchased and the record of such eggs sold. The Commissioner may prescribe record forms and may require such additional information as may be necessary in the administration of this Act. The records shall be open to inspection by the Commissioner or his duly authorized representative at all reasonable times.

(b) Every licensed dealer, wholesaler, and processor shall deliver with each transaction, sale or delivery a signed invoice stating the date, quantity, grade and size of the eggs sold, and shall keep a copy of each invoice for the same period as stated in subdivision (a) of this section.

Out-of-state seller

Sec. 18. Nothing herein shall be construed as requiring an out-of-state seller of eggs to secure a license under this Act unless the sale is made to the retail consumer.

Penalty

Sec. 19. Any person violating the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars (\$50.00) and not more than One Thousand Dollars (\$1,000.00). In case of a conviction the license of such violator may be suspended by the Commissioner for a period not to exceed ninety (90) days.

Effective dates

Sec. 20. Sections 4, 5, 7 and 9 of this Act shall become operative on the one hundred eightieth (180th) day after the effective day of the Act. Section 14 shall become operative on the sixtieth (60th) day after the effective date of the Act. All other sections shall become operative on the effective date of the Act. Acts 1957, 55th Leg., p. 288, ch. 133.

Effective 90 days after May 23, 1957, date of adjournment.

Section 21 of the Act of 1957 was a severability clause.

TITLE 6—AMUSEMENTS—PUBLIC HOUSE OF

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| <p>Art. 179a. Private investigator employed to determine attendance or number of paid admissions at motion picture theater performance; report to theater owner [New].</p> | <p>Art. 179b. State law as governing contract for distribution and licensing motion pictures; venue [New].</p> |
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Art. 179a. Private investigator employed to determine attendance or number of paid admissions at motion picture theater performance; report to theater owner

Section 1. Any person employed as a private investigator or confidential investigator for the purpose of determining or attempting to determine the attendance or number of paid admissions at any motion picture theater performance in this state shall furnish to the owner or general manager of such theater, or theaters, checked, a report of his finding on the next succeeding day and within three (3) days after such check, a written copy of his finding or report.

Sec. 2. No evidence obtained by any investigator, nor testimony of such investigator, shall be admissible as evidence in any court, or proceedings of any kind, unless there is compliance with the provisions of Section 1 of this Act. Acts 1957, 55th Leg., p. 476, ch. 227.

Effective 90 days after May 23, 1957, date of adjournment.

Section 3 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict only. Section 4 was a severability clause.

Art. 179b. State law as governing contracts for distribution and licensing motion pictures; venue

Section 1. From and after the effective date of this Act, every contract or agreement relating to distribution of films or licensing of motion pictures or films which are shown in any theater in the State of Texas shall be construed in accordance with the laws of this State.

Sec. 2. Venue of suits arising out of such license agreements shall be in the county where such film was licensed to be shown or in the county where the principal office of the exhibitor under such license agreement is located. Any provision of such agreement attempting to fix venue elsewhere shall be void. Acts 1957, 55th Leg., p. 1345, ch. 456.

Effective 90 days after May 23, 1957, date of adjournment.

Section 3 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 4 was a severability provision.

Title of Act:

An Act requiring all contracts relating to the distribution and licensing of motion

pictures or films to be shown in theaters in the State of Texas, shall be construed in accordance with the laws of this State; providing venue of suits arising out of such license agreements; providing a repealing clause; providing a severability clause; and declaring an emergency. Acts 1957, 55th Leg., p. 1345, ch. 456.

TITLE 7—ANIMALS

Art.

190a—2. Bounties for destruction of wolves and predatory animals in Henderson, Angelina and Trinity Counties [New].

Art. 190a—2. Bounties for destruction of wolves and predatory animals in Henderson, Angelina and Trinity Counties

It is hereafter lawful for the Commissioners Court of Henderson, Angelina and Trinity Counties to pay out of the General Fund of said Counties bounties for the destruction of wolves and predatory animals within said Counties as hereinafter provided.

The Commissioners Court may by Resolution entered upon its minutes provide for the destruction of such wolves and predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of wolves and predatory animals in said Counties shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with them of such proof as the Commissioners Court may require. Acts 1957, 55th Leg., p. 797, ch. 332, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Title of Act:

An Act granting the Commissioners Court of Henderson, Angelina and Trinity

Counties permission to pay out of the General Fund of said Counties bounties for the destruction of wolves and predatory animals; and declaring an emergency. Acts 1957, 55th Leg., p. 797, ch. 332.

TITLE 8—APPORTIONMENT

Art.

197a. Congressional Districts [New].

Art. 197. 28, 20, 15 Congressional Districts

Apportionment provisions to take effect for the General Election in 1958, see Article 197a.

Art. 197a. Congressional Districts

Section 1. The State of Texas shall be apportioned into the following Congressional Districts, each of which shall be entitled to elect one (1) Member of the Congress of the United States:

First: The following Counties shall compose the First District, to wit: Bowie, Cass, Franklin, Red River, Titus, Morris, Hopkins, Marion, Harrison, Lamar and Delta.

Second: The following Counties shall compose the Second District, to wit: Jefferson, Orange, Jasper, Newton, Sabine, San Augustine, Hardin, Liberty, and Tyler.

Third: The following Counties shall compose the Third District, to wit: Van Zandt, Smith, Rusk, Panola, Wood, Camp, Upshur, Gregg, and Shelby.

Fourth: The following Counties shall compose the Fourth District, to wit: Grayson, Fannin, Collin, Hunt, Rockwall, Kaufman, and Rains.

Fifth: The following County shall compose the Fifth District, to wit: Dallas.

Sixth: The following Counties shall compose the Sixth District, to wit: Navarro, Limestone, Ellis, Robertson, Freestone, Leon, Hill, Brazos, Johnson, Hood, and Somervell.

Seventh: The following Counties shall compose the Seventh District, to wit: Houston, Montgomery, San Jacinto, Polk, Henderson, Anderson, Trinity, Walker, Grimes, Madison, Cherokee, Nacogdoches, and Angelina.

Eighth: The following part of Harris County shall compose the Eighth District, to wit: That part of Harris County North of a line beginning at the point where U. S. Highway No. 290 intersects the county line between Harris and Waller Counties; thence along said U. S. Highway No. 290 to the intersection of said highway with Post Oak Road; thence along said Post Oak Road to Buffalo Bayou; thence along said Bayou to Morgan's point.

Ninth: The following Counties shall compose the Ninth District, to wit: Matagorda, Goliad, Brazoria, Fort Bend, Wharton, Jackson, Victoria, Austin, Waller, Calhoun, Galveston, Lavaca, Fayette, Colorado, and Chambers.

Tenth: The following Counties shall compose the Tenth District, to wit: Washington, Hays, Caldwell, Bastrop, Travis, Lee, Burleson, Williamson, Blanco, and Burnet.

Eleventh: The following Counties shall compose the Eleventh District, to wit: Falls, Bosque, Bell, Coryell, McLennan, and Milam.

Twelfth: The following County shall compose the Twelfth District, to wit: Tarrant.

Thirteenth: The following Counties shall compose the Thirteenth District, to wit: Wilbarger, Baylor, Throckmorton, Archer, Clay, Jack, Wise, Wichita, Young, Hardeman, Foard, Knox, Haskell, Stonewall, King, Kent, Cooke, Montague, and Denton.

Fourteenth: The following Counties shall compose the Fourteenth District, to wit: Kleberg, Nueces, Jim Wells, Duval, Kenedy, San Patricio, McMullen, Live Oak, Bee, Aransas, Refugio, DeWitt, Karnes, Atascosa, Wilson, Brooks, Gonzales, Comal, and Guadalupe.

Fifteenth: The following Counties shall compose the Fifteenth District, to wit: Cameron, Hidalgo, Willacy, Starr, Zapata, Webb, Jim Hogg, Dimmit, Medina, Zavala, Frio, LaSalle, and Maverick.

Sixteenth: The following Counties shall compose the Sixteenth District, to wit: El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Midland, Ward, Crane, Upton, Jeff Davis, Presidio, Brewster, Pecos, Glasscock, Reagan, Terrell, and Crockett.

Seventeenth: The following Counties shall compose the Seventeenth District, to wit: Nolan, Fisher, Jones, Taylor, Shackelford, Callahan, Stephens, Eastland, Comanche, Erath, Palo Pinto, Hamilton, Scurry, and Parker.

Eighteenth: The following Counties shall compose the Eighteenth District, to wit: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Motley, and Cottle.

Nineteenth: The following Counties shall compose the Nineteenth District, to wit: Bailey, Lamb, Hale, Cochran, Hockley, Floyd, Lubbock, Crosby, Yoakum, Terry, Lynn, Garza, Gaines, Dawson, Borden, Andrews, Martin, Howard, Mitchell, and Dickens.

Twentieth: The following County shall compose the Twentieth District, to wit: Bexar.

Twenty-first: The following Counties shall compose the Twenty-first District, to wit: Sterling, Coke, Runnels, Coleman, Irion, Tom Green, Concho, San Saba, McCulloch, Mills, Lampasas, Schleicher, Menard, Mason, Llano, Kimble, Gillespie, Real, Kerr, Kendall, Bandera, Sutton, Edwards, Kinney, Uvalde, Brown, and Val Verde.

Twenty-second: The following part of Harris County shall compose the Twenty-second District, to wit: That part of Harris County South of a line beginning at the point where U. S. Highway No. 290 intersects the county line between Harris and Waller Counties; thence along said U. S. Highway No. 290 to the intersection of said Highway with Post Oak Road; thence along said Post Oak Road to Buffalo Bayou; thence along said Bayou to Morgan's Point.

Sec. 2. Nothing in this Act shall in anywise affect the tenure in office of the present delegation in Congress of Texas, but this Act shall take effect for the General Election in 1958, and thereafter until this law shall have been changed by the Legislature of this State. Acts 1957, 55th Leg., p. 681, ch. 286.

Effective 90 days after May 23, 1957, date of adjournment except as limited by Sec. 2 of this Act.

Section 3 of the Act of 1957 repealed all conflicting laws and parts of laws.

Title of Act:

An Act to apportion the State of Texas into Congressional Districts, naming the

Counties and parts thereof composing the same, and providing for the election of a Member of the Congress of the United States from each District; repealing all laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1957, 55th Leg., p. 681, ch. 286.

Prior apportionment provisions, see Article 197.

Art. 199. 30, 22, 17 Judicial Districts

6.—Fannin and Lamar

Section 1. The terms of the District Court of the 6th Judicial District heretofore created composed of the Counties of Lamar and Fannin shall after the effective date of this Act be as follows:

There shall be two (2) terms of the 6th Judicial District Court in each county of the District each year and the first term shall begin on the first Monday in January each year and shall continue until the convening of the next regular term, and the second term shall begin on the first Monday in July of each year and shall continue until the convening of the next regular term; provided, however, that the present term of court for the 6th Judicial District shall continue until the convening of the next regular term of court provided for by this Act.

Sec. 2. In any of the above-named counties in which there are two (2) or more District Courts, such District Courts shall have concurrent jurisdiction with each other in said counties throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and Laws of this State.

Sec. 3. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 4. In any of the counties of the 6th Judicial District, the grand jury may be convened on the first or any subsequent day of the term. The Judge shall designate the day on which the grand jury is to be impaneled.

Sec. 5. In any of the above said counties in which there are two (2) or more District Courts, the Judges of such Courts may, in their discretion, either in termtime or in vacation, on motion of any party or on agreement of the parties, or on their own motion, transfer any case, or proceeding, civil or criminal, on their dockets to the docket of one of the other said District Courts; and the Judges of said Courts may, in their discretion, exchange benches or districts from time to time; and whenever a Judge of one of said Courts is disqualified, he shall transfer the case, or proceeding, from his Court to one of the other Courts, and any of said Judges may in his own courtroom try and determine any case or proceeding pending in either of the other Courts, without having the case transferred or may sit in any of the other said Courts and there hear and determine any case, or proceeding, there pending, and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two (2) or more Judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court. In case of absence, sickness or disqualification of any of said Judges, any other of said Judges may hold Court for him. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same or may hear or determine any question in any case or proceeding and any other of said Judges may complete the hearing and render judgment in the same. Any of said Judges may hear and determine demurrers, motions, petitions for injunction, application for appointment of receivers, interventions, pleas of privilege, pleas in abatement and all dilatory pleas, motions for new trials and all preliminary matters, questions and proceedings and may enter judgment or order thereon in the Court in which the case or proceeding is pending, without having the same transferred to the Court of the Judge acting and the Judge in whose Court the same

is pending may thereafter proceed to hear, complete and determine the same or other matter or any part thereof and render final judgment thereon. Any of the Judges of said Courts may issue restraining orders and injunctions returnable to any of the other Judges of Courts.

The specific matters mentioned in this Section shall not be construed as any limitation on the powers of such Judges when acting for any other Judge by exchange of benches or otherwise. Acts 1957, 55th Leg., p. 388, ch. 190.

Emergency. Effective May 6, 1957.

Sections 6 and 7 of the Act of 1957 provided:

"Sec. 6. All process issued and returnable to a succeeding term of court, and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the 6th District Court of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process is-

sued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

"Sec. 7. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

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

Harris County shall constitute the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd, and 157th Judicial Districts. None of said twelve (12) district courts shall have or exercise any criminal jurisdiction in Harris County. Said District Courts of the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd, and 157th Judicial Districts shall have and exercise concurrent jurisdiction, co-extensive within the limits of Harris County, in all civil cases, proceedings, and matters over which District Courts are given jurisdiction by the Constitution and laws of this State.

There shall be two (2) terms of each said twelve (12) Civil District Courts in Harris County in each year, and the first term shall be known as the January-June term, and shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second term, which shall be known as the July-December term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January.

In all suits, actions, or proceedings in said Courts, it shall be sufficient for the address or designation to be merely "District Court of Harris County." The Clerk of the Civil District Courts in Harris County shall be known as the "Clerk of the District Court of Harris County, Texas." The clerk of said twelve (12) Civil District Courts shall docket alternately on the dockets of the District Courts of the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd, and 157th Judicial Districts in Harris County, all cases, action¹, petitions, applications, and other proceedings filed in the District Courts of Harris County so that the first case or proceeding filed after the effective date of this Act and every twelfth case or proceeding thereafter filed shall be docketed in the 11th Judicial District Court; and the second case or proceeding filed and every twelfth case or proceeding thereafter filed shall be docketed in the 55th Judicial District Court; and the third case or proceeding filed and every twelfth case or proceeding thereafter filed shall be docketed in the 61st Judicial District Court; and the fourth case or proceeding filed and every twelfth case or proceeding thereafter filed shall be docketed in the 80th Judicial District Court; and the fifth case or proceeding filed and every twelfth

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

case or proceeding thereafter filed shall be docketed in the 113th Judicial District Court; and the sixth case or proceeding and every twelfth case or proceeding thereafter filed shall be docketed in the 125th Judicial District Court; and the seventh case or proceeding and every twelfth case or proceeding thereafter filed shall be docketed in the 127th Judicial District Court; and the eighth case or proceeding and every twelfth case or proceeding thereafter filed shall be docketed in the 129th Judicial District Court; and the ninth case or proceeding and every twelfth case or proceeding thereafter filed shall be docketed in the 133rd Judicial District Court; and the tenth case or proceeding and every twelfth case or proceeding thereafter filed shall be docketed in the 151st Judicial District Court; and the eleventh case or proceeding and every twelfth case or proceeding thereafter filed shall be docketed in the 152nd Judicial District Court; and the twelfth case or proceeding and every twelfth case or proceeding thereafter filed shall be docketed in the 157th Judicial District Court; and all cases or proceedings in this manner shall be docketed in and divided and distributed among said twelve Civil District Courts, one-twelfth ($\frac{1}{12}$) to each of them when first filed. All suits and proceedings shall be filed by the clerk in the order in which the petitions are presented to or deposited with him, and immediately after being so presented or deposited. In case of the disqualification of the Judge of any of said twelve (12) Civil Courts, in any case or proceeding, such case or proceeding, on his suggestion of disqualification, shall be transferred to another of said Courts, and the order of transfer may be made by any Judge of another of said Courts and may be transferred to any other of said Courts, or instead of transferring the case the Judge of any other of said Courts may sit in the Court in which the case is then pending and there try the same, and all transferred cases or proceedings shall be docketed by the clerk accordingly. The Judges of said twelve (12) Civil Courts shall sign the minutes of each term of the Courts in Harris County within thirty (30) days after the end of the term, and shall also sign the minutes at the end of each volume of the minutes, and each Judge sitting in said Courts shall sign the minutes of such proceedings as were had before him.

Each Judge of said Courts may take a vacation of four (4) weeks duration each year at a time agreed upon by all the Judges. During such vacation time the term of Court of which he is Judge shall remain open and the Judge of any other Civil District Court in Harris County may hold such Court during the vacation of the Judges thereof. During the period of such vacation it shall not be lawful for a Special Judge of such Court to be elected by the practicing lawyers of such Court because of the absence of the Judge on his vacation, unless no Judge of said Civil District Courts is in the county. The Judges of said Courts shall, by agreement among themselves, take their vacation alternately so that there shall at all times be at least five of said Judges in the county; and in the event of the absence, sickness or disqualification of the Judge of any of said Civil District Courts any of the other judges of the said District Courts may act and preside or any regular practicing lawyers of the Bar of Harris County, Texas, may be elected who have the qualifications of a District Judge to act and preside over any of the said Courts during such absence, sickness or inability of any of the regular Judges to act and preside therein; and such Special Judges shall be elected according to Title 40 of the Revised Civil Statutes of the State of Texas of 1925.

The letters, A, B, C, D, E, F, G, H, I, J, K, and L shall be placed on the docket and the court papers in the respective District Courts of

Harris County to distinguish them: A, being used in connection with the 11th District Court; B, the 55th District Court; C, the 61st District Court; D, the 80th District Court; E, the 113th District Court; F, the 125th District Court; G, the 127th District Court; H, the 129th District Court; I, the 133rd District Court; J, the 151st District Court; K, the 152nd District Court; and L, the 157th District Court.

The clerk of the District Courts of Harris County, upon the taking effect of this Act, shall prepare promptly dockets for the Court so created by this Act and shall place on the dockets of said 157th District Court, the twelfth case, respectively, pending on the respective dockets of the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, and 152nd District Courts, and shall continue in this manner through said dockets until all said cases thereon are exhausted and the dockets of said twelve (12) Courts are equalized as nearly as may be. No case then on trial in any of the existing District Courts, nor in any case pending on appeal therefrom shall be transferred to the docket of the 157th District Court. The cases so transferred shall bear the same docket numbers as in the Courts from which they are transferred and the Judges of the existing District Courts, respectively, shall make proper orders transferring from such Courts to the 157th District Court the cases which have been placed on the docket of the 157th District Court in pursuance of this Act.

The respective Judges of the District Courts of Harris County shall, from time to time as occasion may require, transfer cases from any one of such Courts to any other such Court in order that the business may be equally distributed among them, that the Judges thereof may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, that no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the minutes of the Court as evidence thereof and such order on the minutes shall be notice of the transfer to the attorneys of record of all parties to the cause. As amended Acts 1947, 50th Leg., p. 525, ch. 308, § 2; Acts 1949, 51st Leg., p. 1354, ch. 616, § 1; Acts 1951, 52nd Leg., p. 504, ch. 308, § 3; Acts 1954, 53rd Leg., 1st C. S., p. 122, ch. 56, § 3; Acts 1955, 54th Leg., p. 872, ch. 330, § 1; Acts 1957, 55th Leg., p. 1482, ch. 508.

¹ So in enrolled bill. Probably should be "actions".

Effective 90 days after May 23, 1957, date of adjournment.

Sections 1 and 2 of Acts 1954, 53rd Leg., 1st C.S., p. 122, ch. 56, as amended by Acts 1955, 54th Leg., p. 872, ch. 330, § 1; Acts 1957, 55th Leg., p. 1482, ch. 508, provided:

"Section 1. One (1) additional District Court is hereby created in and for Harris County, the limits of which shall be co-extensive with the limits of Harris County. Said Court shall be known as the 157th District Court.

"Sec. 2. Upon the effective date 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 a successor shall be duly elected and qualified. Thereafter, such Judge shall be elected as provided by the Constitution and laws of the State for the election of District Judges."

Section 4 of Acts 1957, 55th Leg., p. 1482, ch. 508, provided that the new Court provided for herein shall become effective

September 1, 1957, and the Governor shall appoint a suitable person qualified by law to be Judge thereof.

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

Section 5 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws, and provided that as to other laws and parts of laws, the Act should be cumulative.

Section 6 of the 1957 Act was a severability clause.

Section 3 of Acts 1955, 54th Leg., p. 872, ch. 330, related to partial invalidity. Section 2 provided: "All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all

other laws or parts of laws, this Act shall be cumulative, it being the purpose of this Act to make the 151st District Court and the 152nd District Court, created by the provisions of Senate Bill No. 50, Acts of the 53rd Legislature, First Called Session, 1954, Chapter 56, permanent District Courts at the expiration of the said temporary District Courts; and all laws heretofore applicable to the temporary District Courts shall hereafter be applicable to the permanent District Courts of the 151st and 152nd Judicial Districts."

45.—See 37th District, ante

Bexar County, see, also, 150th District, post

57.—See 37th District, ante

Bexar County, see, also, 150th District, post

64.—Hale, Swisher and Castro

From and after the effective date of this Act, the 64th Judicial District shall be composed of the Counties of Hale, Swisher and Castro. Acts 1957, 55th Leg., p. 1476, ch. 506, § 2.

Effective Sept. 1, 1957.

Section 12 of the amendatory Act of 1957 provided that the effective date of this Act shall be September 1, 1957.

Section 13 provided that all conflicting laws and parts of laws were repealed to the extent of the conflict and that otherwise the Act was cumulative of all other laws governing District Courts.

Acts 1957, 55th Leg., p. 1476, ch. 506, §§ 2, 6 reorganized the 64th Judicial District to be composed of Hale, Swisher and Castro Counties, and created the 154th Judicial District to be composed of Lamb, Bailey and Parmer Counties.

Sections 6 and 7 of Acts 1957, 55th Leg., p. 1476, ch. 506, read as follows:

"Sec. 6. From and after the effective date of this Act, the terms of the 64th Judicial District Court shall be as follows:

"In the County of Hale beginning the first Mondays in January and July of each year designated as the January and July Terms, respectively.

"In the County of Swisher beginning on the first Mondays in February and August of each year designated as the February and August Terms, respectively.

"In the County of Castro beginning on the first Mondays in April and October of each year designated as the April and October Terms, respectively.

"Sec. 7. Each term of Court shall continue until the convening of the next regular term of Court therein. The Judge of the 64th District Court may, in his discretion, hold as many sessions of Court in any term of Court as may be determined by him to be proper and expedient for the disposition of the Court's business and the jurors therefor may be summoned to appear before such District Court at such time as may be designated by the Judge thereof."

For other provisions of the 1957 Act affecting both the 64th Judicial District and the 154th Judicial District, see 154th Judicial District, post.

76.—Morris County. Repealed. Acts 1957, 55th Leg., p. 78, ch. 37, § 1.
Eff. March 29, 1957

Prior to repeal subdivision was amended
by Acts 1949, 51st Leg., p. 210, ch. 115, § 1.

120.—El Paso County

Section 1. An additional judicial district is hereby created, the limits of which shall be coextensive with the limits of El Paso County, the District Court of which shall be known as the 120th District Court. Such Court shall have the jurisdiction provided by the Constitution and laws of this State for district courts, and it shall have concurrent jurisdiction with the 34th, 41st and 65th District Courts.

Sec. 2. Immediately on the effective date of this Act the Governor shall appoint a suitable person having the qualifications provided by the Constitution and laws of this State as Judge of the District Court for the 120th Judicial District who shall hold office until the next general election and until his successor shall be duly elected and qualified as provided by the Constitution and laws of this State, and he shall receive such compensation as allowed other district judges under the laws of this State.

Sec. 3. The terms of such Court shall be two (2) each year as follows: On the first Monday of January and the first Monday of July. Each term of Court shall continue until the convening of the next regular term of court therein. The Judge of the 120th District Court may, at his discretion, hold as many sessions of court in any term of court as may be deemed by him proper and expedient for the disposition of the court's business; and the jurors therefor may be summoned to appear before such District Court at such times as may be designated by the Judge thereof.

Sec. 4. Any one of the Judges of said District Courts in El Paso County may, in his discretion, either in term time or vacation, transfer any case or cases, civil or criminal, to any other of said District Courts by order entered on the minutes of his Court, which orders when made, shall be copied and certified to by the Clerk of said Courts, together with all orders made in said case, and said certified copies of said orders shall be filed among the papers of any case thus transferred, and the fees therefor shall be taxed as part of the costs of said suit. And the Clerk of said Courts shall docket any such cause in the Court to which it shall have been transferred, and when so entered, the Court to which the same shall have been transferred shall have like jurisdiction therein as in cases originally brought in said Court, and the same shall be dropped from the docket of the Court from which it was transferred; provided, that where there shall be a transfer of any case from one Court to another, as herein provided, on motion of either of the parties to said suit, notice must be given to either the opposite party or his attorney by the party making the motion to transfer, one week before the time of entering the order of transfer.

Sec. 5. The District Attorney of the 34th Judicial District shall also act as District Attorney in and for the 120th Judicial District and the Clerk of the 34th, 41st and 65th District Courts shall act as Clerk of the 120th District Court.

Sec. 6. The Judge of the 120th District Court shall appoint an official Court Reporter to serve said court in accordance with existing law who shall receive the same fees and compensation as is now provided by law for official court reporters.

Sec. 7. The Sheriff of El Paso County shall attend either in person or by deputy the Court as required by law in El Paso County, or when re-

quired by the Judge thereof and the sheriffs and constables of the several counties of this State when executing process out of said court shall receive fees provided by general law for executing process out of district courts.

Sec. 8. All process, writs, bonds, recognizances or other obligations issued out of District Courts of El Paso County are hereby made returnable to the terms of the District Courts of El Paso County, as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered in said courts shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such court as fixed by law and by this Act; and all process heretofore returned, as well as all bonds and recognizances heretofore taken in the District Courts of El Paso County, shall be valid. Acts 1957, 55th Leg., p. 635, ch. 276.

Effective 90 days after May 23, 1957,
date of adjournment.

Section 9 was a severability provision.

122.—Galveston

Section 1. There is hereby created in and for Galveston County, Texas, an additional District Court to be known as the District Court of the 122nd Judicial District of Texas, composed of the County of Galveston.

Sec. 2. The District Court for the 122nd Judicial District of Texas shall have and exercise the jurisdiction prescribed by the Constitution and laws of this State for district courts in general. The judge thereof shall have and exercise the powers conferred by the Constitution and laws of this State on the judges of the district courts.

The jurisdiction of the District Court of the 122nd Judicial District shall be concurrent with the District Courts of the 10th and 56th Judicial Districts in Galveston County. Either of the judges of said District Courts for Galveston County may in his discretion in termtime or in vacation transfer a case or cases, civil or criminal, to said other District Court with the consent of the judge of said other District Court by order entered on the minutes of his Court from which said case is transferred or minutes or orders made in chambers as the case may be, which orders when made shall be copied and certified to by the district clerk of Galveston County, together with all orders made in said case and such certified copies of such orders together with the original papers shall be filed among the papers of any case thus transferred and the fees thereof shall be taxed as a part of the costs of said suit. The district clerk shall docket any such case in the court to which it shall have been transferred and when so entered the court to which same shall have been thus transferred shall have like jurisdiction therein as in cases originally filed in said court and the same shall be dropped from the docket of the said court from which it was transferred, provided that all process and writs issued out of the District Court from which any such transfer is made shall be returnable to the term of court to which said transfer is made according to the terms of the District Court of said respective courts as fixed by this Act. All bonds executed and recognizances entered into any District Court from which any such transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of said Court to which said transfer is made as said terms are fixed by this Act.

Sec. 3. The terms of the District Court of the 122nd Judicial District in and for Galveston County shall be held as follows:

On the first Monday in February, April, June, October and December of each calendar year and may continue in session until 10:00 a. m. of the Monday for convening the next regular term of such Court.

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

Sec. 4. The district clerk of Galveston County shall act as the district clerk for the Court herein created. Immediately upon the effective date of this Act the Judge of the 10th Judicial District Court and the Judge of the 56th Judicial District Court shall enter an order transferring a portion of the cases on the dockets in said Courts to the District Court of the 122nd Judicial District herein created. The district clerk of Galveston County shall thereupon transfer such cases accordingly and enter the same upon the docket of the Court created by this Act, together with all records and papers relating thereto.

Sec. 5. The district attorney of Galveston County shall perform the duties for the District Court herein created in connection with the Court as provided by law.

Sec. 6. The sheriff of Galveston County shall perform the duties in connection with the Court herein created as provided by law for services performed in connection with District Courts.

Sec. 7. The Judge of the District Court of the 122nd Judicial District shall appoint an official shorthand reporter for such Court who shall be well-skilled in his profession, and who shall be sworn officer for the Court and hold office at the pleasure of the Judge of the Court and shall be compensated as provided by law.

Sec. 8. Upon the effective date of this Act the Governor shall appoint a Judge of the District Court for the 122nd Judicial District herein created who shall have the qualifications required of judges of district courts of this State and who shall hold his office until the next General Election and until his successor is duly elected and qualified, and he shall be compensated as provided by law.

Sec. 9. All grand and petit juries drawn and selected under existing laws in Galveston County shall be considered lawfully drawn and selected for the next ensuing term of the 122nd District Court. Acts 1957, 55th Leg., p. 1467, ch. 503.

Emergency. Effective June 12, 1957.

Section 10 of Acts 1957, 55th Leg., p. 1467, ch. 503, was a severability clause.

131.—Bexar

Section 1. The Special 37th Judicial District Court of Bexar County heretofore established as a permanent District Court under the terms of Senate Bill No. 395, Acts of the Fifty-fourth Legislature, 1955, Chapter 262, Page 730,¹ is hereby designated as and shall henceforth be known as the 131st Judicial District Court, the limits of which district shall be coextensive with the limits of Bexar County, Texas.

Sec. 2. The present District Judge of the Special 37th District Court of Bexar County, duly elected and acting as such, shall be the District Judge of the 131st Judicial District Court of Bexar County until the time for which he has been elected expires and until his successor is duly elected and qualified.

Sec. 3. All appropriations heretofore made or hereafter made for the payment of the salary and expenses of the Judge of the Special 37th Judicial District Court of Bexar County shall be made available for the

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

payment of the salary and expenses of the Judge of the 131st Judicial District Court of Bexar County. Acts 1957, 55th Leg., p. 141, ch. 61.

¹ Article 199(37).

Emergency. Effective April 12, 1957.

Bexar County, see, also, 150th District,
post

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

Section 1. From and after the effective date of this Act, the 135th Judicial District of Texas shall consist of 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. As amended Acts 1957, 55th Leg., p. 690, ch. 289, § 1.

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

In the County of Refugio on the first Mondays in January and June.

In the County of Calhoun on the first Monday in February and last Monday in August.

In the County of Victoria on the fourth Monday in February and third Monday in September.

In the County of Jackson on the third Mondays in March and October.

In the County of Goliad on the second Mondays in April and November.

Each term of court in each county 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. As amended Acts 1957, 55th Leg., p. 690, ch. 289, § 1.

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. 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 filed with an even number in each of said counties shall be placed on the docket of the 24th District Court, and all civil cases or other civil proceedings filed with an uneven number in each of said counties shall be placed on the docket of the 135th District Court. The judge of the District Court of either the 24th District or the 135th District in said counties 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 proceeding is instituted without the necessity of transferring the suit or 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 citations 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 said counties shall be returnable to the District Court of the county in which court such suit or other proceeding is pending. As amended Acts 1957, 55th Leg., p. 690, ch. 289, § 1.

Sec. 7. The judges of the 24th and 135th District Courts in Goliad, Jackson, Refugio, Calhoun and Victoria Counties shall sign the minutes of each term of said respective courts in said counties 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. As amended Acts 1957, 55th Leg., p. 690, ch. 289, § 1.

Sec. 8. Qualified jurors for service in both the 24th Judicial District Court and the 135th Judicial District Court in Goliad, Jackson, Refugio, Calhoun and Victoria Counties shall be selected in accordance with the provisions of the applicable laws of Texas. As amended Acts 1957, 55th Leg., p. 690, ch. 289, § 1.

Sec. 9. Jurors selected 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. For the trial of criminal cases, only juries selected in the 24th District Court in Goliad, Jackson, Calhoun, Refugio and Victoria Counties shall be impaneled. Acts 1951, 52nd Leg., p. 498, ch. 306, as amended Acts 1953, 53rd Leg., p. 358, ch. 86, § 1; Acts 1957, 55th Leg., p. 690, ch. 289, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory act of 1957 provided that all cases and other proceedings pending in the 135th District Court in San Patricio County on the effective date of this Act shall be transferred to the 36th District Court in San Patricio County, and the judge of the 36th District Court shall

succeed to all the duties relative thereto. All process and writs theretofore issued from the 135th District Court and all bonds and recognizances taken in or for the 135th District Court shall be valid for and returnable to the 36th District Court to the same extent as if they had originated in that court.

150.—Bexar

Section 1. There is hereby created an additional District Court in and for Bexar County, Texas, to be known as the 150th District Court. The limits of such District Court shall be coextensive with the limits of Bexar County, Texas.

Sec. 2. Immediately on the effective date of this Act the Governor shall appoint with the advice and consent of the Senate a suitable person having the qualifications provided by the Constitution and laws of this State as Judge of the 150th District Court of Bexar County who shall hold office until the next General Election and until his successor shall be duly elected and qualified as provided by the Constitution and laws of this State.

Sec. 3. From and after the effective date of this Act Bexar County shall constitute the 37th, 45th, 57th, 73rd, 131st, 150th, Criminal Judicial District of Bexar County and the Criminal Judicial District No. 2 of Bexar County, Texas. Each of the said eight (8) District Courts shall have and exercise civil and criminal jurisdiction in Bexar County, Texas. Said District Courts shall have and exercise in addition to the jurisdiction now conferred or to be conferred by law on said Courts, concurrent jurisdiction coextensive with the limits of Bexar County, Texas, in all actions, proceedings, matters, and causes, both civil and criminal, of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

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

Sec. 4. The present Judges of the 37th, 45th, 57th, 73rd, 131st Judicial Districts, the Criminal Judicial District of Bexar County and the Criminal Judicial District No. 2 of Bexar County, Texas, shall continue as Judges of said Courts as constituted and defined by this Act and the tenure of office of said Judges shall remain the same as is now provided by law.

Sec. 5. There shall be two (2) terms of the 37th, 45th, 57th, 73rd, 131st and 150th District Courts in Bexar County in each year, and the first term shall begin on the first Monday in January each year and shall continue until and including Sunday next before the first Monday in July of each year; and the second term shall begin on the first Monday in July of each year and shall continue until and including the Sunday next before the first Monday in the following January.

Sec. 6. The Criminal District Court and Criminal District Court No. 2 of Bexar County, Texas, shall hold six (6) terms of court each year for the trial of causes and the disposition of business coming before such Courts, one (1) term beginning the first Monday in January; one (1) the first Monday in March; one (1) the first Monday in May; one (1) the first Monday in July; one (1) the first Monday in September; one (1) the first Monday in November; each term to last for two (2) months. Each term shall continue until the business is disposed of.

Sec. 7. The practice and procedure in said Courts shall be the same as now prescribed by law and, in civil actions, as also provided by the Texas Rules of Civil Procedure applicable to District Courts having successive terms.

Sec. 8. All indictments shall be returned to the Criminal District Court of Bexar County, Texas, and the Criminal District Court No. 2 of Bexar County, Texas. The district clerk of Bexar County shall docket successively on the dockets of the District Courts of the 37th, 45th, 57th, 73rd, 131st, and 150th Judicial Districts in Bexar County all civil cases, actions, causes, petitions, applications, or other proceedings so that the first case or proceeding filed on or after the effective date of this Act and every sixth case or proceeding thereafter filed shall be docketed in the 37th Judicial District; and the second case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the 45th Judicial District; and the third case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the 57th Judicial District; and the fourth case or proceeding and every sixth case or proceeding thereafter filed shall be docketed in the 73rd Judicial District; and the fifth case or proceeding and every sixth case or proceeding thereafter filed shall be docketed in the 131st Judicial District; and the sixth case or proceeding and every sixth case or proceeding thereafter filed shall be docketed in the 150th Judicial District; and so on seriatim; and in this manner all cases or proceedings filed to be docketed in and divided equally among the 37th, 45th, 57th, 73rd, 131st, and 150th Judicial District Courts, one sixth ($\frac{1}{6}$) in each Court.

Sec. 9. The District Judges of Bexar County, Texas, shall on or before the first day of January and the first day of July of each year elect one (1) of the said District Judges as Presiding Judge of the Bexar County District Judges. The Presiding Judge of the Bexar County District Judges shall, when this Act becomes effective and from time to time as occasion may require in order to adjust the business and dockets of said Courts, transfer, or cause to be transferred, upon the approval of the Judges of said Courts, causes for any of said Courts to any other of said Courts in order that the business of said Courts shall be continually equalized and distributed among them to the end that each

Judge shall be at all times provided with cases or proceedings to try or otherwise consider and that the trial of no cause shall be delayed because of the disqualification of the Judge in whose Court it is pending. When a case is transferred, proper order shall be entered on the minutes of the Court as evidence thereof. The clerk shall properly docket all cases transferred. It is the intention of this Act that the Criminal District Court and the Criminal District Court No. 2 of Bexar County, Texas, give preference to criminal matters while the other District Courts shall give preference to civil cases, matters or proceedings. The Judges of the said District Courts shall sign the minutes of each term of said Court in Bexar County, Texas, within thirty (30) days after the end of the term, and also shall sign the minutes at the end of each volume of the minutes, and each Judge sitting in said Courts shall sign the minutes of such proceedings as were had before him.

Sec. 10. In the absence, except as otherwise provided herein, sickness, or disqualification of a Judge of any of the District Courts of Bexar County, Texas, any of the other Judges of the said District Courts may act, and preside; or any regularly practicing lawyer of the Bar of Bexar County, who has all the qualifications of a District Judge, may be elected to act and preside over any of the said Courts during such absence, sickness, or inability of any of the regular Judges to act and preside therein; such Special Judge to be elected according to Title 40 of the Revised Civil Statutes of the State of Texas, 1925, as amended.

Sec. 11. All bail bonds, recognizances or other obligations, taken for the appearance of the defendants, parties and witnesses in any of the said District Courts or the Criminal District Courts of Bexar County, Texas, or any inferior court of Bexar County, Texas, shall be binding on all such defendants, parties and witnesses and their sureties for appearance in any of said Courts in which said cause may be pending or to which same may be transferred. In all cases transferred from one (1) of said Courts to another all process, bonds, recognizances and obligations extant at the time of such transfer shall be returned to and filed in the court to which the cause is transferred and shall be valid and binding as though originally issued out of the court to which it is transferred.

Sec. 12. Each Judge of the said District Courts and the said Criminal District Courts of Bexar County may take a vacation between the first day of July and the first day of October in each year, during which time the terms of court of which he is Judge shall remain open and the Judge of any other District or Criminal District Court may hold such court during the vacation of a Judge thereof. During the period of such vacation, it shall not be lawful for a Special Judge of such Court to be elected by the practicing lawyers of such Court because of the absence of the Judge on his vacation, unless no Judge of the said District Courts is in the County. The Judges of said District and Criminal District Courts shall by agreement among themselves take their vacations alternately so that there shall be at all times at least four (4) of the said Judges in the County during such vacation period.

Sec. 13. The Judge of each of the several District Courts and the Criminal District Courts shall appoint an official court reporter for his Court as provided by General Law to be compensated as provided by law.

Sec. 14. The sheriff of Bexar County, either in person or by deputy, shall attend the several Courts as required by law or when required by the Judges thereof, and the sheriff and constables of the several counties of this State, when executing process out of said Courts, shall receive

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

fees as provided by General Law for executing process issued out of District Courts.

Sec. 15. The clerk of the District Courts of Bexar County shall be the clerk of the 37th, 45th, 57th, 73rd, 131st and 150th District Courts, and the Criminal District Courts of Bexar County, and shall be compensated as provided by law.

Sec. 16. The criminal District Attorney of Bexar County shall be the District Attorney of the 37th, 45th, 57th, 73rd, 131st, and 150th District Courts and the Criminal District Courts of Bexar County, Texas, and shall be compensated as provided by law.

Sec. 17. Each of the said District Courts shall have an official seal as provided by law for District Courts and Criminal District Courts.

Sec. 18. The District Judges of the Criminal District Courts shall alternately appoint grand jury commissioners and impanel grand juries; and further, they may appoint grand jury bailiffs, not to exceed seven (7). Each such Judge may appoint three (3) of such bailiffs, and, if needed, may jointly appoint the seventh such bailiff. Bailiffs thus appointed are subject to removal at the will of the Judge or Judges so appointing them.

Sec. 19. The procedure for drawing jurors for said Courts shall be the same as is now or may hereafter be provided by law.

Sec. 20. The compensation of each Judge shall be the same as the compensation paid the Judges of other District Courts including the expenses as provided by the laws of this State, and the compensation shall be paid in the manner in which other District Judges of the State are paid. Acts 1957, 55th Leg., p. 1478, ch. 507.

Effective 90 days after May 23, 1957, date of adjournment.

Section 21 of the Act of 1957 provided that all laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only; as to all other laws or parts of laws, this

Act shall be cumulative, it being the purpose of this Act to create the 150th District Court in and for Bexar County, Texas. Section 22 was a severability provision.

Bexar County, see, also, 37th, 45th, 57th and 131st Districts, ante.

151.—Harris. See 11th District, ante

152.—Harris. See 11th District, ante

154.—Lamb, Bailey and Parmer

From and after the effective date of this Act, there is hereby created the 154th Judicial District of Texas to be composed of the Counties of Lamb, Bailey and Parmer. Acts 1957, 55th Leg., p. 1476, ch. 506, § 1.

Effective Sept. 1, 1957.

Acts 1957, 55th Leg., p. 1476, ch. 506, created the 154th Judicial District to be composed of Lamb, Bailey and Parmer Counties.

Sections 3-5, 8-13, of Acts 1957, 55th Leg., p. 1476, ch. 506, read as follows:

"Sec. 3. Upon the effective date of this Act, the present Judge of the present 64th Judicial District as existed before this Act was passed, who resides in Lamb County within the territory of the 154th Judicial District as hereby created, shall be and continue as the Judge of the 154th Judicial District as hereby created during the remainder of the term for which he was elected and until his successor is elected and qualified as provided by law for election and qualification of District Judges; and the present District Attorney of the 64th Judicial District shall continue as the District

Attorney of the 64th Judicial District. The Governor shall appoint a qualified attorney to serve as District Judge of the 64th Judicial District as hereby created and reorganized, and shall appoint a qualified attorney as the District Attorney of the 154th Judicial District hereby created. Such appointed Judge for the 64th Judicial District and such appointed District Attorney for the 154th Judicial District shall serve until the next General Election, at which time a Judge for the 64th Judicial District and a District Attorney for the 154th Judicial District shall be elected.

“Sec. 4. Whenever any county by this Act is removed from one Judicial District and placed in another Judicial District all cases and proceedings on the docket or dockets of the Court of the District from which the county was removed together with all records, documents, and instruments on file in connection therewith shall be transferred by the District Clerk of such County to the District Court of the Judicial District in which such County is placed and there by him or her properly docketed; provided, however, that as to any suit already heard in District Court which becomes a part of the Judicial District created by this Act, the District Judge who was the District Judge of such District Court at the time such suit was tried shall retain jurisdiction of such suit until final judgment is rendered and thereafter until all motions duly filed in such suit are acted upon.

“Sec. 5. Whenever cases or other proceedings are transferred from any District Court to another District Court the Judge of the Court to which they are transferred shall have full power and authority to perform all Judicial Acts relative thereto which the Judge from the Court from which they were transferred was empowered and authorized to perform had the transfer not been made, and all writs, processes, bonds, bail bonds, recognizances, complaints, information, and indictments and any other ancillary matters whether mentioned herein or not returnable to the Court from which such cases or proceedings were transferred shall be thereafter returnable to the Court to which the same was transferred and all of the same are hereby authorized and validated as if they had been returnable originally to that Court.

“Sec. 8. From and after the effective date of this Act, the terms of the 154th Judicial District Court shall be as follows:

“In the County of Lamb beginning on the first Mondays in January and July of each year designated as the January and July Terms, respectively.

“In the County of Bailey beginning on the first Mondays of February and August of each year designated as the February and August Terms, respectively.

“In the County of Parmer beginning on the first Mondays in March and September of each year designated as the March and September Terms, respectively.

Sec. 9. Each term of Court shall continue until the convening of the next regular term of Court therein. The Judge of the 154th District Court may, in his discretion, hold as many sessions of Court in any term of Court as may be determined by him to be proper and expedient for the disposition of the Court's business and the jurors therefor may be summoned to appear before such District Court at such time as may be designated by the Judge thereof.

“Sec. 10. All Judges of the several districts hereby created shall have authority to appoint official court reporters to serve their courts

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who shall receive the fees and salaries provided by law for court reporters of District Courts generally.

"Sec. 11. The 154th Judicial District shall have a seal in like design as is provided by law for seals of such Court."

Repeal of conflicting laws, see 64th District, note, ante.

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

Section 1. An additional District Court is hereby created in and for the Counties of Austin, Caldwell, Comal, Fayette, and Hays, the limits of which shall be coextensive with the limits of said counties; said Court shall be known as the 155th District Court. Such Court shall have the jurisdiction provided by the Constitution and laws of this State for district courts, and it shall have concurrent jurisdiction with the 22nd Judicial District Court in and for said counties.

Sec. 2. Immediately on the effective date of this Act the Governor shall appoint a suitable person having the qualifications provided by the Constitution and laws of this State as Judge of the District Court for the 155th Judicial District who shall hold office until the next general election and until his successor shall be duly elected and qualified as provided by the Constitution and laws of this State, and he shall receive such compensation as allowed other district judges under the laws of this State.

Sec. 3. The terms of such Court shall be two (2) each year as follows: In the County of Austin, upon the first Monday in April and November; in the County of Caldwell, upon the first Monday in January and June; in the County of Comal, upon the first Monday in March and October; in the County of Fayette, upon the first Monday in February and September; and in the County of Hays, upon the first Monday in May and December. Each term of Court shall continue until the convening of the next regular term of Court therein. The Judge of the 155th District Court may, at his discretion, hold as many sessions of Court in any term of Court as may be deemed by him proper and expedient for the disposition of the Court's business.

Sec. 4. The Judge of the 22nd District Court or the Judge of the 155th District Court may hear and dispose of any suit or proceeding on the docket of either of said District Courts of the county in which the action or proceeding is instituted without the necessity of transferring the action or proceeding from one Court to the other, 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, however, 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 the minutes of the Court in which shall be recorded all the judgments and orders of the respective Courts.

Sec. 5. The District Attorney of the 22nd Judicial District shall also act as District Attorney in and for the 155th Judicial District and the District Clerk of each of the respective counties included in the 22nd Judicial District shall be the Clerk of the District Court of the 155th Judicial District in each respective county, and each Clerk shall immediately prepare a docket for the 155th District Court.

Sec. 6. Qualified jurors for service in both the 22nd Judicial District Court and the 155th Judicial District Court shall be selected by jury commissions where such method is authorized by law and by the

jury wheel in the counties where such method is required by law. Jurors so selected may be summoned and used for the trial of cases interchangeable in either the 22nd District Court or the 155th District Court in the Counties of Austin, Caldwell, Comal, Fayette, and Hays.

Sec. 7. The Sheriff of each county of the 155th Judicial District shall attend either in person or by deputy the Court as required by law in said county, or when required by the Judge thereof and the sheriffs and constables of the several counties of this State when executing process out of said Court shall receive fees provided by general law for executing process out of district courts. Acts 1957, 55th Leg., p. 1485, ch. 509.

Emergency. Effective June 12, 1957. maintaining portions of the Act and to this end
 Section 8 of the Act of 1957 provided that the provisions of the Act were declared
 partial invalidity should not affect the re- severable.

156.—Aransas, San Patricio, Bee, Live Oak, McMullen

Section 1. There is hereby created and established the 156th Judicial District in and for the Counties of Aransas, San Patricio, Bee, Live Oak and McMullen, with jurisdiction over civil cases only, and the limits of such District shall be coextensive with the limits of said Counties. The District Court of the 156th Judicial District shall be known as the 156th District Court.

Sec. 2. Immediately on the effective date of this Act the Governor shall appoint a suitable person having the qualifications provided by the Constitution and laws of this State as Judge of the District Court of the 156th Judicial District who shall hold office until the next General Election and until his successor shall be duly elected and qualified as provided by the Constitution and laws of this State, and he shall receive such compensation as allowed other District Judges under the laws of this State.

Sec. 3. There shall be two (2) terms of the District Court of the 156th Judicial District in each of said Counties each year as follows:

In the County of Aransas on the first Monday in May and on the fourth Monday in 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 San Patricio on the first Monday in June and on the first Monday in December, 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 Bee on the first Monday in February and on the fourth Monday in August and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

In the County of Live Oak on the third Monday in March and on the first Monday in 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 McMullen on the third Monday in April and the third Monday in 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 the 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 be clerk of the District Court of the 156th.

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Judicial District in such respective Counties, and each clerk shall immediately prepare a docket for the 156th District Court.

Sec. 5. The Judge of the 36th District Court or the Judge of the 156th District Court 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 action or proceeding is instituted, without the necessity of transferring the suit or proceeding from one (1) Court to the other; and the Judges may transfer cases from one (1) 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 minutes for each District Court in which shall be recorded all judgments and order of each Court, respectively.

Sec. 6. After his appointment and qualification, the Judge of the 156th District Court shall appoint an official shorthand reporter, who shall be compensated as provided by law.

Sec. 7. The Judges of the 36th and the 156th District Courts shall sign the minutes of each term of said respective Courts in each of said Counties 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. The district clerk shall file each civil case in numerical order as received and place the odd-numbered cases or proceedings on the docket of the 156th District Court and the even-numbered cases or proceedings on the docket of the 36th District Court.

Sec. 9. Qualified jurors for service in both the 36th Judicial District Court and the 156th Judicial District Court shall be selected by jury commissions where such method is authorized by law and by the jury wheel in the counties where such method is required by law. Jurors so selected may be summoned and used for the trial of civil cases interchangeably in either the 36th District Court or the 156th District Court in Aransas, Bee, Live Oak, McMullen and San Patricio Counties.

Sec. 10. At the effective date of this Act all cases or proceedings pending on the docket of the 135th Judicial District Court in San Patricio County shall be transferred to the docket of the 156th Judicial District Court of said County, and all odd-numbered civil cases or proceedings on the dockets of the remaining respective Counties of the 36th Judicial District shall be transferred to the dockets of the 156th Judicial District Court.

Sec. 11. All citations and processes issued and petit jurors drawn before this Act takes effect shall be valid and returnable to 156th District Court in the several counties in those cases placed on the dockets of the 156th District Court by the provisions of this Act. Acts 1957, 55th Leg., p. 699, ch. 295.

Effective September 1, 1957.

Section 12 of the Act provided that all laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only; as to

all other laws and parts of laws, this Act shall be cumulative. Section 14 was a severability clause and section 15 made the Act effective September 1, 1957.

157.—Harris. See 11th District, ante

160.—Dallas

Section 1. There is created hereby in and for Dallas County, Texas, one (1) additional district court, the limits of which district shall be coextensive with the limits of Dallas County; said court shall be known as the 160th District Court, Judicial District of Texas.

Sec. 2. The 160th District Court shall have and exercise the powers conferred by the Constitution and Laws of the State of Texas on the judges of the District Courts of Dallas County, Texas. The jurisdiction shall be concurrent with that of the existing district courts of Dallas County, Texas.

Sec. 3. The term of the 160th District Court shall begin on the first Monday in January and July of each year respectively, and each term of said court shall continue until the convening of the next succeeding term.

Sec. 4. The Governor shall appoint a suitable person as Judge of said court herein created, who shall hold office until the next General Election and until his successor has been duly elected and qualified. At the first General Election after the creation of the one (1) district court numbered herein, the Judge of the said court shall be elected for a term of two (2) years and at the next General Election after the expiration of the first two (2) year term of the said judge of the numbered court herein, the Judge of the numbered court herein shall thereafter be elected for a four (4) year term. Such person so appointed and elected shall have the qualifications provided by the Constitution and the Laws of this State for District Judges. The Judge of the court created by this Act shall draw the same compensation that is provided by the Laws of the State of Texas for District Judges of Dallas County.

Sec. 5. The Judge of the 160th District Court is authorized to appoint an official court reporter for his court and said court reporter shall have the qualifications now required by law for official shorthand reporters. Such reporter shall perform the duties as required by law and such duties as may be assigned to the court reporter by the judge of the court to which the reporter is appointed and shall receive as compensation for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for the district courts of Dallas County under the Laws of this State.

Sec. 6. The letters, A, B, C, D, E, F, G, H, shall be placed on the docket and the court papers of the respective district courts of Dallas County to distinguish them, the letter A being used in connection with the 14th District Court, B being used in connection with the 44th District Court, C being used in connection with the 68th District Court, D being used in connection with the 95th District Court, E being used in connection with the 101st District Court, F being used in connection with the 116th District Court, G being used in connection with the 134th District Court, H being used in connection with the 160th District Court. As soon as possible after this Act takes effect the District Clerk of Dallas County, shall, under the direction of the presiding Judge of the District Judges of Dallas County, cause the civil dockets to be equalized in the number of cases pending in each of the district courts handling civil matters by transferring pending cases in such numbers as will be necessary to equalize the dockets of each of the existing courts; and thereafter civil cases shall be docketed by the District Clerk in rotation from A through H as such cases are filed, or in any other manner as directed by the presiding Judge of the District Judges of Dallas County.

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

Sec. 7. The Judge of any of the District Courts in Dallas County may in his discretion try and dispose of any causes, matters or proceedings for any other Judge of said courts. Either of the Judges of said District Courts of Dallas County may at his discretion at termtime or in vacation transfer a case or cases to said other District Court with the consent of the Judge of said other District Court by order entered in the minutes of his court. When such transfer is ordered, the District Clerk of Dallas County shall certify all orders made in said case and such certified copies of such orders together with the original papers shall be filed among the papers of the case thus transferred and the fees thereof shall be taxed as part of the cost of said suit and the Clerk of said Court shall docket any such case in the Court to which it shall have been transferred, and when so entered, the Court to which the same shall have been thus transferred shall have like jurisdiction therein as in cases originally filed in said court. All process and writs issued out of the District Court from which any such transfer is made shall be returnable to the Court to which said transfer is made, according to the terms of the District Court or the respective Court as fixed by this Act.

Sec. 8. The District Clerk of Dallas County shall also act as District Clerk for the 160th District Court of Dallas County.

Sec. 9. The Sheriff of Dallas County shall attend either in person or by Deputy of the 160th District Court, as required by law in Dallas County or when required by the Judge thereof, and the Sheriffs and Constables of the several counties of this State when executing process out of said courts shall receive fees provided by General Law for executing process out of District Courts.

Sec. 10. All process, writs, bonds, recognizances or other obligations issued out of the District Courts of Dallas County are hereby made returnable to the terms of the District Courts of Dallas County as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered by and in said Court shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Court as fixed by law and by this Act; and all process heretofore returned, as well as all bonds and recognizances heretofore taken in the District Courts of Dallas County shall be valid. Acts 1957, 55th Leg., p. 1487, ch. 510.

Effective 90 days after May 23, 1957, date of adjournment.

Section 11 of the Act of 1957 provided that if any provision of this Act is held unconstitutional or invalid, such invalidity shall

not affect the remaining provisions of this Act. Except as otherwise provided in this Act, all laws now in effect with respect to District Courts of Dallas County shall apply to the court created by this Act.

Art. 200a. Administrative Judicial Districts

Assignment of retired and regular judges; duty to accept assignment

Sec. 5a. Both retired district judges, as defined by Article 6228(b) of the Revised Civil Statutes of Texas, as amended, who have consented to be subject to assignment, and all regular district judges in this state may be assigned under the provisions of this Act by the presiding judge of the administrative judicial district wherein such assigned judge resides. When such district judge is so assigned by the presiding judge of an administrative judicial district to a court in the same administrative district, or to a court in another administrative district upon call of the presiding judge of such other administrative district and then reassigned as provided for in Section 6 of this Act, as amended, it shall be the duty of such judge so assigned or reassigned to serve in such court or administra-

tive district to which he may be assigned, or reassigned unless for good cause presented by him in writing to the presiding judge of his administrative district, he shall be relieved of such assignment by such presiding judge; provided, however, after the presentation of a written statement declining such duty for good cause by such district judge, if the presiding judge refuses to relieve the district judge from the assignment, the district judge may, within five days after such refusal, petition the Chief Justice of the Supreme Court of the State of Texas to be relieved from such assignment for good cause, which said Chief Justice may at his discretion grant or refuse.

The compensation, salaries and expenses of such judges while so assigned or reassigned shall be paid in accordance with the laws of the state, except that the salary of such retired judges shall be paid out of moneys appropriated from the General Revenue Fund for such purpose in an amount representing the difference between all of the retirement benefits of such judge as a retired district judge and the salary and compensation from all sources of the judge of the court wherein he is assigned, and determined pro-rata for the period of time he actually sits as such assigned judge. Added Acts 1957, 55th Leg., p. 1236, ch. 408, § 1.

Emergency. Effective June 6, 1957.

Section 2 of the Act of 1957 was a severability provision.

TITLE 11A—ASSIGNMENTS, IN GENERAL

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

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

(1) "Account" or "account receivable" means an existing or future right to the payment of money presently due, or to become due (a) under an existing contract or under a future contract entered into during the effective period of the notice of assignment hereinafter provided for; (b) which right to payment is not secured by a chattel mortgage, a conditional sale contract, or other instrument which may be filed for record in a public office of this or another state or of the United States and which instrument was given at or before the time the account was assigned and reserves the title to, or creates a lien upon, goods, the sale of which gave rise to the account; and (c) which right to payment is not represented by (A) a judgment, (B) a negotiable instrument, or (C) a non-negotiable instrument which so represents the obligation that an assignee who takes possession of it takes rights superior to those of a prior assignee of the obligation who did not take possession of the instrument; and (d) the assignment of which right is not subject to special statutory provisions of the state or of the Federal Government relative to the rights of creditors of the assignor or to successive assignees from the assignor; "account" or "account receivable" shall not include any sums of money accruing to a contractor for labor performed or material furnished on any public or private construction contract unless the assignment properly describes the land upon which the improvements are to be constructed and such assignment filed in the office of the County Clerk of the county wherein the land lies; which assignment shall not be effective prior to such filing. As amended Acts 1955, 54th Leg., p. 822, ch. 305, § 1; Acts 1957, 55th Leg., p. 818, ch. 348, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

TITLE 13—ATTACHMENT**Art. 279a. Exemption of state, counties, etc. from bond**

Neither the State of Texas, nor any county, nor any state department, nor the head of any state department, nor the Federal Housing Administration, nor any National Mortgage Association, nor any National Mortgage Savings and Loan Insurance Corporation created and/or to be created by or under authority of any Act of the Congress of the United States of America as a National Relief Organization operating territorially on a state-wide basis, nor the Veterans Administration, nor the Administrator of Veterans Affairs, shall be required to give any bond incident to any suit filed by any such agency, official, and/or entity, for costs of court or for any appeal or writ of error taken out by it or either of them, nor any surety for the issuance of any bond for the taking out of writs of attachment, sequestration, distress warrants, or writs of garnishment in any civil suit. Provided that no county or district attorney shall be exempted from the filing of bonds in the taking out of an extraordinary writ, unless said county or district attorney shall first obtain the approval by proper order of the Commissioners Court of the county in behalf of which such action is taken or the approval of the Attorney General in actions brought in behalf of the State. As amended Acts 1957, 55th Leg., p. 439, ch. 213, § 1.

Emergency. Effective May 10, 1957.
Section 2 of the amendatory Act of 1957

repealed all conflicting laws and parts of laws.

TITLE 14—ATTORNEYS AT LAW

Art.

307A—1. Licenses to certain former legislators and war veterans [New].

Art.

307A—2. Licenses to certain graduates entering military service; application; affidavit [New].

Art. 307A. Licenses to law graduates in, or formerly in, military service

During a national emergency as declared by Congress or the President of the United States, law licenses shall be granted, without requirement of passage of the State Bar Examinations, to all citizens of Texas who have graduated from a law school given unconditional approval on the official list of approved law schools filed by the Supreme Court of Texas with the Clerk of the Court and who have been honorably discharged or honorably released from the military service of the United States; provided, however, that a license shall not be granted under the foregoing provisions to any applicant who fails to meet the following requirements:

1. He shall meet the character requirements prescribed by the rules promulgated by the Supreme Court of Texas.

2. He must have been a resident of the State of Texas for at least one (1) year prior to graduation from law school.

3. He must have commenced his military service prior to the date set for the second State Bar Examinations next following the date of his graduation.

4. He must have served honorably and continuously on active duty for a period of time of not less than one (1) year.

5. He must make application for license within one (1) year after the date of his separation from the military service of the United States.

Military service shall include service in all branches of the Army, Navy, Air Force and other military forces of the United States, including auxiliary service. As amended Acts 1957, 55th Leg., p. 344, ch. 158, § 1.

Section 4 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws to the extent of conflict only. Section 5 was a severability clause. Effective 90 days after May 23, 1957, date of adjournment.

Art. 307A—1. Licenses to certain former legislators and war veterans

Law licenses shall be granted, without requirement of passage of the State Bar Examination, to any citizen of Texas (a) who has served a minimum of three (3) Sessions as a Member of the Texas Legislature, and (b) who is a veteran of World War I and World War II, and (c) who is a member of the Bar in a state bordering on Texas, and (d) who has been a resident of Texas for at least twenty (20) years. Acts 1957, 55th Leg., p. 344, ch. 158, § 2.

Art. 307A—2. Licenses to certain graduates entering military service; application; affidavit

Any person now serving on active duty in the military service of the United States and any person who enters active duty in the military service of the United States prior to November 1, 1957, and serves for a period of at least ninety (90) days and who has graduated from a law school given unconditional approval on the official list of approved law schools filed by the Supreme Court of Texas with the Clerk of the Court and who meets the character requirements prescribed by the rules promulgated by the Supreme Court of Texas and who has been a resident of the State of

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Texas for at least one (1) year prior to graduation from law school and who has commenced his military service prior to the date set for the second State Bar examination next following the date of his graduation may file application for a license with the Board of Law Examiners of this State. Upon filing of such an application, which shall be in the form of an affidavit by such applicant stating that he has met all requirements heretofore set out in this Section of this Act, and upon the filing of an affidavit signed by said applicant's commanding officer stating that such applicant has honorably and continuously served on active duty in the military service for a period of at least three (3) months such applicant shall be issued a law license. Acts 1957, 55th Leg., p. 344, ch. 158, § 3.

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 January 22, 1957

Order of the Supreme Court dated January 22, 1957 in relation to amendments approved by members of the State Bar, deleted "Section 2 of Article III, Section 5 of Article IV, Sections 1, 2, 3, 4, 5 and 6 of Article V, Sections 1, 1a, 3 and 6 of Article VI, Section 1 of Article VII, Sections 2 and 7 of Article VIII, and Sections 1, 2, and 3 of Article X."

The order with certain exceptions, substituted new Rules, bearing the same numbers, in lieu of those deleted.

ARTICLE III—PURPOSES AND ADMINISTRATION

Section 2. Reports to Annual Meetings

The several sections and committees shall deliver to the Executive Director at least forty-five days before the annual meeting their respective reports and recommendations. Such reports and recommendations may be printed and sent to each member of the State Bar before the annual meeting, but any section or committee may present at the annual meeting any additional report or recommendation. The President, the President-Elect, and the Board may also present reports and recommendations in the same manner.

Section 6. Effect of referendum

The result of a referendum, as determined by a majority of those voting, shall control the action of the State Bar, its officers, Sections, Committees, and employees unless and until the same may be set aside, changed or modified (and then only to the extent so changed or modified) on a subsequent referendum.

ARTICLE IV—REGISTRATION AND DUES

Section 5. Suspension for Non-payment of Fees

A member in default of payment of the fee for sixty days after it is due shall be regarded as delinquent and shall be given written notice thereof by the Clerk of the Supreme Court. If the delinquent member fails to

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pay such fee within thirty days thereafter, he shall cease to be a member, but shall be reinstated upon payment of the fees due at the time he ceased to be a member, together with fees for the current year and for any intervening fiscal years during which he has practiced law in the State of Texas. If at the end of ninety days after June 1, a member has not paid to the Clerk membership dues for the current year, the Clerk shall strike from the rolls of the State Bar the name of the delinquent member.

Any County or District Judge, or any Judge of any Appellate Court of this State, shall have the right, and it shall be his duty to refuse any person the privilege of practicing in such court, unless such person is currently a member of the State Bar of Texas in good standing. Any lawyer in this State whose name has been stricken from the rolls of the State Bar for non-payment of dues, and who has not been reinstated, shall not be permitted to practice law in this State, and if such lawyer does engage in the practice of law, such continued practice of law by such delinquent member shall constitute the unauthorized practice of law on the part of such person, and he may be enjoined by any court of competent jurisdiction.

ARTICLE V—OFFICERS

Section 1. Officers Named

The Officers of the State Bar of Texas shall be a President, a President-Elect, a Vice-President, a General Counsel, and an Executive Director. The President, President-Elect and Vice-President shall each serve for a term of one year, and neither shall succeed himself in office.

Section 2. How President, President-Elect, and Vice-President Elected

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

At its regular January meeting each year, the Board of Directors shall nominate by majority vote not fewer than two members of the State Bar as candidates for President-Elect and not fewer than two members of the State Bar as candidates for Vice-President for the ensuing year, which nominations shall be published in the Bar Journal and by all other practicable means. All such names shall be printed on the official ballot.

Any other member's name shall be printed also on the ballot as a candidate for President-Elect or Vice-President when a petition in writing, signed by not fewer than 175 members requesting such action, is filed with the Executive Director on or before May 1. Any member may write in the names of some other member or members whose names are not printed on the official ballot, designating the order of his preference as between them, and as between them and the candidates whose names are printed on such ballot. If no candidate receives a majority of first choices, the first and second choices for each candidate shall be added together and the member receiving the highest total of first and second choices shall be declared elected.

Every such ballot for President-Elect and Vice-President shall be designated as "Official Ballot, State Bar of Texas." The ballots shall be mailed to members at the same time as ballots for the election of Directors are mailed, or a combined ballot may be used for both Officers and Directors.

The President-Elect shall automatically become President at the conclusion of his term as President-Elect. However, in the event of the death of the President-Elect before taking office as President, or in event that he notifies the Board of his inability or refusal to serve as President, the Vice-President shall succeed to the Presidency and the Board shall thereupon be authorized to elect a new Vice-President by a majority vote of its members.

During the interim between the adoption of these rules and the election of Officers to serve during the 1957-58 fiscal year, candidates for President shall be nominated in the manner specified above for the office of President-Elect and Vice-President, and in the ensuing election, State Bar members shall elect a President in addition to the other Officers hereinabove mentioned.

Section 3. When Officers Assume Duties

The President-Elect, Vice-President, and Directors shall take office immediately upon the adjournment of the annual meeting next after their election. The President shall take office immediately upon the adjournment of the annual meeting held at the close of his term as President-Elect.

Section 4. How Executive Director Elected

The Executive Director shall be elected by a majority vote of the Board of Directors and shall hold office during the pleasure of the Board, but his term in no event shall exceed two years. He may be re-elected as many times as the Board of Directors may choose. He shall be a member of the State Bar. The Executive Director shall also be Treasurer of the State Bar and shall receive from the Clerk of the Supreme Court all funds of the State Bar after deducting all expenses provided for in Section 7 of this Article.

Section 4a. How General Counsel Elected

The General Counsel shall be elected by a majority vote of the Board of Directors and shall hold office during the pleasure of the Board, but his term in no event shall exceed two years. He may be re-elected as many times as the Board of Directors may choose. He shall be a member of the State Bar and shall have had at least seven years' experience in the practice of law within the State of Texas. The Board of Directors may appoint such assistants to the General Counsel as it deems necessary, such assistants to be appointed with the advice of the General Counsel.

Section 4b. Duties of the General Counsel

The duties of the General Counsel shall include all of those duties usually expected of and performed by a general counsel in private law practice. It shall be the duty of the General Counsel to expedite, coordinate, and standardize throughout all Grievance Districts of Texas the procedure, method and practice for the processing of grievance complaints and the control of unauthorized practice of law. Also, where time permits, the General Counsel and his assistants, if any, shall assist in the investigation and development of the cases of grievance and unauthorized practice matters, and may sit through and participate in the trials. The General Counsel and his assistants, if any, shall perform such other and further duties as may be directed by the Board. The Board shall fix the salaries of

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the General Counsel and such assistants as are deemed necessary, to be paid in equal monthly installments.

Section 5. Duties of President, President-Elect, and Vice-President

The President shall preside at all meetings of the State Bar, and in his absence or inability to act, or at his request, the President-Elect or the Vice-President shall preside. Each shall perform such other duties as usually belong to his office. The President-Elect shall be an ex-officio member of all standing and special committees and shall have responsibility for coordinating the work of the various committees and sections.

Section 6. Duties of the Executive Director

The Executive Director shall be responsible for the execution of the policies and directives of the Board with reference to all activities of the State Bar, except such activities as may be made the responsibility of the General Counsel by the Board or under these rules. He shall expedite and assist in the work of all standing and special committees, and shall serve as Editor-In-Chief of the Texas Bar Journal. He shall serve as Secretary to the Board and the State Bar, performing all duties required of the Secretary by these rules and other duties usually required of a secretary and a treasurer, including such other duties as may be assigned to him by the Board of Directors. Wherever the word "Secretary" is used in these Rules, it shall be taken to mean Executive Director. The Board shall fix his salary, which shall be paid in equal monthly installments. He shall be required to execute a corporate surety bond in such amount as the Board may direct, conditioned upon the faithful performance of his duties, the premium for which shall be paid by the State Bar. All of his accounts shall be audited annually by accountants selected by the Board of Directors, and a statement of the audit shall be printed in full in the next issue of the Bar Journal following the filing of such report. The Executive Director, with the approval of the Board of Directors, may employ such administrative, stenographic, and clerical assistants as the work of his office may require, salaries to be fixed by the Board of Directors and paid out of the funds of the State Bar.

ARTICLE VI—BOARD OF DIRECTORS

Section 1. How Comprised

The Board shall consist of one Director elected from each of the Congressional Districts of this State and any additional district hereafter created. The President, President-Elect, and Vice-President of the State Bar shall be ex-officio members of the Board with the same powers and duties as those of elected members.

At the first meeting after the Directors assume office, the Board shall elect one of their own number as Chairman. He shall serve for one year and shall preside at all meetings of the Board.

Section 1a. Deleted

Section 2. Qualifications of Director; Vacancies; How Filled

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

residence was the county of residence of the last preceding director from that district.

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

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

Section 3. How Chosen

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

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

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

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

Each member shall indicate the order of his preference as between the several candidates on the ballot by placing a figure following each name beginning with the figure "1" for his first choice, then "2" for his second choice, and so on through the list. Any member may write in the names of other qualified member or members as his first or subsequent choice for Director and following with his order of preference as between him, or them, and the candidates whose names are printed on the ballot. Any such ballot shall be counted and tallied the same as if the ballot had been cast by merely indicating a preference as between those whose names were printed thereon. Where there are more than two nominees for the same office, no ballot shall be counted unless the voter indicates at least his first and second choice preferences. However, when there are not more than two nominees for an office and there are an insufficient number of write-in votes to vary the result when the foregoing rule is applied, then all ballots which clearly indicate the preference of the voter as between the two original nominees listed on the ballot may be counted, irrespective of the method adopted by the voter in marking his ballot.

The Board shall adopt such further regulations as they may deem advisable to insure the validity and secrecy of ballots. The member shall return his ballot in accordance with any such regulations adopted by the Board, and within fifteen days after the ballot has been mailed and post-marked at the city of the principal office of the State Bar. Otherwise, the ballot shall not be counted.

The Executive Director shall keep the ballots unopened in a safe container under private lock until the day following the deadline for voting. Thereafter, he, together with the Clerk of the Supreme Court, and such assistants as they may require and designate, shall count and tally all

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votes cast in all the several districts, but the final count shall not be announced until June 5 (or the next succeeding working day if June 5 be Sunday or a legal holiday). The person receiving the majority of first choice votes in each district shall be declared elected Director for that district for the succeeding term. If no candidate receives a majority of first-choice votes, the candidate receiving the highest total of first and second-choice votes added together shall be declared elected Director for such district for the ensuing term.

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

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

All Directors when elected shall assume office immediately after adjournment of the annual meeting next after their election. All expenses reasonably incident to holding, canvassing, and declaring the results of the elections for Directors referred to in this Article shall be paid out of State Bar funds.

Section 4. Staggered Terms

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

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

Section 4a. Removal of Directors

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

Section 6. Regular Meetings

The Board of Directors shall hold regular meetings at such times as may be designated by the Board, such meetings to be as near as may be practicable to the fourth Saturdays in January, April, and October each year at a place to be selected by the majority vote of the Directors present at the last preceding meeting, and shall hold a regular meeting on the day preceding the opening day of the annual meeting of the State Bar in the city where such annual meeting is held. Another regular meeting shall be held on the closing day of the annual meeting following adjournment of such annual meeting, at which time newly elected Officers and Directors shall take their places on the Board.

ARTICLE VII—COMMITTEES AND SECTIONS**Section 1. Creation; Membership; Officers**

The Board of Directors shall create from time to time such committees and sections as it may deem advisable and necessary and shall define powers and functions. As soon as practicable after the close of each fiscal year, the incoming President, with the advice and consent of the Board of Directors, shall appoint the members of all such committees for the ensuing year. Officers of sections shall be elected by such sections at the annual meeting.

ARTICLE VIII—MEETINGS OF STATE BAR**Section 1. Time and Place of Annual Meeting**

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

Section 2. Program for Annual Meetings

The program for the annual meeting shall be prepared by the President, with the advice and consent of the Board of Directors. Programs for each section meeting, to be held in conjunction with the annual meeting of the State Bar, shall be prepared by the presiding officer of each section with the advice and consent of the President of the State Bar and the Board of Directors. All programs shall be submitted to the Board for approval at its regular April meeting preceding the annual meeting.

Section 7. Rules to Govern Proceedings

All proceedings at any meeting of the State Bar shall be governed by Roberts' Rules of Order, unless and until any rules therein contained may be superseded by other rules adopted by majority vote at an annual meeting; provided, however, that any new rule adopted by an annual meeting shall not be effective until the following annual meeting.

ARTICLE X—FISCAL

Section 1. Budget Committee

There is hereby created a Budget Committee, and its membership shall consist of the President of the State Bar, who shall be ex-officio Chairman, the President-Elect, the Vice-President, the Chairman of the Board, and two members of the Board of Directors to be appointed by the President, and who shall serve for one year.

Section 2. Annual Budget

It shall be the duty of the Budget Committee to advise with and assist the Executive Director in the preparation of the annual budget for the State Bar for the fiscal year, next after their appointment. The budget shall be fully prepared and ready for consideration by the Board of Directors at its regular April meeting in each year. The Board may amend the budget as it deems proper, but the budget, whether amended or not, shall be approved by the Board at its April meeting. The budget shall itemize all purposes for which warrants may be issued against State Bar funds for the ensuing fiscal year and shall show the total amounts which may be expended for each purpose, and no warrants may be drawn for any purpose after the total amount allocated thereto shall have been exhausted.

The budget may be amended at any time, to meet any unforeseen emergency, by two-thirds vote of the members present at any regular or special meeting of the Board of Directors. Each amendment shall specify the items and purposes for which additional expenditures are allowed and specify the total amount additionally allocated to each purpose.

Section 3. Bar Warrants; How and for What Purposes Drawn

No warrant on account of the State Bar of Texas shall be drawn against State Bar funds, nor paid out of the funds, unless the warrant is countersigned by the Executive Director, the President, or the Vice-President. The Executive Director shall see that no warrant is so drawn and issued except to pay some item of expense authorized in the annual budget, or some amendment thereto; and that no warrant is drawn, if its payment shall overdraw the amount allocated by the budget or its amendments to the payment of that item. Each warrant shall specify thereon what item of expenditure it is drawn to pay.

The Board of Directors and Officers of the State Bar shall be without authority to make any contract or incur any debt that cannot be paid from the receipts for the current year, except with the concurrent approval obtained by referendum of all members of the State Bar and the Supreme Court.

Any violation by the Executive Director of the terms of this Section, or neglect by him to perform the duties imposed by this Section, shall constitute a breach of trust and he shall be liable therefor on his bond to the State Bar.

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

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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

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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 pur-

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

suant 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 disbaring 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 ma-

jority 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

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

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. |
|---|--|
| Art. | 326k—39. Assistant district attorneys for 42nd and 104th judicial districts [New]. |
| 326k—17. Repealed. | 326k—40. Salaries for investigators and assistants; district attorney of 30th judicial district [New]. |
| 326k—37. Seventieth judicial district; stenographers, assistants and investigators [New]. | |
| 326k—38. Forty ninth judicial district; compensation of district attorney; assistant district attorney; special investigators; stenographers [New]. | |

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. 1a. The Commissioners Court in its discretion may authorize the purchase of an automobile or automobiles by the county for the use of investigators of the District Attorney or Criminal District Attorney in their official duties and may authorize the payment by the county of all expenses incidental to the upkeep and operation of such automobile or automobiles. Added Acts 1957, 55th Leg., p. 830, ch. 358, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

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

Section 1. The District Attorney of the 53rd Judicial District Court of this state shall be paid a salary in an amount not to exceed the salary paid to the District Clerk of said court. The First Assistant District Attorney of said court shall receive a salary not to exceed Seven Thousand, Five Hundred Dollars (\$7,500.00) per year and the other Assistant District Attorneys and Investigators shall receive salaries not to exceed Seven Thousand Dollars (\$7,000.00) per year.

Sec. 2. The Commissioners Court of the 53rd Judicial District is hereby authorized to pay the salaries provided in Section 1 of this Act or to supplement the salaries of the District Attorney and Assistant District Attorneys paid by the State of Texas in such an amount that the total salaries paid shall not exceed the maximum provided for in Section 1 hereof.

Sec. 3. 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 Travis 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.

Sec. 4. If any paragraph, phrase, clause or section of this statute be held invalid, it shall not affect the balance of said statute, 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 1951, 52nd Leg., p. 91, ch. 58, as amended Acts 1957, 55th Leg., p. 89, ch. 43, § 1.

Emergency. Effective April 3, 1957.

Art. 326k—15. Seventy-ninth judicial district; assistant district attorneys; stenographer

Section 1. The District Attorney of the 79th Judicial District of Texas may be compensated for his services by an additional salary of Twenty-five Hundred Dollars (\$2,500) per year. This is in addition to the salary now allowed by law.

Sec. 2. The District Attorney of the 79th Judicial District of Texas is hereby authorized to appoint a First and Second Assistant District Attorney of the 79th Judicial District, whose qualifications and authority shall be the same as now required by law for District Attorneys, and who shall take the oath and execute the bond required by law. The First Assistant shall receive a salary of not to exceed Seventy-five Hundred Dollars (\$7,500) per annum, payable in equal monthly installments, the amount of such salary to be fixed by the District Attorney with the approval of the Commissioners Courts of the counties comprising the 79th Judicial District. The Second Assistant shall receive a salary of not to exceed Fifty-five Hundred Dollars (\$5,500) per annum, to be paid by Duval County, payable in equal monthly installments, the amount of such salary to be fixed by the District Attorney with the approval of the Commissioners Court of Duval County. The Second Assistant shall serve for a term not to exceed December 31, 1958. No county whose Commissioners Court has refused to approve the appointment and salary of an Assistant District Attorney shall be liable for any salary or emolument of that Assistant.

Sec. 3. The District Attorney of the 79th Judicial District is authorized to employ a stenographer whose compensation shall be fixed by the combined majority of Commissioners Courts of the counties of the 79th Judicial District, upon recommendation of the District Attorney of that District, in an amount not to exceed Thirty-nine Hundred Dollars (\$3,900) per year, payable in equal monthly installments.

Sec. 4. The Commissioners Court of each county of the 79th Judicial District shall pay the salaries as provided in Sections 1, 2 and 3 of this Act, which salaries shall be prorated according to the population of each county according to the last preceding Federal Census.

Sec. 5. The District Attorney of the 79th Judicial District may specially assign one of his authorized Assistant District Attorneys to one or more counties of the 79th Judicial District. The Commissioners Court of one or more counties of the 79th Judicial District may, in its discretion, pay the whole or any amount greater than the proportionate part of the salary of any Assistant District Attorney who may be specially assigned by the District Attorney of the 79th Judicial District to that particular county or counties; and to the extent that any one or more counties may through its Commissioners Court agree to pay more than its proportionate part of the salary of the Assistant District Attorney specially assigned to

it, the other counties in the 79th Judicial District to whom this Assistant is not specially assigned shall be relieved from their proportionate part of his salary. Acts 1951, 52nd Leg., p. 91, ch. 58, as amended Acts 1957, 55th Leg., p. 566, ch. 266, § 1.

Emergency. Effective May 20, 1957.

Section 2 of the amendatory Act of 1957 was a severability provision.

Art. 326k—17. Repealed. Acts 1957, 55th Leg., p. 142, ch. 62, § 6.
Eff. April 12, 1957

Repealed section, Acts 1951, 52nd Leg. p. 395, ch. 253, related to appointment of assistant district attorney, investigator and stenographer in the 49th Judicial District to act in Webb County.

Art. 326k—37. Seventieth judicial district; stenographers, assistants and investigators

Section 1. From and after the effective date of this Act the District Attorney of the 70th Judicial District is hereby authorized to employ stenographers, assistants and investigators in the manner prescribed in Section 2 of this Act.

Sec. 2. Whenever the District Attorney of the 70th Judicial District shall require the services of assistants, investigators or stenographers in the performance of his duty, he shall apply to the Commissioners Court of Ector County for authority to appoint such assistants, investigators or stenographers, stating by sworn application the number needed, the position to be filled, and the amount to be paid. Upon receipt of such application the Commissioners Court of Ector County may enter an order authorizing the employment of such assistants, deputies and stenographers and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of the Commissioners Court may be proper; provided that in no case shall the Commissioners Court or any member thereof attempt to influence the employment of any person as assistant, investigator or stenographer. Upon entry of such order the District Attorney of the 70th Judicial District shall be authorized to employ the assistants, investigators and stenographers as authorized by the Commissioners Court of Ector County provided that the compensation paid them shall not exceed the maximum amount prescribed in Section 3 of this Act.

Sec. 3. Each stenographer of the District Attorney in the 70th Judicial District shall be paid a salary of not less than Two Thousand, Four Hundred Dollars (\$2,400.00) per annum and not more than Four Thousand, Eight Hundred Dollars (\$4,800.00) per annum as determined by the Commissioners Court of Ector County to be paid out of the Officers Salary Fund of the county.

Each assistant and each investigator of the District Attorney of the 70th Judicial District shall be paid a salary of not less than Three Thousand, Six Hundred Dollars (\$3,600.00) per annum and not more than Six Thousand, Seven Hundred Fifty Dollars (\$6,750.00) per annum as determined by the Commissioners Court of Ector County to be paid out of the Officers Salary Fund of the county.

The assistants to the District Attorney of the 70th Judicial District must be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed upon the District Attorney by law. The investigators need not be duly and legally licensed to practice law in the State of Texas.

Sec. 4. The investigators or assistants provided for in this Act shall be allowed their reasonable and necessary expenses incurred in the conduct of their official duties; provided, however, said expenses shall be paid only after approval of the District Attorney and the Commissioners Court of Ector County.

Sec. 5. The investigators or assistants provided for in this Act may be required to give bond and shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws. Acts 1957, 55th Leg., p. 9, ch. 8.

Emergency. Effective Feb. 21, 1957.

Section 6 of the Act of 1957 repealed all conflicting laws and parts of laws. Section 7 provided that if any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application; and to this end the provisions of this Act are declared to be severable.

Title of Act:

An Act authorizing the District Attorney of the 70th Judicial District to employ stenographers, assistants and investigators; prescribing their compensation, powers, duties, authority and method of employment; making other provisions relating thereto; providing a repealing clause; providing a severability clause; and declaring an emergency. Acts 1957, 55th Leg., p. 9, ch. 8.

Art. 326k—38. Forty ninth judicial district; compensation of district attorney; assistant district attorney; special investigators; stenographers

Section 1. The District Attorney of the 49th Judicial District may be paid a salary in an amount not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum by the County of Webb for the handling and prosecution of all misdemeanor cases in Webb County, and the Commissioners Court of Webb County is hereby authorized to pay said salary, in supplementation of the salary paid by the State, in equal monthly payments out of the county funds by warrants drawn on such county funds.

Sec. 2. Said District Attorney is hereby authorized to appoint one (1) Assistant District Attorney for Webb County, provided that the District Attorney shall furnish data to the County Judge of Webb County that he is in need of an Assistant and that it is necessary and to the best interests of the State and said County that an Assistant District Attorney be appointed. Said Assistant District Attorney so appointed shall be a qualified resident of Webb County and shall give bond and take the official oath; and said Assistant District Attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the District Attorney in Webb County under the laws of this State. Said appointment shall be for such time as the District Attorney shall deem best in the enforcement of the law, not to be less than one (1) month. Said Assistant District Attorney shall be paid by Webb County for the time of actual service rendered at a rate not to exceed Four Thousand, Two Hundred Dollars (\$4,200) per annum, in twelve (12) equal monthly installments out of the county funds by warrants drawn upon such county funds. The District Attorney of said District, at any time he deems said Assistant unnecessary or finds that he is not attending to his duties as required by law, may remove said person from office by giving written notice to the Assistant and to the County Judge to that effect.

Sec. 3. Said District Attorney is hereby authorized to appoint two (2) part-time assistants or one (1) full-time assistant to serve in Webb County, in addition to his regular assistant, provided for in this Act,

which assistants need not be licensed to practice law. Said assistants shall be known as Special Investigators, and shall perform such duties as may be assigned to them by the District Attorney. The part-time assistants shall each receive as compensation a salary not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, or if a full-time assistant is appointed, he shall receive as compensation a salary not to exceed Four Thousand, Two Hundred Dollars (\$4,200) per annum, payable monthly out of the county funds by warrants drawn on such county funds.

Said Special Investigators shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. They shall serve at the will of the District Attorney and may be removed from office by written notice by the District Attorney to the Special Investigator concerned and to the County Judge to that effect.

Sec. 4. The District Attorney is hereby authorized to appoint one (1) Stenographer-Secretary, who shall keep the records of the District Attorney's Office and perform the necessary stenographic and secretarial work, as may be assigned to such person by the District Attorney, and who shall receive as compensation a salary not to exceed Four Thousand, Two Hundred Dollars (\$4,200) per annum, payable monthly out of the county funds by warrants drawn on such county funds.

Sec. 5. The Commissioners Court of Webb County is hereby authorized to pay the salaries provided in Sections 2, 3, and 4 of this Act and to supplement the salary of the District Attorney of the 49th Judicial District, paid by the State of Texas, in the amount set out in Section 1 hereof. The salaries of the Assistant District Attorney, the Special Investigators, and the Stenographer-Secretary shall be fixed by the Commissioners Court, in its discretion, upon recommendation of the District Attorney. Acts 1957, 55th Leg., p. 142, ch. 62.

Emergency. Effective April 12, 1957. and parts of laws to the extent of such
Section 6 of the Act of 1957, repealed conflict.
article 326k—17 and all conflicting laws

Art. 326k—39. Assistant district attorneys for 42nd and 104th judicial districts

Section 1. The district attorney for the 42nd Judicial District and the district attorney of the 104th Judicial District, with the consent of the district judges of the 42nd Judicial District and the 104th Judicial District, respectively, and of the Commissioners Courts in each of the counties comprising the 42nd and 104th Judicial Districts, are hereby authorized to appoint an assistant district attorney for the district attorneys of such districts.

Sec. 2. The assistant district attorney provided for in this Act must be duly and legally licensed to practice law in this State. The assistant may be required to give bond.

Sec. 3. The assistant provided for in this Act shall receive a salary of not less than Three Thousand Dollars (\$3,000) nor more than Four Thousand Dollars (\$4,000) per annum, said salary to be fixed by the district attorneys of the districts and approved by the district judges of the 42nd and 104th Judicial Districts and by the Commissioners Court of each of the counties comprising the 42nd and 104th Judicial Districts. In addition to his salary, the assistant shall be allowed the actual and necessary expenses incurred in the proper discharge of his duties, never to exceed Eleven Hundred Dollars (\$1,100) per annum.

Sec. 4. The salary and expenses of the assistant district attorney provided for in this Act shall be paid out of the general funds of the counties, prorated according to the population of the counties composing the judicial districts. Acts 1957, 55th Leg., p. 391, ch. 192.

Emergency. Effective May 6, 1957.

Section 5 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict only.

Title of Act:

An Act authorizing the appointment of an assistant district attorney for the dis-

trict attorneys of the 42nd Judicial District, and the 104th Judicial District, respectively; prescribing his qualifications, duties, and salary; providing for expenses of the assistant district attorney; repealing all laws in conflict; and declaring an emergency. Acts 1957, 55th Leg., p. 391, ch. 192.

Art. 326k—40. Salaries for investigators and assistants; district attorney of 30th Judicial District

Section 1. From and after the effective date of this Act, the salaries of each investigator or assistant of the District Attorney of the 30th Judicial District shall be determined by the combined majority of the District Judges of Wichita County and the Commissioners Court of Wichita County, Texas. However, the salary of an investigator or assistant of the District Attorney of the 30th Judicial District shall not exceed Sixty-five Hundred Dollars (\$6,500) per annum.

Sec. 2. From and after the effective date of this Act, the District Attorney of the 30th Judicial District is hereby authorized to appoint one (1) or more stenographers, and to compensate such stenographers at such sum to be determined by the combined majority of the District Judges of Wichita County and the Commissioners Court of Wichita County, Texas; so long as the combined salaries to be paid to the stenographers of the District Attorney of the 30th Judicial District shall not exceed Fifty-four Hundred Dollars (\$5,400) per annum. Acts 1957, 55th Leg., p. 1227, ch. 403.

Emergency. Effective June 6, 1957.

Section 3 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 4 was a severability provision.

Title of Act:

An Act providing for the salaries for investigators or assistants to the District Attorney of the 30th Judicial District, and

providing the means by which such salaries shall be determined; providing for the appointment, compensation and method of compensation for stenographers in the office of the District Attorney of the 30th Judicial District; and declaring an emergency. Acts 1957, 55th Leg., p. 1227, ch. 403.

TITLE 16—BANKS AND BANKING

TEXAS BANKING CODE OF 1943

**CHAPTER THREE—INCORPORATION, MERGER, REORGANIZATION,
PURCHASE OF ASSETS OF ANOTHER BANK, DISBURSING
AGENT, AMENDMENT OF ARTICLES OF ASSOCIATION OF
STATE BANKS, AND CONVERSION**

Art. 342—301. Powers

Subject to the provisions of this Code, five (5) or more persons, a majority of whom are residents of this state, may incorporate a state bank, with any one or more of all of the following powers:

(a) To receive time and demand deposits at interest or without interest; to lend money with or without security at interest; and to buy, sell and discount bonds, negotiable instruments and other evidences of indebtedness;

(b) To act as fiscal agent or transfer agent and in such capacity to receive and disburse money and to transfer registered and counter-signed certificates of stock, bonds or other evidences of indebtedness;

(c) To act as trustee under any mortgage or bond issue and to accept and execute any trust not inconsistent with the laws of this state;

(d) To act under the order or appointment of any court of record as guardian, receiver, trustee, executor or administrator, and, although without general depository powers, to act as depository for any moneys paid into court without giving bond as such;

(e) To purchase, invest in, and sell bills of exchange, bonds, mortgages and other evidences of indebtedness, and to lend money and to charge and collect interest thereon in advance or otherwise;

(f) To receive savings deposits with or without the payment of interest;

(g) To receive time deposits with or without the payment of interest;

(h) To issue, sell and negotiate notes, bonds and other evidences of indebtedness, and, in addition, to issue and sell, for cash or on an installment basis, investment certificates, creating no relation of debtor and creditor between the bank and the holder, to be retired solely out of specified surplus, reserves, or special retirement account, and containing such provisions relative to yield, retirement, penalties, withdrawal values, and obligations of the issuing bank as may be approved by the Commissioner.

A state bank shall have all incidental powers necessary to exercise its specific powers. As amended Acts 1957, 55th Leg., p. 1162, ch. 388, § 8.

Effective 90 days after May 23, 1957, date of adjournment.

CHAPTER FIVE—LOANS AND INVESTMENTS

Art.

342—501A. Automobile parking areas for bank's customers and employees [New].

Art. 342—501A. Automobile parking areas for bank's customers and employees

A bank may own or lease land in the vicinity of such bank as an automobile parking area exclusively or predominantly for the use of its customers and employees, provided that such land shall not be used for any other purpose. Such real estate shall become a part of the bank's domicile and shall be subject to the provisions of Article 1, Chapter V, Title 16 of The Texas Banking Code of 1943.¹ Added Acts 1957, 55th Leg., p. 370, ch. 175, § 1.

¹ Article 342—501.

Emergency. Effective May 6, 1957.

CHAPTER SEVEN—DEFINITIONS, COLLECTIONS, DEPOSITORY CONTRACTS

Art. 342—704. Collections—Payment—Refusal—Dishonor

Except where otherwise provided in this Code, or by express agreement of the parties, items presented to a drawee bank shall be received by it, subject to final adjustment and all clearing house settlements, checks, drafts, credits, advances of money, charges or entries to accounts, (including sight posting), shall be conditional and subject to revocation during the day on which the item is presented (or in case of a time item, the due date), or until midnight of the banking day after the day of presentment, exclusive of Sundays and holidays, if it is finally determined that the drawee bank was not at the time of presentment (or in case of a time item, the due date) authorized or obligated to pay the item, and if the drawee bank shall within that time refuse payment and return the item, or undertake to give notice in the manner hereinafter prescribed:

1. If the item is presented across the counter for payment in cash or for deposit in the drawee bank, the drawee bank shall exercise reasonable diligence within the time above prescribed to give notice, by mail or otherwise, to the bank or person presenting the item that it has refused payment and that it holds the item subject to its or his order.

2. If the item is presented through a clearing house, the drawee bank shall, within the time prescribed, return the item to the clearing house presenting it.

3. If the item is presented by mail, the drawee bank shall within the time above prescribed deposit the item in the mail properly stamped and addressed to the bank or person presenting the same. The actual receipt of the notice provided under Section 1 above by the bank or person presenting the item, or the actual receipt of the returned item by the person, bank or clearing house, as provided in Sections 2 and 3 above, shall constitute dishonor within the purview of Article 5938 of the Revised Civil Statutes of Texas. If the drawee bank in refusing payment of any item fails to comply with the provisions of this Article within the time above prescribed it shall, at the election of the owner of the item, be

deemed to have accepted the item, and shall be liable for the amount thereof. If an item is presented by a bank as agent or sub-agent of owner, such bank may, in the absence of definite instructions from the owner, exercise the election herein provided for. As amended Acts 1957, 55th Leg., p. 1295, ch. 434, § 1.

Emergency. Effective June 6, 1957.

CHAPTER NINE—GENERAL PROVISIONS

Art. 342—902. Unauthorized Banking—Advertising—Private Banks—Penalty

It shall be unlawful for any person, corporation, firm, partnership, association or common law trust:

(1) To conduct a banking or trust business or to hold out to the public that it is conducting a banking or trust business; or

(2) To use in its name, stationery or advertising, the term "bank," "bank and trust," "savings bank," "certificate of deposit," "trust" or any other term or word calculated to deceive the public into the belief that such person, corporation, firm, partnership, association, common law trust, or other group of persons is engaged in the banking or trust business.

Provided, however, that this Article shall not apply to (1) national banks; (2) state banks; (3) other corporations heretofore or hereafter organized under the laws of this state or of the United States to the extent that such corporations are authorized under their charter or the laws of this state or of the United States to conduct such business or to use such term; and (4) private banks which were actually and lawfully conducting a banking business on the effective date of this Act so long as the owners of such bank, their successors or assigns, shall continuously conduct a banking business in the city or town where such private bank was domiciled on the effective date of this Act; provided, however, that such private banks shall include the word "Unincorporated" in their firm or business names and such word shall be prominently set out upon the stationery and in all the advertising of such private banks.

This article shall not bar an individual from acting in any fiduciary capacity if he does not hold out to the public that he is conducting any branch of the trust business.

Any person, corporation, firm, partnership, association or common law trust violating any provision of this article shall forfeit Five Hundred Dollars (\$500.00) for every day it continues so to do. Suits to recover such penalty shall be instituted in the name of the State of Texas by the Attorney General or by a District or County Attorney under his direction either in the county where the principal office of such person, corporation, firm, partnership, association or common law trust is situated, or in Travis County, Texas. Such penalties, when recovered, shall be paid into the State Treasury for the use of the School Fund. As amended Acts 1957, 55th Leg., p. 305, ch. 137.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957 provided that partial invalidity should not

affect the remaining portions of the Act. Section 3 repealed all conflicting laws and parts of laws.

Art. 342—903. Branch Banking Prohibited

No state, national or private bank shall engage in business in more than one place, maintain any branch office, or cash checks or receive deposits except in its own banking house. For purposes of this Article, "banking house" means the building in whose offices the business of the bank is conducted and which is functionally one place of business, including office facilities whose nearest wall is located within five hundred (500) feet of the nearest wall of the central building and is physically connected to the central building by tunnel, passageway or hallway providing direct access between the central building and the connected office facility or by pneumatic tube or other similar carrier, provided such office facility must be located within the same city block or within contiguous or adjoining city blocks, or within a block located diagonally across an intersection of two (2) streets from the central building both of which intersecting streets are adjacent to the block occupied by the central building and also the block occupied by the connecting office facility. The entire banking house shall for all purposes under the law be considered one integral banking house. As amended Acts 1957, 55th Leg., p. 448, ch. 220, § 1.

Emergency. Effective May 13, 1957.

Section 2 of the amendatory Act of 1957 was a severability clause.

Prohibition against conducting banking business in more than one place, see Const. art. 16, § 16.

TITLE 19—BLUE SKY LAW—SECURITIES

- | Art. | Art. |
|--|--|
| 579—1 to 579—42. Repealed. | 581—20. Display or advertisement of fact of registration unlawful [New]. |
| 580—1 to 580—39. Repealed. | 581—21. Posting certificates of authority [New]. |
| 581—1. Short Title of Act [New]. | 581—22. Advertising [New]. |
| 581—2. Creating the State Securities Board and providing for appointment of Securities Commissioner [New]. | 581—23. List of securities filed with the Commissioner on request, notice and hearing as to securities questioned by Commissioner [New]. |
| 581—3. Administration and enforcement by the Securities Commissioner and the Attorney General and local law enforcement officials [New]. | 581—24. Hearings by Commissioner upon notice, upon exception by any party at interest, to actions of Commissioner [New]. |
| 581—4. Definitions [New]. | 581—25. Revocation of registration of any dealer or agent or salesman of any dealer, upon hearing after notice [New]. |
| 581—5. Exempt transactions [New]. | 581—26. Notices by registered mail [New]. |
| 581—6. Exempt securities [New]. | 581—27. Petition to District Court of Travis county on complaint of decision of Commissioner [New]. |
| 581—7. Permit or registration for issue by Commissioner; information for issuance of permit or registration [New]. | 581—28. Subpoenas or other process in investigations by Commissioner [New]. |
| 581—8. Consent to service and certificate of good standing [New]. | 581—29. Penal provisions [New]. |
| 581—9. Protection to purchasers of securities [New]. | 581—30. Certified copies of papers filed with Commissioner as evidence [New]. |
| 581—10. Examination of application; permit. [New]. | 581—31. Construction [New]. |
| 581—11. Papers filed with Commissioner; records open to inspection [New]. | 581—32. Injunctions [New]. |
| 581—12. Registration of persons selling [New]. | 581—33. Sales in violation of the act voidable; actions by purchasers [New]. |
| 581—13. Method of registration required of each dealer and each agent or salesman of each dealer [New]. | 581—34. Actions for commission; allegations and proof of compliance [New]. |
| 581—14. Bases for denial, suspension or revocation of registration as dealer or agent or salesman [New]. | 581—35. Fees [New]. |
| 581—15. Issuance of registration certificates to dealers [New]. | 581—36. Deposit to general revenue fund [New]. |
| 581—16. Consent to suit in this state, by dealers who are foreign companies or non-residents [New]. | 581—37. Pleading exemptions [New]. |
| 581—17. Form of certificates to dealers [New]. | 581—38. Partial invalidity; severability [New]. |
| 581—18. Registration of agents or salesmen of dealers [New]. | 581—39. Repeal of Securities Act and Insurance Securities Act now in effect; saving clause as to pending proceedings [New]. |
| 581—19. Annual registration; renewals [New]. | |

Arts. 579—1 to 579—42. Repealed. Acts 1957, 55th Leg., p. 575, ch. 269, § 39. Eff. 90 days after May 23, 1957, date of adjournment

Articles 579—1 to 579—42, comprising the Securities Act of 1955, were derived from Acts 1955, 54th Leg., p. 322, ch. 67, §§ 1—42.

The new Securities Act of 1957 is set out as article 581—1 et seq.

Savings clause, see article 581—39.

Arts. 580—1 to 580—39. Repealed. Acts 1957, 55th Leg., p. 575, ch. 269, § 39. Eff. 90 days after May 23, 1957, date of adjournment

Articles 580—1 to 580—39, comprising the Insurance Securities Act of 1955, were derived from Acts 1955, 54th Leg., p. 1002, ch. 384, §§ 1—39.

Savings clause, see article 581—39.

Art. 581—1. Short Title of Act

This Act¹ shall be known and may be cited as "The Securities Act." Acts 1957, 55th Leg., p. 575, ch. 269, § 1.

¹ Articles 581—1 to 581—39.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 581—2. Creating the State Securities Board and Providing for Appointment of Securities Commissioner

A. The State Securities Board is hereby created for the purpose of electing the State Securities Commissioner. The Board shall consist of three citizens of the state. With the advice and consent of the Senate, the Governor shall biennially appoint one member to serve for a term of six years. The Governor shall, however, initially designate members of the Board for the following respective terms: one member until the installation of the Governor in 1959; one member until the installation of the Governor in 1961; one member until the installation of the Governor in 1963. Upon the expiration of these initial terms, the term of each member shall be six (6) years from the time of his appointment and qualification, and until his successor shall qualify. Vacancies shall be filled by the Governor for the unexpired term. Members shall be eligible for reappointment.

No person shall be eligible for appointment, nor shall hold the office of member of the Board, nor be appointed by the Board, nor hold any office or position under the Board, while licensed to sell or entitled to deal in securities under any of the provisions of this Act.¹

The members shall receive their actual expenses while engaged in the performance of their duties and a per diem of Ten Dollars (\$10.00) per day for not exceeding sixty (60) days for any one year. They shall select their own chairman. A majority of the members shall constitute a quorum for the transaction of any business.

B. The Board shall appoint a Securities Commissioner who serves at the pleasure of the Board and who shall, under the supervision of the Board, administer the provisions of this Act. Each member of the Board shall have access to all offices and records under his supervision, and the Board, or a majority thereof, may exercise any power or perform any act authorized to the Securities Commissioner by the provisions of this Act.

C. The Commissioner, with the consent of the Board, may designate a Deputy Securities Commissioner who shall perform all the duties required by law to be performed by the Securities Commissioner when the said Commissioner is absent or unable to act for any reason.

D. Before assuming office, the Securities Commissioner shall first give a bond in the sum of Twenty-five Thousand Dollars (\$25,000.00) payable to and to be approved by the Governor, conditioned that he will faithfully execute the duties of his office. The same requirement is made of the Deputy Securities Commissioner, and the Securities Commissioner may require any or all of his staff and employees to be likewise bonded. The expense of all such bonds may be paid by the state.

E. The Board, with the advice of the Commissioner, shall report annually in November to the Governor as to its administration of this Act, as well as plans and needs for future securities regulation. Acts 1957, 55th Leg., p. 575, ch. 269, § 2.

¹ Articles 581—1 to 581—39.

Art. 581—3. Administration and Enforcement by the Securities Commissioner and the Attorney General and Local Law Enforcement Officials

The administration of the provisions of this Act¹ shall be vested in the Securities Commissioner. It shall be the duty of the Securities Commissioner and the Attorney General to see that its provisions are at all times obeyed and to take such measures and to make such investigations as will prevent or detect the violation of any provision thereof. The Commissioner shall at once lay before the District or County Attorney of the proper county any evidence which shall come to his knowledge of criminality under this Act. In the event of the neglect or refusal of such attorney to institute and prosecute such violation, the Commissioner shall submit such evidence to the Attorney General, who is hereby authorized to proceed therein with all the rights, privileges and powers conferred by law upon district or county attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries. Acts 1957, 55th Leg., p. 575, ch. 269, § 3.

Articles 581—1 to 581—39.

Art. 581—4. Definitions

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

A. The term "security" or "securities" shall include any share, stock, treasury stock, stock certificate under a voting trust agreement, collateral trust certificate, equipment trust certificate, preorganization certificate or receipt, subscription or reorganization certificate, note, bond, debenture, mortgage certificate or other evidence of indebtedness, any form of commercial paper, certificate in or under a profit sharing or participation agreement, certificate or any instrument representing any interest in or under an oil, gas or mining lease, fee or title, or any certificate or instrument representing or secured by an interest in any or all of the capital, property, assets, profits or earnings of any company, investment contract, or any other instrument commonly known as a security, whether similar to those herein referred to or not. Provided, however, that this definition shall not apply to any insurance policy, endowment policy, annuity contract, optional annuity contract, or any contract or agreement in relation to and in consequence of any such policy or contract, issued by an insurance company subject to the supervision or control of the Board of Insurance Commissioners when the form of such policy or contract has been duly filed with the Board as now or hereafter required by law.

B. The term "company" shall include a corporation, person, joint stock company, partnership, association, company, firm, syndicate trust, incorporated or unincorporated, heretofore or hereafter formed under the laws of this or any other state, country, sovereignty or political subdivision thereof. As used herein, the term "trust" shall be deemed to include a common law trust, but shall not include a trust created or appointed under or by virtue of a last will and testament or by a court of law or equity.

C. The term "dealer" shall include every person or company, other than a salesman, who engages in this state, either for all or part of his or its time, directly or through an agent, in selling, offering for sale or delivery or soliciting subscriptions to or orders for, or undertaking to dispose of, or to invite offers for, or rendering services as an investment adviser, or dealing in any other manner in any security or securities within

this state. Any issuer other than a registered dealer of a security or securities, who, directly or through any person or company, other than a registered dealer, offers for sale, sells or makes sales of its own security or securities shall be deemed a dealer and shall be required to comply with the provisions hereof; provided, however, this section or provision shall not apply to such issuer when such security or securities are offered for sale or sold either to a registered dealer or only by or through a registered dealer acting as fiscal agent for the issuer; and provided further, this section or provision shall not apply to such issuer if the transaction is within the exemptions contained in the provisions of Section 5¹ of this Act.

D. The term "salesman" shall include every person or company employed or appointed or authorized by a dealer to sell, offer for sale or delivery, or solicit subscriptions to or orders for, or deal in any other manner, in securities within this state, whether by direct act or through sub-agents; provided, that the officers of a corporation or partners of a partnership shall not be deemed salesmen, where such corporation or partnership is registered as a dealer hereunder.

E. The terms "sale" or "offer for sale" or "sell" shall include every disposition, or attempt to dispose of a security for value. The term "sale" means and includes contracts and agreements whereby securities are sold, traded or exchanged for money, property or other things of value, or any transfer or agreement to transfer, in trust or otherwise. Any security given or delivered with or as a bonus on account of any purchase of securities or other thing of value, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. The term "sell" means any act by which a sale is made, and the term "sale" or "offer for sale" shall include a subscription, an option for sale, a solicitation of sale, a solicitation of an offer to buy, an attempt to sell, or an offer to sell, directly or by an agent or salesman, by a circular, letter, or advertisement or otherwise, including the deposit in a United States Post Office or mail box or in any manner in the United States mails within this state of a letter, circular or other advertising matter. Nothing herein shall limit or diminish the full meaning of the terms "sale," "sell" or "offer for sale" as used by or accepted in courts of law or equity. The sale of a security under conditions which entitle the purchaser or subsequent holder to exchange the same for, or to purchase some other security, shall not be deemed a sale or offer for sale of such other security; but no exchange for or sale of such other security shall ever be made unless and until the sale thereof shall have been first authorized in Texas under this Act,² if not exempt hereunder, or by other provisions of law. Provided, however, advertising when made in compliance with Section 22³ shall not be deemed a sale.

F. The terms "fraud" or "fraudulent practice" shall include any misrepresentations, in any manner, of a relevant fact; any promise or representation or prediction as to the future not made honestly and in good faith, or an intentional failure to disclose a material fact; the gaining, directly or indirectly, through the sale of any security, of an underwriting or promotion fee or profit, selling or managing commission or profit, so gross or exorbitant as to be unconscionable; any scheme, device or other artifice to obtain such profit, fee or commission; provided, that nothing herein shall limit or diminish the full meaning of the terms "fraud," "fraudulent," and "fraudulent practice" as applied or accepted in courts of law or equity.

G. "Issuer" shall mean and include every company or person who proposes to issue, has issued, or shall hereafter issue any security.

H. "Broker" shall mean dealer as herein defined.

I. "Mortgage" shall be deemed to include a deed of trust to secure a debt.

J. If the sense requires it, words in the present tense include the future tense, in the masculine gender include the feminine and neuter gender, in the singular number include the plural number, and in the plural number include the singular number; "and" may be read "or" and "or" may be read "and".

K. "No par value" or "non-par" as applied to shares of stock or other securities shall mean that such shares of stock or other securities are without a given or specified par value. Whenever any classification or computation in this Act mentioned is based upon "par value" as applied to shares of stock or other securities of no par value, the amount for which such securities are sold or offered for sale to the public shall be used as a basis of such classification or computation.

L. The term "include" when used in a definition contained in this Act shall not be deemed to exclude other things or persons otherwise within the meaning of the term defined.

M. "Registered dealer" shall mean a dealer as hereinabove defined who has been duly registered by the Commissioner as in Section 15 of this Act provided. Acts 1957, 55th Leg., p. 575, ch. 269, § 4.

¹ Article 581—5.

² Articles 581—1 to 581—39.

³ Article 581—22.

⁴ Article 581—15.

Art. 581—5. Exempt Transactions

Except as hereinafter in this Act¹ specifically provided, the provisions of this Act shall not apply to the sale of any security when made in any of the following transactions and under any of the following conditions, and the company or person engaged therein shall not be deemed a dealer within the meaning of this Act; that is to say, the provisions of this Act shall not apply to any sale, offer for sale, solicitation, subscription, dealing in or delivery of any security under any of the following transactions or conditions:

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

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

C. (1) Sales of securities made by or in behalf of a vendor, whether by dealer or other agent, in the ordinary course of bona fide personal investment of the personal holdings of such vendor, or change in such investment, if such vendor is not engaged in the business of selling securities and the sale or sales are isolated transactions not made in the course of repeated and successive transactions of a like character; provided, that in no event shall such sales or offerings be exempt from the provisions of this Act when made or intended by the vendor or his agent, for the benefit, either directly or indirectly, of any company or corporation except the individual vendor (other than a usual commission to said agent), and provided further, that any person acting as agent for said vendor shall be registered pursuant to this Act;

(2) Sales by or on behalf of any insurance company subject to the supervision or control of the Board of Insurance Commissioners of any

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

security owned by such company as a legal and bona fide investment, provided that in no event shall any such sale or offering be exempt from the provisions of this Act when made or intended, either directly or indirectly, for the benefit of any other company as that term is defined in this Act.

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

E. The sale of an increase of capital stock of a corporation only to its stockholders and without payment of any commission or expense to any officer, employee, broker or agent;

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

G. The transfer or exchange by, or on account of, one corporation to another or to its stockholders of their or its own securities in connection with a proposed consolidation or merger of such corporation or in connection with the change of par value stock to non par value stock or vice versa, or the exchange of outstanding shares for a greater or smaller number or shares, provided that in such case such stockholders do not pay or give or promise and are not obligated to pay or give any consideration for the securities so transferred or exchanged other than the securities of said corporation then held by them;

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

I. The sale by any corporation of its securities or by any unincorporated association or partnership of interests, where the total membership or stockholders will not thereafter exceed thirty-five (35), and where the sale is made without the use of advertisements or any form of public solicitation;

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

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

L. The sale by the issuer itself, of any securities that are issued by a state or national bank, or building and loan association organized and operating under the laws of the State of Texas and subject to the supervision of the Commissioner of Banking of the State of Texas, or a federal loan and savings association;

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

N. The sale and issuance of any securities issued by any farmers cooperative association organized under Chapter 8 of Title 93, Articles 5737—5764, inclusive, Revised Civil Statutes of Texas as amended; and the sale of any securities issued by any farmers cooperative society organized under Chapter 5 of Title 46, Articles 2514—2525, inclusive, Revised Civil Statutes of Texas. Provided, however, this exemption shall not be applicable to agents and salesmen of any farmers cooperative association or farmers cooperative society when the sale of such securities is made to non-members, or when the sale of such securities is made to members or non-members and a commission is paid or contracted to be paid to the said agents or salesmen;

O. The sale by a registered dealer of securities which have theretofore been issued to the public in this or in any other state by an entity domiciled in the United States and which securities then form no part of an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer thereof or by or through an underwriter thereof when such securities are offered for sale, in good faith, at prices reasonably related to current market price of such securities at the time of such sale; provided that:

(1) No part of the proceeds of such sale are intended to inure, either directly or indirectly, to the benefit of the issuer of such securities; and

(2) Such sale is neither directly nor indirectly for the purpose of promoting any scheme or enterprise having the effect of violating or evading any of the provisions of this Act; and

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

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

(5) At the time of such sale, information as to the issuer of such securities shall appear in either Moody's, Standard and Poors, or Fitch, or in a nationally distributed manual of securities approved for use hereunder by the Commissioner; or the information is furnished in writing to the Commissioner in form and extent acceptable to the Commissioner; such information either in the manual, or other form, shall include at least a statement of the issuer's principal business, a statement of the assets and liabilities of such issuer as of a date not more than eighteen (18) months prior to the date of such sale, and a net income and dividend record of such issuer for a period of not less than three (3) complete fiscal years ended not more than eighteen (18) months next prior to the date of such sale or for the period that the issuer has actually been engaged in business if the issuer has been in business for less than three (3) years; and

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

The Commissioner may by order revoke or suspend the exemption under this subsection O with respect to any security if he has reasonable cause

to believe that the plan of business of the issuer of such security, the security, or the sale thereof, would tend to work a fraud or deceit upon any purchaser or purchasers thereof, such order to be subject to review in the manner provided by Section 24 of this Act.² Notices of any court injunction enjoining the sale, or resale, of any such security, or of any order revoking or suspending the exemption under this subdivision with respect to any security, shall be delivered or shall be mailed by ordinary mail, or by registered mail with return receipt requested, to any dealers believed to be selling, or offering for sale, securities of the type referred to in the notice; and the prohibitions of (3) and (4) above of this subsection O shall be inapplicable to any dealer until he has received actual notice from the Commissioner of such revocation or suspension;

P. The execution by a dealer of an unsolicited order for the purchase of securities, where the initial offering of such securities has been completed and provided that the dealer acts solely as an agent for the purchaser, has no direct or indirect interest in the sale or distribution of the security ordered, and receives no commission, profit, or other compensation from any source other than the purchaser;

Acts 1957, 55th Leg., p. 575, ch. 269, § 5.

¹ Articles 581—1 to 581—39.

² Article 581—24.

Art. 581—6. Exempt Securities

Except as hereinafter in this Act¹ expressly provided, the provisions of this Act shall not apply to any of the following securities when offered for sale, or sold, or dealt in by a registered dealer or salesmen of a registered dealer:

A. Any security issued or guaranteed by the United States or by any territory or insular possession thereof, or by the District of Columbia, or by any state or municipal corporation or political subdivision thereof or by any public agency or instrumentality of any of the foregoing;

B. Any security issued or guaranteed by any foreign government with which the United States is at the time of the sale, or offer of sale thereof, maintaining diplomatic relations, or by any state, province or political subdivision thereof having the power of taxation or assessment, which security is recognized at the time it is offered for sale in this state as a valid obligation by such foreign government or by such state, province, or political subdivision thereof issuing the same; provided, however, such securities must be on the list approved by the Securities and Exchange Commission of the United States;

C. Any security issued by and representing an interest in or a direct obligation of a national bank, or of a government agency created or existing by an Act of the Congress of the United States other than corporations created or existing under the Code of Laws for the District of Columbia or under the Code of Laws for any territory or possession of the United States;

D. Any security issued or guaranteed either as to principal, interest, or dividend, by a corporation owning or operating a railroad or any other public service utility; provided, that such corporation is subject to regulation or supervision either as to its rates and charges or as to the issue of its own securities by the Railroad Commission of Texas, or by a public commission, agency, board or officers of the Government of the United States, or of any territory or insular possession thereof, or of any state or municipal corporation, or of the District of Columbia, or of the Dominion of Canada, or any province thereof; also equipment trust certificates or

equipment notes or bonds based on chattel mortgages, leases or agreements for conditional sale of cars, motive power or other rolling stock mortgages, leased or sold to or furnished for the use of or upon a railroad or other public service utility corporation, provided that such corporation is subject to regulation or supervision as above; or equipment trust certificates, or equipment notes or bonds where the ownership or title of such equipment is pledged or retained in accordance with the provisions of the laws of the United States, or of any state, territory or insular possession thereof, or of the District of Columbia, or the Dominion of Canada, or any province thereof, to secure the payment of such equipment trust certificates, bonds or notes;

E. Any security issued and sold by a domestic corporation without capital stock and not organized and not engaged in business for profit;

F. Securities which at the time of sale have been fully listed upon the American Stock Exchange, the Boston Stock Exchange, the Midwest Stock Exchange or the New York Stock Exchange, or upon any recognized and responsible stock exchange approved by the Commissioner as hereinafter in this section provided, and also all securities senior to, or if of the same issues, upon a parity with, any securities so listed or represented by subscription rights which have been so listed, or evidence of indebtedness guaranteed by any company, any stock of which is so listed, such securities to be exempt only so long as the exchange upon which such securities are so listed remains approved under the provisions of this section. Application for approval by the Commissioner may be made by any organized stock exchange in such manner and upon such forms as may be prescribed by the Commissioner, but no approval of any exchange shall be given unless the facts and data supplied with the application shall be found to establish:

(1) That the requirements for the listing of securities upon the exchange so seeking approval are such as to effect reasonable protection to the public;

(2) That the governing constitution, by-laws or regulations of such exchange shall require:

1st: An adequate examination into the affairs of the issuer of the securities which are to be listed before permitting trading therein;

2nd: That the issuer of such securities, so long as they be listed, shall periodically prepare, make public and furnish promptly to the exchange, appropriate financial, income, and profit and loss statements;

3rd: Securities listed and traded in on such exchange to be restricted to those of ascertained, sound asset or income value;

4th: A reasonable surveillance of its members, including a requirement for periodical financial statements and a determination of the financial responsibility of its members and the right and obligation in the governing body of such exchange to suspend or expel any member found to be financially embarrassed or irresponsible or found to have been guilty of misconduct in his business dealings, or conduct prejudicial of the rights and interests of his customers;

The approval of any such exchange by the Commissioner shall be made only after a reasonable investigation and hearing, and shall be by a written order of approval upon a finding of fact substantially in accordance with the requirements hereinabove provided. The Commissioner, upon ten (10) days notice and hearing, shall have power at any time to withdraw approval theretofore granted by him to any such stock exchange which does not at the time of hearing meet the standards of approval under this Act, and thereupon securities so listed upon such exchange shall be no longer

entitled to the benefit of such exemption except upon the further order of said Commissioner approving such exchange;

G. Any security issued or guaranteed by or representing an interest in or a direct obligation of a state bank incorporated under the laws of and subject to the examination, supervision and control of any state or territory of the United States or any insular possession thereof; or issued or guaranteed by any building and loan association or savings institution under the control of the Banking Department of this state;

H. Negotiable promissory notes or commercial paper issued in good faith and in the usual course of carrying on and conducting the business of the issuer, provided that such notes or commercial paper mature in not more than twenty-four (24) months from the date of issue;

I. Notes, bonds, or other evidence of indebtedness or certificates of ownership which are equally and proportionately secured without reference of priority of one over another, and which, by the terms of the instrument creating the lien, shall continue to be so secured by the deposit with a trustee of recognized responsibility approved by the Commissioner of any of the securities specified in subsections A or D, or of any of the securities, other than stock, specified in subsection B of this Section 6²; such deposited securities, if of the classes described in subsections A and B hereof, having an aggregate par value of not less than one hundred and ten per cent (110%) of the par value of the securities thereby secured, and if of class specified in subsection D hereof, having an aggregate par value of not less than one hundred and twenty five per cent (125%) of the par value of the securities thereby secured;

J. Notes, bonds or other evidence of indebtedness of religious, charitable or benevolent corporations;

K. Any security collateralized pursuant to, or as permitted by the provisions of Chapter 165, Acts of the 42nd Legislature, 1931, as amended (Article 1524a, Vernon's Annotated Civil Statutes of Texas). Acts 1957, 55th Leg., p. 575, ch. 269, § 6.

¹ Articles 581—1 to 581—39.

² This article.

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

A. Qualification of Securities.

(1) No dealer, agent or salesman shall sell or offer for sale any securities issued after September 6, 1955, except those which shall have been registered by Notification under subdivision B or by Coordination under subdivision C of this Section 7¹ and except those which come within the classes enumerated in subdivisions A to P, both inclusive, of Section 5² of this Act, or subdivisions A to K, both inclusive, of Section 6³ of this Act, until the issuer of such securities or a dealer registered under the provisions of this Act⁴ shall have been granted a permit by the Commissioner; and no such permit shall be granted by the Commissioner until the issuer of such securities or a dealer registered under the provisions of this Act shall have filed with the Commissioner a sworn statement, verified under the oath of an executive officer or partner of the issuer, or of such registered dealer, and attested by the secretary or partner thereof, setting forth the following information:

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

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

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

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

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

f. A detailed statement prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles, showing all the assets and all the liabilities of the issuer, said statement to reflect the financial condition of the issuer on a day not more than ninety (90) days prior to the date such statement is filed. Such statement shall list all assets in detail and shall show how the value of such assets was determined, that is, whether the value set forth in said statement represents the actual cost in money of such assets, or whether such value represents their present market value, or some other value than the actual cost in money, and shall show the present actual value of said assets; also, whether the value set forth in the statement is greater or less than the actual cost value in money and greater or less than the present market value of such assets. If any of the assets consist of real estate, then said statement shall show the amount for which said real estate is rendered for state and county taxes, or assessed for taxes. If any such assets listed shall consist of anything other than cash and real estate, same shall be set out in detail so as to give the Commissioner the fullest possible information concerning same, and the Commissioner shall have the power to require the filing of such additional information as he may deem necessary to determine whether or not the true value of said assets are reflected in the statement filed. Should any of the assets listed in said statement be subject to any re-purchase agreement, or any other agreement of like character, by the terms of which the absolute ownership of, or title to said assets is qualified or limited in any way, then the terms and conditions of said agreement by which the absolute ownership of, or title to said assets is qualified or limited, as well as the amount and character of the assets subject thereto shall be fully stated. Said state-

ment shall list all current liabilities, that is, all liabilities which will mature and become due within one year from the date of such application, and shall list separately from such current liabilities, all other liabilities, contingent or otherwise, showing the amount of those which are secured by mortgage or otherwise, the assets of the issuer which are subject to such mortgage, and the dates of maturity of any such mortgage indebtedness. Such application shall also include a detailed profit and loss statement, prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles, which shall cover the last three (3) years operations of the issuer, if such issuer has been in operation for three (3) years, but if not, said profit and loss statement shall cover the time that said issuer has been operating. If said issuer has not been operating, but is taking over a concern of any kind which has been previously operating, then a financial and profit and loss statement showing the operations of the concern thus taken over for a period of the last three (3) years next preceding the taking over of said concern shall be included in said statement; said profit and loss statement shall clearly reflect the amount of net profit or net loss incurred during each of the years shown.

B. Registration by Notification.

(1) Securities may be registered by notification under this subsection B if they are issued by an issuer which has been in continuous operation for not less than three (3) years and which has shown, during the period of not less than three (3) years next prior to the date of registration under this section, average annual net earnings after deducting all prior charges including income taxes except charges upon securities to be retired out of the proceeds of sale, as follows:

a. In the case of interest-bearing securities, not less than one and one-half times the annual interest charges on such securities and on all other outstanding interest-bearing securities of equal rank;

b. In the case of securities having a specified dividend rate, not less than one and one-half times the annual dividend requirements on such securities and on all outstanding securities of equal rank;

c. In the case of securities wherein no dividend rate is specified, not less than five per cent (5%) on all outstanding securities of equal rank, together with the amount of such securities then offered for sale, based upon the maximum price at which such securities are to be offered for sale. The ownership by an issuer of more than fifty per cent (50%) of the outstanding voting stock of a corporation shall be construed as the proportionate ownership of such corporation and shall permit the inclusion of the earnings of such corporation applicable to the payment of dividends upon the stock so owned in the earnings of the issuer of the securities being registered by notification.

(2) Securities entitled to registration by notification shall be registered by the filing with the Commissioner by the issuer or by a registered dealer of a registration statement as required by subsection (a), and completion of the procedures outlined in subsection b hereof:

a. A registration statement in a form prescribed by the Commissioner signed by the applicant filing such statement and containing the following information:

1. Name and business address of main office of issuer and address of issuer's principal office, if any, in this state;

2. Title of securities being registered and total amount of securities to be offered;

3. Price at which securities are to be offered for sale to the public, amount of securities to be offered in this state, and amount of registration fee, computed as hereinafter provided;

4. A brief statement of the facts which show that the securities are entitled to be registered by notification;

5. Name and business address of the applicant filing statement;

6. Financial statements to include a certified profit and loss statement, a certified balance sheet, and certified statements of surplus, each to be for a period of not less than three (3) years prior to the date of registration. These financial statements shall reflect the financial condition of the issuer as of a date not more than ninety (90) days prior to the date of such filing with the Commissioner;

7. A copy of the prospectus, if any, describing such securities;

8. Payment of a filing fee of Five Dollars (\$5.00) and a registration fee of one-tenth of one per cent ($\frac{1}{10}$ of 1%) of the aggregate amount of securities proposed to be sold in this state based upon the price at which such securities are to be offered to the public;

9. Filing of a consent to service of process conforming to the requirements of Section 8⁵ of this Act, if the issuer is registering the securities and is not a resident of this state or is not incorporated under the laws of this state.

b. Such filing with the Commissioner shall constitute the registration of securities by notification and such registration shall become effective five (5) days after receipt of the registration statement and all accompanying papers by the Commissioner; provided that the Commissioner may in his discretion waive or reduce the five (5) days waiting period in any case where he finds no injury to the public will result therefrom. Upon such registration by notification, securities may be sold in this state by registered dealers and registered salesmen. Upon the receipt of a registration statement, prospectus, if any, payment of the filing fee and registration fee, and, if required, a consent to service of process, the Commissioner shall record the registration by notification of the securities described. Such registration shall be effective for a period of one (1) year and may be renewed for additional periods of one (1) year, if the securities are entitled to registration under this subsection at the time of renewal, by a new filing under this section together with the payment of the renewal fee of Ten Dollars (\$10.00).

c. If at any time, before or after registration of securities under this section, in the opinion of the Commissioner the information in a registration statement filed with him is insufficient to establish the fact that the securities described therein are, or were, entitled to registration by notification under this section, or that the registration information contains, or contained, false, misleading or fraudulent facts, he may order the applicant who filed such statement to cease and desist from selling, or offering for sale, such securities registered, or proposed to be registered, under provisions of this section, until there is filed with the Commissioner such further information as may in his judgment be necessary to establish the fact that such securities are, or were, entitled to registration under this section. The provisions of Section 24⁶ of this Act as to hearing shall be applicable to an order issued hereunder.

C. Registration by Coordination.

(1) Any security for which a registration statement has been filed under the Federal Securities Act of 1933, as amended,⁷ in connection with the same offering, may be registered by coordination. A registration statement under this section shall be filed with the Commissioner by the

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

issuer or any registered dealer and shall contain the following information and be accompanied by the following documents:

- a. Three copies of the prospectus filed under the Federal Securities Act together with all amendments thereto;
- b. The amount of securities to be offered in this state;
- c. The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;
- d. Any adverse order, judgment or decree previously entered in connection with the offering by any court or the Securities and Exchange Commission;
- e. A copy of the articles of incorporation and by-laws (or their substantial equivalents) currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;
- f. If the Commissioner requests any other information, or copies of any other documents, filed under the Federal Securities Act of 1933;
- g. An undertaking to forward promptly all amendments to the federal registration statement, other than an amendment which merely delays the effective date;
- h. Payment of a filing fee of Five Dollars (\$5.00) and a registration fee of one-tenth of one per cent ($\frac{1}{10}$ of 1%) of the aggregate amount of securities proposed to be sold in this state based upon the price at which such securities are to be offered to the public; and
- i. If the registration statement is filed by the issuer, or by a dealer who will offer such securities for sale as the agent of the issuer, and the issuer is not a resident of this state or is not incorporated under the laws of this state, a consent to service of process conforming to the requirements of Section 8.

(2) Upon receipt of a registration statement under this section the Commissioner shall examine such registration statement and he may enter an order denying registration of the securities described therein if he finds that the registrant has not proven the proposed plan of business of the issuer to be fair, just and equitable, and also that any consideration paid, or to be paid, for such securities by promoters is fair, just and equitable when such consideration for such securities is less than the proposed offering price to the public, and that the securities which it proposes to issue and the methods to be used by it in issuing and disposing of the same will be such as will not work a fraud upon the purchaser thereof. If the Commissioner enters an order denying the registration of securities under this section, he shall notify the registrant immediately. The provisions of Section 24 of this Act as to hearing shall be applicable to an order issued hereunder. A registration statement under this section automatically becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied:

- a. No order has been entered by the Commissioner denying registration of the securities;
- b. The registration statement has been on file with the Commissioner for at least ten (10) days; and
- c. A statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two full business days or such shorter period as the Commissioner expressly permits and the offering is made within those limitations. The registrant shall promptly notify the Commissioner by

telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a post-effective amendment containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price.

Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the Commissioner may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with this subsection, if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements of this subsection as to notice and post-effective amendment, the stop order is void as of the time of its entry. The Commissioner may waive either or both of the conditions specified in clauses b and c. If the federal registration statement becomes effective before all these conditions are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the Commissioner of the date when the federal registration statement is expected to become effective the Commissioner shall promptly advise the registrant by telephone or telegram, at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the issuance of an order denying registration; but this advice by the Commissioner does not preclude the issuance of such an order at any time.

(3) Registration of securities under this subsection shall be effective for a period of one (1) year and may be renewed for additional periods of one (1) year, if a renewal fee of Ten Dollars (\$10.00) is paid, and if the securities are entitled to registration at the time of renewal by the same standards of fairness, justice and equity as prescribed by this subsection for original approval. Acts 1957, 55th Leg., p. 575, ch. 269, § 7.

¹ Article 581—7.

² Article 581—5.

³ Article 581—6.

⁴ Articles 581—1 to 581—39.

⁵ Article 581—8.

⁶ Article 581—24.

⁷ 15 U.S.C.A. §§ 77b et seq., 78 et seq.

Art. 581—8. Consent to Service and Certificate of Good Standing

If the application for a permit to sell securities be filed by an issuer, or by a dealer who will offer such securities for sale as the agent of the issuer, and the issuer is organized under the laws of any other state, territory, or government, or domiciled in any other state than Texas, such application shall also contain a certificate executed by the proper officer of such state, territory or government dated not more than thirty (30) days prior to the date of filing of the application showing that such issuer is authorized to transact business in such state, territory or government, and is not delinquent in any taxes or assessments required to be paid to such state, territory or government. Such application shall also contain a written instrument duly executed by an executive officer of such issuer, under proper resolution of its board of directors, and au-

thenticated and attested by the seal of said issuer, appointing the Commissioner irrevocably its true and lawful attorney upon whom all process in any action or proceedings against such issuer arising out of any transaction subject to this Act¹ may be served with the same effect as if such issuer were organized or created under the laws of this state and had been lawfully served with process therein. It shall be the duty of the Commissioner, whenever he shall have been served with any process as is herein provided, to forward same by United States mail to the home office of such issuer. Acts 1957, 55th Leg., p. 575, ch. 269, § 8.

¹ Articles 581—1 to 581—39.

Art. 581—9. Protection to Purchasers of Securities

A. In the event any company, as defined herein, shall sell, or offer for sale, any securities, as defined in this Act,¹ the Commissioner, if he deems it necessary to protect the interests of prospective purchasers of such securities, may require the company so offering such securities for sale to deposit all, or any part, of the proposed securities, or all, or any part, of the moneys and funds received from the sale thereof, except such amounts thereof as the Commissioner deems necessary to be used, and not to exceed the amount allowed as expenses and commissions for the sale of such securities, to be deposited in a trust account in some bank or trust company approved by the Commissioner and doing business in the State of Texas, until such time as such proposed company or existing company shall have sold a specified monetary amount or number of shares of such securities as in his opinion will reasonably assure protection of the public. When the Commissioner makes a written finding that the terms of the escrow agreement have been fully met, the bank or trust company shall transfer such funds to the proposed or existing corporation and its executive officers for the purpose of permitting it to use such securities or money in its business. In the event such proposed or existing company shall fail within two (2) years to sell the minimum amount of capital necessary under the escrow agreement, the Commissioner may authorize, and the bank or trust company shall return to the subscribers, upon receipt of such authority from the Commissioner, that portion of the funds which were deposited or escrowed under such escrow agreement; provided, however, that any securities held by such bank or trust company under the escrow agreement shall be returned to the corporation only after the bank or trust company has received evidence of cancellation thereof from the issuer. At the time of making the deposits, as herein provided for, the dealer or issuer shall furnish to such bank or trust company, and to the Commissioner, the names of the persons purchasing or subscribing for such securities, and the amount of money paid in by each.

B. The total expenses for marketing any securities, including organization expenses, all commissions for the sale of stock or securities, and all other incidental selling expenses, shall not in the aggregate exceed twenty per cent (20%) of the price at which the stock or other securities of any proposed or existing company are to be sold, or offered for sale, to the public of this state; and this amount may be limited by the Commissioner to a less percentage which is in his opinion fair, just and equitable under the facts of the particular case.

C. In connection with any permit to sell securities the Commissioner shall require all offers for sale of said securities to be made through and by prospectus which fairly discloses the material facts about the plan of finance and business. Said prospectus shall be filed

with and approved by the Commissioner; provided, however, if the applicant files a prospectus or offering circular with the Commissioner which is also filed with the S. E. C. under the Securities Act of 1933, as amended, or the regulations thereunder, this subsection shall in all respects be satisfied. Failure to comply with this requirement shall be treated as a violation of this Act, subjecting the parties responsible to the consequences thereof as provided herein. Acts 1957, 55th Leg., p. 575, ch. 269, § 9.

¹ Articles 581—1 to 581—39.

Art. 581—10. Examination of Application; Permit

A. Commissioner to Examine Application; Grant or Deny.

Upon the filing of an application for qualifying securities under Section 7A,¹ it shall be the duty of the Commissioner to examine the same and the papers and documents filed therewith. If he finds that the proposed plan of business of the applicant appears to be fair, just and equitable, and also that any consideration paid, or to be paid, for such securities by promoters is fair, just and equitable when such consideration for such securities is less than the proposed offering price to the public, and that the securities which it proposes to issue and the methods to be used by it in issuing and disposing of the same are not such as will work a fraud upon the purchaser thereof, the Commissioner shall issue to the applicant a permit authorizing it to issue and dispose of such securities. Should the Commissioner find that the proposed plan of business of the applicant appears to be unfair, unjust or inequitable, he shall deny the application for a permit and notify the applicant in writing of his decision.

B. Permit, Form and Contents; Term and Renewals.

Every permit qualifying securities shall be in such form as the Commissioner may prescribe, and shall recite in bold type that the issuance thereof is permissive only, and does not constitute a recommendation or endorsement of the securities permitted to be issued. Such permit shall be for a period of one (1) year; provided, however, that if the securities authorized to be sold are not sold within the term provided by the permit, a renewal application may be filed with the Commissioner. Such renewal application shall recite the total number of shares sold in Texas, the total number of shares sold elsewhere, total number of shares outstanding, and shall contain a detailed balance sheet, an operating statement, and such other information as the Commissioner may require. The Commissioner shall examine applications for renewal by the same standards as stated in subsection A of this section for original applications and upon that basis issue or deny renewal permits; such permits, if issued, shall be for a period of one (1) year and be in such form as the Commissioner may prescribe. The Commissioner shall charge such fees for the issuance of permits to sell securities as are hereinafter provided. No permit instrument need be issued if securities are registered under Sections 7B or C of this Act, but the Commissioner will examine the registration papers to determine their sufficiency under the requirements there stated.

C. Use of Permit to Aid Sale of Securities Prohibited.

It shall be unlawful for any dealer or issuer, agent or salesman, to use a permit authorizing the issuance of securities in connection with any sale or effort to sell any security. Acts 1957, 55th Leg., p. 575, ch. 269, § 10.

¹ Article 581—7.

Art. 581—11. Papers Filed with Commissioner; Records Open to Inspection

All information, papers, documents, instruments and affidavits required by this Act¹ to be filed with the Commissioner shall be deemed public records of this state, and shall be open to the inspection and examination of any purchaser or prospective purchaser of said securities or the agent or representative of such purchaser or prospective purchaser; and the Commissioner shall give out to any such purchaser or prospective purchaser or his agent or representative any information required to be filed with him under the provisions of this section, or any other part of this Act, and shall furnish any such purchaser, prospective purchaser, or his agent or representative requesting it, certified copies of any and all papers, documents, instruments and affidavits filed with him under the provisions of this section or of any part of this Act. Provided, however, this provision shall not apply to the information supplied by dealers or salesmen under Sections 13 and 18² in response to requirements for licenses to sell securities, which shall be confidential except for the courts or governmental agencies in the performance of official duties. But the Commissioner shall maintain a record, which shall be open for public inspection, upon which shall be entered the names and addresses of all registered dealers and salesmen and all orders of the Commissioner denying, suspending or revoking registration. Acts 1957, 55th Leg., p. 575, ch. 269, § 11.

¹ Articles 581—1 to 581—39.

² Articles 581—13, 581—18.

Art. 581—12. Registration of persons selling

Except as provided in Section 5 of this Act,¹ no person, firm, corporation or dealer shall, directly or through agents or salesmen, offer for sale, sell or make a sale of any securities in this state without first being registered as in this Act² provided. No salesman or agent shall, in behalf of any dealer, sell, offer for sale, or make sale of any securities within the state unless registered as a salesman or agent of a registered dealer under the provisions of this Act. Acts 1957, 55th Leg., p. 575, ch. 269, § 12.

¹ Article 581—5.

² Articles 581—1 to 581—39.

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

A dealer to be registered must submit sworn application therefor to the Commissioner, which shall be in such form as the Commissioner may determine and which shall state the principal place of business of the applicant wherever situated; the location of the principal place of business, and all branch offices in this state, if any; the name or style of doing business and the address of the dealer; the names, residences, and business addresses of all persons interested in the business as principals, officers, directors, or managing agents, specifying as to each his capacity and title; the general plan and character of business of such applicant and the length of time during and the places at which the dealer has been engaged in business. Such application shall also contain such additional information as to applicant's previous history, record, associations and present condition as may be required by the Commissioner, or as is necessary to enable the Commissioner to determine

whether the sale of any security proposed to be issued or dealt in by such applicant would be fraudulent or would result in fraud. Each application shall be accompanied by certificates or other evidences satisfactory to the Commissioner establishing the good repute in business of the applicant, his directors, officers, co-partners, or principals. If the applicant is a corporation organized under the laws of any other state or territory or government or shall have its principal place of business therein, it shall accompany the application with a copy of its articles of incorporation and all amendments thereto, certified by the proper officer of such state or government, and of its regulations and by-laws; if a limited partnership, either a copy of its articles of co-partnership or a verified statement of its plan of doing business; and if an unincorporated association or organization under the laws of any other state, territory or government, or having its principal place of business therein, a copy of its articles of association, trust agreement or other form of organization. It shall be the duty of the Commissioner to prepare proper forms to be used by applicants under the terms of this section, and the Commissioner shall furnish copies thereof to all persons desiring to make application to be registered as a dealer. Acts 1957, 55th Leg., p. 575, ch. 269, § 13.

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

The registration of a dealer or agent or salesman may be denied, suspended or revoked if the Commissioner finds, after notice and opportunity for hearing as provided in Section 25,¹ that such dealer, agent, salesman, or any officer, director, partner, member, trustee, or manager of such dealer:

A. Has been convicted of a felony, or of any misdemeanor of which fraud is an essential element;

B. Has engaged in any inequitable practice in the sale of securities or in any fraudulent business practice;

C. In the case of a dealer, is insolvent;

D. In the case of a dealer, is selling or has sold securities in this state through a salesman other than a registered salesman, or, in the case of a salesman, is selling or has sold securities in this state for a dealer, issuer or controlling person with knowledge that such dealer, issuer or controlling person has not complied with the provisions of this Act²;

E. Has violated any of the provisions of this Act;

F. Has made any material misrepresentation to the Commissioner in connection with any information deemed necessary by the Commissioner to determine a dealer's financial responsibility or a dealer's or salesman's business repute or qualifications, or has refused to furnish any such information requested by the Commissioner. Acts 1957, 55th Leg., p. 575, ch. 269, § 14.

¹ Article 581—25.

² Articles 581—1 to 581—39.

Art. 581—15. Issuance of Registration Certificates to Dealers

If the Commissioner is satisfied that the applicant for a dealer's certificate of registration has complied with the requirements of the Act above, that the applicant has filed a written consent to service as and when required by Section 16¹ of this Act, and upon the payment of the fees required by Section 35² of this Act, the Commissioner shall register the applicant and issue to it or him a registration certificate, stating the principal place of business and address of the dealer, the names, residences and business addresses of all persons interested in the business as principals, officers, directors or managing agents, and the fact that the dealer has been registered for a current calendar year as a dealer in securities. Pending final disposition of an application, the Commissioner may, for special cause shown, grant temporary permission, revocable at any time and subject to such terms and conditions as the Commissioner may prescribe, to transact business as a dealer under this Act.³ Any dealer acting under such a temporary permission, shall be considered a registered dealer for all purposes of this Act. Acts 1957, 55th Leg., p. 575, ch. 269, § 15.

¹ Article 581—16.

² Article 581—35.

³ Articles 581—1 to 581—39.

Art. 581—16. Consent to Suit in this State, by Dealers Who Are Foreign Companies or Non-residents

Every company organized under the laws of any other state, or having its principal office therein, and every non-resident individual, shall file with its or his application for registration as a dealer a written consent, irrevocable, that actions growing out of any transaction subject to this Act¹ may be commenced against it or him, in the proper court of any county of this state in which the cause of action may arise, or in which the plaintiff may reside, by a service of process upon the Commissioner as its or his agent, and stipulating and agreeing that such service of process shall be taken and held in all courts to be as valid and binding as if due service had been made upon the person or company itself according to the laws of this or any other state, and such instrument shall be authorized by the seal of such corporation, or by the signature of all the members of such co-partnership, or by the signature of the president and secretary of the association, if it is a corporation or association, and shall be accompanied by a duly certified copy of the resolutions of the board of directors, trustees, or managers of the corporation authorizing the said secretary and president to execute the same. Acts 1957, 55th Leg., p. 575, ch. 269, § 16.

¹ Articles 581—1 to 581—39.

Art. 581—17. Form of Certificates to Dealers

The certificate shall be in such form as the Commissioner may determine. Any changes in the personnel of a partnership or in the principals, officers, directors or managing agents of any dealer shall be immediately certified under oath to the Commissioner and any change in the certificate necessitated thereby may be made at any time, upon written application setting forth the fact necessitating the change. Upon the issue of the amended certificates, the original certificate and the certified copies thereof outstanding shall be promptly surrendered to the Commissioner. Acts 1957, 55th Leg., p. 575, ch. 269, § 17.

Art. 581—18. Registration of Agents or Salesmen of Dealers

Upon written application by a registered dealer, and upon satisfactory compliance with the requirements of the Act¹ above, the Commissioner shall register as agents or salesmen of such dealer such persons as the dealer may request. The application shall be in such form as the Commissioner may prescribe and shall state the residences and addresses of the persons whose registration is requested, together with such information as to such agent's or salesman's previous history, record and association as may be required by the Commissioner. Such application shall also be signed and sworn to by the agent or salesman for whom registration is requested. The Commissioner shall issue to such dealer, to be retained by such dealer for each person so registered, a registration certificate stating his name and residence, the address of the dealer, and the fact that he is registered for the current calendar year as an agent or salesman of the dealer. The certificate shall be in such form as the Commissioner shall determine. Upon application by the dealer, the registration of any agent or salesman shall be cancelled. Acts 1957, 55th Leg., p. 575, ch. 269, § 18.

¹ Articles 581—1 to 581—39.

Art. 581—19. Annual Registration; Renewals

All registrations shall expire at the close of the calendar year, but new registrations for the succeeding year shall be issued upon written application and upon payment of the fees as hereinafter provided, without filing of further statements or furnishing any further information unless specifically requested by the Commissioner. Applications for renewals must be made not less than thirty (30) days nor more than sixty (60) days before the 1st of January of the ensuing year. All applications for renewals received otherwise shall be treated as original applications; provided, that if any applicant is registered after December 1st of any year, he may immediately apply for a renewal of his registration for the ensuing year. Acts 1957, 55th Leg., p. 575, ch. 269, § 19.

Art. 581—20. Display or Advertisement of Fact of Registration Unlawful

It shall be unlawful for any dealer, agent or salesman to use the fact that¹ his registry, by public display or advertisement, except as hereinafter expressly provided, or the registration certificate or any certified copy thereof, in connection with any sale or effort to sell any security. Acts 1957, 55th Leg., p. 575, ch. 269, § 20.

¹ So in enrolled bill. Probably should be "of".

Art. 581—21. Posting Certificates of Authority

Immediately upon receipt of the dealer's registration certificate issued pursuant to the authority of this Act,¹ the dealer named therein shall cause such certificate to be posted and at all times conspicuously displayed in such dealer's principal place of business, if one is maintained in this state, and shall likewise forthwith cause a duplicate of such certificate to be posted and at all times conspicuously displayed in each branch office located within this state. Acts 1957, 55th Leg., p. 575, ch. 269, § 21.

¹ Articles 581—1 to 581—39.

Art. 581—22. Advertising

A. It shall be unlawful and punishable with the penalties set forth in Section 29¹ of this Act for any person, company, dealer, agent or sales-

man to issue, distribute, or publish, within this state; any circular, advertisement, pamphlet, prospectus, program or other matter, as to any security, unless such advertising complies with the requirements hereinafter set forth in this Section 22²; in addition, the state and purchasers shall have all other remedies provided for where unlawful sales are made under this Act.³

B. After a securities permit is issued by the Commissioner, or registration with the Commissioner is completed under Sections 7B or C,⁴ any advertising may be issued, distributed, or published, until notice to cease publication has been given under Section 23⁵:

(1) If such person, company, dealer, agent or salesman shall have been registered as in this Act provided; and

(2) If such securities shall have been qualified under a securities permit granted by the Commissioner, or shall have been registered under Sections 7B or C, as in this Act provided; and

(3) If a true copy of such circular, advertisement, pamphlet, prospectus, program or other matter with the name of the dealer, or dealers, subscribed thereto, or printed thereon shall have been filed with the Commissioner.

C. Advertising issued, distributed, or published in compliance with the provisions of Section 22B, may include the names of non-registered dealers who have participated with registered dealers of Texas in the original purchase or underwriting of securities, and inclusion of such names of non-registered dealers on any circular, advertisement, pamphlet, prospectus, program or other matter with names of such registered dealers shall not be a violation of this Act if the circular, advertisement, pamphlet, prospectus, program or other matter bears a legend thereon in plain and legible type stating that such securities are being offered within the State of Texas only by registered dealers within the State of Texas whose names are subscribed thereto, or printed thereon.

D. The whole, or any part, of any written, typed, or printed documents theretofore filed under the Federal Securities Act of 1933⁶ with the Securities and Exchange Commission of the United States may be used as advertising, if not printed in newspapers, used on television, or broadcast over radio. With the above exceptions, and if a copy of such advertising matter is first sent to the Commissioner, same may be used prior to and during the time an application for a securities permit, or application for registration by notification, of securities is under consideration by the Commissioner, and thereafter until notice is given under Section 23 by the Commissioner to cease advertising. Any advertising matter used under this subsection (D) shall have the following legend printed or securely pasted on the first page thereof:

INFORMATIONAL ADVERTISING ONLY.

THE SECURITIES HEREIN DESCRIBED HAVE NOT BEEN QUALIFIED OR REGISTERED FOR SALE IN TEXAS. ANY REPRESENTATIONS TO THE CONTRARY, OR SALE OF THESE SECURITIES IN TEXAS PRIOR TO QUALIFICATION OR REGISTRATION THEREOF, IS A CRIMINAL OFFENSE.

If any advertising matter used under this subsection D does not bear the above legend, or if such information is televised, broadcast over radio, or printed in a newspaper, prior to issue of a permit, or prior to completion of registration by notification or coordination, or if a copy is not first

sent to the Commissioner, such use is declared unlawful and shall be deemed a sale punishable under the penalties set out in Section 29 of this Act.

E. Section 22 shall not apply to exempt transactions listed in Section 5⁷ of this Act, nor to exempt securities listed in Section 6⁸ of this Act, unless such advertising violates the provisions of Section 23 of this Act. Acts 1957, 55th Leg., p. 575, ch. 269, § 22.

¹ Article 581—29.

² This article.

³ Articles 581—1 to 581—39.

⁴ Article 581—7.

⁵ Article 581—23.

⁶ 15 U.S.C.A. §§ 77a-77aa.

⁷ Article 581—5.

⁸ Article 581—6.

Art. 581—23. List of Securities Filed with the Commissioner on Request, Notice and Hearing as to Securities Questioned by Commissioner

Anything in this Act to the contrary notwithstanding,

A. If it appears to the Commissioner at any time that the sale or proposed sale or method of sale of any securities, whether exempt or not, except the sale of securities as defined in subsection A of Section 6,¹ would not be in compliance with this Act² or would tend to work a fraud on any purchaser thereof or would not be fair, just or equitable to any purchaser thereof, the Commissioner may, after notice to the issuer, the registrant and the person on whose behalf such securities are being or are to be offered, by personal service or the sending of a confirmed telegraphic notice, and after opportunity for a hearing (at a time fixed by the Commissioner) within fifteen days after such notice by personal service or the sending of such telegraphic notice, if the Commissioner shall determine at such hearing that such sale would not be in compliance with the Act or would tend to work a fraud on any purchaser thereof or would not be fair, just and equitable to any purchaser thereof, issue a written cease and desist order, prohibiting or suspending the sale of such securities or denying or revoking the registration of such securities. No dealer, agent or salesman shall thereafter knowingly sell or offer for sale any security named in such cease and desist order.

B. No dealer, agent or salesman shall publish within this state or use in connection with any sale or offer of sale any circular, advertisement, prospectus, program or other matter in the nature thereof, after notice in writing has been given him by the Commissioner that, in the Commissioner's opinion, the same contains any statement that is false or misleading or otherwise likely to deceive a reader thereof.

C. The Commissioner may, in the exercise of reasonable discretion hereunder, at any time, require a dealer to file with the Commissioner a list of securities which he has offered for sale or has advertised for sale within this state during the preceding six (6) months, or which he is at the time offering for sale or advertising, or any portion thereof. Acts 1957, 55th Leg., p. 575, ch. 269, § 23.

¹ Article 581—6.

² Articles 581—1 to 581—39.

Art. 581—24. Hearings by Commissioner upon Notice, upon Exception by Any Party at Interest, to Actions of Commissioner

If any person or company should take exception to the action of the Commissioner under Section 10¹ in failing or refusing to issue a permit

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

for the sale of securities under Sections 15 or 18,² in failing or refusing to register and issue certificate for a dealer or salesman, under Section 23³ in issuing an order against the sale of securities or the use of materials therein, or in any other particular where this Act⁴ specifies no other procedure, the complaining party may request a hearing before the Commissioner. Within thirty (30) days after receipt of such request, the hearing must be held, except that the Commissioner may continue same on consent of the complaining party. The complaining party shall be given at least seven (7) days notice of the time and date of such hearing. After fair hearing, the Commissioner shall issue a written order or decision, upholding, amending, extending, or reversing the previous action, and stating reasons therefor. Acts 1957, 55th Leg., p. 575, ch. 269, § 24.

¹ Article 581—10.

² Articles 581—15, 581—18.

³ Article 581—23.

⁴ Articles 581—1 to 581—39.

Art. 581—25. Revocation of Registration of any Dealer or Agent or Salesman of any Dealer, upon Hearing after Notice

If the Commissioner at any time has reason to believe any dealer or salesman has in any way violated, or is violating or about to violate any of the provisions of this Act,¹ or has been guilty of any fraud or fraudulent practice, or has failed to meet the requirements of Section 14,² then the Commissioner may, after hearing, and having reasonable cause to believe the dealer or salesman has been guilty of such offense or failed in such respect, revoke the registration of said dealer or salesman. Notice of the time and place of any such hearing shall be sent to such dealer or salesman at least seven (7) days prior thereto. The dealer or salesman shall not be regarded as registered under the provisions hereof until restored to registration by the Commissioner, either on the Commissioner's own initiative or upon the order of the court, as in this Act hereinafter provided. The revocation of the dealer's registration shall constitute a revocation of the registration of any agent or salesman of the dealer and notice of its operation on such agent or salesman shall be forthwith sent by the Commissioner to each of such agents or salesmen. All registrations revoked shall at once be surrendered to the Commissioner upon request. Acts 1957, 55th Leg., p. 575, ch. 269, § 25.

¹ Articles 581—1 to 581—39.

² Article 581—14.

Art. 581—26. Notices by Registered Mail

Any notice required by this Act shall be sufficient if sent by registered or certified mail unless otherwise specified in this Act,¹ addressed to the dealer, agent or salesman, as the case may be, at the address designated in the application for registration. All testimony taken at any hearing before the Commissioner shall be reported stenographically and a full and complete record shall be kept of all proceedings had before the Commissioner on any hearing or investigation. Acts 1957, 55th Leg., p. 575, ch. 269, § 26.

¹ Articles 581—1 to 581—39.

Art. 581—27. Petition to District Court of Travis County on Complaint of Decision of Commissioner

Any dealer, salesman or applicant aggrieved by any decision of the Commissioner may file within thirty (30) days thereafter in the District

Court of Travis County, Texas; a petition against the Commissioner, officially as defendant, alleging therein in brief detail the action and decision complained of. Upon service of a summons upon the Commissioner, returnable within ten (10) days from its date, the Commissioner shall, on or before the return day, file an answer in which he shall allege, by way of defense, the grounds for his decision. The Commissioner shall also, on or before the return day of such summons, certify to said District Court the record of the proceedings to which the petition refers. Such record shall include the testimony taken therein, the finding of fact, if any, of the Commissioner based upon such testimony, a copy of all orders made by the Commissioner in the proceedings, and a copy of the action or decision of the Commissioner which the petition calls upon the court to reverse. The cost of preparing and certifying such record shall be paid to the Commissioner by the petitioner and taxed as a part of the cost in the case, to be paid as directed by the court upon the final determination of the case.

All appeals to the District Court shall be tried by such court as a trial de novo as that term is used in an appeal from Justice of the Peace Court to a County Court, as if there had been no previous determination or hearing on the matters in controversy, and under no circumstances shall the substantial evidence rule as interpreted by the courts of Texas ever be applied to appeals taken under this Act.¹

From the decision of the District Court an appeal may be taken to the Court of Civil Appeals by either party as in other cases, and no bond shall be required by the Commissioner.

A judgment sustaining the refusal of the Commissioner to grant or renew a registration as a dealer or as an agent or salesman of any dealer, shall not bar, after one (1) year, a new application by the plaintiff for registration, nor shall a judgment in favor of the plaintiff prevent the Commissioner from thereafter revoking or refusing to renew such registration for any proper cause which may thereafter accrue or be discovered. The court shall have full power to dispose of all costs. Acts 1957, 55th Leg., p. 575, ch. 269, § 27.

¹ Articles 581—1 to 581—39.

Art. 581—28. Subpoenas or Other Process in Investigations by Commissioner

The Commissioner may require, by subpoena or summons issued by the Commissioner, addressed to the sheriff or any constable, the attendance and testimony of witnesses and the production of any books, accounts, records, papers and correspondence or other records or indices showing the names and addresses of the stockholders (except such books of account as are necessary to the continued conduct of the business, which books the Commissioner shall have the right to examine or cause to be examined at the office of the concern and to require copies of such portion thereof as may be deemed necessary touching the matter in question, which copies shall be verified by affidavit of an officer of such concern and shall be admissible in evidence as provided in Section 30 hereof),¹ relating to any matter which the Commissioner has authority by this Act² to consider or investigate, and for this purpose the Commissioner may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence; provided, however, that all information of every kind and nature contained therein shall be treated as confidential by the Commissioner and shall not be disclosed to the public except under order of court; but nothing in this section shall be interpreted to prohibit or limit the publication of rulings or decisions of the Commissioner nor shall this limitation

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

apply to hearings provided for in Sections 24 and 25 of this Act.³ In case of disobedience of any subpoena, or of the contumacy of any witness appearing before the Commissioner, the Commissioner may invoke the aid of the District Court within whose jurisdiction any witness may be found, and such court may thereupon issue an order requiring the person subpoenaed to obey the subpoena or give evidence, or produce books, accounts, records, papers, and correspondence touching the matter in question. Any failure to obey such order of the court may be punished by such court as contempt thereof.

In the course of an investigation looking to the enforcement of this Act, or in connection with the application of a person or company for registration or to qualify securities, the Commissioner or Deputy Commissioner shall have free access to all records of the Board of Insurance Commissioners, including company examination reports to the Board and reports of special investigations made by personnel of the Board, as well as records and reports of and to any other department or agency of the state government. In the event, however, that the Commissioner or Deputy Commissioner should give out any information which the law makes confidential, the affected corporation, firm or person shall have a right of action on the official bond of the Commissioner or Deputy for his injuries, in a suit brought in the name of the state at the relation of the injured party.

The Commissioner may in any investigation cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed for depositions in civil actions under the laws of Texas.

Each witness required to attend before the Commissioner shall receive, for each day's attendance, the sum of Two Dollars (\$2.00), and shall receive in addition the sum of Ten Cents (10¢) for each mile traveled by such witness by the usual route going to and returning from the place where his presence is required. All disbursements made in the payment of such fees shall be included in and paid in the same manner as is provided for the payment of other expenses incident to the administration and enforcement of this Act as hereinafter provided.

The fee for serving the subpoena shall be the same as those paid the sheriff for similar services. The fees, expenses and costs incurred at or in connection with any hearing may be imposed by the Commissioner upon any party to the record, or may be divided between any and all parties to the record in such proportions as the Commissioner may determine. Acts 1957, 55th Leg., p. 575, ch. 269, § 28.

¹ Article 581—30.

² Articles 581—1 to 581—39.

³ Articles 581—24, 581—25.

Art. 581—29. Penal Provisions

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 Act¹ 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, except for advertising made in compliance with Section 22 of this Act,² without having secured a permit, or having complied with Section 7 of this Act,³ 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 Commissioner that in the opinion of the Commissioner the further sale or offer for 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 Commissioner, 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 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 Dollars (\$1,000.00), or imprisoned in the penitentiary for not more than two (2) years, or by both such fine and imprisonment. Acts 1957, 55th Leg., p. 575, ch. 269, § 29.

¹ Articles 581—1 to 581—39.

² Article 581—22.

³ Article 581—7.

Art. 581—30. Certified Copies of Papers Filed with Commissioner as Evidence

Copies of all papers, instruments, or documents filed in the office of the Commissioner, certified by the Commissioner, shall be admitted to be read in evidence in all courts of law and elsewhere in this state in all cases where the original would be admitted in evidence; provided, that in any proceeding in the court having jurisdiction, the court may, on cause shown, require the production of the originals.

The Commissioner shall assume custody of all records of the Securities Divisions within the offices of the Secretary of State and of the Board of Insurance Commissioners, and henceforth these prior records shall be proven under certificate of the Commissioner.

In any prosecution, action, suit or proceeding before any of the several courts of this state based upon or arising out of or under the provisions of this Act,¹ a certificate under the seal of the state, duly signed by the Commissioner, showing compliance or non-compliance with the provisions of this Act respecting compliance or non-compliance with the provisions of this Act by any dealer or salesman, shall constitute prima facie evidence of such compliance or of such non-compliance with the provisions of this Act, as the case may be, and shall be admissible in evidence in any action at law or in equity to enforce the provisions of this Act. Acts 1957, 55th Leg., p. 575, ch. 269, § 30.

¹ Articles 581—1 to 581—39.

Art. 581—31. Construction

Nothing herein contained shall limit or diminish the liability of any person or company, or of its officers or agents, now imposed by law to prevent the prosecution of any person or company, or of its officers or agents, for the violation of the provisions of any other statute. Acts 1957, 55th Leg., p. 575, ch. 269, § 31.

Art. 581—32. Injunctions

Whenever it shall appear to the Commissioner either upon complaint or otherwise, that in the issuance, sale, promotion, negotiations, advertisement or distribution of any securities within this state, including any security embraced in the subsections of Section 6,¹ and including any transaction exempted under the provisions of Section 5,² any person or company who shall have employed, or is about to employ any device, scheme or artifice to defraud or to obtain money or property by means of any false pretense, representation or promise, or that any such person or company shall have made, makes or attempts to make in this state fictitious or pretended purchases or sales of securities or shall have engaged in or is about to engage in any practice or transaction or course of business relating to the purchase or sale of securities which is in violation of law or which is fraudulent or which has operated or which would operate as a fraud upon the purchaser, any one or all of which devices, schemes, artifices, fictitious or pretended purchases, or sales of securities, practices, transactions and courses of business are hereby declared to be and are hereafter referred to as fraudulent practices; or that any person or company is acting as dealer or salesman within this state without being duly registered as such dealer or salesman as provided in this Act,³ the Commissioner and Attorney General may investigate, and whenever he shall believe from evidence satisfactory to him that any such person or company has engaged in, is engaged in, or is about to be engaged in any of the practices or transactions heretofore referred to as and declared to be fraudulent practices, or is selling or offering for sale any securities in violation of this Act or is acting as a dealer or salesman without being duly registered as provided in this Act, the Attorney General may, on request by the Commissioner, and in addition to any other remedies, bring action in the name and on behalf of the State of Texas against such person or company and any other person or persons heretofore concerned in or in any way participating in or about to participate in such fraudulent practices or acting in such violation of this Act, to enjoin such person or company and such other person or persons from continuing such fraudulent practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this Act. In any such court proceedings, the Attorney General may apply for and on due showing be entitled to have issued the court's subpoena requiring the forthwith appearance of any defendant and his employees, salesmen or agents and the production of documents, books and records as may appear necessary for the hearing of such petition, to testify and give evidence concerning the acts or conduct or things complained of in such application for injunction. The District Court of any county, wherein it is shown that the acts complained of have been or are about to be committed, shall have jurisdiction of any action brought under this section, and this provision shall be superior to any provision fixing the jurisdiction or venue with regard to suits for injunction. No bond for injunction shall be required of the Commissioner or Attorney General in any such proceeding. Acts 1957, 55th Leg., p. 575, ch. 269, § 32.

¹ Article 581—6.

² Article 581—5.

³ Articles 581—1 to 581—39.

Art. 581—33. Sales in Violation of the Act Voidable; Actions by Purchasers

Every sale or contract of sale of any security made in violation of any provision of this Act¹ shall be voidable at the election of the purchaser, who shall be entitled to recover from the seller in an action at law, upon tender to the seller of the security sold, in proper form for transfer, together with the amount of all dividends, interest, and other income and distributions received by the purchaser from or upon such security, the full amount paid by such purchaser for such security, with interest from the date of purchase; provided that any action by a purchaser to enforce any right or liability based upon any sale made in violation of any provision of this Act or any Acts predecessor thereto or amendatory thereof or upon any misrepresentation made in connection with such sale, shall be commenced within two (2) years after the purchaser thereof has knowledge that such sale was made in violation of any provision of this Act, or Acts predecessor thereto or amendatory thereof, or upon a misrepresentation, or within two (2) years after such purchaser, by the exercise of ordinary care, should have discovered that such sale was made in violation of this Act or Acts predecessor thereto or amendatory thereof, or upon a misrepresentation, and not thereafter; and provided further, that no purchaser shall bring any action under this Act against the seller unless: (1) at least fifteen (15) days before filing suit, he shall have made a written demand on the seller for a refund of the full amount paid by the purchaser for the security, with interest from the date of purchase, less the amount of any income from such security that may have been received by the purchaser, and he shall have tendered to the seller the securities sold in proper form for transfer; and (2) the seller shall not have made such refund and accepted such tender within the said fifteen (15) days. Acts 1957, 55th Leg., p. 575, ch. 269, § 33.

¹ Articles 581—1 to 581—39.

Art. 581—34. Actions for Commission; Allegations and Proof of Compliance

No person or company shall bring or maintain any action in the courts of this state for collection of a commission or compensation for services rendered in the sale or purchase of securities, as that term is herein defined, without alleging and proving that such person or company was duly licensed under the provisions hereof and the securities so sold were duly registered under the provisions hereof at the time the alleged cause of action arose; provided, however, that this section or provision of this Act¹ shall not apply to the exempt transactions set forth in Section 5 of this Act² nor to the sale and purchase of exempt securities listed in Section 6 of this Act,³ when sold by a registered dealer. Acts 1957, 55th Leg., p. 575, ch. 269, § 34.

¹ Articles 581—1 to 581—39.

² Article 581—5.

³ Article 581—6.

Art. 581—35. Fees

The Commissioner shall charge and collect the following fees and shall daily pay all fees received into the State Treasury:

A. For the filing of any original or renewal application of a dealer, Twenty-five Dollars (\$25.00);

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

B. For each and every registration certificate issued to a dealer, whether on an original or renewal application, Ten Dollars (\$10.00);

C. For the filing of any original or renewal application for each salesman, Ten Dollars (\$10.00);

D. For each and every registration certificate issued to each salesman, Five Dollars (\$5.00);

E. For each and every registration certificate issued to a dealer or salesman after the first day of July of any year, one-half of the fee provided in subsections B and D herein, whichever is applicable;

F. For the filing of any original, amended, or renewal application of an issuer to sell or dispose of stock, Five Dollars (\$5.00);

G. For each and every permit or amended permit issued to an issuer, or dealer, a fee of one-tenth of one per cent ($\frac{1}{10}$ of 1%) of the aggregate amount of securities described and proposed to be sold in this state based upon the price at which such security is to be offered to the public;

H. For each and every renewal or amended permit issued to an issuer, Five Dollars (\$5.00);

I. For copies of any papers filed in the office of the Commissioner, or for the certification thereof, the Commissioner shall charge such fees as the Secretary of State is now authorized to charge in similar cases;

J. For the filing of any original or renewal application of a dealer of any instrument representing any interest in or under an oil, gas, or mineral lease, fee or title, a fee of Twelve Dollars (\$12.00);

K. For each and every registration certificate issued to a dealer under the terms of subsection J, a fee of Five Dollars (\$5.00);

L. For the filing of any application for approval of a stock exchange so that securities fully listed thereon will be exempt, a fee of Two Hundred and Fifty Dollars (\$250.00);

M. For securities registered by notification or coordination, the fees prescribed in Sections 7B and C of this Act.¹ Acts 1957, 55th Leg., p. 575, ch. 269, § 35.

¹ Article 581—7.

Art. 581—36. Deposit to General Revenue Fund

Upon and after the effective date of this Act ¹ all moneys received from fees, assessments, or charges under this Act shall be paid by the Commissioner into the General Revenue Fund. Acts 1957, 55th Leg., p. 575, ch. 269, § 36.

¹ Articles 581—1 to 581—39.

Art. 581—37. Pleading Exemptions

It shall not be necessary to negative any of the exemptions in this Act ¹ in any complaint, information or indictment, or any writ or proceeding laid or brought under this Act; and the burden of proof of any such exemption shall be upon the party claiming the same. Acts 1957, 55th Leg., p. 575, ch. 269, § 37.

¹ Articles 581—1 to 581—39.

Art. 581—38. Partial Invalidity; Severability

The provisions of this Act ¹ are severable, and in the event that any provision thereof should be declared void or unconstitutional, it is hereby declared that the remaining provisions would have been enacted notwithstanding such judicial determination of the invalidity of any particular

provision or provisions in any respect, and said sections shall remain in full force and effect. Acts 1957, 55th Leg., p. 575, ch. 269, § 38.

¹ Articles 581—1 to 581—39.

**Art. 581—39. Repeal of Securities Act and Insurance Securities Act
Now in Effect; Saving Clause as to Pending Proceedings**

The Acts now in effect being currently known as the Securities Act of Texas and the Insurance Securities Act of Texas, as embraced in Senate Bill No. 149, Chapter 67,¹ and House Bill No. 39, Chapter 384,² Acts of the 54th Legislature, 1955, and codified as Articles 579 and 580 of Vernon's Civil Statutes of Texas, be and the same are hereby repealed; provided, however, that all permits, orders, and licenses issued by the Secretary of State or Board of Insurance Commissioners pursuant to said laws prior to the effective date of this Act³ shall be valid during the period for which they were issued unless sooner revoked by the Commissioner for any cause for which the Commissioner is authorized by this Act to revoke hereunder; provided further, that all prosecutions and legal or other proceedings begun, and any violation of law whether prosecution or administrative action is commenced or not, and any cause of action of civil or criminal nature existing under the provisions of that law now in effect, shall continue in effect and remain in full force and effect until terminated as under the terms of the law now in force, notwithstanding the passage of this Act. Acts 1957, 55th Leg., p. 575, ch. 269, § 39.

¹ Articles 579—1 to 579—42.

² Articles 580—1 to 580—39.

³ Articles 581—1 to 581—39.

TITLE 19A—THE SECURITIES ACT

**Art. 600a Repealed. Acts 1955, 54th Leg., p. 255, ch. 100, § 41. Eff.
Sept. 6, 1955**

The Securities Act of 1955, 54th Leg., p. 322, ch. 67 and Act of 1955, 54th Leg., p. 1002, ch. 384 (formerly set out as articles 579—1 to 579—42 and 580—1 to 580—39) were repealed by Acts 1957, 55th Leg., p. 575, ch. 269, § 39 effective 90 days after May 23, 1957, date of adjournment.

The new Securities Act of 1957 is set out as article 581—1 et seq.

Former article 579—41 contained a savings clause as to existing proceedings.

TITLE 20—BOARD OF CONTROL

CHAPTER ONE—GENERAL PROVISIONS

Arts. 603–605. Repealed. Acts 1957, 55th Leg., p. 739, ch. 304, § 18.
 Eff. Sept. 1, 1957

CHAPTER THREE—PURCHASING DIVISION

| | |
|---|--|
| Art. 664—2. Preference to supplies, material or equipment produced in Texas; contracts for purchase [New]. | Art. 664—3. State Purchasing Act of 1957 [New]. |
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Arts. 631–634 $\frac{1}{4}$. Repealed. Acts 1957, 55th Leg., p. 739, ch. 304, § 18.
 Eff. Sept. 1, 1957

Prior to repeal art. 634 was amended by Acts 1955, 54th Leg., p. 1160, ch. 443, § 1.

Art. 634a. Repealed. Acts 1957, 55th Leg., p. 739, ch. 304, § 18. Eff. Sept. 1, 1957

Arts. 636–654. Repealed. Acts 1957, 55th Leg., p. 739, ch. 304, § 18.
 Eff. Sept. 1, 1957

Prior to repeal art. 649 was amended by Acts 1955, 54th Leg., p. 846, ch. 314, § 1; art. 653 was amended by Acts 1955, 54th Leg., p. 1126, ch. 421, § 1.

Art. 655. Invoice; affidavit or certificate

The contractor or seller shall in all cases append an affidavit stating that the invoice is correct and that it corresponds in every particular with the supplies and/or services contracted for; except where the supplies and/or services contracted for amount to Fifty Dollars (\$50) or less, the affidavit of the contractor or seller may be dispensed with, and in lieu thereof the contractor or seller shall certify that the invoice is correct and that it corresponds in every particular with supplies and/or services contracted for. As amended Acts 1955, 54th Leg., p. 846, ch. 314, § 1.

Emergency. Effective May 24, 1955.

Art. 656. Repealed. Acts 1957, 55th Leg., p. 739, ch. 304, § 18. Eff. Sept. 1, 1957

Arts. 659–664. Repealed. Acts 1957, 55th Leg., p. 739, ch. 304, § 18.
 Eff. Sept. 1, 1957

Art. 664—2. Preference to supplies, material or equipment produced in Texas; contracts for purchase

Section 1. The State Board of Control and all other agencies of the state making purchases of supplies, material or equipment shall, in making purchases of supplies, material or equipment give preference to supplies, material or equipment produced in Texas or offered by Texas citizens, the cost to the state and quality being equal.

Sec. 2. The provisions of this Act shall be cumulative of all other provisions relating to the method of purchase of supplies, material or equipment. Acts 1957, 55th Leg., p. 738, ch. 303.

Effective 90 days after May 23, 1957, date of adjournment.

Title of Act:

An Act giving preference to supplies, material or equipment produced in Texas or offered by Texas citizens in contracts made

by agencies of the state for the purchase of supplies, material or equipment; providing the provisions of this Act shall be cumulative; and declaring an emergency. Acts 1957, 55th Leg., p. 738, ch. 303.

Art. 664—3. State Purchasing Act of 1957

Short Title

Section 1. This Act shall be known and may be cited as the State Purchasing Act of 1957.

Purpose

Sec. 2. It is the purpose of this Act to give the Board of Control authority to institute and maintain an effective and economical system for purchasing supplies, materials, services, and equipment for the State of Texas.

Definitions

Sec. 3. As used in this Act:

(a) "Board" means the State Board of Control.

(b) "Services" includes only services of the type heretofore contracted for by the State Board of Control and it is not intended by the use of this term to enlarge in any manner the authority of the State Board of Control to contract for personal or business services for any state agency, institution, board or commission.

(c) The term "Department of the State Government" includes only departments and agencies of the type heretofore required to make purchases through the Board of Control. River authorities, conservation and reclamation districts, and other political subdivisions created by the Legislature are not required to purchase through the Board of Control unless some other statute specifically requires it.

Organization

Sec. 4. The Board may organize and reorganize its administrative structure and divisions or sections in any manner consistent with the effective dispatch of the duties given to it by this or any other law.

Authority

Sec. 5. The Board shall purchase all supplies, materials, services, and equipment used by each Department of the State Government, including the State Prison System, and each eleemosynary institution, Teachers College, Agricultural and Mechanical College, University of Texas, and each and all other State Schools or Departments of the State Government heretofore or hereafter created, such supplies to include furniture and fixtures, technical instruments and books, and all other things required by the different departments or institutions, including perishable goods. The Board is given legal authority to delegate purchasing functions to agencies of the state. Purchases of supplies, materials, services and equipment for resale, for auxiliary enterprises, for organized activities relating to instructional departments of institutions of higher learning, and for similar activities of other State

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

Agencies, and purchases made from gifts and grants, may be made by State Agencies without authority of the Board. The Board shall purchase all motor vehicles used for transporting school children, including buses, bus chassis, and bus bodies, tires and tubes, for school districts participating in the Foundation School Program as provided by Chapter 334, Acts 51st Legislature, Article V, Section 3. The Board may also provide for emergency purchases by any Department or institution and may set a monetary limit on the amount of each emergency purchase.

Propriety of specifications and conditions; justification of purchase

Sec. 6. The Board may question the propriety of the specifications and conditions of purchase of any supplies, materials, equipment or services desired to be purchased, and may require written justification for the purpose thereof or for the use of the requested specifications.

If the Board does not regard the purchase to be justified in the best interests of the state because of restrictive specifications or conditions, it shall report the reasons for its exceptions to the specifications or conditions to the agency and to the State Auditor before purchasing the supplies, materials, services or equipment.

Purchasing

Sec. 7. The Board may determine the purchasing methods to be used in buying any supplies, materials, services, and equipment. It may use, but is not limited to, the contract purchase procedure and open market purchase procedures set out in this Act. The Board shall have the authority to combine orders in a system of scheduled purchasing, and it shall at all times try to benefit from purchasing in bulk. All purchases of and contracts for supplies, materials, services, and equipment shall, except as provided herein, be based whenever possible on competitive bids.

Contract Purchase Procedure

Sec. 8. (a) Notice. Notice inviting bids shall be published at least once in at least one newspaper of general circulation in the state and at least seven days preceding the last day set for the receipt of bids. The newspaper notice shall include a general description of the articles to be purchased, and shall state where bid blanks and specifications may be secured, and the time and place for opening bids.

(b) Bidders List. The Board shall maintain a bidders list and shall add or delete names from the list by the application and utilization of applicable standards set forth in subsection (f) of this section. In any case, bid invitations shall be set only to those who have expressed a desire to bid on the particular types of items which are the subject of the bid invitation. Use of the bidders list shall not be confined to contract purchases but it may be used by the Board as it may find desirable in making any purchase.

(c) Bid Deposits. When deemed necessary by the Board bid deposits in amounts to be set by the Board shall be prescribed in the public notices and the invitation to bid. The Board shall establish and maintain records of bid deposits and their disposition with the cooperation of the State Auditor, and upon the award of bids or rejection of all bids, bid deposits shall be returned to unsuccessful bidders making bid deposits. The Board may accept a bid deposit in the form of a blanket bond from any bidder.

(d) Bid Opening Procedure. Bids shall be submitted to the Board sealed and identified as bids on the envelope. Bids shall be opened by

the Board at the time and place stated in the public notices and the invitation to bid; provided, the State Auditor or a member of his staff may be present at any bid opening. A tabulation of all bids received shall be available for public inspection under regulations to be established by the Board.

(e) Rejection of Bids. The Board shall have the authority to reject all bids, or parts of bids, when the interest of the state will be served thereby.

(f) Award of Contract. The Board shall award contracts to the bidder submitting the lowest and best bid. In determining who is the lowest and best bidder, in addition to price, the Board shall consider:

(1) The ability, capacity and skill of the bidder to perform the contract or provide the service required;

(2) Whether the bidder can perform the contract or provide the service promptly, or within the time required, without delay or interference;

(3) The character, responsibility, integrity, reputation, and experience of the bidder;

(4) The quality of performance of previous contracts or services;

(5) The previous and existing compliance by the bidder with laws relating to the contract or service;

(6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

(7) The quality, availability and adaptability of the supplies, or contractual services, to the particular use required;

(8) The ability of the bidder to provide future maintenance, repair parts, and service for the use of the subject of the contract;

(9) The number and scope of conditions attached to the bid.

(g) Bid Record. When an award is made a statement of the basis for placing the order with the successful bidder shall be prepared by the purchasing division and filed with other papers relating to the transaction.

(h) Tie Bids. In case of tie bids, quality and service being equal, the contract shall be awarded under rules and regulations to be adopted by the Board.

(i) Performance Bonds. The Board may require a performance bond before entering a contract in such amount as it finds reasonable and necessary to protect the interests of the state. Any bond required under this subsection shall be conditioned that the bidder will faithfully execute the terms of the contract into which he has entered. Any bond required shall be filed with the Board and recoveries may be had thereon until it is exhausted.

Open Market Purchase Procedure

Sec. 9. When the Board determines that any purchases of supplies, materials, equipment or services may be made most effectively in the open market, such purchases may be made without newspaper advertising.

(a) Minimum Number of Bids. All open market purchases shall, wherever possible, be based on at least three competitive bids, and shall be awarded to the lowest and best bidder in accordance with the standards set forth under Section 8 of this Act.

(b) Notice Inviting Bids. The Board shall solicit bids by (a) direct mail request to prospective vendors; (b) by telephone or telegraph.

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

(c) Recording. The Board shall keep a record of all open market orders and bids submitted in competition thereon, and a tabulation of the bids shall, under rules and regulations to be established by the Board, be open to public inspection; provided, they shall always be open to inspection by the State Auditor or his representatives.

Specifications and standards program; testing and inspecting program

Sec. 10. The Board shall have the authority to establish and maintain a specifications and standards program; to coordinate the establishment and maintenance of uniform standards and specifications for materials, supplies and equipment purchased by the Board. The Board shall enlist the cooperation of other State Agencies in the establishment, maintenance, and revision of uniform standards and specifications and shall encourage and foster the use of standard specifications in order that the most efficient purchase of materials, supplies and equipment may be continuously accomplished. The Board may also establish and maintain a program of testing and inspecting to insure that materials, supplies, services, and equipment meet specifications, and may make contracts for testing. If any using agency determines that any supplies, materials, services or equipment received do not meet specifications it shall promptly notify the Board in writing detailing the reasons why the supplies, materials, services, or equipment do not meet the specifications of the contract. The Board shall immediately determine whether or not the reported supplies, materials, services, or equipment meet specifications. The sole power to determine whether materials, supplies, services and equipment meet specifications shall rest with the Board. When the Board finds that contract specifications or conditions have not been complied with, it shall take action, with the assistance of the Attorney General, if necessary, against the defaulting contractor.

Usage figures

Sec. 11. The Board shall maintain usage figures on the consumption and use of supplies, materials, services and equipment purchased for state agencies, institutions, boards and commissions, and the Board shall furnish using agencies upon request usage and consumption figures maintained. The Board is directed to cooperate with the State Budget Offices and the State Auditor in the preparation of usage and consumption figures of supplies, materials, services, and equipment. The Board may establish statistical compilation activities, acquire necessary equipment by rental, lease or purchase, and employ the necessary trained personnel to carry out the provisions of this section.

Interest

Sec. 12. No member of the Board or any employee or appointee of the Board shall be interested in, or in any manner connected with, any contract or bid for furnishing supplies, materials, services, and equipment of any kind to any agency of the State of Texas. Neither shall any member or employee or appointee, under penalty of dismissal, accept or receive from any person, firm or corporation to whom any contract may be awarded, directly or indirectly, by rebate, gift or otherwise, any money or other thing of value whatever, nor shall he receive any promise, obligation or contract for future reward or compensation from any such party.

Products of the Blind

Sec. 13. When any manufactured products of visually handicapped persons or workshops for the blind, produced under the supervision and direction of the Commission for the Blind, or in any other workshop which has been approved by the Commission for the Blind, meet the state specifications as to quality, quantity and price, such products shall have preference in purchases made of those types of items by the Board.

Regulations

Sec. 14. The Board may establish all necessary rules and regulations to execute the provisions of this Act and shall make such rules and regulations public and available to all interested parties.

Delegation of authority

Sec. 15. The Board shall act under the provisions of Acts 1953, Chapter 208, Section 1, (compiled as Article 601, Texas Civil Statutes) in the execution of this law, and any power, authority or duties imposed on the Board by this Act may be exercised or performed by an authorized employee, but the delegation of a duty does not relieve the Board from its responsibility.

Savings Clause

Sec. 16. The repeal of any law by this Act shall not affect or impair any act done or right, obligation or penalty existing or accrued under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such act, right, obligation or penalty. Acts 1957, 55th Leg., p. 739, ch. 304.

- Effective September 1, 1957.

Section 17 of the Act of 1957 was a severability provision.

Section 18 provided that articles 603, 604, 605, 631, 632, 633, 634, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 656, 659, 660, 661, 662, 663 and 664 of the Revised Civil Statutes of Texas, 1925, as amended; Chapter 199, Acts of the 43rd Legislature, Reg-

ular Session, 1933, as amended, codified in Vernon's as Article 634a, Vernon's Civil Statutes; Section 1 of Chapter 106, Acts of the 50th Legislature, Regular Session, 1947, as amended, codified in Vernon's as Article 634½, Vernon's Civil Statutes, and all other laws or parts of laws in conflict with the provisions of this Act, are hereby repealed.

CHAPTER FOUR—PUBLIC BUILDINGS AND GROUND DIVISION

Art.

666a—2. Texas Hall of State Building and site; lease to city of Dallas [New].

Art. 666. Salvage and Surplus Act of 1957

Short Title

Section 1. This Act shall be known and may be cited as the Salvage and Surplus Act of 1957.

Purpose

Sec. 2. It is the purpose of this Act to save the state money and recover as much money as possible for the state by giving the Board of Control authority to implement the transfer and use the best means of sale and disposal of all serviceable state personal property no longer needed by state agencies, and authority to use the best means for the sale and disposal of all state-owned personal property that is depleted, worn out, damaged or consumed to the extent that it is no longer usable.

Definitions

Sec. 3. As used in this Act:

- (a) "Board" means the State Board of Control.
- (b) "Comptroller" means the Comptroller of Public Accounts.
- (c) "Auditor" means the State Auditor.
- (d) "Property" means personal property, and does not mean real property, or any interest in real property. Personal property affixed to real property may be sold under this law if its removal and disposition is to carry out a lawful objective under this law or any other law.
- (e) "Surplus property" means any personal property which is in excess of the needs of any state agency and which is not required for its foreseeable needs. Surplus property may be used or new, but possesses some usefulness for the purpose for which it was intended or for some other purpose.
- (f) "Salvage property" means any personal property which through use, time, or accident is so depleted, worn out, damaged, used or consumed that it has no value for the purpose for which it was originally intended.

Surplus Property

Sec. 4. (a) All state agencies which determine that they have surplus property shall inform the Board of the kind, number, location, condition, and original cost or value and date of acquisition of the property. The Board may inform other state agencies of the existence, kind, number, location and condition of any surplus property. Any state agency when so informed may negotiate directly with the other agencies for an inter-agency transfer of the property but shall inform the Board of its interest in order that the property will not be sold or disposed of before a transfer may be made. If a transfer of surplus property is made the agencies taking part in the transfer shall mutually agree on the value of the transferred property and shall report the value to the Comptroller. The Comptroller shall credit and debit their respective appropriations and adjust the state inventory records to show the transfer if inventoried property is transferred. Transfers of surplus property shall be reported to the Board but the consent of the Board shall not be required for any transfer. After surplus property is reported to the Board it shall not be sold by the reporting agency unless written authority to sell is given by the Board.

(b) If no state agency desires to receive any property reported as surplus the Board shall dispose of the property and recover for the state the maximum money value possible. The Board may by rules and regulations establish procedures for the sale and disposition of surplus property, but shall always seek competitive bids in all sales. If the value of any property or lot of property is estimated to be over One Thousand Dollars (\$1,000.00) the sale shall be advertised at least one

time in at least one newspaper of general circulation in the vicinity where the property is located.

When the Board sells any surplus property it shall report the items sold and the sale price to the agency that declared such property as surplus.

(c) If the value of the property to be sold by the agency under this subsection is estimated to exceed One Thousand Dollars (\$1,000.00) the sale shall be advertised by the agency at least one time in at least one newspaper of general circulation in the vicinity where the property is located.

(d) All agencies for whom surplus property is sold or who sell surplus property under authorization of the Board shall report the sale together with the prices realized to the Comptroller; and if the property is on the state inventory the Comptroller then shall be authorized to remove it from the inventory. Authorization by the Board shall not be required for the deletion of any surplus property except its own from the state inventory.

(e) The proceeds from the sale of any surplus property less the cost of advertising the sale shall be deposited to the credit of the item of appropriation to the agency for whom the sale was made. A portion of the proceeds from the sale of any surplus property equal to the cost of advertising the sale shall be deposited in the State Treasury to the credit of the item of appropriation to the State Board of Control from which such cost was expended.

Salvage Property

Sec. 5. (a) All state agencies which determine that they have salvage property shall inform the Board of the kind, number, location, condition, original value, and date of acquisition of the salvage. The Board shall either:

- (1) sell the salvage for all state agencies, or
- (2) issue written permission to any agency to sell all or part of its salvage, or
- (3) issue written permission to any agency to destroy salvage property if it is worthless and cannot be sold.

If the value of any salvage or lot of salvage offered for sale is estimated to be over One Thousand Dollars (\$1,000.00) the sale shall be advertised at least once in at least one newspaper of general circulation in the vicinity where the salvage is located.

(b) The proceeds from the sale of any salvage property less the cost of advertising the sale shall be deposited to the credit of the item of appropriation to the agency for whom the sale was made. A portion of the proceeds from the sale of any salvage property equal to the cost of advertising the sale shall be deposited in the State Treasury to the credit of the item of appropriation to the State Board of Control from which such cost was expended.

(c) If the Board cannot sell or dispose of any property reported to it as surplus or salvage it may order the property destroyed as worthless salvage and report the destruction to the declaring agency and to the Comptroller. All agencies for whom salvage property is sold or who sell salvage property under authorization of the Board or who destroy worthless salvage under authorization of the Board or for whom the Board has ordered destruction of property as worthless salvage shall report the items sold or destroyed and the prices realized, if any, to the Comptroller. A report of disposal of salvage by any of these

methods shall authorize the Comptroller to then remove reported property from the state inventory if any reported items were on the state inventory. Authorization by the Board to delete salvage items not its own from the state inventory shall not be required. It is not the intention of this subsection to alter, enlarge or amend the law providing for the deletion from inventory upon the authorization of the Auditor of property that is missing from any agency.

(d) When the Board sells any surplus property it shall report the items sold and the sale price to the agency that declared such property as salvage.

**Trade-in of surplus or salvage property; definitions; exceptions;
rules and regulations**

Sec. 6. Any state agency may offer surplus or salvage property which has become unfit for use as a trade-in on new property of the same general type when such exchange is in the best interests of the state.

For purposes of this Act the terms "Surplus" and "Salvage" shall not apply to products and by-products of research, forestry, agricultural, livestock and industrial products in excess of that quantity required for consumption by the producing agency, such products being those of the University of Texas, the Texas A. & M. College System and the Texas Prison System, and/or other agencies of like character, and then only when such agencies have, on the effective date of this Act, a continuing and adequate system of marketing research and sales, the efficiency of which shall be certified to the Board of Control by the State Auditor. Provided, however, that the Board of Control shall be furnished by such agency with a copy of the rules and regulations and latest revisions thereof laid down by the policy making body of each agency or institution for the guidance and administration of the programs enumerated herein. And further provided that when requested by such agency or institution to do so, and under the terms and conditions set forth in Sections 4 and 5 above, the Board of Control will dispose of the said property as provided for in this Act.

Continuing Service

Sec. 7. The Board shall at all times try to realize the maximum return to the state in the sale and disposal of salvage and surplus. It shall maintain a list of prospective buyers of salvage and surplus and it may in all cases reject any or all offers if it finds rejection to be in the best interests of the state. It shall cooperate with all state agencies in a continuing program of salvage and surplus evaluation to minimize losses from accumulations and it shall cooperate at all times with the Auditor in salvage and surplus analysis.

Title of purchaser

Sec. 8. Any purchaser of surplus or salvage at a sale made by the Board or by any agency under authorization of the Board shall obtain good title to any property purchased if the purchaser has in good faith complied with the conditions of the sale and the applicable rules and regulations of the Board.

Rules and regulations; delegation of authority

Sec. 9. The Board shall have authority to carry out the provisions of this law by making rules and regulations. In carrying out the pro-

visions of this law the Board shall act under the provisions of Chapter 208, Section 1 of Acts 1953, 53rd Legislature (compiled as Texas Civil Statutes 601) and any power, duties or authority imposed on the Board by this Act may be exercised or performed by an authorized employee, but the delegation of a duty does not relieve the Board from its responsibility.

Reports and forms; powers to prescribe

Sec. 10. The Comptroller is authorized to prescribe reports and forms, and rules and regulations pertaining to such forms or reports necessary to accomplish the object of this Act subject to the approval of the State Auditor.

Legislative intent declared

Sec. 11. It is the intent of the Legislature that the Board may authorize an agency to dispose of surplus or salvage property where the agency demonstrates to the Board its ability to make such disposition under the rules and regulations set up by the Board, as provided for herein. It is the further intent of the Legislature that state eleemosynary institutions and institutions and agencies of higher learning shall be excepted from the terms of this Act. As amended Acts 1957, 55th Leg., p. 1247, ch. 414, § 1.

Effective September 1, 1957.

Section 2 of the amendatory Act of 1957 provided that the following Statutes and Acts: Section 2 of Chapter 289, Acts of the 50th Legislature, Regular Session, 1947; Sections 2 and 3 of Chapter 447, Acts of the 51st Legislature, Regular Session, 1949, codified in Vernon's as Articles 666-1 and 666-2, Vernon's Civil Statutes; Chapter

276, Acts of the 44th Legislature, Regular Session, 1935, codified in Vernon's as Article 666a-1, Vernon's Civil Statutes, and all other laws or parts of laws in conflict with the provisions of this Act, are hereby repealed.

Section 3 was a savings clause and section 4 was a severability provision.

Art. 666-1. Repealed. Acts 1957, 55th Leg., p. 1247, ch. 414, § 2. Eff. Sept. 1, 1957

Art. 666-2. Repealed. Acts 1957, 55th Leg., p. 1247, ch. 414, § 2. Eff. Sept. 1, 1957

Art. 666a-1. Repealed. Acts 1957, 55th Leg., p. 1247, ch. 414, § 2. Eff. Sept. 1, 1957

Art. 666a-2. Texas Hall of State Building and site; lease to City of Dallas

Section 1. The Texas Hall of State, a permanent building erected in the City of Dallas for the Central Exposition, out of funds appropriated by House Bill No. 11, Acts of the Forty-fourth Legislature, Regular Session, 1935, Chapter 174, page 427, and the land on which the Texas Hall of State Building is situated, are hereby leased by the State of Texas to the City of Dallas for a period of time commencing on the effective date of this Act and ending on December 31, 1976, at a rental of One Hundred Dollars (\$100) for the remainder of the calendar year 1957, and a rental of One Hundred Dollars (\$100) per year thereafter for the term of the lease, payable annually in advance. During the term of such lease the Texas Hall of State Building shall be used for public purposes, including annual State Expositions, and shall not be maintained or operated for purposes of private profit; there shall be no charge imposed upon any

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

exhibitor in said building for exhibit space and there shall be no admission charge for entrance into said building. The City of Dallas shall carry an adequate amount of fire and tornado insurance covering said building and the cost of such insurance and the maintenance of said building shall be borne by the aforesaid lessee, being the City of Dallas.

The State Board of Control shall execute the lease contract necessary to carry out the provisions of this Act. Acts 1957, 55th Leg., p. 19, ch. 15.

Emergency. Effective Feb. 28, 1957.

Title of Act:

An Act leasing the Texas Hall of State Building located in the City of Dallas, situated in Fair Park, a park owned by the

City of Dallas; providing conditions of the lease; providing that the State Board of Control shall execute the lease; and declaring an emergency. Acts 1957, 55th Leg., p. 19, ch. 15.

CHAPTER FOUR A—STATE BUILDING COMMISSION [NEW]

Art.

678m-1. Lease of buildings for operation of drug store, cafe or cafeteria; powers of State Building Commission.

Art.

678m-2. State Archives and Library Building.

678m-3. Purchase of Knights of Columbus Hall for use of state agencies.

Art. 678m-1. Lease of buildings for operation of drug store, cafe or cafeteria; powers of State Building Commission

Section 1. The State Building Commission is hereby authorized to lease existing buildings situated on property acquired by the State Building Commission pursuant to the provisions of Section 51b of Article III of the Constitution of Texas and Chapter 514, Acts of the 54th Legislature, Regular Session, 1955,¹ prior to the effective date of this Act, for the purposes of operating a drug store, cafe or cafeteria for the use and benefit of the state officials and state employees and the public conducting business with the state.

Sec. 2. The lease shall be let by the State Building Commission under such terms and conditions as would best carry out the purposes of this Act and all revenue derived from the lease agreements shall be deposited to the State Building Fund in the State Treasury. Acts 1957, 55th Leg., p. 293, ch. 134.

¹ Article 678m.

Emergency. Effective May 2, 1957.

Title of Act:

An Act authorizing the State Building Commission to lease existing buildings situated on property acquired prior to the

effective date of this Act by the State Building Commission; making other provisions relating thereto; and declaring an emergency. Acts 1957, 55th Leg., p. 293, ch. 134.

Art. 678m-2. State Archives and Library Building

Section 1. Notwithstanding other provisions of law, the Legislature may appropriate money from the Motor Vehicle Inspection Fund for the purpose of constructing and initially equipping a building to be known as the "State Archives and Library Building" to house the State Library and the State Archives, Museum and Land Office, including the purchase of a site therefor; and for the purpose of paying the expenses of the Fifty-fifth Legislature, as described in Chapter 1, Acts of the Fifty-fifth Legislature, Regular Session, as amended. Provided that the present Legislative Reference Library now housed in the Capitol Building shall not be removed therefrom, but shall be maintained in the space now assigned to the State Library, the Supreme Court Library and the Legislative Reference Library upon removal of the Supreme Court Library

to the Supreme Court Building now under construction. As amended Acts 1957, 55th Leg., 2nd C. S., p. 181, ch. 21, § 2.

Sec. 2. The State Building Commission is hereby authorized and empowered to expend any funds which may be appropriated to it from the Motor Vehicle Inspection Fund for the purpose stated in Section 1 of this Act, and to purchase the site and to plan, construct, and initially equip the building, subject to such direction as may be set out in the Act making the appropriation. The State Building Commission shall consult with and seek the advice of the Texas State Historical Survey Committee or its successor as to the plans and location of such building.

Sec. 3. All laws in conflict herewith are hereby repealed to the extent of such conflict. This Act shall not repeal the authority of the Public Safety Commission to use balances in the Motor Vehicle Inspection Fund for such purposes as may be authorized by law, but the amounts appropriated by the Legislature pursuant to this Act shall be deducted in determining the amount of the balance remaining in such fund which is subject to disposition by the Public Safety Commission. Acts 1957, 55th Leg., p. 615, ch. 274.

Emergency. Effective Dec. 10, 1957.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 678m—3. Purchase of Knights of Columbus Hall for use of state agencies

Section 1. The State Building Commission is hereby given the authority to purchase and acquire by a general warranty deed the property and improvements owned by the Austin Knights of Columbus Home Association being the East one-half ($\frac{1}{2}$) of lots number eleven (11) and twelve (12) in Block one hundred seventy-three (173) of the original City of Austin, Travis County, Texas, according to the map or plat of said original city on file in the General Land Office of the State of Texas.

Sec. 2. There is hereby appropriated out of the General Revenue Fund of the State of Texas the sum of One Hundred Eighty-five Thousand and Five Hundred Dollars (\$185,500.00) for the purpose of making such acquisition.

Sec. 3. For the purpose of renovating, repairing and making such changes as are required to make any buildings heretofore or hereafter acquired by the State Building Commission functional and usable by state departments, any rentals from said buildings, including those rentals received under the provisions of Senate Bill No. 316, Acts of the 55th Legislature, 1957,¹ are hereby appropriated to the State Building Commission to be held in a special fund, and so much thereof as needed shall be expended for such purposes. Nothing herein shall permit the rental of the facilities herein acquired to other than state agencies unless such persons, corporations or agencies are presently in possession, and no rent shall be charged state agencies who occupy said premises. Acts 1957, 55th Leg., p. 1365, ch. 465.

¹ Article 678m—1.

Emergency. Effective June 10, 1957.

Title of Act:

An Act permitting the State Building Commission to acquire the Knights of Columbus Hall; making an appropriation;

providing for the application of revenues from the Hall and other specified structures; providing for occupancy of the structures; and declaring an emergency. Acts 1957, 55th Leg., p. 1365, ch. 465.

CHAPTER SIX—DIVISION OF ESTIMATES AND APPROPRIATIONS

| BUDGET | | Art. |
|------------------|--|--|
| Art. 689a—8a. | Constitutional amendment; effect if adopted [New]. | 689a—19a. County superintendent as budget officer; common and rural high school districts; accounting systems [New]. |
| 689a—17a. | Independent school districts; president of board of trustees as budget officer; accounting system [New]. | |

BUDGETS

Art. 689a—3. Repealed. Acts 1957, 55th Leg., p. 1322, ch. 446, § 1.
Eff. 90 days after May 23, 1957, date of adjournment

Art. 689a—5. Compilation of budget by Governor

Based on information submitted to the Governor in the estimates and obtained by him at public hearings, from inspections and from other sources, the Governor shall compile the biennial appropriation budgets. On such budgets, the list of appropriations shall be shown for the current year preceding the biennium for which appropriations are sought and recommended, and the expenditures shall be shown for each of the two (2) full years next preceding the current year. The budget shall also show the amounts requested by the various agencies and the amounts recommended by the Governor for each of the years of the ensuing biennium. As amended Acts 1957, 55th Leg., p. 1322, ch. 446, § 2.

Effective 90 days after May 23, 1957, date of adjournment.

Section 1 of the amendatory Act of 1957 repealed art. 689a—3. Section 3 amended

art. 689a—7, section 4 is art. 689a—8a. Section 5 of the amendatory Act of 1957 was a severability provision.

Art. 689a—7. Budget bills of appropriations submitted by Governor; hearings on bills

Within thirty (30) days after the beginning of each regular session of the Legislature, the Governor may prepare and submit printed copies of a general appropriation bill for the ensuing biennium to the Speaker of the House of Representatives, to the Lieutenant Governor, and to each Member of the House and Senate; provided, however, that in years when a newly elected Governor other than the then Governor is to be inaugurated, the appropriation bill may be prepared by the incoming Governor and shall be transmitted to the Legislature within twenty (20) days from the date he takes the oath of office.

The Director of the Budget, under the direction of the Legislative Budget Board, shall also prepare a general appropriation bill for introduction at each regular session of the Legislature, and shall transmit copies of the bill to all Members of the Legislature and to the Governor within seven (7) days after the convening of any regular session of the Legislature.

Upon receipt of the general appropriation bill prepared by the Director of the Budget, the Lieutenant Governor in the Senate and the Speaker in the House may, if they so desire, cause such bill to be introduced in the Senate and in the House of Representatives, or it may be introduced by any Member of the House or the Senate. A general appropriation bill submitted by the Governor may also be introduced in like

manner. Hearings on the appropriation bills shall be conducted before the Appropriation Committee of the House and the Finance Committee of the Senate. The Appropriations Committee and the Finance Committee may, if they so desire, begin preliminary committee hearings on the budget upon receipt of the bill prepared by the Director of the Budget without waiting for submission of the bill prepared by the Governor. All heads of departments, institutions or other agencies of the government requesting appropriations shall have the right to appear before either of these committees in behalf of the appropriation requested. Likewise, any taxpayer in the State shall have the right to be present and to be heard at the hearing on the proposed appropriation. As amended Acts 1957, 55th Leg., p. 1322, ch. 446, § 3.

Effective 90 days after May 23, 1957, date of adjournment.

Severability clause, see note under article 689a—5.

Art. 689a—8a. Constitutional amendment; effect if adopted

In the event a Constitutional Amendment providing for annual budget sessions of the Legislature is adopted, all references in the preceding sections of this Act, in Chapter 487, Acts of the Fifty-first Legislature, Regular Session (Article 5429c, Vernon's Texas Civil Statutes) and in Section 7 of Chapter 332, Acts of the Fifty-second Legislature (Article 689a—4a, Vernon's Texas Civil Statutes) to biennial budgets shall be deemed to mean annual budgets, and all references to biennial sessions or regular sessions of the Legislature shall mean the annual budget sessions. Acts 1931, 42nd Leg., p. 339, ch. 206, § 9a added Acts 1957, 55th Leg., p. 1322, ch. 446, § 4.

Effective 90 days after May 23, 1957, date of adjournment.

Severability clause, see note under article 689a—5.

Art. 689a—17. Repealed. Acts 1957, 55th Leg., p. 1245, ch. 413, § 6.
Eff. 90 days after May 23, 1957, date of adjournment

Art. 689a—17a. Independent school districts; president of board of trustees as budget officer; accounting system

Budget officer; deputy; preparation and adoption of budget; filing

Section 1. The president of the board of school trustees in each independent school district, whether created by general or special law in this state, is hereby expressly designated as the budget officer for such district. Not later than August 20th, the president of such school board of trustees shall prepare, or cause to be prepared, a budget covering all proposed, carefully estimated receipts and expenditures for the next succeeding fiscal year, itemized in detail according to classification and purpose of expenditure. When such budget has been prepared a meeting of such board of trustees shall be called for the purpose of adopting a budget, and five days public notice of said meeting shall be given. Any taxpayer of the district may be present and participate in the hearing. It shall be the duty of said board of trustees at said meeting to adopt a budget to cover all expenditures for said independent school district for the next succeeding fiscal year. When so adopted it shall be the duty of the president of the board of trustees to file copies of said budget in the office of the county clerk of the county, or counties, in which said district is located, and with the Texas Central Education Agency, all such copies having been prepared according to rules and regulations established by the State Board of Education and prepared upon forms furnished by the Texas Central Education Agency. Said budget shall be filed with the county clerk, or clerks,

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

in which the district is situated, and with the Texas Central Education Agency, not later than November 1st of the year for which the budget is adopted. No public funds of said independent school district shall be expended in any manner other than as provided for in the budget adopted by the said board, except that the said board shall have the authority to amend same or to adopt a supplementary emergency budget to cover necessary unforeseen expenses of the district; and when so adopted or amended, copies of any and all supplemental budget or amendment shall be filed with the county clerk of the county, or counties, in which said district is situated, and with the Texas Central Education Agency, using forms prescribed by and furnished by the Texas Central Education Agency. In the preparation of the budget, the president of such board of trustees shall designate the superintendent of schools, or the business manager, if any, of the district as the deputy budget officer, or if the district has no superintendent of schools, the chief administrative employee of the school district shall be designated as the deputy budget officer, to assist said school board president in the professional and technical phases of budget preparation.

Fiscal accounting system; reports

Sec. 2. The board of school trustees of each independent school district shall authorize the adoption and installation of a standard school fiscal accounting system. Said accounting system shall be keyed to and correlated with the classifications in the budget with respect to purposes of disbursements and sources of receipts. The board of trustees of each such district shall cause to be kept the record of expenditures made and income received during the fiscal year for which the budget was adopted. Such a system of fiscal accounting shall meet at least the minimum requirements prescribed by the State Board of Education and approved by the State Auditor. At the time the budget for the current fiscal year is filed as prescribed in Section 1 of this Act, the president of the independent district board of trustees shall report to the Texas Central Education Agency the disbursements and receipts for the preceding fiscal year on forms furnished by the Texas Central Education Agency.

Review and analysis of budgets and fiscal reports

Sec. 3. The budgets and fiscal reports filed with the Texas Central Education Agency shall be reviewed and analyzed by the staff of the State Department of Education to determine whether or not the purposes of this Act have been realized and to collect fiscal data needed in preparing school fiscal reports to the Governor and the Legislature.

Penalties for violations

Sec. 4. Whoever violates or fails to comply with the duties or any provision prescribed in Sections 1 and 2 of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). Any and each school board member voting to approve any expenditure of school funds in excess of the item or items appropriated in the adopted budget, or its supplementary budgets, shall each be guilty of a misdemeanor, and each, upon conviction thereof, shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), provided that such proceedings shall be instituted by the proper county or district attorney, or the Attorney General of Texas.

Accredited schools; dropping from list of district failing to comply

Sec. 5. The Texas Central Education Agency shall drop from the list of accredited schools any district which fails to comply with the provisions of this Act or the rules and regulations of the State Board of Education pursuant thereto. Acts 1957, 55th Leg., p. 1245, ch. 413.

Effective 90 days after May 23, 1957, date of adjournment.

Section 6 of the Act of 1957 provided that this section 18 of House Bill No. 768, Acts of the 42nd Legislature, Regular Ses-

sion, 1931, is hereby repealed. Section 7 repealed all conflicting laws and parts of laws. Section 8 provided that if any section was declared unconstitutional, it should not affect the remainder.

Art. 689a—18. Repealed. Acts 1957, 55th Leg., p. 1243, ch. 412, § 6.
Eff. 90 days after May 23, 1957

Art. 689a—19a. County superintendent as budget officer; common and rural high school districts; accounting systems

Duties as budget offices; filing; protest by taxpayers

Section 1. The county superintendent of schools is hereby designated as the budget officer for each common and rural high school district of and under the jurisdiction of such county. On or before August 10th, the county superintendent shall prepare, or cause to be prepared, a budget covering all carefully estimated receipts and proposed expenditures of each common and rural high school district of such county for the next succeeding fiscal year, itemized in detail according to classification and purpose of expenditure. When so prepared, the budget for each common and rural high school district shall be submitted to the board of trustees in each such district for approval, and when so approved by such board of trustees and by the county superintendent, copies shall be filed in the office of the county superintendent, county clerk, and with the Texas Central Education Agency, all such copies having been prepared according to rules and regulations established by the State Board of Education, and on forms furnished by the said Agency. Such budgets shall be filed as hereinabove directed not later than November 1st of the year for which the budget is approved. No expenditure of public funds shall be made in common or rural high school districts in any manner other than is provided for in the budgets approved, except that in the case of an unforeseen emergency, a supplemental budget or budget amendment may be approved in the same manner as the original budget, and copies of the supplemental budget or amendment shall be filed with the original budget as approved. At any time during the process of budget preparation any taxpayer of a common or rural high school district for which the budget is being prepared shall have the right to file with the county superintendent and/or the board of trustees of the district, any statement or protest which he may desire to file, concerning any item of expenditure proposed in the budget; and such statement or protest shall be given due consideration by the county superintendent, or by the district board of trustees in their final action upon the adoption of the budget.

Fiscal accounting system

Sec. 2. The county superintendent shall select and install a standard school fiscal accounting system for each common and rural high school district coming under his administration. Said accounting system shall

be keyed to and correlated with the classifications in the budget with respect to the purposes of disbursements and sources of receipts. The county superintendent shall cause to be kept in his office for each such district a record of expenditures made and income received during the fiscal year for which the budgets were approved. Such a system of fiscal accounting shall meet at least the minimum requirements prescribed by the State Board of Education and approved by the State Auditor. In addition to the fiscal accounting records prescribed in this section, the board of trustees of each rural high school district shall cause to be kept the accounts required in Article 2922i, R.C.S., 1925. At the time budgets are filed as prescribed in Section 1 of this Act, the county superintendent shall report to said Central Education Agency the disbursements and receipts for the preceding fiscal year for each common and rural high school district coming under his administration, said reports to be filed on forms furnished by the Central Education Agency.

Filing budgets and fiscal reports; review and analysis

Sec. 3. The budgets and fiscal reports filed with the Central Education Agency shall be reviewed and analyzed by the staff of the State Department of Education to determine whether or not the purposes of this Act have been realized and to collect fiscal data needed in preparing school fiscal reports to the Governor and the Legislature.

Penalties for violations

Sec. 4. Whoever violates or fails to comply with the duties or any provision prescribed in Sections 1 and 2 of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). Any county superintendent approving any expenditure of school funds in excess of the item or items appropriated in the adopted budget, or its supplementary or amended budgets, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). Provided that such proceedings shall be instituted by the proper county or district attorney, or the Attorney General of Texas.

Noncomplying district dropped from list of accredited schools

Sec. 5. The Central Education Agency shall drop from the list of accredited schools any district which fails to comply with the provisions of this Act and the rules and regulations of the State Board of Education pursuant thereto. Acts 1957, 55th Leg., p. 1243, ch. 412.

Effective 90 days after May 23, 1957, date of adjournment.

Section 6 of the Act of 1957 provided that section 19 of House Bill No. 768, Chapter 206, Acts of the 42nd Legislature, Reg-

ular Session, 1931, is hereby repealed. Section 7 repealed all conflicting laws and parts of laws. Section 8 provided that if any section was declared unconstitutional, it should not affect the remainder.

TITLE 20A—BOARD AND DEPARTMENT OF PUBLIC WELFARE

Art. 695h. Federal old age and survivors insurance coverage for state employees [New].

Art. 695i. Federal old age and survivors insurance coverage for public employees receiving salaries, etc., from funds administered by county board of school trustees [New].

Art. 695c. Public Welfare Act of 1941

State Department of Public Welfare

(1)a. From and after the passage of this Act, the title of the office of "Executive Director" as created in Section 2 of this Act is and shall be changed to the title of "Commissioner of Public Welfare"; and all of the powers and duties heretofore assigned to the "Executive Director" shall be vested in the "Commissioner of Public Welfare". Nothing in this Act shall be construed as removing any authority, duty or responsibility now vested in the "Executive Director". The only purpose is to change the title of the office from "Executive Director" to "Commissioner of Public Welfare".

Whenever the title "Executive Director" (of the Department of Public Welfare) or any reference thereto appears in the Legislative Statutes of Texas or in any amendments thereto, such title and such reference shall hereafter mean and apply to the "Commissioner of Public Welfare" in order to conform to the new title as provided herein. Added Acts 1957, 55th Leg., p. 237, ch. 114, § 1.

Emergency. Effective April 29, 1957.

Permanently and totally disabled persons; assistance to; acceptance of money from Federal government

Sec. 16—A. The State Department of Public Welfare is hereby designated as the State Department to administer financial assistance to needy individuals who are permanently and totally disabled as defined in this Act, and is designated as the State Department to cooperate with the Department of Health, Education, and Welfare or any other Federal Agency which may hereafter be designated by Federal Statute to administer such aid to needy individuals who are permanently and totally disabled, so as to provide assistance payments to permanently and totally disabled persons who meet the eligibility requirements as are herein prescribed or as may hereafter be provided.

The State Department of Public Welfare is hereby authorized to accept money from the Federal Government for the purposes enumerated in this Act, and is hereby authorized to expend such sums as may be received for such purposes and in the manner prescribed in this Act or as otherwise provided by law. Added Acts 1957, 55th Leg., p. 672, ch. 284, § 1.

Emergency. Effective May 23, 1957, as limited by section 6 of this Act.

Permanently and totally disabled persons; eligibility for assistance; definitions; amount of assistance

Sec. 16—B. Assistance to the Permanently and Totally Disabled shall be given under the provisions of this Act to any needy person:

1. Who is permanently and totally disabled as hereinafter defined; and
2. Who is eighteen (18) years of age or older but less than sixty-five (65) years of age; and
3. Who is a citizen of the United States; and
4. Who has resided in the State of Texas for five (5) years or more within the last nine (9) years preceding the date of his application for assistance and has resided in the State of Texas continuously for one (1) year immediately preceding the application; and
5. Who is not at the time of receiving assistance an inmate in a public institution (except as a patient in a medical institution) or is not a patient in an institution for tuberculosis or mental disease, or who has not been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof; and
6. Who is in need as hereinafter defined; and
7. Who is not receiving Old Age Assistance, Aid to the Blind, or Aid to Dependent Children; and
8. Who has not disposed of property, either personal or real, for the purpose of qualifying or increasing need for assistance, provided that the property, if still available, would affect either eligibility or the amount of the assistance payment.

No application for assistance under the provisions of this Act shall be approved until it has been established in accordance with the rules and regulations promulgated by the State Department of Public Welfare that the applicant is permanently and totally disabled by reason of a mental or physical impairment or a combination of both.

The term "permanently and totally disabled," as used in this Act, means that the individual has a physical or mental impairment, disease, or loss, or a combination of such, which is irreversible, or progressive, and not amenable to treatment, or requires treatment that is continuous, extremely hazardous, or of questionable benefit, and renders the individual completely invalidated, as demonstrated by the fact that he is helpless, or is bed-fast, chair-fast, or requires considerable help in locomotion from others, or because the physical or mental impairment is such that the individual requires close and constant supervision and personal care by others, and which physical or mental impairment renders him unfeasible for vocational rehabilitation.

"Permanent and total disability," as defined herein, shall be established on the basis of a currently applicable medical report of examination by a physician legally licensed to practice medicine in the State of Texas and who has been approved by the State Department of Public Welfare to make such examinations. The examining physician shall certify in writing, upon forms prescribed by the State Department, such information as the Department may require for proper diagnosis, prognosis, and recommendations as to medical and surgical treatment. Said reports shall be reviewed by a physician legally licensed to practice medicine in the State of Texas and employed by the State Department of Public Welfare, who shall approve or disapprove the medical evidence to substantiate the finding of 'permanent and total disability'. Said reviewing physician shall also determine the feasibility of referring said applicant for vocational re-

habilitation. The State Department of Public Welfare shall adopt a reasonable fee schedule for examinations, when examinations are considered necessary by the State Department of Public Welfare for the purpose of determining eligibility for assistance of individuals who are permanently and totally disabled under the provisions of this Act, and the Department of Public Welfare is hereby authorized to pay for such examinations out of the funds appropriated to the State Department for the purpose of assistance to the permanently and totally disabled persons under the provisions of this Act or for administrative expense. The State Department of Public Welfare is hereby authorized to incur claims for medical examinations which may be paid later out of subsequent appropriations for medical expenses when the current appropriation is inadequate to pay for such medical examinations.

The State Department of Public Welfare is hereby authorized to use in addition to any amounts appropriated for the payment of medical examinations any unexpended balance which has been appropriated for the purpose of providing assistance during the fiscal year beginning September 1, 1957, and ending August 31, 1958 for the purpose of paying the cost of medical examinations required to establish eligibility during the fiscal year beginning September 1, 1958 and ending August 31, 1959.

Each recipient of assistance who is permanently and totally disabled shall submit to a re-examination whenever such re-examination is deemed necessary by the State Department of Public Welfare for the continuance of the assistance grant.

The Department of Public Welfare is authorized to provide through employment of properly qualified personnel such medical, social and related services as are found necessary for proper administration of this Act, and for most effective use of other resources for rehabilitation and restoration to health and independence. The Department of Public Welfare shall refer recipients who can be benefited thereby to the appropriate public and private resources for rehabilitation through retraining, restorative services, or treatment and therapy.

In determining "need", the State Department of Public Welfare shall adopt reasonable rules and regulations for the purpose of determining eligibility, and shall take into consideration all of the resources and income available to the individual from any source. Assistance may not be granted if such individual has available resources which are sufficient to provide a reasonable subsistence compatible with health and decency; provided that in consideration of income and resources actually available to an applicant, the State Department shall take into consideration the income and resources which may be available to the relatives of an applicant or a recipient who are responsible for his support. "Responsible relatives" for the purpose of this Act, shall include spouses, parents, step-parents, children, step-children, brothers, sisters, and any other relative who has assumed responsibility for his care.

The State Department of Public Welfare shall adopt reasonable rules and regulations for determining the amounts of assistance given to an applicant. The amount of assistance given shall be determined by the State Department of Public Welfare through its District or County Agents in the County or District in which the needy person resides. The amount granted shall provide such person with a reasonable subsistence compatible with health and decency and within the limitations and provisions of the Constitution of the State of Texas, as is now provided or may hereafter be provided. The amount of such assistance out of State funds to each person assisted shall never exceed the amount so expended out of Federal

funds. The method of investigation and the determination of the amount of assistance granted shall comply with the limitations and provisions of the Federal Social Security Act¹ as is now provided or may hereafter be provided.

No provision of this Act is intended to release the Federal or State institutions in this State from the specific responsibility which is currently borne by them in the care of those persons currently residing in either Federal or State hospitals or institutions for the care or treatment of mentally retarded or mentally ill persons or for the treatment of tuberculosis, or those who may hereafter be eligible for or entitled to care or treatment in such institutions. It is further provided that none of the moneys appropriated for assistance to or on behalf of the permanently and totally disabled shall be used for the payment of assistance grants or for providing services to or on behalf of persons who are so hospitalized or whose mental or physical condition is such that his welfare and that of the general public would best be served by care and treatment in such public institution and such public institutional care is available. Added Acts 1957, 55th Leg., p. 672, ch. 284, § 1.

¹ 42 U.S.C.A. § 301 et seq.

Emergency. Effective May 23, 1957, as limited by section 6 of this Act.

Permanently and totally disabled persons; general provisions applicable to

Sec. 16—C. Sections 22 through 42 of this Act and all the other general provisions of this Act shall be applicable to the program for assistance to the permanently and totally disabled. Added Acts 1957, 55th Leg., p. 672, ch. 284, § 1.

Emergency. Effective May 23, 1957, as limited by section 6 of this Act.

Funds created; State Treasurer custodian

Sec. 27. (1) There is hereby created in the Treasury a special fund to be known as the "Disabled Assistance Fund." For the purposes of carrying out the provisions of this Act, the Old Age Assistance Fund, the Blind Assistance Fund, and the Children Assistance Fund as provided for in House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session,¹ and the "Disabled Assistance Fund" created herein, are hereby made separate accounts of the "State Department of Public Welfare Fund." Provided, that all moneys in the separate accounts of the State Department of Public Welfare Fund shall be expended only for the purposes of carrying out the provisions of this Act, and for the purposes for which said separate accounts were created or appropriated. As amended Acts 1957, 55th Leg., p. 672, ch. 284, § 2.

¹ Article 7083a.

Emergency. Effective May 23, 1957, as limited by section 6 of this Act.

Proration of assistance grants

Sec. 28. If at any time, State funds are not available to pay all such grants of assistance in full as authorized in this Act, such grants shall be prorated as the State Board of Public Welfare may direct; except that during the fiscal year beginning September 1, 1957, in the operation of the Permanently and Totally Disabled Assistance Program the Department of Public Welfare is authorized to set up a maximum grant which may be paid to any individual in a lesser amount than the possible maximum with-

in the Constitution of the State of Texas and the Federal Social Security Act¹ in order that the amount of money available out of State funds may be distributed more equitably until it is possible to determine an average grant. As amended Acts 1957, 55th Leg., p. 672, ch. 284, § 3.

¹ 42 U.S.C.A. § 301 et seq.

Emergency. Effective May 23, 1957 as limited by section 6 of this Act.

Section 5 of the amendatory Act of 1957, Acts 1957, 55th Leg., p. 672, ch. 284, made appropriations. Section 6 provided that the effective date of this law for the purpose of paying assistance grants shall be September 1, 1957. Section 7 repealed conflicting laws to the extent of such conflict only. Section 8 provided that partial in-

validity should not affect the remaining portions of the Act.

Section 2 of the amendatory Act of 1957, acts 1957, 55th Leg., p. 237, ch. 114, § 1, repealed all conflicting laws and parts of laws to extent of such conflict only. Section 3 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 695h. Federal old age and survivors insurance coverage for state employees

Definitions

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

(c) The term "State Employee" in addition to its usual meaning shall include elective and appointive officials of the state, but shall not include members elected to the House of Representatives and Senate of the state; and shall not include those persons rendering services in positions the compensation for which is on a fee basis. The term "State Employee" shall not include any employees in positions subject to the Teachers Retirement System except those employed by state departments, state agencies, and state institutions as construed in their usual meaning. As amended Acts 1957, 55th Leg., p. 2, ch. 2, § 1.

Emergency. Effective Feb. 16, 1957.

Art. 695i. Federal old age and survivors insurance coverage for public employees receiving salaries, etc., from funds administered by county board of school trustees

Agreements for coverage; qualifying for coverage

Section 1. The County Board of School Trustees of each county is hereby authorized to enter into all necessary agreements with the State Department of Public Welfare to provide for coverage of all persons, under the Old Age and Survivors Insurance provisions of the Federal Social Security Act, whose salaries, wages or other compensation are paid from the county administration fund, the county transportation fund, or any other fund or funds administered by said Board; provided that said persons shall qualify for coverage under applicable federal regulations.

Authority of county boards of school trustees

Sec. 2. The authority of each county board of trustees with reference to said agreements shall be the same as that now given by law to the various counties, municipalities and other political subdivisions of Texas with respect to participation of the employees of said subdivisions in the Federal Old Age and Survivors Insurance program.

Contributions, payment into particular funds; costs and expenses

Sec. 3. The minimum employer's matching contributions, required by federal regulations, shall be paid into the fund from which each person is paid his salary, wages or other compensation, by the state or subdivision, as the case may be, which is required by law to pay the salary, wages or other compensation of such person. In those cases, if any, where the salary, wages or other compensation of a person comes from more than one source, each of said sources shall pay its pro rata share of the employer's matching contribution. The administrative costs of the program shall be prorated and paid in like manner. In the case of instructors and other authorized personnel, if any, employed by the county school trustees for duties in connection with special schools for vocational and educational training of veterans, the employers matching contributions and pro rata administrative costs for such instructors and employees shall be paid by said Board from the operating funds of said special schools and collected in the same manner as other operating expenses of said schools are now collected.

Amendment of prior laws

Sec. 4. It is expressly provided that all prior laws and parts of laws which fix a maximum compensation for any persons or employees covered by this Act are hereby amended to allow payment of the matching contribution necessary to this program in addition to any maximum compensations otherwise fixed by law.

Law governing

Sec. 5. All of the provisions of Acts 1951, 52nd Legislature, page 1480, Chapter 500, as amended,¹ shall govern the administration of this Act, where applicable. Acts 1957, 55th Leg., p. 331, ch. 150.

¹ Article 695g.

Emergency. Effective May 6, 1957.

Section 6 of the Act of 1957 provided:
"If any portion of this Act is held unconstitutional by a court of competent juris-

diction, the remaining portions shall nevertheless be valid the same as if the invalid portion had not been a part hereof."

TITLE 21—BOND INVESTMENT COMPANIES**Art. 696. 1309 Deposit**

Securities Act, see art. 581—1 et seq.

TITLE 22—BONDS—COUNTY, MUNICIPAL, ETC.

CHAPTER ONE—GENERAL PROVISIONS AND REGULATIONS

| | |
|---|---|
| Art. 703b. Use of unexpended bond proceeds for other purposes; election [New]. | Art. 717l. County bonds; taxation to pay; surveys, maps and plats [New]. |
|---|---|

Art. 701. 605 Shall hold election

Securities Act not applicable to securities issued by state, municipal corporation, or political subdivision, etc., see art. 581—6.

Art. 703b. Use of unexpended bond proceeds for other purposes; election

This Act shall apply to all cities, including but not limited to, home rule cities, which have sold and delivered bonds for a specific purpose or purposes and such purpose or purposes have been accomplished by other means or have been abandoned and all or a portion of such bond proceeds remain unexpended. In such cases, the governing body of each such city shall be authorized to call and hold an election, in the same manner provided for calling and holding bond elections, for the purpose of submitting to the duly qualified resident electors of such city who own taxable property within said city and who have duly rendered the same for taxation the proposition of whether or not such unexpended funds may be expended for other and different purposes specified in the election resolution or ordinance and the election notice. If a majority of those voting at such election vote in favor of the use of such unexpended funds for such designated purpose or purposes, then the governing body of such city shall be authorized to make such expenditures. Acts 1957, 55th Leg., p. 557, ch. 263, § 1.

Emergency. Effective May 20, 1957.

Section 2 of the Act of 1957 was a severability provision.

Title of Act:

An Act authorizing cities to hold an election to authorize the use of proceeds of

sale of bonds for other purposes where the purpose for which the bonds were voted has been accomplished by other means or has been abandoned; containing a saving clause; and declaring an emergency. Acts 1957, 55th Leg., p. 557, ch. 263.

Art. 717l. County bonds; taxation to pay; surveys, maps and plats

Section 1. The Commissioners Court of any county in the State of Texas having a population of five hundred thousand (500,000) inhabitants, or more, according to the last preceding or any future federal census, is authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, for the purpose of paying for the cost of making any survey and of acquiring any maps and plats which said Commissioners Court is authorized to cause to be made, and is authorized to acquire under the provisions of Article 7344 of the 1925 Revised Civil Statutes of Texas.

Sec. 2. The Commissioners Court of any such county may also cause to be furnished to the assessor and collector of taxes of such county, block books showing the description of each block and subdivision, and the names of the record owners of each parcel of property therein, where known, and such other information relative thereto as will be of assistance to the assessor and collector of taxes of such county in the performance of his duties; and such Commissioners Court is authorized to issue ne-

gotiable bonds of the county and to levy and collect taxes in payment thereof to pay for the cost of such block books and the compilation of such information.

Sec. 3. The Commissioners Court may submit at any bond election one proposition for the issuance of such bonds, which proposition may include all the purposes authorized herein for which such bonds may be issued; or it may, at its option, submit at any bond election one or more separate propositions for the issuance of such bonds, each of which separate propositions may include any one or more of the purposes authorized herein for which such bonds may be issued.

Sec. 4. Such bonds under and pursuant to the provisions of this Act shall be an obligation of and a charge against the county; and it shall be the duty of such Commissioners Court to have assessed and collected a tax sufficient to pay the principal of and interest on such bonds as such principal and interest become due, which tax shall be levied pursuant to the authority of Article 8, Section 9, of the Constitution of the State of Texas, as amended, for general fund purposes. Such bonds may mature serially or otherwise as may be determined by the Commissioners Court of such county, not exceeding forty (40) years from their date; and such bonds may contain such option or options of redemption, or no option of redemption, as may be determined by the Commissioners Court; and the issuance of such bonds and the levying and collection of such taxes shall otherwise be in accordance with the provisions of Chapters 1 and 2, Title 22, Revised Civil Statutes, 1925, as amended, governing the issuance of bonds by cities, towns and counties of this state.

Sec. 5. The provisions of this Act are in addition to all the powers given by, and are cumulative of, all other provisions of the laws of the State of Texas on the same subject. Acts 1957, 55th Leg., p. 1371, ch. 467.

Emergency. Effective June 10, 1957.

Section 6 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

CHAPTER THREE—PUBLIC ROAD BONDS

Art.

752y—4. City tax bonds for off-street parking or park and off-street parking purposes; validation of proceedings [New].

Art. 752y—4. City tax bonds for off-street parking or park and off-street parking purposes; validation of proceedings

All proceedings in connection with any tax bonds heretofore favorably voted in any city, including any home-rule city, for the purpose of providing permanent public improvements by the acquisition of land and improvement thereof for off-street parking purposes, or for the purpose of extending and improving the park system of the city and to provide for municipal off-street parking facilities, are hereby in all things validated, and said bonds may be issued and delivered by the governing body of any such city for the purpose or purposes so voted, and in the manner provided by Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, regardless of any irregularities in the holding of any election at which any such bonds were voted and regardless of whether or not any such bonds so voted were submitted in only one proposition, and regardless of the wording of the language appearing on the ballots con-

cerning any proposition so submitted; and the governing body of any such city is hereby in all things authorized to operate and maintain any facilities acquired or constructed with the proceeds from the sale of such bonds. Acts 1957, 55th Leg., 1st C. S., p. 48, ch. 21, § 1.

Emergency. Effective Dec. 2, 1957.

Section 2 of the act of 1957, 1st C.S. was a severability clause.

Title of Act:

An Act validating all proceedings in connection with city tax bonds heretofore favorably voted for off-street parking, or park and off-street parking purposes; authorizing the issuance and delivery of any such

bonds and the operation and maintenance of any facilities acquired or constructed with the proceeds from the sale of any such bonds; enacting other provisions related to the subject; prescribing a severability provision; and declaring an emergency. Acts 1957, 55th Leg., 1st C.S., p. 48, ch. 21.

TITLE 24—BUILDING AND LOAN ASSOCIATIONS**Art. 881a—23. Joint shares**

Shares or share accounts issued by any building and loan or savings and loan association doing business 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, or where such shares or share accounts are issued to one (1) person, for the benefit of or in trust for another, without the terms of the trust being disclosed to the association in writing, such shares and share accounts may be withdrawn on the signature of such trustee, or on the death or disability of the trustee on the signature of the named beneficiary, and such association shall have no further liability for the 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 shares or share accounts are payable under the provisions hereof to a minor, payment may be made to such minor unless a parent or guardian of such minor delivers to an executive of the association written notice to make payment only to the legally appointed and qualified guardian of such minor.

Joint shares or share accounts issued in the name of a husband and wife may constitute a partition between them of any community funds invested in such shares or share accounts under the provisions of Article 16, Section 15 of the Constitution of this State if the parties so provide by executing a written instrument and acknowledge the same in the manner now required by law for the conveyance of realty. As amended Acts 1953, 53rd Leg., p. 1028, ch. 425, § 1; Acts 1957, 55th Leg., p. 1319, ch. 445, § 1.

Emergency. Effective June 6, 1957.

Art. 881a—34. Membership; Liability; Capital Definition; Lien on Accounts

A member of a building and loan association shall be any person, persons, firm, copartnership, association or corporation owning any of the shares of stock or share accounts of a building and loan association, or holding a certificate of membership as a borrower from any such building and loan association. The manner of voting and the extent of the voting privilege shall be provided in the bylaws of each association, and voting may be by proxy. In the consideration of all questions requiring action

by the members, the bylaws may provide that each shareholder shall be entitled to cast one (1) vote for each share owned or may provide that each shareholder shall be entitled to cast one (1) vote for each One Hundred Dollars (\$100), or fraction thereof, of the withdrawal value of his shares; and each holder of a share account shall be permitted to cast one (1) vote for each One Hundred Dollars (\$100), or fraction thereof, of the participation value of his share account. A borrowing member shall be entitled, as a borrower, to cast one vote, and to cast the number of votes to which he may be entitled as the holder of shares or a share account. Membership shall continue until such shares or share accounts have matured and been paid, withdrawn, transferred, retired, or forfeited, or until the loan has been completely repaid. The payments made to any such association upon shares issued by it shall be called "dues." The capital of an association shall consist of the aggregate of accumulated payments actually made upon the shares and upon share accounts by its members, plus dividends credited to such shares and accounts, either individually or by series, less repurchase and withdrawal payments. The capital shall be accumulated only by payments by members upon shares and share accounts and earnings on accounts, as provided in this Act.¹ It shall be unlawful for any association to represent itself as having, either by newspaper advertising, letter, circular, or otherwise, a greater capital than that herein described. The value of the participation in the capital of each share or share account held by a member shall be the aggregate of payments made upon such share or share account, plus dividends credited thereto, less repurchase or withdrawal payments, or other lawful charges. The shares issued by such association may have a paid up or matured or par value of any amount from Ten Dollars (\$10) to One Hundred Dollars (\$100) each and the amount shall be set out in the bylaws. No preference between shareholders and/or account holders shall be created with respect to the payment of withdrawals or the distribution of assets upon voluntary or involuntary liquidation, dissolution or winding up of an association except such preference as has been created by the Building and Loan Act where associations issue or have issued and have outstanding reserve fund or permanent shares. No association shall have the power to contract with respect to the capital or participation in the capital in a manner inconsistent with the provisions of this Act. The members of an association shall not be responsible for any losses which its capital shall not be sufficient to satisfy, and the shares or share accounts shall not be subject to assessment, nor shall the members be liable for any unpaid installments on their share subscriptions. To secure loans to members, an association shall have a lien, without further agreement or pledge, upon all accounts owned by the borrower. Upon default upon any loan, the association may, without any notice to, or consent of the borrower, cancel on its books all or any accounts owned by the borrower and apply the value of such accounts in payment on account of the loan. An association may by written instrument waive its lien in whole or in part. Any association may take the pledge of an account or accounts of the association owned by a member other than the borrower as additional security for any loan secured by an account or by an account and real estate, or as additional security for any real estate loan. As amended Acts 1957, 55th Leg., p. 1319, ch. 445, § 2.

¹ Article 881a—1 et seq.; Vernon's Ann.P.C. art. 1136a—1 et seq.
Emergency. Effective June 6, 1957.

TITLE 25—CARRIERS

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

Terms "Motor Carrier" and "Contract Carrier" not to include what

Sec. 1a(1)

(e) Any person transporting fresh iced fish or shellfish from a coastal production-landing point to an initial packing or freezing plant located not more than seventy-five miles inland from the coast of Texas, regardless of the distance of such initial packing or freezing plant from the coastal production-landing point, and regardless of whether or not such person owns said fish or shellfish; provided, however, that such person shall have first filed with the Railroad Commission of Texas certificates of insurance covering each motor vehicle to be used in such transportation with public liability and property damage insurance in the amounts required by the Commission for motor vehicles subject to its regulation. Added Acts 1955, 54th Leg., p. 51, ch. 37, § 1, as amended Acts 1957, 55th Leg., p. 263, ch. 123.

Emergency. Effective April 30, 1957.

Section 2 of the amendatory Act of 1957 laws to extent of such conflict. Section repealed all conflicting laws and parts of 3 was a severability clause.

Tex.St.Supp. '58—9

TITLE 28—CITIES, TOWNS AND VILLAGES

CHAPTER ONE—CITIES AND TOWNS

Art. 966e. Validation of incorporation, area and boundaries; cities and towns of 5,000 or less [New].

974d—6. Validation of organizational proceedings; incorporation; consolidation; boundaries, etc.; exception [New].

Art. 974d—7. Validation of orders of county judges declaring incorporation of certain cities, towns or villages; boundaries; elections and proceedings; exceptions [New].

Art. 966e. Validation of incorporation, area and boundaries; cities and towns of 5000 or less

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.

Sec. 2. The areas and boundary lines of all such cities and towns affected by this Act are in all things validated and the incorporation of such cities and towns shall not be held invalid 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, or by reason of the shape, form or outline of the area or territory included within the boundaries of such city or town.

Sec. 3. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof. Acts 1957, 55th Leg., p. 1328, ch. 450.

Emergency. Effective June 6, 1957.

Section 4 of the Act of 1957 provided that if any section was declared uncon-

stitutional, it should not affect the remainder.

Art. 974d—6. Validation of organizational proceedings; incorporation; consolidation; boundaries, etc.; exception

Section 1. All cities (except home rule cities), towns and villages in this State, heretofore incorporated under the general laws of this State, whether under the aldermanic, commission, or council form of government, and which have functioned as incorporated cities, towns or villages since the date of their incorporation or attempted incorporation, are hereby in all respects validated, ratified and confirmed as of the date of such incorporation or attempted incorporation; and the incorporation of such cities, towns and villages shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in compliance with law.

Sec. 2. In each instance where a charter or amendment or amendments to a charter of a home rule city has been (a) submitted to a vote of the qualified voters of such city at an election, and (b) a majority of the voters participating in such election of such city have approved the charter or amendment or amendments, and (c) the home rule city has functioned under the home rule charter or home rule charter as amended, the charter or the amendment or amendments to the home rule charter shall not be held invalid by reason of the fact that the election proceedings or other proceedings required to adopt or amend home rule charters may not have been in accordance with law.

Sec. 3. In each instance where two or more incorporated cities (including home rule cities), towns or villages in this State have consolidated or attempted to consolidate under one government, and the question of consolidation has been approved by a majority of the electorate participating in the election in each of the cities sought to be consolidated, the consolidation or attempted consolidation of such cities is hereby in all things ratified, validated, and confirmed, and the consolidation of such cities, towns or villages shall not be held invalid by reason of the fact that the election proceedings or other proceedings of consolidation may not have been in accordance with law.

Sec. 4. The boundary lines of all cities (including home rule cities), towns or villages, including the boundary lines covered by the original incorporation or consolidation and by any subsequent extension thereof, are hereby in all things validated.

Sec. 5. All governmental proceedings performed by the governing body of any city (including home rule cities), town or village, including, but not limited to, the adoption of the provisions relating to cities and towns, and all offices and officers thereof since their incorporation, consolidation, adoption of a charter, or amendment or amendments to a home rule charter, are hereby in all respects validated, ratified and confirmed as of the respective dates of such proceedings; provided, however, any provision to the contrary of this Act shall not apply to the Acts of any city, town or village in this State, hereinafter incorporated or attempted to be incorporated under the general laws of this State where such Acts come after the effective date of this Act.

Sec. 6. In any instance where an incorporated city, town or village has changed its name by an election in which the question of the change of the name of such city, town or village has been submitted to a vote of the qualified voters of such city, and the majority of the voters of such city voting in such election have approved such change of name, such change of name is hereby validated, ratified and confirmed as of the date of such election, without regard to the fact that the election proceedings or other proceedings involved in such change of name may not have been in compliance with law.

Sec. 7. The validation provisions of this Act shall not apply to litigation pending in any court of competent jurisdiction in this State on the effective date of this Act which litigation questions the legality of any of the matters which would otherwise be validated by the provisions hereof, if such litigation ultimately results in holdings or holding that the matters questioned thereby are invalid. Acts 1957, 55th Leg., p. 136, ch. 58.

Emergency. Effective April 10, 1957.

Art. 974d—7. Validation of orders of county judges declaring incorporation of certain cities, towns or villages; boundaries; elections and proceedings; exceptions

Section 1. In each instance where an election has been held for the purpose of incorporating a city, town or village, and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings, or such territory contained a greater area than was permitted by law, and where, thereafter, the County Judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such city, town or village, incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof, as he finds such boundaries to exist at the time of entering such order, and finding and declaring the names of the officials of any such city, such order by the County Judge is hereby in all things validated, ratified and approved, and such city, town or village shall be known by the name specified in such order.

Sec. 2. Any city, town or village declared to be incorporated by an order as mentioned in Section 1 of this Act is hereby validated and declared to be a duly incorporated city with the boundaries as defined in such order, and the act of the governing body thereof in accepting the provisions of Title 28, Revised Civil Statutes, as amended, relating to cities and towns is hereby validated and the officials named in such order are hereby declared to have been the mayor, aldermen and city secretary of such city at the time of the entry of said order, and all elections held for the election of city officials are hereby validated and ratified.

Sec. 3. Any election held heretofore but after the entry of such order by the County Judge resulting favorably to the issuance of bonds of such city, town or village is hereby validated and shall constitute sufficient authority for the governing body to proceed with the issuance of the bonds thus voted.

Sec. 4. This Act shall not apply to any municipality which is now involved in litigation in any District Court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization, incorporation or creation of such municipality is attacked; and this Act shall not apply to any municipality involved in formal proceedings now pending before such municipality's commission or council in which proceedings the organization or creation of such municipality is attacked. Provided further, that this Act shall not apply to any municipality which has heretofore been declared invalid by a court of competent jurisdiction of this state or which may have been established and which was later returned to its original status. Acts 1957, 55th Leg., p. 208, ch. 96.

Emergency. Effective April 24, 1957.

CHAPTER FOUR—THE CITY COUNCIL

Art.

1011i. Joint municipal planning in certain areas [New].

Art. 1011i. Joint municipal planning in certain areas

Grant of power to expend public funds

Section 1. Each city (including home rule charter cities), town, or village incorporated under the laws of this State, or by special act or charter, is hereby authorized, by ordinance duly passed, to expend public funds from the municipal treasury for compiling statistics, conducting studies and formulating plans relative to the future growth and development of such municipality or municipalities.

Municipalities subject to act

Sec. 2. Municipalities located or situated in whole or in part within an area wherein the sphere of zoning influence of each municipality is adjacent or contiguous to the other may contribute, and/or expend, public funds from the municipal treasury, to a joint planning commission for the joint planning of the growth and development of two (2) or more of such municipalities that are located or situated in whole or in part within the sphere of influence of such planning commission.

Joint planning commission

Sec. 3. Municipalities affected by this Act shall, if they adopt the provisions hereof, by the governing bodies of each of such municipalities, appoint an equal number of representatives, from each of the municipalities affected hereby, to a joint planning commission, and it shall be the duty of such joint planning commission to meet and determine the sphere of influence of such planning commission which they shall describe by metes and bounds in writing and cause the same to be placed upon a map and the same shall be recorded for record with the county clerk of the county within which such municipalities are located or situated.

Powers and duties of commission

Sec. 4. The duties, powers and authorities of such joint planning commission, so appointed by the governing body of such municipalities, shall be as follows, as authorized by ordinances duly passed within each of such municipalities, to wit:

(a). To employ engineers, clerks, secretaries, field personnel, and administrative personnel as are necessary to formulate, prepare, and design an organized master plan for the area as designated.

(b). To prepare, formulate, and design an organized master plan for the area which such members represent, including, but not limited to, highway design, street layout, park layout, schooling areas, residential areas, business areas, commercial areas, industrial areas, and water reservoir areas, for the orderly growth of the area, such plan must be approved by each of the municipalities within the area.

(c). To make aerial photographs, land surveys, and topography studies to facilitate such planning.

(d). To keep and maintain a complete record of all activities, meetings, expenditures, and plans.

(e). To submit regular reports of income, expenditures, accounts, and progress reports to each municipality represented.

(f). All records, minutes, books, accounts and meetings shall be open to the public for attendance and/or examination.

(g). To prepare and submit to each municipality represented an annual audit of all accounts, expenditures, funds and moneys coming into the hands of said joint planning commission.

(h). To make all reports, accounts, and records as may be required by each of the municipalities represented, by ordinance or resolution duly passed.

(i). To perform such duties and functions as may be required by each of the municipalities represented, by ordinance or resolution duly passed where the same is approved by a majority of the governing bodies of such municipalities so represented and where such is not inconsistent with the purposes of this Act.

Authority cumulative

Sec. 5. The authority granted and conferred in Sections 1 and 2 of this Act is cumulative of all other existing authority of municipalities to expend public funds from the municipal treasury for the purpose or purposes of municipal planning and this Act shall not be construed to limit such authority in any manner. Acts 1957, 55th Leg., p. 423, ch. 202.

Effective 90 days after May 23, 1957, date of adjournment.

Section 6 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act. Section 7 of the Act of 1957 provided that this Act

"shall become effective after the expiration of ninety (90) days" from final adjournment of the 55th legislature, 1957 Session. Section 8, is an emergency provision reciting that the Act shall take effect from and after its passage.

CHAPTER TEN—PUBLIC UTILITIES

1. CITY OWNED UTILITIES

2. ENCUMBERED CITY SYSTEM

- Art. 1109h. Eligible city authorized to issue revenue bonds; construction and equipment of water supply project [New].
1109l. Water supply and sewage transportation and disposal contracts of certain cities with Trinity River Authority [New].
1118n-8. Refunding bonds, issuance by certain cities operating under general law and owning water-

- Art. works, natural gas and sewer systems [New].
1118v. Refunding outstanding revenue bonds issued for certain utilities or combination of utilities [New].
1118w. Street transportation systems; power to own, construct, acquire, operate, etc.; revenue bonds [New].

1. CITY OWNED UTILITIES

Art. 1109h. Eligible city authorized to issue revenue bonds; construction and equipment of water supply project

Eligible city defined

Section 1. An "eligible" city under this Act is one having a population of more than 275,000 under the last preceding federal census, in which a majority of the resident qualified voters who shall have duly rendered their property for taxation, participating in an election, have voted to authorize such city to enter into a contract to acquire a water supply from a River Authority (hereinafter called an "Authority") created by the Legislature under Article XVI, Section 59 of the Constitution, and

which shall have obtained a permit from the State Board of Water Engineers to utilize the water from such source of supply.

Alternative financing procedure

Sec. 2. The right of an eligible city and of an Authority to proceed with the financing of the entire cost or the portion of such cost which is not to be provided by such city of the water supply project under law through the issuance by the Authority of its revenue bonds based on the voted contract with an eligible city is not affected by the passage of this Act. But as an alternative procedure an eligible city and an Authority may amend the voted contract so as to implement the provisions of this Act, including, but without limiting the extent of such amendments, provisions defining the extent of the city's rights in such water supply project, and the procedures under which the city will make available to the Authority the proceeds of revenue bonds issued under authority of this Act, as needed for payment of construction costs including such city's intake structures, pumping and filtration equipment, or such portion thereof as Authority is not required under such contract to provide through the issuance of its revenue bonds, and arrangements for auditing the funds and accounts to be used in the construction program. Such eligible city may proceed with the issuance and sale of its revenue bonds, payable from the revenues of its waterworks system or, if combined in such city, its waterworks and sanitary sewer system (hereinafter called the "city revenue bonds") and the use of the proceeds as provided in succeeding sections of this Act.

Ordinance authorizing bond issue; notice; petition; bond election

Sec. 3. Before passage of an ordinance authorizing the issuance of bonds under this Act, the governing body of such city shall give notice of the time when such ordinance is to be passed. Such notice shall be published in a newspaper of general circulation in such city, in at least two issues thereof, the date of the first publication to be not less than fourteen (14) days prior to the date so fixed for passage of the ordinance. Unless prior to the scheduled time for passing the ordinance a petition is filed with the city secretary, signed by not less than 10% of the qualified voters of the city who have duly rendered their property for taxation, requesting that an election be held on the question of issuing such bonds, the governing body may proceed in the issuance thereof without an election. If such petition is duly filed, it shall be the duty of the governing body to proceed in the manner prescribed in Chapter I of Title 22 of the Revised Civil Statutes, with an election on the question, and such bonds shall not be issued unless a majority of the voters, voting at such election, vote favorably on the question. The governing body within its discretion may call an election for the issuance of the bonds without awaiting the filing of a petition requesting a referendum election.

Passage of bond issue ordinance; prerequisites; extent of project

Sec. 4. When the designs, plans and specifications for the water supply project of the Authority shall have been completed to the extent that they have been approved by the governing body of the Authority which will actually construct the water supply project and likewise by the governing body of such city, such eligible city may pass an appropriate ordinance or ordinances authorizing the issuance of its revenue bonds in an amount estimated to cover the entire cost to be incurred by the Authority in constructing the water supply project, or such portion thereof as

such city shall have contracted to provide, including city's intake structures, pumping and filtration equipment. The project may consist of a dam, reservoir, intake structures and related equipment and facilities, or any or all of such elements, including but without limiting the meaning of "cost," lands, easements, flowage rights and interest during construction. Within the discretion of such city the bonds may be authorized and sold at one time or in installments from time to time.

Bonds, requisites and provisions; additional bond issues; rates, tolls and charges; refunding bonds

Sec. 5. (a) Such eligible city may authorize such revenue bonds by ordinance. The bonds shall be signed by the Mayor and by another designated officer of the city and the seal of the city shall be impressed thereon; but within the discretion of the governing body evidenced in the ordinance, bonds may be issued bearing the facsimile signature of the Mayor and the seal of such city may be printed thereon, but the signature of the other designated officer in such cases must be manually affixed. Such bonds shall mature serially or otherwise within such period and at such times as may be prescribed in the ordinance but not exceeding a maximum of 40 years. The bonds may be sold at a price and under terms determined by the governing body of such city to be the most advantageous reasonably obtainable, provided that the interest cost to the city calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed 6% per annum. The bonds may be registrable as to principal only or as to both principal and interest. Appropriate provisions may be inserted in the ordinance authorizing the execution and delivery of bonds for the conversion of registered bonds into bearer of bonds and vice versa. Provision may be made in the bond ordinance for substitution of new bonds for those lost or mutilated.

(b) In the ordinance authorizing such revenue bonds, the right may be reserved under the conditions therein specified to issue additional revenue bonds which will be on a parity with or subordinate to the bonds when being issued.

(c) After such revenue bonds shall have been issued, it shall be the duty of the governing body of such city to fix and from time to time to revise the rates, tolls and charges for sales and services rendered by the city's waterworks system or waterworks and sanitary sewer system, as the case may be, to the end that such rates, tolls and charges will yield sufficient money to pay the expense of operating and maintaining such system or systems, the principal of and interest on said bonds as such principal and such interest mature, and to create and maintain the reserve funds and other funds as prescribed in the ordinance authorizing the bonds.

(d) From the proceeds of the sale of any such issue of bonds such city may set aside an amount for the payment of interest anticipated to accrue during the construction period, and for not more than two additional years, and to provide for deposits into the reserve and other funds to the extent and in the manner prescribed in the ordinance authorizing such bonds. The proceeds from the sale of such bonds shall be deposited by such city in a fund which will be utilized solely to pay the expense of issuing and selling said bonds and to pay the construction cost of said project or the portion thereof which city shall be obligated to provide under the contract with Authority, including cost of city's intake structures, pumping and filtration equipment, as such costs are payable by the Authority, and each expenditure shall be pre-audited by such city in

accordance with the terms of the contract by and between such city and Authority, under which such project is being constructed by such Authority.

(e) Pending the issuance of definitive bonds, such city may authorize the delivery of negotiable interim bonds, eligible to be exchanged for definitive bonds.

(f) Such city is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds and interest thereon, authorized by this Act. The governing body, in its discretion, may inject additional security for the refunding issue. Refunding bonds shall be registrable by the Comptroller of Public Accounts upon surrender and cancellation of the bonds to be refunded, but in lieu of such procedure the ordinance authorizing the issuance of the refunding bonds may provide that they shall be sold and the proceeds thereof deposited in the bank, or in one (1) or more of the banks where the original bonds are payable. In the latter case, the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their maturity date or to the date on which the bonds are to be redeemed, and the amount of the call premium, if any, as to bonds called for redemption prior to maturity, and in such event the Comptroller shall register the refunding bonds without the concurrent surrender and cancellation of the original bonds. No election shall be necessary in connection with the authorization and issuance of refunding bonds.

(g) No such bonds shall be issued by such city until they shall have been approved by the Attorney General of the State of Texas. After the bonds shall have been approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, they shall as well as such bonds as shall be issued by Authority be negotiable instruments and shall be incontestable, provided that when the bonds of an issue shall have been thus approved and registered, the bonds thereafter delivered by such city in lieu thereof, pursuant to subsection (a) of this Section, in connection with the exchange of registered for unregistered bonds, or unregistered bonds for registered bonds, or in lieu of lost or mutilated bonds, need not be reapproved by the Attorney General or re-registered by the Comptroller of Public Accounts. Nevertheless, such bonds shall likewise be incontestable, and except for the limitations resulting from registration shall be negotiable.

(h) Proceeds from the sale of any such issue of bonds may be invested during the period of construction or prior to their use for construction purposes, in bonds or other direct obligations of the United States government, and such securities may be sold pursuant to the directions of the governing body of the city when needed for construction purposes.

Bonds as legal investments; security for deposits of public funds

Sec. 6. All such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

Precedence over conflicting provisions

Sec. 7. The provisions of this Act shall take precedence over conflicting and inconsistent provisions of other statutes and special and home rule charters.

Severability provision

Sec. 8. The provisions of this Act are severable. If any provisions of this Act or the application thereof to any person or circumstances shall be held to be invalid or unconstitutional, the remainder of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby. Acts 1957, 55th Leg., p. 73, ch. 35.

Emergency. Effective March 29, 1957.

Art. 1109i. Water supply and sewage transportation and disposal contracts of certain cities with Trinity River Authority**Eligible city**

Section 1. Each City or town which is situated wholly or partly within the boundaries of Trinity River Authority of Texas, created by Chapter 518,¹ Acts of the Regular Session of the Fifty-fourth Legislature, and any amendments thereto (hereinafter called the "Authority"), is an "Eligible City" within the meaning of this Act.

¹ Article 8280—188.

Contracts authorized; revenues received, disposition, etc.

Sec. 2. An Eligible City, pursuant to an ordinance passed by its governing body, is hereby authorized to make a contract with the Authority under which the Authority will make available to and provide for the Eligible City, sewage transportation and disposal (including treatment) services or any or all of such services, and when prescribed therein, provision for stand-by service. Such contract may be upon such terms and for such period of time as the parties may agree, and may provide that it will remain in effect until the bonds issued by the Authority as mentioned therein and refunding bonds issued in lieu thereof, are paid. Such City shall have the right to the continued performance of such services after the amortization of the Authority's investment in such facilities during the useful life thereof, upon payment of charges reduced to take into consideration such amortization.

The revenues received by the Authority from the participating Eligible Cities shall be used only (1) for payment of principal of and interest on, and to provide reserves created for, the bonds to be issued by Authority to finance such transportation, disposal (including treatment) facilities, and (2) to pay the operation and maintenance expenses (including within the meaning of the term, legal, administrative and management supervision fees and expenses) in connection therewith; provided that such part of any surplus accumulated for the benefit of a participating Eligible City, as may be prescribed in contract between such City and the Authority, may be expended by the Authority for enlargements and betterments of Authority's facilities which are used to serve, especially, such City.

In consideration of payments made by an Eligible City under such contract, and the services performed by the Authority the Authority shall become the owner of sewage accepted by it for transportation and treatment and shall be solely responsible for the proper treatment and disposal of such sewage and the effluent, and no participating Eligible City shall

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

be entitled to any rights in, nor shall it be liable for any improper treatment or disposal of, such sewage or effluent.

No city shall be entitled to credit of any type either in the exchange of water, money or other consideration for any effluent delivered to the Authority, and no such exchange or sale can be made a condition to any contract hereunder.

Payments by city to authority; source; operating expense

Sec. 3. Payments by such City to the Authority shall be made from the City's waterworks system or its sanitary sewer system or of both systems or of its combined water and sanitary sewer system, as prescribed in the contract between such City and the Authority, and shall constitute an operating expense of the system or systems whose revenues are thus pledged. Unless the alternative procedure prescribed in Section 4 is followed, neither the Authority nor the holder of any bonds of the Authority shall have the right to demand payment of the City's obligation out of any funds raised or to be raised by taxation.

Elections; bond issues

Sec. 4. (a) If an election is held and carried substantially according to the procedure prescribed in Chapter 1, Title 22 of the Revised Civil Statutes, as amended, in reference to the issuance of bonds by Cities, determining that the governing body of the City is authorized to execute the proposed contract for sewage transportation and disposal (including treatment) or for any of such services, and to levy ad valorem taxes to pay such obligation to the Authority, whether or not the City's obligation is to be credited with application of certain revenues of such system or systems, the contract, in such an event, will constitute an obligation against the taxing power of such City, but may be payable both from taxes and such revenues, as may be prescribed in the contract.

(b) Only qualified electors of the City who own taxable property therein and who have duly rendered the same for taxation shall be entitled to vote at such election. Except as otherwise provided in this Section and in such Chapter 1, Title 22 of the Revised Civil Statutes as amended, the general election laws shall govern such election.

(c) If a majority of the votes cast at said election are in favor of the proposition the governing body shall pass an ordinance prescribing the form and substance of the contract, and directing the proper officers of the City to sign it.

Rates for services

Sec. 5. Whenever any such City shall have executed a contract with the Authority involving the performance of such duties by the Authority, if the payments thereunder are to be made either wholly or partly from the revenues of the City's waterworks system or sanitary sewer system or from both systems or a combination of both systems, the duty is hereby imposed on such City and it is hereby authorized to establish and maintain and from time to time to adjust the rates charged by the City for the services of such system or systems, to the end that the revenues therefrom will be sufficient at all times to pay: the expense of operating and maintaining such system in accordance with current standards and requirements for preventing stream pollution; the City's obligations to Authority under such contract; and all of such City's obligations under and in connection with revenue bonds theretofore issued, or which may be issued thereafter for such system or systems. Any such City may charge the users of the system or systems whose revenues are to be used in paying

the City's obligation under the contract rates sufficient to pay such obligation of the City. Any such contract may require the use of consulting engineers and financial experts to advise the City whether and when such service rates are to be adjusted.

Contract provisions

Sec. 6. Any such contract between the Authority and such City may provide for services to be rendered concurrently by the Authority to more than one (1) City through the construction and operation of a multiple City system or plant, the cost for such services to be allocated among the several Cities as determined in such contract or group of contracts. It is expressly provided and recognized that all of the compensation to be received by, and all of the security pledged to the Authority by each such City and all such Cities will be available to the Authority as security for the bonds it will issue to provide necessary construction funds. Any such contract, if to be used by the Authority, as security for Authority's bonds, issued to finance its plant and facilities, must be submitted by Authority to the Attorney General for examination, and when such bonds and contract have been approved by the Attorney General, such contract thereafter shall be incontestable.

Validation of contracts

Sec. 7. All contracts heretofore executed by and between Eligible Cities and the Authority, pursuant to ordinances passed respectively by the governing bodies thereof and pursuant to action of the Board of Directors of the Authority obligating the Authority to render service which includes transportation and disposal (including treatment) of sanitary sewage or any or all of such services, and obligating the City to pay for such services out of its waterworks system revenues or sanitary sewer system revenues or a combination of its water and sanitary sewer system revenues, are hereby validated. Any such contract for which a tax was levied, when an election has been held resulting favorably to the execution of such contract, including the obligation to make payments from ad valorem taxes, is hereby validated. Acts 1957, 55th Leg., p. 1288, ch. 430.

Emergency. Effective June 6, 1957.

Section 8 of the Act of 1957 was a severability provision.

2. ENCUMBERED CITY SYSTEM

Art. 1118n—8. Refunding bonds, issuance by certain cities operating under general law and owning waterworks, natural gas and sewer systems

Eligible city

Section 1. This Act shall be applicable to cities operating under general law, which own and operate waterworks, natural gas and sanitary sewer systems, and whose outstanding tax bond indebtedness, including accrued and unpaid interest thereon, exists in an aggregate amount of not less than twenty per cent (20%) of the assessed valuation of the property in such city according to the latest approved official tax rolls. Any such city for the purposes of this Act shall be an "eligible" city.

Refunding bonds authorized; powers of governing body; definition

Sec. 2. Any eligible city is authorized to issue refunding bonds for the purpose of taking up all or any part of its outstanding indebtedness, regardless of whether such indebtedness is in its original form or has been funded, or refunded, in whole or in part, such refunding bonds to bear interest at a rate or rates to be determined by the governing body of said city, not exceeding the average rate or rates of interest borne by the indebtedness to be refunded, and no election shall be required as a condition precedent to the issuance of the said refunding securities. The governing body of such eligible city, in addition to the levying of a tax to pay the principal and interest of said refunding bonds, is authorized to pledge to the payment of such principal and interest, a designated annual amount or a designated proportion of the net revenues from the operation of any one or more of the utility systems owned and operated by said city, which pledge shall remain in full force and effect so long as any part of the principal or interest of said refunding bonds is outstanding and unpaid. For the purposes of this Act the expression "net revenues" shall mean the gross revenues of such system or systems after the payment of the reasonable and necessary expenses of operation, maintenance, and collection of income and the payment of interest on and principal of any and all bonds theretofore issued, the payment of which is secured by a pledge of the revenues of any or all of said systems. When such city issues refunding bonds under the provisions of this law it shall be the duty of the city, after making said pledge of such utility revenues, to establish and maintain said utility systems and to fulfill the city's pledge of said utility revenues.

Amount of bond issue; procedure for issuance; registration

Sec. 3. The refunding bonds authorized in this Act may be issued in an amount not exceeding the combined amount of outstanding principal, matured interest coupons, and accrued interest on said original securities and shall mature at such time or times as the governing body may prescribe. The procedure for the issuance of said refunding bonds shall be that which is prescribed in the statutes for the issuance of refunding bonds to take up outstanding bonds.

Such refunding bonds shall be registered by the Comptroller of Public Accounts in exchange for and upon cancellation of such original indebtedness after they shall have been approved by the Attorney General, and when so registered shall have all of the elements of protections of bonds approved by the Attorney General of Texas under the provisions of Articles 709 to 715, both inclusive, of the Revised Civil Statutes of 1925.

Negotiability

Sec. 4. Refunding Bonds issued under this Act shall be fully negotiable coupon bonds payable to bearer, constituting general obligations of the issuing city, and the holders thereof shall succeed to all the privileges of the holders of the indebtedness constituting the basis of the refunding bonds except as modified and changed by the express terms of the proceedings employed in the refunding operation.

Act as cumulative; conflicting laws

Sec. 5. This law shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with, or are incon-

sistent with, the provisions of any other law, general or special, or with the provision of the charter of any such eligible city, the provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail. Acts 1957, 55th Leg., p. 1373, ch. 468.

Emergency. Effective June 10, 1957.

Art. 1118v. Refunding outstanding revenue bonds issued for certain utilities or combination of utilities

Section 1. Any incorporated city or town, including any home rule city, which now has or hereafter may have outstanding revenue bonds payable from and secured by a pledge of revenues from the operation of its electric light and power system, gas system, water system, sewer system, or any combination of two or more of such systems, and other outstanding revenue bonds payable from and secured by a pledge of revenues from the operation of another of any such system or systems, which bonds have been issued in the manner provided by Articles 1111 to 1118, Vernon's Texas Civil Statutes, as amended, or under any similar law, may issue refunding bonds to refund such outstanding bonds and pledge the revenues derived from the operation of all the systems whose revenues are pledged for the payment of the bonds to be refunded (regardless of the fact one or more issues of outstanding bonds to be refunded are payable from the revenues of one or more particular systems, and another issue or issues of such outstanding bonds to be refunded are payable from the revenues of a different system or systems); provided, however, that no bonds payable from and secured by a pledge of revenues of a particular system or systems shall be refunded under this Act unless all bonds then outstanding which are so payable from the revenues of that system or systems are so refunded. Refunding bonds issued under this Act shall bear interest at the same or lower rate than borne by the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

Sec. 2. The provisions of this Act shall be cumulative of other laws. Acts 1957, 55th Leg., p. 479, ch. 229.

Emergency. Effective May 16, 1957.

Section 3 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 1118w. Street transportation systems; power to own, construct, acquire, operate, etc.; revenue bonds

Power to own, hold, purchase, construct, operate, etc.

Section 1. Any city or town, including any Home Rule City operating under Title 28, Revised Civil Statutes of the State of Texas of 1925, as amended (hereinafter referred to as "city" or "such city") shall have power to own, hold, purchase, construct, improve, extend and operate street transportation systems for the carrying of passengers for hire within such city, its suburbs and adjacent areas.

Revenue bonds or notes; power to issue, etc.

Sec. 2. Any such city shall have full power to issue bonds and notes from time to time and in such amounts as it shall consider necessary or appropriate for the acquisition, purchase, construction, improvement or extension of such street transportation systems. All such bonds and notes shall be fully negotiable and may be made redeemable before maturity, at

the option of the issuing city, at such price or prices and under such terms and conditions as may be fixed by the issuing city in the ordinance authorizing such bonds or notes. Such bonds and notes shall be sold for such price as the governing body of the city shall consider to be for the best interest of such city, provided that no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at a rate of more than six per cent (6%) per annum, computed with relation to the absolute maturity of the bonds or notes in accordance with standard tables of bond values, excluding however, from such computations the amount of any premium to be paid on redemption of any bonds or notes prior to maturity. Subject to the restrictions contained in this Act each such governing board is given complete discretion in fixing the form, conditions and details of such bonds and notes.

Approval of obligations by Attorney General; incontestability

Sec. 3. Prior to delivery thereof, all bonds and notes authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination and if he finds that they have been issued in accordance with the Constitution and this Act, and that they will be binding special obligations of the city issuing same, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration they shall be incontestable.

Notice of bond issue ordinance; petition for election

Sec. 4. Before passage of an ordinance authorizing the issuance of bonds or notes under this Act, the governing body of such city shall give notice of the time when such ordinance is to be passed. Such notice shall be published in a newspaper of general circulation in such city, in at least two (2) issues thereof, the date of the first publication to be not less than fourteen (14) days prior to the date so fixed for passage of the ordinance. Unless prior to the scheduled time for passing the ordinance a petition is filed with the City Secretary, signed by not less than ten per cent (10%) of the qualified voters of the city who have duly rendered their property for taxation, requesting that an election be held on the question of issuing such bonds or notes, the governing body may proceed in the issuance thereof without an election. If such petition is duly filed, it shall be the duty of the governing body to proceed in the manner prescribed in Chapter I of Title 22 of the Revised Civil Statutes of Texas of 1925, with an election on the question, and such bonds or notes shall not be issued unless a majority of the voters, voting at such election, vote favorably on the question. The governing body within its discretion may call an election for the issuance of the bonds or notes without awaiting the filing of a petition requesting a referendum election.

Power to encumber; additional security

Sec. 5. In order to secure the payment of such bonds or notes such cities shall have full power and authority to encumber all or any part of such street transportation systems, the properties thereof, the revenues therefrom, the franchise thereof, and everything pertaining thereto acquired or to be acquired, including but not limited to properties, both real and personal, including motor buses or other vehicles, machinery and other equipment of any nature used in the operation thereof. As additional security for the payment of any such bonds or notes, any such

city may, by the terms of the instrument evidencing such encumbrance, grant to the purchaser under the power of sale in such instrument, a franchise to operate any such transportation system, and the properties thereof so purchased, for a term of not over twenty-five (25) years after purchase, subject to all laws regulating same then in force. No such obligation of any such system shall ever be a debt of such city, but solely a charge upon the properties, including the pledged revenues, of the system so encumbered and shall never be reckoned in determining the power of any such city to issue any bonds or notes for any purpose authorized by law. But no such city shall be prohibited from making payment of such bonds or notes out of any other funds which may be lawfully used for the purpose. Any such city shall have full power and authority to encumber separately any item of real estate or personalty, including motor buses or other vehicles, machinery or other equipment of any nature, or to acquire, use, hold, contract for any such property under any lease arrangement, chattel mortgage or conditional sale, including but not limited to transactions commonly known as equipment trust transactions. Nothing herein shall be construed as prohibiting any such city from encumbering any one or more transportation systems for the purpose of purchasing, building, constructing, mortgaging, enlarging, extending, repairing, or reconstructing another one or more of said systems and purchasing necessary property, both real and personal in connection therewith.

**Additional bond issues; extension or improvement of system;
lien of bonds**

Sec. 6. Any city issuing bonds or notes payable from and secured by a pledge of revenue from the operation of a street transportation system and while all or part of such bonds remain outstanding, shall have the power, from time to time, and on one or more occasions to issue bonds or notes for the purpose of extending or improving, or both, any such transportation system, or to acquire another or other such transportation system or systems, and such bonds or notes shall constitute a lien upon the revenues, in the order of their issuance, inferior to the liens securing the payment of any or all issues and series of bonds or notes previously issued; provided, however, the foregoing provisions shall not be construed to prevent the passage of an ordinance or execution and issuance of any deed of trust, trust indenture, or similar instrument, providing therein for the subsequent issuance of additional bonds or notes on a parity with or of equal dignity with the previously issued revenue bonds or notes, and where any such ordinance, deed of trust, trust indenture or similar instrument may so provide, any such city shall have the power to authorize, issue, and sell additional bonds or notes, from time to time and in different series, payable from the revenues of such transportation system, and the revenues to be derived from such added sources, on a parity with bonds or notes previously issued and secured by liens on such transportation system, on a parity with and of equal dignity with the lien securing bonds or notes previously issued, subject to such conditions as may be contained in the ordinance, deed of trust or trust indenture providing for or securing such issue of original bonds or notes.

Refunding bonds or notes

Sec. 7. Refunding bonds or notes may be issued for the purpose of refunding the bonds or notes of a single series or issue or two (2) or more issues or series of bonds or notes and such refunding bonds or notes shall enjoy the same priority of lien on the revenues pledged to their pay-

ment as pledged to the bonds or notes refunded, provided that when two (2) or more series or issues of bonds or notes are refunded in a single issue of refunding bonds or notes the lien of all such refunding bonds or notes shall be equal if all of the outstanding bonds or notes of the several series or issues of bonds or notes to be refunded are thus refunded. No refunding bonds or notes shall attain any degree or priority of lien greater than that enjoyed by the series or issues then to be refunded having the highest priority of lien. Such refunding bonds or notes shall bear interest at the same or lower rate than borne by the bonds or notes refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid and that the annual principal and interest burden will not be increased so as to infringe upon or impair the rights of the holders of any bonds or notes, if any, enjoying a prior or inferior lien. Any such bonds or notes may be so refunded by the issuance of refunding bonds or notes, either to be exchanged for the bonds or notes being refunded and cancelled, or to be sold, with the proceeds thereof to be used for the redemption and cancellation of the bonds or notes being refunded. Such city may provide in any refunding bond or note issue such money as may be needed for paying any call premium and for payment of interest to the date fixed for calling for redemption the outstanding bonds or notes.

Operating expenses as first lien on income; priorities of liens; rates

Sec. 8. Whenever the revenues of any street transportation system shall be encumbered under this law, the expense of operation 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 revenues. Provided, that only such extensions, as in the judgment of the governing body of such city, are necessary to keep the system in operation and render adequate service to such city and the inhabitants thereof, or such as might be necessary to meet some condition which would otherwise impair the original securities shall be a charge prior to any existing lien. The fares charged for transportation of passengers by any transportation system may be based on a zone system of determining fares or other fare classification determined by such city to be reasonable. There shall be charged and collected for such service a sufficient rate to pay all operating, maintenance, depreciation, replacement charges (and to provide for extensions to the extent permitted and limited hereby) and to provide and maintain in the manner and at the times prescribed in such ordinances, deeds of trust and indentures, money sufficient for debt service and reserves for the security and orderly payment of such bonds or notes. Except as may be otherwise permitted under the ordinance authorizing or the deed of trust or indenture securing the bonds or notes, no part of the revenues of any such system shall ever be used to pay any other debt, expense, or obligation of such city, except that any such city may receive payments from any such system in lieu of ad valorem taxes previously paid by the owners of an acquired system until the indebtedness so secured shall have been finally paid.

Obligations as legal investments

Sec. 9. All such bonds and notes shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and

any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

Records and accounts; annual reports; penalties

Sec. 10. It shall be the duty of the mayor of such city to install and maintain, or cause to be installed and maintained, a complete system of records and accounts showing the revenues collected and showing separately the amount either expended or set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, extensions, and for debt service as to such bonds or notes. It shall likewise be the duty of the superintendent or manager of such system to file with the mayor of such city, not later than February 1st, a detailed report of the operations for the year ending January 1st preceding, showing the total sums of money collected and the balance due, as well as the total disbursements made and the amounts remaining unpaid as the result of operation of such system during such calendar year. Failure or refusal on the part of the mayor to install and maintain, or cause to be installed and maintained, such system or records and accounts within ninety (90) days after the completion of such system, or on the part of such superintendent or manager, to file or cause to be filed such report, shall constitute a misdemeanor and, on conviction thereof, such mayor or superintendent or manager shall be subject to a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000); and any taxpayer or holder of such indebtedness residing within such city shall have the right, by appropriate civil action in the District Court of the County in which such city is located, to enforce the provisions of this Act.

Management pending encumbrance; lease of system

Sec. 11. During the time any such system is encumbered either as to its revenues or as to both its physical properties and revenues, the management and control of such system may by the terms of the instrument evidencing such encumbrance, be placed with the governing body of such city, or may be placed with a board of trustees to be named in such instrument, consisting of not more than five (5) members, one (1) of whom shall be the mayor of such city. The compensation of such trustees shall be fixed by such instrument, but shall never exceed two per cent (2%) of the gross receipts of such system in any one (1) year. The terms of office of such board of trustees, their powers and duties, the manner of exercising same, the election of their successors, and all matters pertaining to their organization and duties may be specified in such instrument. In all matters where such instrument is silent, the laws and rules controlling the governing body, of such city shall govern said board of trustees so far as applicable. The governing body of any such city or any board of trustees in whose management and control any such system may be placed, with the approval of the governing body of such city, evidenced by adoption of a resolution, in lieu of operating any such system, shall have power and authority to enter into any lease or other contractual arrangement for the operation of same by any privately owned and operated corporation in consideration of such rentals either guaranteed or contingent, based on revenues or gross profits or net profits, or any other basis of compensation, which may be determined to be reasonable by such govern-

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

ing body or such board as the case may be; providing however, that any such lease or contractual arrangement between such city and private corporation, shall be preceded by a public notice and request for the submission of bids in the manner required by law for the taking of bids for public construction contracts, and said city shall accept the best bid submitted, taking into consideration the rental to be paid, the experience and financial responsibility of the corporations submitting such bids. Acts 1957, 55th Leg., p. 1471, ch. 505.

Effective 90 days after May 23, 1957, date of adjournment.

Section 12 of the Act of 1957 provided that partial invalidity should not affect the

remaining portions of the Act. Section 13 repealed all conflicting laws and parts of laws.

CHAPTER THIRTEEN—HOME RULE

Art.

1182c—2. Validation of annexations by cities and towns of less than 100,000 population of territories of water control and improvement districts, etc.; exception [New].

Art.

1182c—3. Cities which have annexed territory within water control and improvement or supply districts [New].

1182c—4. Bonds, issuance by cities over 500,000, in lieu of unissued bonds of annexed water district [New].

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

Application

Section 1. This Act shall apply to all incorporated cities and towns, including Home Rule Cities, and those operating under general laws or special charters (hereinafter called "city" or "cities"), which have heretofore annexed, or hereafter may annex, all or any part of the territory within one (1) or more water control and improvement districts or fresh water supply districts, which districts were organized for the primary purpose of providing such municipal functions as the supply of fresh water for domestic or commercial uses, or the furnishing of sanitary sewer service, any or all. Such cities shall succeed to the powers, duties, assets, and obligations of such district or districts in the manner and to the extent hereinafter provided. Nothing herein shall prohibit any city from continuing to operate utility facilities within such districts in which such facilities are owned and are operated by such city at the effective date of annexation. This Act shall not apply in the case of any such district, the territory of which is now situated in more than one (1) incorporated city.

Taking over assets and liabilities; contracts

Sec. 2. In case all the territory within any such district is so annexed, such city shall take over all properties and assets, shall assume all debts, liabilities and obligations and shall perform all functions and services of such district, and after such annexation such district shall be abolished at the time and in the manner as provided in the sentence immediately following. The governing body of such city shall, by ordinance, designate the date upon which the city shall take over, shall assume all debts, and such district shall be abolished, and said date shall be in no event later than ninety (90) days after the effective date of such annexation; provided, that if the city fails to adopt such ordinance, the city shall

automatically take over and assume such debts and the district shall be abolished ninety (90) days after the effective date of such annexation.

In case less than all of the territory within any such district is so annexed, the governing authorities of such city and district shall be authorized to enter into contracts in regard to the division and allocation of duplicate and overlapping powers, functions and duties between such agencies, and in regard to the use, management, control, purchase, conveyance, assumption and disposition of the properties, assets, debts, liabilities and obligations of such district. Any such district is expressly authorized to enter into agreements with such city for the operation of the district's utility systems and other properties by such city, and may provide for the transfer, conveyance or sale of such systems and properties of whatever kind and wherever situated (including properties outside the city) to such city upon such terms and conditions as may be mutually agreed upon by and between the governing bodies of such district and city. Such operating contracts may extend for such period of time not exceeding thirty (30) years as may be stipulated therein and shall be subject to amendment, renewal or termination by mutual consent of such governing bodies. No such contract shall contain any provision impairing the obligation of any existing contract of such city or district.

In the absence of such contract, such district shall be authorized to continue to exercise all the powers and functions which it was empowered to exercise and perform prior to such annexation, and the city shall not duplicate services rendered by the district within the district's boundaries without the district's consent, but may perform therein all other municipal functions in which the district is not engaged.

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 functions 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 percent (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 elec-

tion, 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.

Taxes to pay bonds; refunding bonds or warrants

Sec. 3. 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 its refunding bonds or warrants to refund any bonds, warrants or other obligations, including unpaid earned interest thereon, so assumed by it. Such refunding bonds or warrants 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 or warrants and no right of referendum thereon shall be available. Such refunding bonds shall bear interest at the same or lower rate than that borne by the obligations refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

Outstanding obligations

Sec. 4. When all of the territory within such a district has been annexed as hereinabove provided and in cases where such district has outstanding bonds, warrants or other obligations payable from the net revenues from the operation of any utility system or properties, such city shall nevertheless take over and operate such system or properties and shall apply the net revenues from the operation thereof to the payment of such outstanding district revenue bonds, warrants or other funded obligations in all respects as though the district had not been abolished. If such city does not itself have outstanding revenue bonds, warrants or other obligations payable from, and secured by a pledge of, the net revenues of its own utility system or properties of like kind, such city may, at its option, combine such utility system or properties acquired from such district with

its own similar utility system or properties and in such case the net revenues of the combined system or properties shall automatically be pledged to the payment of principal of, and interest on, any such assumed bonds, warrants or other obligations so secured.

If such city does have outstanding bonds, warrants or other funded obligations payable from, and secured by a pledge of, the net revenues of the city's said utility system or properties of like kind, then, until the refunding hereinafter authorized has been accomplished, the city shall continue to operate former properties of the district separate and apart from any similar properties of the city and shall not commingle in any way the revenues of such several systems. Such city shall faithfully perform all duties, functions and obligations imposed by law or by contract upon the governing body of such district in regard to the outstanding bonds, warrants or other obligations payable from the revenues of such former district's utility system or properties and shall likewise, separate and apart, perform all duties, functions and obligations imposed upon such city in connection with its own revenue bonds, warrants or other obligations; provided that overhead expenses may be allocated between any two (2) or more such systems or properties in direct proportion of the gross income of each.

Revenue refunding bonds

Sec. 5. Any such city shall have authority to issue revenue refunding bonds in its own name for the purpose of refunding outstanding district revenue bonds, warrants or other obligations (including unpaid accrued interest thereon) assumed by such city and shall also have authority to combine any number of different issues of both district and city revenue bonds, warrants or other obligations into one series of revenue refunding bonds and pledge the net revenues of such utility systems or properties to the payment of such refunding bonds as the governing body shall deem proper. The provision of Articles 1111 to 1118, Vernon's Texas Civil Statutes, as amended, shall apply to such revenue refunding bonds except as otherwise provided herein and provided that no election for the issuance of such bonds shall be necessary. Such refunding bonds shall bear interest at the same or lower rate than that borne by the obligations refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

Newly incorporated cities or towns

Sec. 6. When any city or town is newly incorporated over all or any part of the territory within a water control and improvement district or a fresh water supply district, the governing body may adopt an ordinance making the provisions of this Act applicable to such city or town and, upon the adoption of such an ordinance by a vote of not less than two-thirds ($\frac{2}{3}$) of the entire membership of such governing body, the provisions of this Act shall thereafter be applicable to such city or town and to such districts situated in whole or in part therein.

Partial invalidity

Sec. 7. If any clause, phrase, sentence, paragraph, section or provision of this Act or the application thereof to any particular person or thing, is held to be invalid, such invalidity shall not affect the remainder of this Act or the application thereof to any other person or thing. As

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

amended Acts 1953, 53rd Leg., p. 588, ch. 230, § 1; Acts 1957, 55th Leg., p. 348, ch. 161, § 1.

Emergency. Effective May 6, 1957.

Sections 3 and 4 of the Act of 1957 provided:

"Sec. 3. Chapter 134, Acts of the Fifty-second Legislature of Texas, Regular Session, 1951 [art. 7880—147z1], is hereby in all things repealed; provided that such repeal shall not affect vested rights heretofore acquired or vested under said Chapter 134. All laws, general or special, in conflict or

inconsistent with the provisions of this Act are hereby, to the extent of such conflict or inconsistency, expressly repealed.

"Sec. 4. If any provision of this Act or the application thereof to any person or circumstances shall be held to be invalid or unconstitutional, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby."

Art. 1182c—2. Validation of annexations by cities and towns of less than 100,000 population of territories of water control and improvement districts, etc.; exception

All annexations by cities and towns of less than one hundred thousand (100,000) inhabitants, including Home Rule Cities, and those operating under general laws or special charters, heretofore made of territory or territories of water control and improvement districts or fresh water supply districts and the actions of such cities and towns in taking over all the properties and assets of such districts, in assuming the debts and liabilities and obligations of such districts, and in abolishing such districts are hereby in all things validated, ratified, and confirmed, and all bonds heretofore issued by such cities and towns to refund bonds, warrants or other obligations of such district or districts are hereby in all things validated, ratified, and confirmed; provided, that this Section shall have no application to pending litigation questioning the validity of any of the matters hereby validated if such litigation is ultimately determined against the validity of the same. Acts 1957, 55th Leg., p. 348, ch. 161, § 2.

Art. 1182c—3. Cities which have annexed territory within water control and improvement or supply districts

Application of act; powers and duties of cities

Section 1. This Act shall apply to all incorporated cities and towns, including Home Rule Cities, and those operating under general laws or special charters (hereinafter called "city" or "cities"), which contain within their city limits any part of the territory within one or more water control and improvement districts or fresh water supply districts, which districts were organized for the primary purpose of providing such municipal functions as the supply of fresh water for domestic or commercial uses, or the furnishing of sanitary sewer service, any or all, when the balance of the territory comprising such district or districts lies in any other city or cities so that the entire district lies wholly within two or more cities. Such cities shall succeed to the powers, duties, assets and obligations of such district or districts in the manner and to the extent hereinafter provided. Nothing herein shall prohibit any city from continuing to operate utility facilities within such districts in which such facilities are owned and are operated by such city at the effective date of annexation.

Abolition of district

Sec. 2. Such district may be abolished by mutual agreement between the district and the cities wherein such district lies. Such agreement shall provide for the distribution among such cities of all the properties

and assets of the district and for the pro rata assumption by such cities of all the debts, liabilities and obligations of the district. Such agreement shall further provide for a division of duties between the respective cities relative to continued performance of the functions and services of the district, and shall state a date when the abolition of the district shall be effective. Provided however, that such agreement need be adopted by ordinance passed by the respective cities wherein such district lies, which ordinance need be finally adopted prior to the effective date for abolition of the district as set out in such agreement. Such district or districts upon notice of intention given by the governing bodies of the cities wherein such district lies that such cities intend to enter into an agreement dissolving the district, shall upon request provide such cities with any and all information available to the district necessary for the preparation of such agreement.

Obligations of district; assumption by city

Sec. 3. 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.

Payment of district obligations by city

Sec. 4. When such district is abolished and has outstanding bonds, warrants or other obligations payable from net revenues from the operation of the district utility system or properties, the cities abolishing such district as hereinabove provided shall apply the net revenues attributable to that portion of the district properties taken over by it to the payment of such outstanding district revenues, bonds, warrants or other funds and obligations assumed by it. Such properties as are taken over from district may be converted into and made a part of the cities own utility system. Such cities shall faithfully perform all duties, functions and obligations imposed by law or by contract upon the governing body of such district in regard to the outstanding bonds, warrants or other obligations assumed by them payable from the revenues of the former district's utility system or properties.

Refunding bonds, issuance by city

Sec. 5. Such cities 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. Such cities shall have authority to issue revenue refunding bonds or general obligation bonds in its own name for the purpose of refunding outstanding district revenue bonds, warrants or other obligations (including unpaid accrued interest thereon) assumed by such city and shall also have authority to combine any number of different issues of both district and city revenue bonds, warrants or other obligations into one series of revenue refunding bonds or general obligations bonds and pledge the net revenues of such utility systems or properties to the payment of such refunding bonds as the governing body shall deem proper. The provisions of Articles

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

1111 to 1118, Vernon's Texas Civil Statutes, as amended, shall apply to such revenue refunding bonds except as otherwise provided herein and provided that no election for the issuance of such bonds or general obligation bonds shall be necessary.

Interest rate on refunding bonds

Sec. 6. Any refunding bonds issued under authority hereof shall bear interest at the same or lower rate than that borne by the obligations refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Acts 1957, 55th Leg., p. 863, ch. 380.

Emergency. Effective May 31, 1957.

Section 7 of the Act of 1957 was a severability provision.

Art. 1182c—4. Bonds; issuance by cities over 500,000, in lieu of unissued bonds of annexed water district

Section 1. This Act shall apply to all cities having a population of more than five hundred thousand (500,000) according to the then last preceding official United States census which have heretofore annexed or hereafter may annex one or more water control and improvement districts or fresh-water supply districts and have abolished or may abolish such districts as provided in Article 1182c-1, Vernon's Texas Civil Statutes (Chapter 128, Acts of the Fiftieth Legislature of Texas, Regular Session, 1947), as same has been, or may hereafter be, amended. In the event any such district had, prior to such abolition, voted bonds for the purpose of providing waterworks, sanitary sewer or drainage facilities, any or all, which bonds were not issued, sold and delivered prior to such abolition, the governing body of such city shall be authorized to issue and sell bonds of said city in an amount not exceeding the amount of such voted but unissued district bonds, for the purpose of carrying out the purpose or purposes for which said district bonds were voted. Such bonds shall be authorized by ordinance adopted by the governing body of said city in which provision shall be made for the levy of taxes upon all taxable property within said city for the payment of principal and interest thereon when due. Said bonds shall be sold for not less than par and accrued interest, shall mature, bear interest, be subject to approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts as provided by law for other general obligation bonds of such city, and when so approved, registered, and sold, shall be incontestable.

Sec. 2. All laws, general and special, and city charter provisions in conflict herewith are, to the extent of such conflict, hereby repealed but nothing herein shall affect the right of such cities to issue bonds for other purposes. All ordinances, acts and proceedings of the governing bodies of any such cities for the annexation of territory which includes any such water district or districts are hereby in all things validated, ratified and confirmed; provided, however, that nothing in this Act shall affect any pending litigation or the legal rights of parties involved in any litigation pending upon the effective date of this Act. Acts 1957, 55th Leg., p. 1428, ch. 495.

Emergency. Effective June 11, 1957.

Section 3 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

CHAPTER FOURTEEN—CITIES ON NAVIGABLE STREAMS

Art. 1187c. Municipal fish markets; bonds secured by pledge of properties

Refunding bonds; leases; sale of facilities

Sec. 7. Any city of the class described in Section 1 above, having outstanding municipal fish market revenue bonds may, by ordinance adopted by the governing body thereof, issue refunding bonds for the purpose of refunding all or any part of such outstanding bonds. Such refunding bonds shall be issued and the payment thereof secured in the same manner provided for the issuance of such original bonds, except that no election, notice or right of referendum shall be required. The governing body of such city shall be authorized to enter into lease contracts with persons, firms or corporations for the use of all or any part of the facilities of such municipal fish market and properties appurtenant thereto for such period of time not exceeding twenty (20) years and upon such terms and conditions as such governing body shall deem proper; and the governing body of such city shall be authorized to enter into sales contracts with persons, firms or corporations conveying all or any part of the facilities of such municipal fish market and properties appurtenant thereto under such terms and conditions as such governing body shall deem proper; provided that authority to enter into such lease or sales contracts shall be subject to the prior covenants and agreements relating to any outstanding revenue bonds issued for the purpose of acquiring such municipal fish market. As amended Acts 1957, 55th Leg., p. 379, ch. 182, § 1.

Emergency. Effective May 6, 1957.

Section 2 of the amendatory Act of 1957 was a severability clause.

CHAPTER 15—CONSOLIDATION OF CITIES

Art.

1191a. Qualified electors [New].

Art. 1188. Authority

When two (2) or more incorporated towns or cities in this State adjoining and contiguous to each other in the same county shall be desirous of being consolidated, it shall be lawful for them to do so by calling and holding an election for such purpose so as to consolidate under one government and take the name of the largest city, unless provided otherwise at the time of such consolidation, in the manner and subject to the provisions of Chapter 15, Title 28, Revised Civil Statutes of 1925. As amended Acts 1957, 55th Leg., p. 380, ch. 183, § 1.

Emergency. Effective May 6, 1957.

Art. 1191. "Consolidation"

The term "consolidation," as used in this Chapter, means the adoption by the smaller city or cities of the charter and ordinances and name of the larger of said cities, and the inclusion within the larger city of all of the territory of the smaller city or cities so consolidated with it, and the area of the smaller city or cities shall become subject to all the laws and regulations of the larger city. As amended Acts 1957, 55th Leg., p. 380, ch. 183, § 2.

Emergency. Effective May 6, 1957.

Art. 1191a. Qualified electors

All those Electors qualified to vote for city officers shall be eligible to vote in the elections herein provided. Acts 1957, 55th Leg., p. 380, ch. 183, § 3.

CHAPTER TWENTY—MISCELLANEOUS PROVISIONS

Art.

1269j—7. Validating interest-bearing time warrants and scrip; refunding bonds; proceedings; exception [New].

Art. 1269j—5. Airport revenue bonds; cities with population over 70,000

Section 1. All cities having a population of more than seventy thousand (70,000) according to the last preceding federal census, may issue revenue bonds for enlarging, or extending, or repairing, or improving its airport, or for any two (2) or more such uses. Included within the meaning of improvements without limiting the generality of the term, is the construction or enlargement of hangars and related buildings for use by tenants or concessionaires of the airport, including persons, firms or corporations rendering repair or other services to air carriers. Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of such city. Such revenue bonds shall be secured by a pledge of all, or such part of, the revenues from the operation of the city's airport as may be prescribed in such ordinance. To the extent that the revenues of the airport may have been pledged to the payment of revenue bonds which are still outstanding, the pledge securing the proposed revenue bonds shall be inferior to the previous pledge or pledges. Within the discretion of the governing body of the city and subject to limitations contained in previous pledges, if any, in addition to the pledge of revenues, a lien may be given on all or any part of the physical properties comprising such airport. Included within the authority to pledge revenues and without limiting the generality of such authority is the right to pledge all or any part of the lease consideration to be received by the city for any such hangars or buildings, and within the discretion of the governing body of the city the sole security for such bonds may be the revenues to be received from leasing any one or more of such hangars and buildings, together with or without a lien upon such hangars or buildings and the land on which they are to be situated. As amended Acts 1957, 55th Leg., p. 465, ch. 225, § 1.

Emergency. Effective May 16, 1957.

Art. 1269j—7. Validating interest-bearing time warrants and scrip; refunding bonds; proceedings; exception

Section 1. In every instance since the approval by the Governor of Texas, of Chapter 362, Acts of the Fifty-fourth Legislature, Regular Session, 1955,¹ where the governing body of any city in this State has entered into contracts or agreements, or has incurred and recognized or approved claims for the construction of public works or improvements, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders authorizing the issuance of scrip or interest-bearing time warrants to pay for or to evidence the indebtedness incurred by such city for the cost of such public works or improvements, and such materials, supplies,

equipment, labor, supervision or professional or personal services, all such contracts or agreements and claims, and assignments of such claims and such scrip and interest-bearing time warrants, and the proceedings adopted by such governing body relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip and interest-bearing time warrants heretofore issued by the governing body of any city in this State in payment for or to evidence the indebtedness incurred for work done by such city and paid for by the day as the work progressed, and for materials, supplies, equipment, labor, supervision or professional or personal services purchased or secured in connection with such work, 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 scrip or interest-bearing time warrants issued by the governing body of a city in this State unless such city has received full value and consideration for the issuance of such scrip or interest-bearing time warrants as may be evidenced by certificate of the Mayor and City Secretary. It is expressly further 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 city the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, orders, resolutions, and other instruments heretofore adopted or executed by any governing body of a city in this State authorizing the issuance of bonds for the purpose of refunding time warrants issued by any such city and all refunding bonds heretofore issued for such purpose are hereby in all things validated, ratified, approved and confirmed. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, orders, resolutions or other instruments, or bonds executed, adopted, or issued by any city the validity of which is involved in litigation at the time this Act becomes effective. Acts 1957, 55th Leg., p. 793, ch. 328.

¹ Article 2368a—4.

Emergency. Effective May 31, 1957.

CHAPTER TWENTY-ONE—HOUSING

| Art. | Art. |
|--|-----------------------------------|
| 12697—2. State Department of Health; planning and assistance for municipalities of 25,000 or less; acceptance of federal grants for housing [New]. | 12697—3. Urban Renewal Law [New]. |

Art. 12697—2. State Department of Health; planning and assistance for municipalities of 25,000 or less; acceptance of federal grants for housing

Section 1. The State Department of Health is hereby authorized, upon the request of the governing body of any municipality having a population of twenty-five thousand (25,000) or less in this State: (a) to arrange planning assistance, (including surveys, urban renewal plans, technical services and other planning work) and to arrange for the making of a study or report upon any planning problem of such municipality, submitted to the State Department of Health, providing however that the employees of the State Department of Health shall not themselves make such surveys, studies, or reports; (b) to agree with such governing body as to the amount, if any, to be paid to the State Department of Health for such

service; and (c) to apply for and accept grants from the Federal Government or other sources in connection with any such assistance, study, or report, and to contract, with respect thereto. The regular functions of the Texas State Department of Health may be utilized on this program, provided that any additional employees shall be paid from sources other than General Revenue Funds of the State. Acts 1957, 55th Leg., p. 235, ch. 112.

Effective 90 days after May 23, 1957, date of adjournment.

for municipalities of twenty-five thousand (25,000) population or less, and to accept grants therefor under the provisions of the Federal Housing Act of 1954 or from other sources; and declaring an emergency. Acts 1957, 55th Leg., p. 235, ch. 112.

Title of Act:

An Act authorizing the State Department of Health to arrange planning assistance

Art. 1269—3. Urban Renewal Law

Short Title

Section 1. This Act shall be known and may be cited as the "Urban Renewal Law."

Findings and Declarations of Necessity

Sec. 2. It is hereby found and declared that there exist in cities of the State slum and blighted areas (as herein defined) which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of the State; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment and for the treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection and other public services and facilities, and that the existence of such areas constitutes an economic and social liability, substantially impairs or arrests the sound growth of such cities and retards the provision of housing accommodations; that the prevention and elimination of slum and blighted areas is a matter of State policy and State concern in order that the State and its cities shall not continue to be endangered by areas which are focal centers of disease, constitute pernicious environments for the young, and while contributing little to the tax income of the State and its cities, consume an excessive proportion of its revenues because of the extra services required for police, fire and other forms of protection; that by such prevention and elimination property values, freed from the depressing influence of blight, will be stabilized, and tax burdens will be distributed more equitably, and the financial and capital resources of the State, required for the prosperity of, and provision of necessary governmental services to, its people, will be strengthened; that this menace can best be remedied by conjunctive action of private enterprise, of the cities through the regulatory process and the exercise of other powers provided hereunder, and of other public bodies, acting pursuant to approved urban renewal plans; that the carrying out of plans for a program of voluntary or compulsory repair and rehabilitation of buildings and improvements in such areas, the public acquisition of real property and demolition or removal of buildings and improvements where necessary to eliminate slum conditions or conditions of blight or to prevent the development, spread or recurrence of such conditions in such areas, the disposition of any property acquired in such areas incidental to the foregoing, and any assistance which may be given by any public body in connection therewith, are public uses and

purposes for which public money may be expended and the power of eminent domain exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.

It is further found and declared that slum and blighted areas, if permitted to continue without the governmental aids herein provided, will produce the conditions and evils hereinabove enumerated; that a slum area or a badly deteriorated area may require clearance therefrom of the buildings and improvements thereon, as provided in this Act, since the prevailing condition of decay may make impracticable the reclamation of the area by rehabilitation; that a less deteriorated area, a deteriorating area, or an area blighted for other reasons may, through the means provided in this Act, be susceptible of rehabilitation in such manner that the conditions and evils hereinabove enumerated may be remedied or prevented; and that it is the intent of this Act that to the greatest extent feasible, and compatible with sound and enduring urban renewal objectives—to wit, eliminating slums and urban blight, preventing the spread or recurrence thereof, and remedying the physical causes thereof in terms of blighted properties—private enterprise shall, in the administration of this Act, be encouraged to carry out such objectives to the extent of its capacity to do so with the assistance of the aids herein provided.

Not Available for Public Housing

Sec. 3. No real property acquired under the provisions of this Act shall be sold, leased, granted, conveyed or otherwise made available for any public housing.

Definitions

Sec. 4. The following terms wherever used or referred to in this Act, shall have the following meanings, unless a different meaning is clearly indicated by the context.

(a) "Agency" or "Urban Renewal Agency" shall mean a public agency created by Section 16 of this Act.

(b) "City" shall mean any incorporated city, town or village in the State of Texas.

(c) "Public body" shall mean the State of Texas or any political subdivision thereof, or any department, agency or instrumentality of any such public body.

(d) "City Council" shall mean the city council or other legislative body charged with governing the city.

(e) "Mayor" shall mean the mayor or other chief executive officer of a city.

(f) "Clerk" shall mean the clerk or other official of the city who is the custodian of the official records of such city.

(g) "Federal Government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(h) "Slum Area" shall mean an area within a city in which there is a predominance of either residential or nonresidential buildings or improvements which are in a state of dilapidation, deterioration, or obsolescence due to their age, or for other reasons; or an area in which inadequate provisions have been made for open spaces and which is thus conducive to high population densities and overcrowding of population; or an area in which conditions exist, due to any of the hereinabove named causes, or any combination thereof, which endanger life or property by fire or by other causes, or which is conducive to the ill-health of the in-

habitants of the area or to the transmission of disease, and to the incidence of abnormally high rates of infant mortality, or which is conducive to abnormally high rates of crime and juvenile delinquency, and is thus an area which is detrimental to the public health, safety, morals or welfare of the city.

(i) "Blighted Area" shall mean an area (other than a slum area) which, by reason of the presence therein of slum or deteriorated or deteriorating residential or nonresidential buildings, structures, or improvements, or by reason of the predominance therein of defective or inadequate streets or defective or inadequate street layout or accessibility, or by reason of the existence therein of insanitary, unhealthful or other hazardous conditions which endanger the public health, safety, morals or welfare of the inhabitants thereof and of the city, or by reason of the predominance therein of the deterioration of site or other improvements, or by reason of the existence therein of conditions which endanger life, or property by fire or from other causes, or by reason of the existence therein of any combination of the hereinabove stated causes, factors, or conditions, results in a condition in that area which substantially retards or arrests the provisions of a sound and healthful housing environment, or which thereby results in and constitutes an economic or social liability to the city, and is thus a menace, in its present condition and use, to the public health, safety, morals or public welfare of the city, provided, that any disaster area referred to in Section 7(h) of this Act shall constitute a blighted area.

(j) "Urban Renewal Project" may include undertakings or activities of a city (as herein defined) in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment (as herein defined) in an urban renewal area, or rehabilitation or conservation (as herein defined) in an urban renewal area, or any combination or part thereof in accordance with the urban renewal plan therefor.

(k) "Urban Renewal Activities" shall, wherever used in this Act, include "slum clearance and redevelopment" or "rehabilitation or conservation" which shall be limited to clearance or rehabilitation measures or any combination thereof which might be required to prevent further deterioration of an area which is tending to become either a blighted or a slum area and shall specifically include: (1) acquisition of (i) a slum area or a blighted area or portion thereof or (ii) land which is predominately open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements or otherwise, substantially impairs or arrests the sound growth of the community; (2) demolition and removal of buildings and improvements; (3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out in the urban renewal area the urban renewal objectives of this Act in accordance with the urban renewal plan; (4) disposition of any property acquired in the urban renewal area including sale, initial leasing or retention by the city at its fair value for uses in accordance with the urban renewal plan; (5) carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan; and (6) acquisition of any real property in the urban renewal area where necessary to remove or prevent the spread of blight or deterioration or to provide land for needed public facilities.

(l) "Urban renewal area" shall mean a slum area or a blighted area or a combination thereof, which the city council designates as appropriate for an urban renewal project.

(m) "Urban Renewal Plan" shall mean a plan for an urban renewal project, which plan (1) shall conform to the general plan of the city as a whole, except as provided in Section 7(h) of this Act and (2) shall be sufficiently complete to indicate zoning and planning changes, if any; building requirements; land uses; maximum densities; such land acquisition, redevelopment, rehabilitation, and demolition and removal of structures as may be proposed for the urban renewal area; and the plan's relationship to local objectives respecting public transportation, traffic conditions, public utilities, recreational and community facilities, and other improvements.

(n) "Real Property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.

(o) "Bonds" shall mean any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures or other obligations.

(p) "Obligee" shall include any bondholder, agents or trustees for any bondholders, or lessor demising to the city property used in connection with an urban renewal project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the city.

(q) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(r) "Area of Operation" shall mean the area within the corporate limits of a city.

(s) "Board" or "Commission" shall mean a board, commission, department, division, office, body or other unit of the city through which the city elects, pursuant to Section 15 hereof, to perform powers, functions or duties under this Act.

(t) "Conservation" shall mean the preserving, protecting and keeping of an area which is susceptible to blight from succumbing to blight.

(u) "Deteriorated" shall mean the impairment as to quality, character, value or safety due to use, wear and tear or other physical causes.

(v) "Planning Commission" shall mean a planning commission established pursuant to law or charter.

(w) "Rehabilitate" shall mean to restore to a former state of solvency, efficiency or the like. "Rehabilitation" shall mean the restoration of buildings or structures in order to prevent deterioration of an area which is tending to become either a blighted or slum area.

Finding of Necessity by City Council

Sec. 5. No city shall exercise any of the powers conferred upon cities by this Act until after the City Council shall have adopted a resolution, after giving notice and ordering an election on the question of whether the City Council shall adopt such resolution, finding that: (1) one or more slum or blighted areas exist in such city; and (2) the rehabilitation, conservation, or slum clearance and redevelopment, or a combination thereof, of such area or areas is necessary in the interest of public health, safety, morals or welfare of the residents of such city. Such notice shall be published at least twice in the newspaper officially designated by the City Council and shall state that on a date certain, which

date shall be stated in the notice and shall be not less than sixty (60) days after the publication of the first of such notices, the City Council will consider the question of whether or not it will order an election to determine if it should adopt such a resolution. On the date specified in the notice to consider such question the City Council may, on its own motion, call an election to determine whether it shall adopt such a resolution and shall, in any event, call such election if there has been presented to it during such period a petition that such election be held, signed by at least five per cent (5%) of the legally qualified voters residing in such city and owning taxable property within the boundaries thereof, duly rendered for taxation. If it be determined to call such an election, at least thirty (30) day's notice thereof shall be given. Notwithstanding any other provisions of this Act, no powers granted by this Act shall be exercised by any city until an election shall have been held as herein provided with a majority of the votes cast at such election being cast in favor of the exercise of such powers by such city. Only qualified voters residing in said city, owning taxable property within the boundaries thereof, who have duly rendered the same for taxation, shall be entitled to vote at such election. If a majority of those voting at such election shall vote in favor of the adoption of such resolution, the City Council shall then be authorized to adopt it. If a majority of those voting at such election shall vote against the adoption of such resolution, the City Council shall not adopt it and such resolution shall not again be proposed within the period of one (1) year.

Workable Program

Sec. 6. A city, in furtherance of the urban renewal objectives of this Act, may formulate a workable program for utilizing appropriate private and public resources (including those specified in Section 8 hereof) to encourage needed urban rehabilitation, to provide for the redevelopment of slum and blighted areas, or to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objective of such a workable program. Such workable program should include specifically, without limitation, provision for the prevention of the spread of blight into areas of the city which are free from blight, through diligent enforcement of housing and occupancy controls and standards; the rehabilitation or conservation of slum and blighted areas, in so far as it shall be practicable to convert them into areas free from blight, by replanning, removing congestion, providing parks, playgrounds and other public improvements, encouraging voluntary rehabilitation, and compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of slum areas.

Preparation and Approval of Urban Renewal Plan

Sec. 7. (a) A city shall not prepare an urban renewal plan for an urban renewal area unless the City Council has, by resolution, determined such an area to be a slum area or a blighted area or a combination thereof, and designated such area as appropriate for an urban renewal project. The City Council shall not approve an urban renewal plan until a general plan for the city has been prepared. A city shall not acquire real property for an urban renewal project unless the City Council has approved the urban renewal plan in accordance with subsection (d) hereof.

(b) Any person or agency, public or private, may submit an urban renewal plan to the city. Prior to its approval of such an urban renewal plan, the City Council shall submit such proposed plan to the urban renewal agency and the planning commission of the city, if any, for review

and recommendations as to its conformity with the general plan for the development of the city as a whole. The agency and planning commission shall submit their written recommendations with respect to the proposed urban renewal plan to the City Council within thirty (30) days after receipt of the plan for review. Upon receipt of such recommendations or, if no recommendations are received within said thirty (30) days, then without such recommendations, the City Council may proceed with the hearing on the proposed urban renewal plan prescribed by subsection (c) hereof.

(c) The City Council shall hold a public hearing on the proposed urban renewal plan before it may approve the urban renewal plan, after notice of hearing has been given by publication three (3) times in a newspaper having a general circulation in the city, the first of which notices shall be published at least thirty (30) days prior to the hearing. Such notice shall describe the time, date, place and purpose of the hearing, shall generally identify the urban renewal area and shall outline the general scope of the urban renewal project under consideration.

(d) Following such hearing, the City Council may approve an urban renewal plan if it finds that (1) a feasible method exists for the location of families or individuals who will be displaced from the urban renewal area in decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families or individuals; (2) the urban renewal plan conforms to the general plan of the city as a whole; and (3) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise.

(e) An urban renewal plan may be modified at any time; provided, that if modified after the lease or sale by the city of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest, may be entitled to assert. If any proposed modification of the urban renewal plan adopted for an area should affect the street layout, land use, public utilities, zoning, if any, open space and density, then such modification shall not be made until it has been submitted to the planning commission and a report rendered to the City Council as outlined in subsection (b) hereof.

(f) Upon the approval of an urban renewal plan by the city, the provisions of said plan with respect to the future use and building requirements applicable to the property covered by said plan shall be controlling with respect thereto.

(g) In any urban renewal area or project, if there exists a building or buildings in good state of repair and so located that the building or buildings can be incorporated into the renewal project pattern or plan adopted for that area, such building or buildings shall not be acquired without the consent of the owner or owners; provided further that if any owner of property in such area agrees to use such property in a manner not inconsistent with the purposes of the urban renewal plan and the improvements on such property do not constitute a fire or health hazard, then such property shall not be subject to the powers of eminent domain. Any property owner shall have the right to contest before the City Council such powers of eminent domain as respects his individual ownership and shall have the right of appeal to the District Court with a trial de novo.

(h) Notwithstanding any other provisions of this Act, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the Governor of the State has certi-

fied the need for disaster assistance under Public Law 875, Eighty-first Congress, or other Federal law, the local governing body may approve an urban renewal plan and an urban renewal project with respect to such area without regard to the provisions of subsection (d) of this Section and the provisions of this Act requiring a general plan for the municipality and a public hearing on the urban renewal project.

Encouragement of Private Enterprise

Sec. 8. A city, to the greatest extent it determines to be feasible in carrying out the provisions of this Act, shall afford maximum opportunity, consistent with the sound needs of the city as a whole, to the rehabilitation or redevelopment of the urban renewal area by private enterprise. A city shall give consideration to this objective in exercising its powers under this Act, including the formulation of a workable program, the approval of urban renewal plans (consistent with the general plan of the municipality), the exercise of its zoning powers, and enforcement of other laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the provision of necessary public improvements.

Powers

Sec. 9. A city shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

(a) To conduct preliminary surveys to determine if the undertakings and carrying out of urban renewal projects is feasible.

(b) To undertake and carry out urban renewal projects within its area of operation.

(c) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this Act.

(d) To provide or arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with an urban renewal project; to install, construct and reconstruct streets, utilities, parks, playgrounds, and other public improvements necessary for carrying out urban renewal projects.

(e) To acquire by purchase, lease, option, gift, grant, or bequest, devise, eminent domain or otherwise, any real property (or personal property for its administrative purposes) together with any improvements thereon, necessary or incidental to an urban renewal project; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the city against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purpose of this Act.

(f) To invest any urban renewal project funds held in reserves or sinking funds or any such funds not required for immediate disbursements, in property or securities in which banks may legally invest funds subject to their control; to redeem such bonds as have been issued pursuant to Section 15 of this Act at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be cancelled.

(g) To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the Federal Government, the State, County or other public body or from any

sources, public or private, for the purposes of this Act, and to give such security as may be required and to enter into and carry out contracts in connection therewith. A city may include in any contract for financial assistance with the Federal Government for an urban renewal project such provisions and conditions imposed pursuant to Federal Law as the city may deem reasonable and appropriate and which are not inconsistent with the purposes of this Act.

(h) Within its area of operation, to make or have made all plans necessary to the carrying out of the purposes of this Act and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify and amend such plans. The city is authorized to develop, test and report methods and techniques and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight, and to apply for, accept and utilize grants of funds from the Federal Government for such purposes.

(i) To prepare plans and provide reasonable assistance for the relocation of persons (including families, business concerns, and others) displaced from an urban renewal project area to the extent essential for acquiring possession of and clearing such area or parts thereof to permit the carrying out of the urban renewal project.

(j) To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this Act, and to levy taxes and assessments for such purposes; to close, vacate, plan or replan streets, roads, sidewalks, ways or other places; to plan or replan, zone or rezone any part of the city and to make exceptions from building regulations; and to enter into agreements with an urban renewal agency vested with urban renewal powers under Section 15 of this Act (which agreements may extend over any period, notwithstanding any provision or rule or law to the contrary), restricting action to be taken by such city pursuant to any of the powers granted by this Act; provided, however, that no taxes or assessments shall be levied under authority or for the purposes of this Act unless and until such levy shall first have been submitted to a vote of the property-owning taxpayers of said city, and said proposition shall have received a majority of the votes cast as being "for" such levy.

(k) Within its area of operation to organize, coordinate and direct the administration of the provisions of this Act as they apply to such city in order that the objective of remedying slum and blighted areas and preventing the causes thereof within such city may be most effectively promoted and achieved, and to establish such new office or offices of the city or to reorganize existing offices in order to carry out such purpose most effectively.

(l) To exercise all or any part or combination of powers herein granted.

Eminent Domain

Sec. 10. A city shall have the right to acquire by condemnation any interest in any real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project under this Act; provided, however, that if any such urban renewal project shall include a "slum clearance and redevelopment section," as that term is hereinafter defined, which section a city shall propose to clear for redevelopment and re-use other than for a public use, a city may not acquire by condemnation any such "slum clearance and redevelopment section" or portion thereof, unless it shall appear, and the City Council shall have found and determined, by resolution duly adopted, that the rehabilitation of such section without clearance would be impractical, infeasible

and ineffective, based upon its finding that at least fifty per cent (50%) of the structures in such section are dilapidated beyond the point of feasible rehabilitation, or are otherwise unfit for rehabilitation, and that there exist other blighting characteristics, such as overcrowding of structures on the land, mixed uses of structures, narrow, crooked, inconvenient, congested, unsafe or otherwise deficient streets, or deficiencies in public utilities or recreational and community facilities. A city may exercise the power of eminent domain in the manner provided in Articles 3264 to 3271, both inclusive, Revised Civil Statutes of Texas, 1925, and acts amendatory thereof or supplementary thereto. Property already devoted to a public use may be acquired in like manner; provided, that no real property belonging to the State, or any political subdivision thereof, may be acquired without its consent. The term "slum clearance and redevelopment section," as that term is used in this Section, shall be construed as meaning, and shall mean, any substantial contiguous part or portion of an urban renewal area which a city shall propose to acquire and clear of all buildings, structures and other improvements thereon for redevelopment and re-use in accordance with the urban renewal plan.

Relocation of transmission lines, etc.

Sec. 10a. In the event any city or urban renewal agency or other public body, in exercising any of the powers conferred by this Act, makes necessary the relocation, raising, re-routing or changing the grade of or altering the construction of any railroad, electric transmission line, telephone or telegraph property or facility, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction, shall be accomplished at the expense of the city, urban renewal agency or other public body making the same necessary.

Disposal of Property in Urban Renewal Area

Sec. 11. (a) A city may sell, lease, or otherwise transfer real property or any interest therein acquired by it, and may enter into contracts with respect thereto, in an urban renewal area for residential, recreational, commercial, industrial or other uses or for public use, or may retain such property or interest for public use, in accordance with the urban renewal plan, subject to such covenants, conditions, and restrictions, including covenants running with the land, as it may deem to be in the public interest or necessary to carry out the purposes of this Act, all of which shall be written into the instrument transferring or conveying titles; provided, that such sale, lease, other transfer, or retention or any agreement relating thereto may be made only after approval of the urban renewal plan by the City Council. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with conditions enumerated in the deed of conveyance, including the obligation to begin within a reasonable time any improvements on such real property required by the urban renewal plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than the fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, a city shall take into account and give consideration to the uses provided in such plan; the restrictions upon, and the covenants, conditions, and obligations assumed by the purchaser or lessee or by the city retaining the property; the objectives of such plan for the prevention of the recurrence of slums or blighted areas; and such other matters as the city shall specify as being appropriate. The

city or renewal agency in an instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee may sell any or all of the unimproved property without profit to the seller. The purchaser, after improving a parcel or parcels of land in accordance with the plan of development adopted for the area, may sell the same before he completes the development of the area or tract of land he purchased; provided, however, that such sale of parcel or parcels of improved land will not relieve him from the obligation of completing the development of the area of land that he had purchased. The purchaser likewise may sell a parcel or parcels of land that he has purchased for redevelopment to another person who will be obligated to improve the parcel or parcels purchased by him in accordance with the plan of development for that project; provided, however, that such resale of any unimproved parcel of land will be without profit to the seller and provided that any subsequent purchaser will be obligated to improve the property as provided by the urban renewal plan and the conditions set forth in the deed of conveyance. Real property acquired by a city which, in accordance with the provisions of the urban renewal plan, is to be sold to private developers shall be sold as rapidly as feasible in the public interest consistent with the carrying out of the provisions of this urban renewal plan. Any instrument executed by a city or urban renewal agency and purporting to convey any right, title or interest in any property under this Act shall be presumed to be executed in compliance with the provisions of this Act in so far as title or other interest of any bona fide lessees or transferees or purchasers, of such property is concerned.

(b) All sales of real property in an urban renewal area to private persons shall be sold upon competitive sealed bids after advertising in the official publication or newspaper of general circulation, said advertisement to be published once at least fifteen (15) days before such sale, inviting bids for purchase of real estate in the urban renewal area in whole or parcels as the city may determine. Prior to the advertising for bids for the sale of any real estate the city shall adopt as part of the specifications in the general plan of improvement the conditions that will be binding upon the purchaser, his heirs, assigns or successors in title as the case may be. The city or renewal agency shall have the right to accept the highest and best responsible bid and the purchase price must be paid in cash. If the city or agency shall be of the opinion that the bids are not satisfactory in adequacy of price, or bid, they may reject all and readvertise; provided, however, that the agency will not make a sale of any property unless the price and conditions are approved by the governing body of the city. It is the declared policy of this Act that any real estate acquired in connection with an urban renewal and rehabilitation project shall be sold by the city or urban renewal agency within a reasonable length of time for purposes applicable to each project, save and except that land the city will retain for the use of the general public for municipal purposes. Land to be resold shall be resold within a reasonable time, taking into account the general economic condition at that time.

(c) Any real estate except real property not fit for human habitation or real property declared sub-standard by any governmental agency, acquired in an urban renewal area may be temporarily leased by the city, provided that any such temporary lease shall provide for the right of cancellation so that the city may sell or dispose of the property for the purposes intended by this Act.

(d) Any real property acquired under the terms of this Act which is not, within a reasonable length of time, devoted to a purpose or pur-

poses applicable to the urban renewal project for which it was acquired, may, after notice, be repurchased by the former owner as a matter of right, at the price for which it was acquired from him, less any actual damages sustained by him by virtue of such taking of his land, unless the land be devoted to such purpose or purposes within sixty (60) days after such former owner shall have given the record owner and the city notice in writing of his intention to exercise his right of repurchase; provided, that after such repurchase by such former owner, any building or buildings placed or allowed to remain on such property shall be made to conform to the pattern and intent of the urban renewal project if and when it be carried out.

(e) Any purchaser, lessee, or subsequent purchaser or lessee referred to above as private developers of any portion of the lands acquired under this Act is expressly authorized to give said lands as security for loans for the purpose of financing the development of the property. Such purchasers and lessees are expressly authorized to execute and deliver to any lenders, notes, deeds of trust with powers of sale, mortgages and any other instruments which may be required in connection with obtaining and securing the repayment of such loans, it being the intention of this section that purchasers, and lessees of such lands have all the rights, titles and incidents of ownership therein which are enjoyed by purchasers and lessees of lands generally, and that as such purchasers and lessees they be entitled to mortgage and encumber said lands either for purchase price or for improvements in accordance with the objectives of this Act as any other purchaser or lessee of land in Texas might be entitled to do, and that any subsequent owner or lessee of said land who might acquire title by virtue of a foreclosure of any lien given to secure such indebtedness or by conveyance or assignment in satisfaction of debt shall become the owner or lessee of said land subject only to the restrictive covenants with respect to the use and improvement of said land which might be set forth in the original conveyance from the municipality, and subject in no manner to any condition precedent or condition subsequent which might result in reverter or forfeiture of title and without restraint as to the amount for which said property may thereafter be resold or leased.

Property Exempt from Taxes and from Levy and Sale by Virtue of an Execution

Sec. 12. (a) All property of a city, including funds, owned or held by it for the purposes of this Act shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against a city be a charge or lien upon such property; provided, however, that the provisions of this Section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this Act by a city on its rents, fees, grants or revenues from urban renewal projects.

(b) Where real estate property in the project area is acquired and is owned as a part of the project by the city or the urban renewal agency and such project is not subject to ad valorem taxes by reason of its ownership due to the provisions of Section 12(a) hereof there may be, as a part of gross project cost, reasonable payments in lieu of taxes.

Co-operation of Public Bodies

Sec. 13. (a) For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project located within the

area in which it is authorized to act, any public body may, if it determines that such project will benefit and be of advantage to the public body or its residents, upon such terms, with or without consideration, as it may determine: (1) dedicate, sell, convey or lease any of its interest in any project or grant easements, licenses, or other rights or privileges therein to a city; (2) incur the entire expense of any public improvements made by such public body in exercising the powers granted in this Section; (3) do any and all things necessary to aid or co-operate in the planning or carrying out of an urban renewal plan; (4) lend, grant or contribute funds to a city; (5) enter into agreements which may extend over any period notwithstanding any provision or rule of law to the contrary with a city or other public body respecting action to be taken by such public body pursuant to any of the powers granted by this Act, including the furnishing of funds or other assistance in connection with an urban renewal project; and (6) cause public buildings and public facilities, including parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake to be furnished; furnish, dedicate, pave, install, grade, regrade, plan or replan streets, roads, sidewalks, ways or other places; plan or replan, zone or rezone any part of the public body or make exceptions from building regulations; and cause administrative and other services to be furnished to the city. If at any time title to or possession of any urban renewal project is held by the Federal Government, the provisions of the agreement referred to shall inure to the benefit of and may be enforced by the Federal Government. As used in this subsection, the term "city" shall also include an urban renewal agency vested with all of the urban renewal project powers pursuant to the provisions of Section 15.

(b) Any sale, conveyance, lease or agreement provided for in this Section may be made by and between public bodies without appraisal, public notice, advertisement or public bidding.

(c) For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project of an urban renewal agency hereunder, a city (in addition to its other powers and upon such terms, with or without consideration, as it may determine) may do and perform any or all of the actions or things which, by the provisions of subsection (a) of this Section, a public body is authorized to do or perform, including the furnishing of financial and other assistance.

(d) For the purpose of this Section or for the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project of a city, such city may in addition to any authority to issue bonds pursuant to Section 15 hereof, issue and sell its general obligation bonds. Any bonds issued by a city pursuant to this Section shall be issued in the manner and within the limitations prescribed by the laws of this State for the issuance and authorization of bonds by such city for public purposes generally.

Title of Purchaser

Sec. 14. Any instrument executed by a city or by an urban renewal agency and purporting to convey any right, title or interest in any property under this Act shall be conclusively presumed to have been executed in compliance with the provisions of this Act in so far as title or other interest of any bona fide purchasers, lessees or transferees of such property is concerned.

Exercise of Powers in Carrying Out Urban Renewal Project

Sec. 15. (a) A city itself may exercise its urban renewal project powers (as herein defined) or may, if the City Council by resolution determines such action to be in the public interest, elect to have such powers exercised by an urban renewal agency created by Section 16 hereof. In the event the City Council makes such determination, the urban renewal agency shall be vested with all of the urban renewal project powers in the same manner as though all such powers were conferred on such agency instead of the city. If the City Council does not elect to make such determination, the city in its discretion may exercise its urban renewal project powers through a board or commission or through such officers of the city as the City Council may by resolution determine.

(b) As used in this Section, the term "urban renewal project powers" shall include the rights, powers, functions and duties of a city under this Act, except the following: the power to determine an area to be a slum or blighted area or combination thereof and to designate such area as appropriate for an urban renewal project; the power to approve and amend urban renewal plans and to hold any public hearings required with respect thereto; the power to establish a general plan for the locality as a whole; the power to establish a workable program under Section 6; the power to make the determinations and findings provided for in Section 5, Section 7(d) and Section 8; the power to issue general obligation bonds; and the power to appropriate funds, to levy taxes and assessments, and to exercise other powers provided for in Section 9(j).

(c) In the event the city elects to create an urban renewal agency under the terms of this Act, no renewal or rehabilitation project shall be undertaken by the agency unless the area proposed to be a renewal or rehabilitation area and the plan of improvement of the project area is approved by the governing body of such city.

(d) An urban renewal agency created by Section 16 hereof, shall, in addition to all other powers which may be vested in it, have power to issue bonds from time to time in its discretion to finance the undertaking of any urban renewal project under this Act, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the urban renewal agency derived from or held in connection with its undertaking and carrying out of urban renewal projects under this Act; provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the Federal Government or other source, in aid of any urban renewal projects of the urban renewal agency under this Act, and by a mortgage of any such urban renewal projects, or any part thereof, title to which is in the urban renewal agency. Bonds issued under this Section of this Act shall not constitute an indebtedness of the State of Texas or any county or political subdivision of such state other than the issuing urban renewal agency, and shall not be subject to the provisions of any other law relating to the authorization, issuance or sale of bonds. Bonds issued under this Section of this Act are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all taxes. Bonds issued under this Section shall be authorized by resolution or ordinance of the governing body of the urban renewal

agency and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rates or rate, not exceeding six per centum (6%) per annum, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto. Such bonds may be sold at not less than par at public sales held after notice published prior to such sale in a newspaper having a general circulation in the area of operation and in such other medium of publication as the urban renewal agency may determine or may be exchanged for other bonds on the basis of par; provided, that such bonds may be sold to the Federal Government at private sale at not less than par, and, in the event less than all of the authorized principal amount of such bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the urban renewal agency of not to exceed the interest cost to the urban renewal agency of the portion of the bonds sold to the Federal Government. In case any of the officials of the urban renewal agency whose signatures appear on any bonds or coupons issued under this Act shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any bond issued under this Act or the security therefor, any such bond reciting in substance that it has been issued by the urban renewal agency in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purposes and such project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of this Act.

(e) All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by an urban renewal agency pursuant to this Act; provided that such bonds and other obligations shall be secured by an agreement between the issuer and the Federal Government in which the issuer agrees to borrow from the Federal Government and the Federal Government agrees to lend to the issuer, prior to the maturity of such bonds or other obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of interest on such bonds or other obligations) will suffice to pay the principal of such bonds or other obligations with interest to maturity thereon, which moneys under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such bonds or other obligations at their maturity. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this Section to authorize any persons,

political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this Section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

Urban Renewal Agency

Sec. 16. (a) There is hereby created in each city a public body corporate and politic to be known as the "urban renewal agency" of the city; provided, that such agency shall not transact any business or exercise its powers hereunder until or unless the City Council has made the findings prescribed in Section 5 and has elected to have the urban renewal project powers exercised by an urban renewal agency as provided in Section 15, and has submitted such proposition to a vote of the people of said city, and received a favorable vote thereon, as provided in Section 5 of this Act.

(b) If an urban renewal agency is created by the city under this Act to exercise the powers of this Act, the mayor, by and with the advice and consent of the City Council, shall appoint a board of commissioners of the urban renewal agency which shall consist of not less than five (5) members nor more than nine (9) members who shall serve for two (2) years. The commissioners shall designate one of their number to serve as Chairman and one as Vice-chairman, for terms of one (1) year, respectively. A commissioner must be a resident citizen of the city and a real property owner. The actual number of commissioners of the urban renewal agency shall be determined by the City Council at the time of appointment and the number may not be increased or decreased more than once every two (2) years. At the time of their original appointment, a bare majority of the commissioners shall be designated to serve for one (1) year and the remaining for two (2) years, respectively. In the event of a vacancy caused by death, removal from the city or any valid cause, such vacancy shall be filled in the same manner as the original appointment but only for the unexpired term. A commissioner shall hold office until his successor has been appointed and has qualified.

(c) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. A certificate of the appointment or re-appointment of each commissioner shall be filed with the clerk of the city and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A majority of the commissioners shall constitute a quorum; provided, however, that if the agency is composed of five (5), seven (7) and nine (9) members, respectively, any action to be valid must be adopted or rejected by a vote of a majority of the total commissioners of the agency. An urban renewal agency may employ an executive director, technical experts and such other agents and employees, permanent and temporary, as it may require, and determine their qualifications, duties and compensation. For such legal service as it may require, an agency may employ or retain its own counsel and legal staff. An agency authorized to conduct business and exercise powers under this Act shall file with the city on or before March 31st of each year a report of its activities for the preceding calendar year, or quarterly if requested by the City Council. Said report shall include a complete financial statement by the agency setting forth its assets, liabilities, income and operating expense as of the end of such calendar year. At the time of filing the report, the agency shall publish

a notice in a newspaper of general circulation in the city that such report has been filed with the city and that the report is available for inspection during business hours in the office of the city secretary and in the office of the agency.

(d) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed by the City Council only after a hearing and after he shall have been given a copy of the charges at least ten (10) days prior to such hearing and have had an opportunity to be heard in person or by counsel.

Judicial Proceedings

Sec. 17. In all suits brought to review, modify, suspend, or satisfy rules, orders, decisions, or other acts of the City Council, or other agency, 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, nor shall evidence as to the validity or reasonableness thereof be heard, and the determination in respect thereto shall 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 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.

Interested Public Officials, Commissioners or Employees

Sec. 18. No public official or employee of a city (or board or commission thereof) and no commissioner or employee of an urban renewal agency which has been vested by a city with urban renewal project powers under Section 15 hereof, shall voluntarily acquire any interest, direct or indirect, in any urban renewal project or in any property included or planned to be included in any urban renewal project of such city or in any contract or proposed contract in connection with such urban renewal project. Where such acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the City Council and such disclosure shall be entered upon the minutes of the City Council. Such official or employee shall then, within three (3) months after such involuntary acquisition, either resign his position, or divest himself of his interest in such urban renewal project. If any such official, commissioner or employee shall own or control or shall have owned or controlled within the preceding two (2) years, any interest, direct or indirect, in any property which he knows is included or planned to be included in any urban renewal project, he shall immediately disclose this fact in writing to the City Council, and such disclosure shall be entered upon the minutes of the City Council, and any such official, commissioner or employee shall not participate in any action by the City (or board, or commission thereof), or urban renewal agency affecting such property. Any disclosure required to be made by this Section to the City Council shall concurrently be made to any urban renewal agency which has been vested with urban renewal project powers by the city pursuant to the provisions of Section 15. No commissioner

or other officer of any urban renewal agency, board or commission exercising powers pursuant to this Act shall hold any other public office under the city other than his commissionership or office with respect to such urban renewal agency, board or commission. Any violation of the provisions of this Section shall constitute misconduct in office.

Separability of Provisions

Sec. 19. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Inconsistent Provisions

Sec. 20. In so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling but shall not repeal any charter provision of any home rule city which provides for the same purposes set forth in this Act and shall be considered cumulative of the powers of the cities.

Additional Conferred Powers

Sec. 21. The powers conferred by this Act shall be in addition and supplemental to the powers conferred upon cities by any provision of the Constitution of Texas, the general laws of the State of Texas, or by the charters of home rule cities of the State of Texas.

Right to repurchase

Sec. 22. Provided, however, the original owner from which property was acquired hereunder by condemnation or through the threat of condemnation, shall have the first right to repurchase at the price at which same shall be offered. Acts 1957, 55th Leg., p. 704, ch. 298.

Effective 90 days after May 23, 1957, date of adjournment.

CHAPTER TWENTY-TWO—CIVIL SERVICE

Art. 1269m. Firemen's and Policemen's Civil Service in cities over 10,000

Definitions

Sec. 2. By the term "Fireman" is meant any member of the Fire Department appointed to such position in substantial compliance with the provisions of Sections 9, 10 and 11 of this Act, or entitled to Civil Service Status under Section 24 of this Act. By the term "Policeman" is meant any member of the Police Department appointed to such position in substantial compliance with the provisions of Section 9, 10 and 11 of this Act, or entitled to Civil Service Status under Section 24 of this Act. By the term "Commission" as used herein is meant the Firemen's and Policemen's Civil Service Commission. The term "Director" means Director of Firemen's and Policemen's Civil Service. As amended Acts 1957, 55th Leg., p. 1171, ch. 391, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Examination for eligibility lists

Sec. 9. The Commission shall make provisions for open, competitive and free examinations for persons making proper application and meeting the requirements as herein prescribed. All eligibility lists for applicants for original positions in the Fire and Police Departments shall be created only as a result of such examinations, and no appointments shall ever be made for any position in such Departments except as a result of such examination, which shall be based on the applicant's knowledge of and qualifications for fire fighting and work in the Fire Department, or for police work and work in the Police Department, as shown by competitive examinations in the presence of all applicants for such position, and shall provide for thorough inquiry into the applicant's general education and mental ability.

An applicant who has served in the armed forces of the United States and who received an honorable discharge shall receive five (5) points in addition to his competitive grades.

Appropriate physical examinations shall be required of all applicants for beginning or promotional positions, and the examinations shall be given by a physician appointed by the Commission and paid by such city; and in the event of rejection by such physician, the applicant may call for further examination by a board of three (3) physicians appointed by the Commission, but at the expense of the applicant, and whose findings shall be final. The age and physical requirements shall be set by the Commission in accordance with provisions of this law and shall be the same for all applicants. Provided no person shall be certified as eligible for a beginning position who has reached his thirty-sixth birthday.

All police officers and firemen coming under this Act must be able to intelligently read and write the English language.

When a Fireman or Policeman is given a physical examination to determine if he is physically able to continue his duties, the physician appointed by the Commission to make such examination shall submit a complete physical report to the Chief of the Fire Department if the person so examined is a Fireman, and to the Chief of the Police Department if the person so examined is a Policeman. The Chief of each respective Department shall be the sole judge as to whether or not such Fireman or Policeman is able to continue his duties. As amended Acts 1957, 55th Leg., p. 1171, ch. 391, § 2.

Effective 90 days after May 23, 1957, date of adjournment.

Probationary and full-fledged firemen and policemen

Sec. 12. A person who has received appointment to the Fire Department or Police Department hereunder, shall serve a probationary period of six (6) months. During such probationary period, it shall be the duty of the Fire Chief or head of the Fire Department or Police Chief or head of the Police Department to discharge all Firemen or Policemen whose appointments were not regular, or not made in compliance with the provisions of this Act, or of the rules or regulations of the Commission, and to eliminate from the payrolls any such probationary employee. When Firemen or Policemen, however, have served the full probationary period, having been appointed in substantial compliance with Sections 9, 10, and 11 of this Act and not otherwise, they shall automatically become full-fledged civil service employees and shall have full civil service protection. All positions in the Fire Department, except that of Chief or head of the Department, and in the Police Department,

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

except that of Chief or head of the Department, shall be classified by the Commission and the positions filled from the eligibility lists as provided herein.

All offices and positions in the Fire Department or Police Department shall be established by ordinance of the City Council or governing body, provided however that the failure of a City Council or governing body to establish a position by ordinance shall not result in the loss of Civil Service benefits under this Act by any person appointed to such position in substantial compliance with the provisions of Sections 9, 10 and 11 of this Act, or entitled to Civil Service Status under Section 24 of this Act. As amended Acts 1957, 55th Leg., p. 1171, ch. 391, § 3.

Effective 90 days after May 23, 1957, date of adjournment.

Notice of examinations

Sec. 13. Ten (10) days in advance of any entrance examination or examination for promotion, the Commission shall cause to be posted on a bulletin board located in the main lobby of the city hall, and the office of the Commission, and in plain view, a notice of such examination, and said notice shall show the position to be filled or for which examination is to be held, with date, time, and place thereof, and in case of examination for promotion, copies of such notice shall be furnished in quantities sufficient for posting in the various stations or subdepartments in which position is to be filled. No one under eighteen (18) years of age shall take any entrance examination, and appointees to the Police and Fire Department shall not have reached their thirty-sixth birthday for entrance into the Fire Department or Police Department. The results of each examination for promotion shall be posted on a bulletin board located in the main lobby of the city hall by the Commission within twenty-four (24) hours after such examination. As amended Acts 1957, 55th Leg., p. 1171, ch. 391, § 4.

Effective 90 days after May 23, 1957, date of adjournment.

Promotions; filling vacancies

Sec. 14. The Commission shall make rules and regulations governing promotions and shall hold promotional examinations to provide eligibility lists for each classification in the Police and Fire Departments, which examinations shall be held substantially under the following requirements:

A. All promotional examinations shall be open to all policemen and firemen who have held a continuous position for two (2) years or more in the classification immediately below in salary of that classification for which the examination is to be held; except where there is not a sufficient number of members in the next lower position with two (2) years service in that position to provide an adequate number of persons to take the examination, the Commission may extend the examination to the members in the second lower position in salary to that for which the examination is to be held.

B. Each applicant shall be given one (1) point for each year of seniority in his Department, but never to exceed ten (10) points.

C. The Commission shall formulate proper procedure and rules for semi-annual efficiency reports and grade of each member of the Police or Fire Departments, which efficiency reports shall be made on each man by his immediate superior, and each efficiency report shall be based on thirty (30) points as the highest grade in efficiency. The immediate superior officer of each member, after completing such report, shall deliver the

original and two (2) copies, with suggestions for improvement and reasons for grade, to his immediate superior officer, who shall correct and approve the same and forward one (1) copy to the member reported on, and forward the original and one (1) copy to the Head of the Department who shall retain one (1) copy and forward the original to the Commission for filing. Upon examination for promotion each applicant shall receive a credit of not to exceed thirty (30) points based on the average of his semi-annual efficiency reports filed with the Commission from the effective date of this Act, but not to exceed the last two (2) semi-annual efficiency reports prior to the time of examination.

D. All applicants shall be given an identical examination in the presence of each other, which promotional examination shall be entirely in writing and no part of which shall be by oral interview, and all of the questions asked therein shall be prepared and composed in such a manner that the grading of the examination papers can be promptly completed immediately after the holding of the examination and shall be prepared so as to test the knowledge of the applicants concerning information and facts, and all of said questions shall be based upon material which has been made available to all members of the Fire or Police Department involved and shall be based upon the duties of the position sought and upon any study courses given by such Departmental Schools of Instruction and upon the applicant's efficiency. When one of the applicants taking an examination for promotion has completed his answers, the grading of such examination shall begin, and all of the examination papers shall be graded as they are completed, at the place where the examination is given and in the presence of any applicants who wish to remain during the grading. The grade which shall be placed on the eligibility list for each applicant shall be computed by adding such applicant's points for seniority and his credit based on the average of his last two (2) semi-annual efficiency reports to his grade on such written examination. Grades on such written examinations shall be based upon a maximum grade of seventy (70) points and shall be determined entirely by the correctness of each applicant's answers to such questions. Each applicant shall have the opportunity to examine his examination and his answers thereto together with the grading thereof and if dissatisfied shall, within five (5) days, appeal the same to the Commission for review in accordance with the provisions of this Act. No person shall be eligible for promotion unless he has served in such Department for at least two (2) years immediately preceding the day of such promotional examination in the next lower position or other positions specified by the Commission, and no person with less than four (4) years actual service in such Department shall be eligible for promotion to the rank of Captain.

No person shall be eligible for appointment as Chief or Head of the Fire or Police Department of any city coming under the provisions of this Act who has not been a bona fide firefighter in a Fire Department or a bona fide law enforcement officer for five (5) years in the State of Texas.

E. Upon written request by the Heads of the Departments for a person to fill a vacancy in any classification, the Commission shall certify to the Head of the Department the three (3) names having the highest grades on such eligibility list for such classification for the vacancy requested to be filled, and the Head of such Department shall appoint the person having the highest grade, except where such Head of the Department shall have a valid reason for not appointing such highest name, and in such cases he shall, before such appointment, file his reasons in writing, for rejection of the higher name or names, with the Commission, which reasons shall be valid and subject to review by the Commission upon the application of such rejected person.

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

The name of each person on the eligibility lists shall be submitted to the Head of the Department three (3) times; and if passed over three (3) times with written reasons filed thereafter and not set aside by the Commission, he shall thereafter be dropped from the eligibility list. All eligibility lists shall remain in existence for one (1) year unless exhausted, and at the expiration of one (1) year they shall expire and new examinations be given.

F. The Commission shall proceed to hold examinations to create eligibility lists within ninety (90) days after a vacancy in any classification occurs, or new positions are created, unless an eligibility list is in existence.

G. In the event any new classification is established either by name or by increase of salary, the same shall be filled by competitive examination in accordance with this law. As amended Acts 1955, 54th Leg., p. 706, ch. 255 § 1; Acts 1957, 55th Leg., p. 1171, ch. 391, § 5.

Effective 90 days after May 23, 1957, date of adjournment.

Penalties

Sec. 25. Repealed. Acts 1957, 55th Leg., p. 1171, ch. 391, § 8.

Effective 90 days after May 23, 1957, date of adjournment.

Sick and injury leaves of absence

Sec. 26. Permanent and temporary employees in the classified service shall be allowed a total of sick leave with full pay computed upon a basis of one and one-fourth (1¼) full working days allowed for each full month employed in a calendar year, so as to total fifteen (15) working days to an employee's credit each twelve (12) months.

Employees shall be allowed to accumulate fifteen (15) working days of sick leave with pay in one (1) calendar year.

Sick leave with pay may be accumulated without limit and may be used while an employee is unable to work because of any bona fide illness. In the event that the said employee can conclusively prove that the illness was incurred while in performance of his duties, an extension of sick leave in case of exhaustion of time shall be granted.

In the event that a Fireman or Policeman for any reason leaves the classified service, he shall receive, in a lump sum payment, the full amount of his salary for the period of his accumulated sick leave, provided that such payment shall not be based upon more than ninety (90) working days of accumulated sick leave. Provided, that in order to facilitate the settlement of the accounts of deceased employees of the Fire or Police Departments, all unpaid compensation due such employee at the time of his death shall be paid to the person or persons surviving at the date of death, in the following order or precedence and such payments shall be a bar to recovery by any other person of amounts so paid.

First, to the beneficiary or beneficiaries designated by the employee in writing to receive such compensation filed with the Civil Service Commission prior to the employee's death;

Second, if there be no such beneficiary, to the widow or widower of such employee;

Third, if there be no such beneficiary or surviving spouse, to the child or children of such employee, and descendants of deceased children, by representation;

Fourth, if none of the above, to the parents of such employee, or the survivor of them;

Fifth, if there be none of the above, to the duly appointed legal representative of the estate of the deceased employee, or if there be

none, to the person or persons determined to be entitled thereto under the laws of descent and distribution of the State of Texas.

Provided that all such cities coming under the provisions of this Act shall provide injury leaves of absence with full pay for periods of time commensurate with the nature of injuries received while in line of duty for at least one (1) year. At the expiration of said one-year period, the City Council or governing body may extend such injury leave, at full or reduced pay, provided that in cities that have a Firemen's or Policemen's Pension Fund, that if said injured employee's salary should be reduced below sixty per cent (60%) of his regular monthly salary, said employee shall be retired on pension until able to return to duty. As amended Acts 1955, 54th Leg., p. 706, ch. 255, § 6; Acts 1957, 55th Leg., p. 1171, ch. 391, § 6.

Effective 90 days after May 23, 1957, date of adjournment.

Vacations; accumulations of vacation leave

Sec. 26(a). All firemen and policemen in the classified service shall earn a minimum of fifteen (15) working days vacation with pay in each year. In computing the length of time during which a fireman or policeman may be absent from work for the vacation provided by this Section, only those calendar days during which the member would be required to work if he were not on vacation shall be counted as vacation days. Vacation leave may not be accumulated from year to year, except as approved by the governing body of the city. Added Acts 1957, 55th Leg., p. 1171, ch. 391, § 7.

Effective 90 days after May 23, 1957, date of adjournment.

Adoption of act by vote or otherwise

Sec. 27(a). Provided, however, that the provisions of this Act as amended by this House Bill No. 79, passed at the Fifty-fifth Regular Session of the Legislature, shall not apply to any city unless such city has already adopted and has in effect the provisions of this Act before the effective date of this amending Act, or unless first determined at an election at which the adoption or rejection of this Act shall be submitted. Upon receiving a petition signed by qualified voters in said city in number not less than ten per cent (10%) of the total number voting in the last preceding municipal election, the governing body of said city shall call an election within sixty (60) days after said petition has been filed with governing body. If at said election a majority of the votes cast shall favor the adoption of this Act, said governing body shall put such Act into effect within thirty (30) days after the beginning of the first fiscal year of said city after said election. The question shall be submitted for the vote of the qualified electors as follows:

FOR the adoption of the Firemen's and Policemen's Civil Service Act.

AGAINST the adoption of the Firemen's and Policemen's Civil Service Act.

When any election has been held in a city, at which election the adoption or rejection of Chapter 325, Acts of the Fiftieth Legislature, 1947, (Vernon's Annotated Civil Statutes, Article 1269m) has been submitted, whether such election has been held prior to the effective date of this amending Act or subsequent thereto, a petition for another such election shall not be filed for at least one (1) year subsequent to the election so held; and said petition for any such election after the first election shall be signed by qualified voters in said city in number not

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

less than twenty per cent (20%) of the total number voting in the last preceding municipal election; and any such election after the first election shall be held at the next general municipal election to be held in such city after the filing of such petition. As amended Acts 1957, 55th Leg., p. 1171, ch. 391, § 7(a).

Effective 90 days after May 23, 1957, date of adjournment.

Section 9 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

TITLE 30—COMMISSION MERCHANTS

Art. 1287—1. General provisions

Act applicable only to Texas Citrus Fruit Zone

Sec. 8. The terms of this Act shall apply to the Texas Citrus Fruit Zone, as said area is defined in Section 1, Chapter 350,¹ Acts of the 42nd Legislature, Regular Session, and the other counties in the State of Texas. As amended Acts 1957, 55th Leg., p. 745, ch. 306, § 1.

¹ Vernon's Ann.P.C. art. 1700a—2.

Disposition of fees collected

Sec. 10. All fees collected in the administration of this Act shall be deposited into the Special Department of Agriculture Fund. The entire amount of fees so collected and deposited, or as much thereof as may be necessary, is hereby appropriated to the State Department of Agriculture for the administration of this Act. This appropriation shall not affect any other appropriations heretofore or hereafter made to the State Department of Agriculture, but shall be in addition thereto beginning at the effective date of this Act and shall be for the period ending August 31, 1957. Acts 1957, 55th Leg., p. 745, ch. 306, § 2.

Emergency. Effective May 31, 1957.

BUSINESS CORPORATION ACT

PART ONE

Article 1.01. Short Title, Captions, Parts, Articles, Sections, Subsections, and Paragraphs

Trust companies, see Vernon's Ann.Civ. St. arts. 1513a, 342—301.

PART TWO

Art. 2.01. Purposes

Application of par. A of this article to trust companies, see Vernon's Ann.Civ.St. art. 1513a.

Title companies, see V.A.T.S. Insurance Code, arts. 9.01a, 9.09.

Art. 2.18. Expenses of Organization, Reorganization and Financing

A. The reasonable charges and expenses of organization or reorganization of a corporation, and the reasonable expenses of and compensation for the sale or underwriting of its shares, may be paid or allowed by such corporation out of the consideration received by it in payment for its shares without thereby rendering such shares not fully paid and non-assessable. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 14 of the amendatory Act of 1957 provided that if a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, subsection, section, or Article of this Act, such

judgment or decree shall not affect, impair, invalidate, or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, subsection, section, or Article of this Act so adjudged to be invalid or unconstitutional.

Art. 2.19. Certificates Representing Shares

A. A corporation shall deliver certificates representing all shares to which shareholders are entitled; and such certificates shall be signed by the president or a vice president and either the secretary or assistant secretary or such officer or officers as the by-laws of the corporation shall prescribe, and may be sealed with the seal of the corporation or a facsimile thereof. The signatures of the president or vice president, secretary or assistant secretary or such officer or officers as the by-laws of the corporation shall prescribe upon a certificate may be facsimiles, if the certificate is countersigned by a transfer agent or registered by a registrar, either of which is other than the corporation itself or an employee of the corporation. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of its issuance. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 2.

E. No requirement of this Act with respect to matters to be set forth on certificates representing shares of a corporation shall apply to or affect certificates outstanding, when such requirement first becomes applicable to such certificates; but such requirements shall apply to all certificates thereafter issued whether in connection with an original issue of shares, a transfer of shares or otherwise. Added Acts 1957, 55th Leg., p. 111, ch. 54, § 2.

F. In lieu of or in addition in whole or in part to setting forth any provisions at length or in summary form on the face or back of any certificate representing shares subject thereto, such provision or provisions may be incorporated by reference on the face or back of the certificate if same is in accordance with the following provisions:

(1) To the extent that this Act requires that any provision of the articles of incorporation or by-laws of a corporation be set forth at length or in summary form on the face or back of any certificate representing shares of the corporation, such requirement shall be fully complied with by a reference on such certificate to such provision of the articles of incorporation or by-laws; provided, that in the case of any by-law provision, such provision shall have theretofore been filed with the Secretary of State in accordance with the provisions of this Article. To the extent that this Act requires that any resolution of the board of directors of a corporation fixing and determining the relative rights and preferences of shares of a preferred or special class issuable in series be set forth at length or in summary form on the face or back of any certificate representing shares of the corporation, such requirement shall be fully complied with by a reference on such certificate to such resolution; provided, that such resolution shall have theretofore been filed with the Secretary of State in accordance with the provisions of this Article. To the extent that this Act requires that any agreement restricting the transfer of shares of a corporation be set forth within the articles of incorporation or by-laws of a corporation, such requirement shall be fully complied with by a reference to such agreement in the articles of incorporation or by-laws; provided that such agreement shall have theretofore been filed with the Secretary of State in accordance with the provisions of this Article.

(2) Before any such agreement restricting the transfer of shares, by-law provision, or resolution shall be incorporated by reference as above provided, the corporation shall file the same in the office of the Secretary of State together with an attached statement setting forth:

- (a) The name of the corporation;
- (b) That the copy of such agreement restricting the transfer of shares, by-law provision, or resolution is a true and correct copy of the same;
- (c) That incorporation by reference of such agreement restricting the transfer of shares, by-law provision, or resolution has been duly authorized by the board of directors of the corporation.

(3) Such statement shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall be delivered to the Secretary of State with the copies of such agreement restricting the transfer of shares, by-law provision, or resolution attached thereto. If the Secretary of State finds that such statement conforms to law, he shall, when all franchise taxes and fees have been paid as prescribed by law:

- (a) Endorse on each of such duplicate originals the word "Filed," the filing number of the document, and the month, day, and year of the filing thereof;
- (b) File one of such duplicate originals in his office;
- (c) Return the other duplicate original to the corporation or its representative.

(4) After the filing of such statement by the Secretary of State, any such agreement restricting the transfer of shares, by-law provision, or resolution, a copy of which is attached to such statement, referred to in another document as hereinabove provided shall be deemed to be incorporated in such other document by such reference to the same effect as if set

forth at length in such document, whether the document containing such reference was issued or otherwise became effective before or after the filing of such statement, and whether or not such reference is accompanied by language purporting to set forth at length or to summarize the terms and provisions or some of the terms and provisions of such agreement restricting the transfer of shares, by-law provision, or resolution. Added Acts 1957, 55th Leg., p. 111, ch. 54, § 2.

Partial invalidity, see note under art. 2.18.

Art. 2.22. Provisions Relating to Restrictions on the Transfer of Shares and Pre-emptive Rights

A. Any corporation may impose restrictions on the sale or other disposition of its shares and on the transfer thereof, which do not unreasonably restrain or prohibit transferability, if each such restriction is expressly set forth in the articles of incorporation or by-laws of the corporation and is copied at length or in summary form on the face or so copied on the back and referred to on the face of each certificate representing shares, to the transfer of which the restriction applies. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 3.

C. The preemptive rights of a shareholder to acquire unissued or treasury shares of a corporation may be limited or denied by the articles of incorporation, but such limitation or denial must be set forth at length or in summary form on the face or back of each certificate representing shares subject thereto. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 4.

Effective 90 days after May 23, 1957, date of adjournment. Partial invalidity, see note under art. 2.18.

Art. 2.29. Voting of Shares

D. (1) At each election for directors of any domestic corporation which was created under or adopted the provisions of this Texas Business Corporation Act prior to the effective date of Senate Bill No. 129 of the 55th Legislature every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote, or, unless expressly prohibited by the articles of incorporation, to cumulate his votes by giving one candidate as many votes as the number of such directors multiplied by the number of his shares shall equal or by distributing such votes on the same principle among any number of such candidates.

(2) At each election for directors of any domestic corporation which is created under, adopts, or becomes subject to the provisions of this Texas Business Corporation Act after the effective date of Senate Bill No. 129 of the 55th Legislature every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote, or, if expressly authorized by the articles of incorporation, to cumulate his votes by giving one candidate as many votes as the number of such directors multiplied by the number of his shares shall equal or by distributing such votes on the same principle among any number of such candidates.

(3) Any shareholder who is authorized and intends to cumulate his votes shall give written notice of such intention to the secretary of the corporation on or before the day preceding the election at which such share-

holder intends to cumulate his votes. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 4A.

Effective 90 days after May 23, 1957, date of adjournment. Partial invalidity, see note under art. 2.18.

PART THREE

Art. 3.02. Articles of Incorporation

A. The articles of incorporation shall set forth:

- (1) The name of the corporation;
- (2) The period of duration, which may be perpetual;
- (3) The purpose or purposes for which the corporation is organized;

(4) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each class or that such shares are to be without par value;

(5) If the shares are to be divided into classes, the designation of each class and statement of the preferences, limitations, and relative rights in respect of the shares of each class;

(6) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series;

(7) A statement that the corporation will not commence business until it has received for the issuance of shares consideration of the value of a stated sum which shall be at least One Thousand Dollars (\$1,000.00), consisting of money, labor done, or property actually received;

(8) Any provision limiting or denying to shareholders the preemptive right to acquire additional or treasury shares of the corporation;

(9) Any provision, not inconsistent with law, including any provision which under this Act is required or permitted to be set forth in the by-laws, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation;

(10) The post office address of its initial registered office and the name of its initial registered agent at such address;

(11) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify;

(12) The name and address of each incorporator. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 5.

Effective 90 days after May 23, 1957, date of adjournment. Partial invalidity, see note under art. 2.18.

Art. 3.05. Requirement Before Commencing Business

A. A corporation shall not transact any business or incur any indebtedness, except such as shall be incidental to its organization or to obtaining subscriptions to or payment for its shares, until it has received for the issuance of shares consideration of the value of at least One Thou-

sand Dollars (\$1,000.00), consisting of money, labor done, or property actually received. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 6.

Effective 90 days after May 23, 1957, date of adjournment. Partial invalidity, see note under art. 2.18.

PART FOUR

Art. 4.07. Restated Articles of Incorporation

B. If the restated articles of incorporation restate the entire articles of incorporation as amended and supplemented by all certificates of amendments previously issued by the Secretary of State, without making any further amendment thereof, the introductory paragraph shall contain a statement that the instrument accurately copies the articles of incorporation and all amendments thereto that are in effect to date and that the instrument contains no change in any provision thereof; provided that the number of directors then constituting the board of directors and the names and addresses of the persons then serving as directors may be inserted in lieu of similar information concerning the initial board of directors, and the name and address of each incorporator may be omitted. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 7.

C. (2) Contains a statement that the instrument accurately copies the articles of incorporation and all amendments thereto that are in effect to date and as further amended by such restated articles of incorporation and that the instrument contains no other change in any provision thereof; provided that the number of directors then constituting the board of directors and the names and addresses of the persons then serving as directors may be inserted in lieu of similar information concerning the initial board of directors, and the names and addresses of each incorporator may be omitted. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 7.

Effective 90 days after May 23, 1957, date of adjournment. Partial invalidity, see note under art. 2.18.

PART FIVE

Art. 5.09. Disposition of Assets Authorized by Board of Directors

A. Except as otherwise provided in the articles of incorporation and except as provided in the next sentence of this section, the sale, lease, exchange or other disposition of all, or substantially all, the property and assets of a corporation, when made in the usual and regular course of the business of the corporation, may be made upon such terms and conditions and for such considerations, which may consist in whole or in part of money or property, real or personal, including shares of any other corporation, domestic or foreign, as shall be authorized by its board of directors, without authorization or consent of the shareholders. Except as otherwise provided in the articles of incorporation, the board of directors may authorize any pledge, mortgage, deed of trust or trust indenture and no authorization or consent of the shareholders shall be required for the validity thereof or for any sale pursuant to the terms thereof. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 8.

Effective 90 days after May 23, 1957, date of adjournment. Partial invalidity, see note under art. 2.18.

Art. 5.10. Disposition of Assets Requiring Special Authorization of Shareholders

"A. A sale, lease, exchange, or other disposition (not including any pledge, mortgage, deed of trust or trust indenture unless otherwise provided in the articles of incorporation) of all, or substantially all, the property and assets, with or without the good will of a corporation, if not made in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation, domestic or foreign, as may be authorized in the following manner:

(1) The board of directors shall adopt a resolution recommending such sale, lease, exchange, or other disposition and directing the submission thereof to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(2) Written or printed notice shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided for in this Act for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or a special meeting shall state that the purpose, or one of the purposes, of such meeting is to consider the proposed sale, lease, exchange, or other disposition.

(3) At such meeting, the shareholders may authorize such sale, lease, exchange or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Each outstanding share of the corporation shall be entitled to vote thereon, whether or not entitled to vote thereon by the provisions of the articles of incorporation. Such authorization shall require the affirmative vote of the holders of at least four-fifths of the outstanding shares of the corporation, and, in the event any class of shares is entitled to vote as a class thereon, such authorization shall require in addition the affirmative vote of the holders of at least four-fifths of the outstanding shares of each class of shares entitled to vote as a class thereon.

(4) After such authorization by vote of shareholders, the board of directors, nevertheless, in its discretion, may abandon such sale, lease, exchange or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 9.

Partial invalidity, see note under art. 2.18.

Art. 5.11. Rights of Dissenting Shareholders in the Event of Certain Corporate Actions

A. Any shareholder of a domestic corporation shall have the right to dissent from any of the following actions:

(1) Any amendment to the articles of incorporation which substantially alters or changes the corporate purposes;

(2) Any plan of merger or consolidation to which the corporation is a party;

(3) Any sale, lease, exchange or other disposition (not including any pledge, mortgage, deed of trust or trust indenture unless otherwise provided in the articles of incorporation) of all, or substantially all, the property and assets, with or without good will, of a corporation requiring the

special authorization of the shareholders as provided by this Act. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 10.

Partial invalidity, see note under art. 2.18.

PART EIGHT

Art. 8.01. Admission to Foreign Corporation

B. Without excluding other activities which may not constitute transacting business in this state, a foreign corporation shall not be considered to be transacting business in this state, for the purposes of this Act, by reason of carrying on in this state any one (1) or more of the following activities:

(1) 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;

(2) Holding meetings of its directors or shareholders or carrying on other activities concerning its internal affairs;

(3) Maintaining bank accounts;

(4) Maintaining offices or agencies for the transfer, exchange, and registration of securities issued by it, or appointing and maintaining trustees or depositaries with relation to its securities;

(5) Voting the stock of any corporation which it has lawfully acquired;

(6) Effecting sales through independent contractors;

(7) Creating evidences of debt, mortgages, or liens on real or personal property;

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

(9) Transacting any business in interstate commerce;

(10) Conducting an isolated transaction completed within a period of thirty (30) days and not in the course of a number of repeated transactions of like nature;

(11) Exercising the powers of executor or administrator of the estate of a non-resident decedent under ancillary letters issued by a court of this state, or exercising the powers of a trustee under the will of a non-resident decedent, or under a trust created by one or more non-residents of this state, or by one or more foreign corporations, if the exercise of such powers, in any such case, will not involve activities which would be deemed to constitute the transacting of business in this state in the case of a foreign corporation acting in its own right;

(12) 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 and property securing said debts, taking any actions necessary to preserve and protect the interest of the mortgagee in said security, or any combination of such transactions;

(13) Investing in or acquiring, in transactions outside of Texas, royalties and other non-operating mineral interests, and the execution of division orders, contracts of sale and other instruments incidental to the ownership of such non-operating mineral interests. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 11.

Effective 90 days after May 23, 1957, date of adjournment. Partial invalidity, see note under art. 2.18.

Art. 8.14. Withdrawal of Foreign Corporation

A. A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the Secretary of State a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the Secretary of State an application for withdrawal, which shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated;

(2) That the corporation is not transacting business in this state;

(3) That the corporation surrenders its authority to transact business in this state;

(4) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit, or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to transact business in this state may thereafter be made on such corporation by service thereof on the Secretary of State;

(5) A post office address to which the Secretary of State may mail a copy of any process against the corporation that may be served on him;

(6) A statement that all sums due, or accrued, to this state have been paid, or that adequate provision has been made for the payment thereof;

(7) A statement that all known creditors or claimants have been paid or provided for and that the corporation is not involved in or threatened with litigation in any court in this state. As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 12.

Effective 90 days after May 23, 1957, date of adjournment.

Partial invalidity see note under art. 2.18.

PART TEN**Art. 10.01. Filing Fees**

A. (13) Filing statement of resolution establishing series of shares or filing statement of provisions to be incorporated by reference, Five Dollars (\$5.00). As amended Acts 1957, 55th Leg., p. 111, ch. 54, § 13.

Effective 90 days after May 23, 1957, date of adjournment.

Partial invalidity, see note under art. 2.18.

TITLE 32—CORPORATIONS—PRIVATE**CHAPTER TWO—CREATION OF CORPORATIONS****Art. 1308. 1125–1126–1127 Capital stock**

Securities Act, see art. 581—1 et seq.

Art. 1316a. Consolidation of corporations having capital stock of not more than \$200,000

Securities Act, exemption of transfer or exchange of stock or securities in carrying out consolidation, see art. 581—5.

CHAPTER THREE—GENERAL PROVISIONS**Art. 1329. 1161, 663, 587 Dividends**

Securities Act, exemption of stock dividend from, see art. 581—5.

CHAPTER SEVENTEEN—TRUST COMPANIES AND INVESTMENTS

Art.

1513a. Creation of trust company; purposes [New].

Art. 1513a. Creation of trust company; purposes

Section 1. [Repealed Chapter 7 of the Insurance Code].

Creation; purposes

Sec. 2. Trust companies may be created, and any corporation, however created, may amend its charter in compliance herewith, or a foreign corporation may obtain a certificate of authority to do business in Texas for the following purpose:

To act as trustee, executor, administrator, or guardian when designated by any person, corporation, or court to do so, and as agent for the performance of any lawful act, including the right to receive deposits made by agencies of the United States of America for the authorized account of any individual; to act as attorney-in-fact for reciprocal or inter-insurance exchange.

Law applicable

Sec. 3. The provisions of Article 1524a, Vernon's Texas Civil Statutes, as amended, shall apply to such corporations.

Compliance with Securities Act

Sec. 4. Any securities issued or sold by such companies shall be issued and sold in compliance with all of the provisions of the Securities Act, as amended, as it now exists or may hereafter be amended.

Amount of paid-in capital

Sec. 5. Any such company must have a fully paid-in capital of not less than \$500,000.00.

Demand or time deposits

Sec. 6. Any such company shall not accept demand or time deposits, except as hereinabove provided.

Supplementary laws; anti trust laws

Sec. 7. The general laws for incorporation and governing of corporations, and the provisions of Article 1513, Revised Civil Statutes of Texas, and the provisions of the Texas Business Corporation Act shall supplement the provisions of this Act and shall apply to such trust companies to the extent that they are not inconsistent herewith; provided, the provisions of Article 2.01A permitting a corporation to have more than one purpose shall not apply. The power and authority herein conferred shall in no way affect any of the provisions of the antitrust laws of this state. Acts 1957, 55th Leg., p. 1162, ch. 388.

Effective 90 days after May 23, 1957, date of adjournment.

Securities Act, see art. 581—1 et seq.

LOAN AND BROKERAGE COMPANIES**Art. 1524a. Corporations for loaning money and dealing in bonds and securities without banking and discounting privileges; regulations**

Application of article to trust companies, see art. 1513a of this chapter.

Securities Act inapplicable to securities collateralized under this article, see art. 581—6.

CHAPTER EIGHTEEN—MISCELLANEOUS**Art. 1528b. Electric Cooperative Corporation Act; Short Title****Purpose**

Sec. 3. Co-operative, non-profit, membership corporations heretofore or hereafter organized under this Act are authorized to engage in rural electrification by any one or more of the following methods:

(1) The furnishing of electric energy to any person, for delivery to any dwelling, structure, apparatus or point of delivery which is located in a rural area, and which is not receiving central station service, notwithstanding the fact that such person may be receiving central station service at other points of delivery in a rural or nonrural area.

(2) If any area in which such corporation is furnishing electric service to its members is annexed by an incorporated city or town (whether rural or nonrural as defined in this Act) in which central station service is supplied by such city or town or by a public utility corporation, the co-operative corporation is authorized to continue to furnish electric energy to any dwelling, structure, apparatus or point of delivery to which the co-operative corporation was delivering electric energy on the date of such annexation and if any person desires electric service in such annexed area for any dwelling, structure, apparatus or point of delivery which was not being served by the co-operative corporation on the date the area became annexed and to which central station service is not available from the city or town or a public utility corporation, the co-operative corporation may thereafter furnish electric energy to such dwelling, structure, apparatus or point of delivery.

(3) The furnishing of electric energy to persons desiring such service in any incorporated or unincorporated city or town (rural or nonrural) served by such corporation, and in which no central station service was available at the time such corporation began furnishing electric energy to the citizens thereof.

(4) The furnishing of electric energy to persons in rural areas who are not receiving central station service.

(5) The words "central station service" as used in this Act refer to electric service provided by a municipally owned electric system or by a public utility corporation, as described in Article 1435, Vernon's Revised Statutes of Texas.

(6) Assisting in the wiring of the premises of persons in rural areas or the acquisition, supply or installation of electrical or plumbing equipment.

(7) The furnishing of electric energy, wiring facilities, electrical or plumbing equipment or service to any other corporation organized under this Act or to the members thereof. As amended Acts 1957, 55th Leg., p. 692, ch. 290, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Qualification of Members

Sec. 12. All persons having any dwelling, structure, apparatus or point of delivery in rural areas (or in areas provided for in Subdivisions (1) to (4) of Section 3 of this Act) proposed to be served by a corporation who are not receiving central station service at such dwelling, structure, apparatus or point of delivery, shall be eligible to membership in a corporation with respect to such dwelling, structure, apparatus or point of delivery. No person other than the incorporators shall be, become, or remain a member of a corporation unless such person shall use or agree to use electric energy or, as the case may be, the facilities, supplies, equipment, and services furnished by the corporation at the dwelling, structure, apparatus or point of delivery on which the membership is based. A corporation organized under this Act may become a member of another such corporation and may avail itself fully of the facilities and service thereof. As amended Acts 1957, 55th Leg., p. 692, ch. 290, § 2.

Effective 90 days after May 23, 1957, date of adjournment.

Section 3 of the amendatory Act of 1957 provided that all statutes or parts of statutes in conflict with the provisions of this Act are hereby expressly repealed; provided, that nothing herein shall be construed as affecting the provisions of Article 1436A which applies only to unincorporated towns, which may thereafter become incorporated, and provided further, that nothing in this Act shall be construed to

affect the exclusive dominion and control every city, town and village, however created, has or may have over its public streets, sidewalks, alleys, parks, public squares and public ways within its corporate limits; and all electric co-operative corporations shall comply with all charter or ordinance provisions applicable to electric public utilities. Section 4 was a severability clause.

TITLE 33—COUNTIES AND COUNTY SEATS**Art. 1580. 1373, 797, 684 Agents to contract for county****Counties of 100,000 or more**

Acts 1939, 46th Leg., Spec.L., p. 602, § 1, as amended Acts 1949, 51st Leg., p. 713, ch. 376, § 1; Acts 1955, 54th Leg., p. 815; ch. 302, § 1; Acts 1957, 55th Leg., p. 382, ch. 185, § 1 read as follows:

"Section 1. (a) In all counties of this State having a population of one hundred thousand (100,000) or more inhabitants according to the last preceding Federal Census, General or Special, a majority of a Board composed of the Judges of the District Courts and the County Judge of such county, may appoint a suitable person who shall act as the County Purchasing Agent for such county, who shall hold office, unless removed by said Judges, for a period of two (2) years, or until his successor is appointed and qualified, who shall execute a bond in the sum of Five Thousand Dollars (\$5,000), payable to said county, for the faithful performance of his duties.

"(b) It shall be the duty of such Agent to make all purchases for such county of all supplies, materials and equipment required or used by such county or by a subdivision, officer, or employee thereof, excepting such purchases as may by law be required to be made by competitive bid, and to contract for all repairs to property used by such county, its subdivisions, officers, and employees, except such as by law are required to be contracted for by competitive bid. All purchases made by such Agent shall be paid for by warrants drawn by the County Auditor on the County Treasurer of such county as in the manner now provided by law.

"(c) It shall be unlawful for any person, firm or corporation, other than such Purchasing Agent, to purchase any supplies, materials and equipment for, or to contract for any repairs to property used by, such county or subdivision, officer, or employee thereof, and no warrant shall be drawn by the County Auditor or honored by the County Treasurer of any such county for any purchases except by such Agent and those made by competitive bid as now provided by law.

"(d) On the first day of July of each year such Purchasing Agent shall file with

the County Auditor and each of said Judges of such county an inventory of all property of the county and of each subdivision, officer, or employee thereof then on hand, and it shall be the duty of the County Auditor to carefully examine such inventory and to make an accounting for all property purchased or previously inventoried and not appearing in such inventory.

"(e) In order to prevent unnecessary purchases, such Agent shall have authority and it shall be his duty to transfer county supplies, materials, and equipment from any subdivision, department, officer, or employee of the county when such supplies, materials, or equipment are not actually needed or used by such subdivision, department, officer, or employee that may require such supplies and materials, or the use of such equipment; and such Agent shall furnish to the County Auditor a list of such supplies, materials, and equipment so transferred.

"(f) Such Agent shall receive as compensation for his services a salary of not less than Five Thousand Dollars (\$5,000) nor more than Ten Thousand Dollars (\$10,000) per year, payable in equal monthly installments. The salary of the County Purchasing Agent shall be paid out of the General Fund and/or the Road and Bridge Fund of such county by warrants drawn on the County Treasurer.

"(g) Said Agent shall have one assistant who shall receive as compensation for his services a salary of not less than Twenty-five Hundred Dollars (\$2,500) per year nor more than Five Thousand Dollars (\$5,000) per year, payable in equal monthly installments out of the General Fund and/or the Road and Bridge Fund.

"(h) Said Agent and said assistant may have such help, equipment, supplies and traveling expenses with the approval of said Board of Judges, as they may deem advisable, the amount of said expenses to be approved by said Board."

Sec. 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date. Acts 1957, 55th Leg., p. 382, ch. 185, § 2.

CHAPTER FIVE—COUNTY SEATS

Art.

1605a—1. Branch office buildings in counties of over 110,000 having city of over 10,000 outside county seat [New].

Art. 1605a—1. Branch office buildings in counties of over 110,000 having city of over 10,000 outside county seat

Section 1. This Act shall apply only to those counties which may now or hereafter have a population in excess of 110,000, and which county, at the same time, contains one or more incorporated cities whose area is not contiguous to the county seat, which have a population in excess of 10,000.

Sec. 2. The Commissioners Court of any county to which this Act applies is hereby authorized to acquire land for and to purchase, construct, repair, equip and improve buildings and other permanent improvements to be used as a county branch office building; provided that such building may not be located at the county seat or in a city contiguous to the county seat, nor shall such building be constructed in any city having a population of less than 10,000.

Sec. 3. To pay the costs of acquiring land for and of purchasing, constructing, repairing, equipping and improving such buildings and other permanent improvements, the Commissioners Court of each county to which this Act applies is hereby authorized to issue negotiable bonds or certificates of indebtedness of the county and to levy and collect taxes in payment of either of such obligations out of the permanent improvement fund. The certificates or bonds shall be authorized by an order of the Commissioners Court, shall mature in not exceeding 40 years, shall bear interest at a rate not to exceed five per cent per annum which interest shall be evidenced by coupons attached to the bonds or certificates. They shall be signed by the County Judge, attested by the County Clerk and registered by the County Treasurer. The certificates or bonds authorized to be issued under the provisions of this Act, and the records relating to their issuance, shall be submitted to the Attorney General of Texas for examination, and if they have been issued in accordance with the constitution and laws of the State of Texas, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts; and after they have been approved and registered and delivered to the purchaser, they shall be incontestable. Such obligations shall be fully negotiable and are hereby declared to be negotiable instruments.

Sec. 4. Any bonds authorized under the provisions of this Act may be issued only upon compliance with Chapter I of Title 22, Revised Civil Statutes of Texas, 1925, as amended, governing the issuance of bonds by political subdivisions. Certificates of indebtedness authorized under the provisions of this Act may be issued only if a notice of intention to issue the certificates is given in the manner provided by Section 2 of Chapter 163, Acts of the 42nd Legislature, 1931 (Bond and Warrant Law of 1931), and no petition is presented in the manner prescribed by Section 4 of that Act or the result of the election called under said Section 4 permits the issuance of the certificates.

Sec. 5. It is the purpose and intent of this Act to permit the construction of a county branch office building in cities other than the county seat where the administration of the affairs of the county will not be impaired and where the acquisition of such office space can be located in a city whose population is sufficient to justify the establish-

ment of such facilities. Nothing in this Act shall be construed as permitting a branch office to be established away from the county seat if other provisions of the laws in force and effect prohibit such establishment. The provisions of this Act shall be construed to accomplish this purpose and should any sentence, clause, paragraph or portion of this law be construed as in contravention of the constitution, its invalidity shall not affect the remainder of the provisions of the Act. Acts 1957, 55th Leg., p. 156, ch. 67.

¹ Article 2368a, § 2.

² Article 2368a, § 4.

Emergency. Effective April 17, 1957.

Tex.St.Supp. '58—13

TITLE 34—COUNTY FINANCES

I. GENERAL PROVISIONS

Art.

1630c. Change fund in counties of 600,000 or less population [New].

Art.

1641c. Special audit of county records on petition of voters; employment of auditor [New].

Art. 1630c. Change fund in counties of 600,000 or less population

Section 1. The Commissioners Court of any county having a population of not more than six hundred thousand (600,000), by the last preceding Federal Census, may set aside from the General Fund amounts not to exceed One Hundred Dollars (\$100) for any one collecting office for 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 1957, 55th Leg., 2nd C.S., p. 184, ch. 22.

Section 5 of the Act of 1957, 2nd C.S., repealed all conflicting laws and parts of laws.

Emergency. Effective Dec. 10, 1957.

Art. 1641c. Special audit of county records on petition of voters; employment of auditor

Section 1. In every county of this state there shall be a special audit of all the county records upon the filing of a petition of at least thirty per cent (30%) of the qualified voters residing in such county who voted in the last general election for Governor of Texas, with any district judge having jurisdiction in the county.

Sec. 2. Upon receipt of such petition the district judge shall determine its validity and if he finds that thirty per cent (30%) of the qualified voters residing in the county who voted in the last general election for Governor of Texas have requested an audit of the county records he shall immediately employ a person having the qualifications prescribed by law for county auditors to prepare a special audit of all of the county records. The person so employed to prepare such special audit shall receive as compensation for his services a reasonable fee to be fixed by the district judge and paid out of the general fund or the officers' salary fund of the county.

Sec. 3. After the preparation of the audit it shall be filed with the district judge employing the auditor, and a copy shall be filed with the State Auditor.

Sec. 4. The provisions of this Act shall be cumulative of all other laws. Acts 1957, 55th Leg., p. 265, ch. 124.

Effective 90 days after May 23, 1957, date of adjournment.

TITLE 35—COUNTY LIBRARIES

2. LAW LIBRARY

Art. 1702a—1. County law libraries in certain counties—management

Section 1. For the purpose of establishing and maintaining a "County Law Library" for each county coming within the terms of this Act there shall be charged as costs, and taxed, collected, and paid as other costs, the sum of One Dollar and Fifty Cents (\$1.50) in each civil case, except suits for delinquent taxes, hereafter filed in every County or District Court, in each county having seven (7) or more District Courts and three (3) or more County Courts including County Courts at Law. Provided, however, that in no case shall the county be liable for said cost in any civil cases. Such costs shall be collected by the Clerk of the respective Courts, and when collected shall be paid to the County Treasurer, to be kept by him in a separate fund to be known as the "County Law Library Fund"; such fund shall be administered by the Commissioners Court for the purchase, lease or maintenance of a law library, and furniture and equipment necessary thereto, in a place convenient and accessible to the Judges and litigants in such courts, and for the payment of salaries to employees to be appointed by the Commissioners Court; the Commissioners Court of counties affected by this Act shall make rules for the use of books in said library, and shall provide suitable space and shelving for housing same.

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

The Commissioners Court of such counties may vest the management of such library in a committee to be selected by the Bar Association of such county, but the acts of such committee shall be subject to the approval of the Commissioners Court. As amended Acts 1957, 55th Leg., p. 446, ch. 218, § 1.

Emergency. Effective May 10, 1957.

TITLE 39—COURT OF CIVIL APPEALS

CHAPTER ONE—TERMS AND JURISDICTION

Art.

1817a. First Supreme Judicial District;
places of transacting business
[New.]

Art. 1817, 1586, 993. Location of courts

A Court of Civil Appeals shall be held at the following places, respectively:

1. In the First Supreme Judicial District, in the City of Houston,
 2. In the Second Supreme Judicial District, in the City of Fort Worth,
 3. In the Third Supreme Judicial District, in the City of Austin,
 4. In the Fourth Supreme Judicial District, in the City of San Antonio,
 5. In the Fifth Supreme Judicial District, in the City of Dallas,
 6. In the Sixth Supreme Judicial District, in the City of Texarkana,
 7. In the Seventh Supreme Judicial District, in the City of Amarillo,
 8. In the Eighth Supreme Judicial District, in the City of El Paso,
 9. In the Ninth Supreme Judicial District, in the City of Beaumont,
 10. In the Tenth Supreme Judicial District, in the City of Waco,
- and,
11. In the Eleventh Supreme Judicial District, in the City of Eastland.

12. The Cities of Beaumont, Waco and Eastland, respectively, shall furnish and equip suitable rooms for the respective Courts of Civil Appeals therein, and for the justices thereof, and the County of Harris shall furnish and equip suitable rooms in Houston for the Court of Civil Appeals therein, and for the justices thereof; all without cost or expense to the State. As amended Acts 1957, 55th Leg., p. 1263, ch. 421, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957 is article 1817a. Section 3 repealed all conflicting laws and parts of laws.

Art. 1817a. First Supreme Judicial District; places of transacting business

From and after the passage of this Act, the Court of Civil Appeals for the First Supreme Judicial District may transact its business either at the City of Galveston or the City of Houston, as the Court shall determine it necessary and convenient; providing that all cases originating in Galveston County shall be heard and tried in such county. Acts 1957, 55th Leg., p. 1263, ch. 421, § 2.

Art. 1819. 1589, 996 Jurisdiction defined

The appellate jurisdiction of the Courts of Civil Appeals shall extend to all civil cases within the limits of their respective districts of which the District Courts and County Courts have or assume jurisdiction with the amount in controversy or the judgment rendered shall exceed One Hundred Dollars (\$100) exclusive of interest and costs; provided, however, that if any Court of Civil Appeals having jurisdiction of a cause, matter or controversy requiring immediate action shall, by reason of the illness or absence or unavailability of at least two (2) of the Judges thereof, be unable to take such immediate action, then the nearest available

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Court of Civil Appeals may take such action as may be required in regard to said cause, matter or controversy under such rules as the Supreme Court may prescribe. As amended Acts 1957, 55th Leg., p. 1279, ch. 426, § 1.

Emergency. Effective June 6, 1957.

CHAPTER TWO—CLERKS AND EMPLOYÉS

Art. 1827. 1596-7 Appointment of clerk

Each Court of Civil Appeals shall appoint for a term of two years one Clerk who shall reside within a county which is a part of the Supreme Judicial District of the Court of Civil Appeals making the appointment. Such appointment shall be recorded in the minutes of the court. Whenever the necessity occurs, the court may appoint a Clerk Pro Tem. As amended Acts 1957, 55th Leg., 2nd C. S., p. 173, ch. 16, § 1.

Emergency. Effective Dec. 10, 1957.

TITLE 41—COURTS—COUNTY

CHAPTER ONE—THE COUNTY JUDGE

Art. 1934a—10. Stenographer or clerk for county judges in counties of 7,500 to 17,500; salary

In any county in this state whose population as shown by the last preceding federal census is not more than seventeen thousand, five hundred (17,500) and not less than seven thousand, five hundred (7,500), and having an assessed valuation of not less than Twenty-five Million Dollars (\$25,000,000.00), the County Judge may, with the approval of the Commissioners Court, employ a stenographer or clerk at a salary not exceeding Four Hundred Dollars (\$400.00) per month, such salary to be fixed by the Commissioners Court and paid monthly by county warrants drawn on the county general fund under the orders of the Commissioners Court of such county. As amended Acts 1957, 55th Leg., p. 1362, ch. 463, § 1.

Emergency. Effective June 10, 1957.

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws.

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

Section 1.

(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 Two Thousand, Four Hundred Dollars (\$2,400) per annum, nor more than Four Thousand, Eight Hundred Dollars (\$4,800) per annum. As amended Acts 1957, 55th Leg., p. 834, ch. 363, § 1.

Emergency. Effective May 31, 1957.

CHAPTER THREE—POWERS AND JURISDICTION

Art. 1949. 1763, 1154, 1161 Exclusive original jurisdiction

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

CHAPTER FIVE—MISCELLANEOUS PROVISIONS

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

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| <p>HARRIS COUNTY AT LAW NO. 4 [NEW].</p> <p>Art. 1970—110c. County Court at Law No. 4 of Harris County</p> <p>BEXAR COUNTY AT LAW NO. 3 [NEW].</p> <p>1970—301d. County Court at Law No. 3, of Bexar County.</p> | <p>LUBBOCK COUNTY</p> <p>Art. 1970—340.1 County Court at Law No. II of Lubbock County [New].</p> <p>HUNT COUNTY</p> <p>1970—344. County Court at Law of Hunt County [New].</p> |
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For Annotations and Historical Notes, see Vernon's Texas Annotated Statutes

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| <p>Art. 1970—345. Tarrant County Probate Court [New].</p> | <p>TARRANT COUNTY</p> <p>JURISDICTION OF PROBATE COURTS</p> <p>Art. 1970a—1. Probate courts specially created; jurisdiction as to mentally ill, mentally retarded and persons afflicted with tuberculosis [New].</p> |
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**ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR
COURTS, AND AFFECTING PARTICULAR COUNTY
COURTS, AND DECISIONS THEREUNDER**

DALLAS COUNTY PROBATE COURT

Art. 1970—31a. Probate Court of Dallas County

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

HARRIS COUNTY PROBATE COURT

Art. 1970—110a. Probate Court of Harris County

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

HARRIS COUNTY AT LAW NO. 4

Art. 1970—110c. County Court at Law No. 4 of Harris County

Section 1. There is hereby created a court to be held in Harris County, Texas, to be called the "County Court at Law No. 4 of Harris County, Texas.

Sec. 2. The County Court at Law No. 4 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, and the judges of said court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the judge thereof.

Sec. 2A. The County Court at Law No. 4 of Harris County, Texas, and the judge thereof shall have, and is hereby granted the same jurisdiction and powers in civil actions or proceedings that are now or may be conferred by law upon and vested in the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, and the judges thereof; the clerk of the County Court at Law of Harris County, Texas, shall also be the clerk of said County Court at Law No. 4 of Harris County, Texas, in civil matters; and shall file each ninth civil action or proceeding filed in said courts in the County Court at Law No. 4, beginning with the first civil action or proceeding filed so that the first civil action or proceeding filed after the effective date of this Act and every ninth civil action or proceeding filed thereafter shall be docketed in the County Court at Law No. 4 of Harris County, Texas, and the second civil action or

proceeding filed and every ninth civil action or proceeding thereafter filed shall be docketed in the County Court at Law No. 3 of Harris County, Texas, and the third and every ninth civil action or proceeding filed thereafter shall be filed in the County Court at Law No. 2 of Harris County, Texas, and the fourth, fifth, sixth, seventh, eighth and ninth civil action or proceeding filed and every fourth, fifth, sixth, seventh, eighth and ninth civil action or proceeding thereafter filed shall be docketed in the County Court at Law of Harris County, Texas, and so on in rotation.

Said clerk shall keep separate dockets for each of said courts; and shall tax the official court reporter's fee as costs in civil actions in each of said courts in like manner as said fee is taxed in civil cases in the district courts; and each of the judges of said County Courts at Law may with the consent of the judge of the court to which transfer is to be made, transfer civil actions or proceedings from his respective court to any one of the other courts by the entry of an order to that effect upon the docket, and the said County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, and the judges thereof, shall transfer to the said County Court at Law No. 4 of Harris County, Texas, any civil actions or proceedings pending on the dockets of said courts on the effective date of this Act, as may be necessary in order that the now over crowded dockets of said courts may be relieved, and said County Court at Law No. 4 of Harris County, Texas, and the judge thereof, shall have jurisdiction to hear and determine said civil matters, and render and enter the necessary and proper orders, decrees, and judgments therein. The judges of the County Court at Law No. 2 of Harris County, Texas, the County Court at Law No. 3 of Harris County, Texas, and the County Court at Law No. 4 of Harris County, Texas, may transfer criminal causes between said courts by entry of an order on the docket of the court from which the cause is transferred, provided that no cause shall be transferred without the consent of the judge of the court to which transferred.

Sec. 3. The Judge of the said County Court at Law No. 4 shall be elected at the General Election by the qualified voters of Harris County for a term of four (4) years and shall hold his office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said Court or the judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. When this Act becomes effective the Commissioners Court of Harris County shall appoint a judge of the County Court at Law No. 4 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next General Election and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of said County Court at Law No. 4 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding General Election and until his successor shall be duly elected and qualified.

Sec. 4. The judge of the County Court at Law No. 4 of Harris County, Texas, shall appoint an official shorthand reporter for such court, who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925,

as amended, and as the same may hereafter be amended and all other provisions of the Law relating to "Official Court Reporters" shall and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the District Courts of Harris County is paid.

Sec. 5. The County Clerk of Harris County, Texas, shall act as and be the clerk of said County Court at Law No. 4 of Harris County, Texas, in civil matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, in civil matters and causes.

Sec. 5A. The District Clerk of Harris County, Texas, shall act as and be the clerk of said County Court at Law No. 4 of Harris County, Texas, in criminal matters. The District Clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas.

Sec. 6. The sheriff of Harris County, either in person or by deputy, shall attend said court when required by the judge thereof; and the various sheriffs and constables of this State executing process issued out of said court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 7. The seal of the County Court at Law No. 4 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seal shall contain the words "County Court at Law No. 4 of Harris County, Texas," and said seal shall be judicially noticed.

Sec. 8. A special judge of said court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 9. The terms of the court hereby created shall begin on the first Monday of the months of June, August, October, December, February and April of each year. The session of said court shall be held in such place as may be provided therefor by the Commissioners Court of Harris County.

Sec. 10. When this Act becomes effective, the District Clerk of Harris County, Texas, being the clerk of this court for Criminal matters, in order to provide a criminal docket for this court, shall file the first one hundred (100) criminal cases to be filed, in the said County Court at Law No. 4, and beginning with the 101st case to be filed, such case shall be filed in County Court at Law No. 2, and the 102nd case to be filed shall be filed in County Court at Law No. 3 and the 103rd case to be filed shall be filed in County Court at Law No. 4, and so on in rotation so that thereafter of every three (3) cases filed, each of the Courts, County Court at Law No. 2, County Court at Law No. 3 and County Court at Law No. 4 shall each receive one (1) case: further, immediately on the effective date of this Act all criminal cases pending on the docket of County Court at Law No. 2 with a digit ending in the number one and all cases pending on the docket of County Court at Law No. 3 with a digit ending in the number two shall be transferred to and docketed in the County Court at Law No. 4 of Harris County, Texas, by the district clerk and jurisdiction of such cases so transferred is hereby conferred upon the County Court at Law No. 4 of Harris County, Texas.

Sec. 11. The judge of the County Court at Law No. 4 of Harris County, Texas, may exchange benches with the judges of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, in the same manner that the judges of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, are authorized to exchange benches under the provisions of Section 5 of Senate Bill No. 144, Chapter 16 and Section 5 of Senate Bill No. 143, Chapter 24, Acts of the Forty-first Legislature, Regular Session, 1929.

Sec. 12. The practice in said County Court at Law No. 4, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now or may hereafter be prescribed for county courts.

Sec. 13. All process issued out of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, prior to the time when the clerks thereof shall transfer cases from the docket of said courts, as provided in Section 10 of this Act, in cases transferred as therein provided, shall be returned to and filed in the court hereby created, and shall be equally as valid and binding upon the parties to such transferred cases as though such process had been issued out of the County Court at Law No. 4 of Harris County, Texas. Likewise, in cases transferred to any one of the County Courts at Law by order of the judge of one of said courts as provided in Section 2 of this Act, all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though originally issued out of the court to which such transfer may be made. Acts 1957, 55th Leg., p. 1333, ch. 453.

Emergency. Effective June 6, 1957.

Section 14 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 15 provided that if any section was declared unconstitutional it should not affect the remainder.

WICHITA COUNTY AT LAW

Art. 1970—166b. Jurisdiction in civil cases transferred to District Court

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

BEXAR COUNTY AT LAW NO. 3

Art. 1970—301d. County Court at Law No. 3 of Bexar county

Section 1. There is hereby created a Court to be held in Bexar County, Texas, to be known and designated as the "County Court at Law No. 3, of Bexar County, Texas."

Sec. 2. The County Court at Law No. 3, of Bexar County, Texas, shall have, and it is hereby granted, the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions, matters and proceedings under the Constitution and Laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Bexar County, Texas, and the Judge of said Court shall have the same powers, rights, privileges as to criminal matters as are now or may be vested in the Judges of county courts having criminal jurisdiction.

The County Court at Law No. 3, of Bexar County, Texas, shall have, and it is hereby granted, the same jurisdiction and powers in civil actions,

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matters and proceedings that are now or may be conferred by law upon and vested in the County Court at Law No. 1, of Bexar County, Texas, and in the County Court at Law No. 2, of Bexar County, Texas, and the Judges thereof. Provided, however, that the jurisdiction of said County Court at Law No. 1, of Bexar County, Texas, and the jurisdiction of said County Court at Law No. 2, of Bexar County, Texas, and the jurisdiction of said County Court at Law No. 3, of Bexar County, Texas, over all such actions, matters and proceedings, civil and criminal, within said Bexar County, shall be concurrent.

The Judge of the County Court at Law No. 3 of Bexar County, Texas, upon proper certification of the County Judge of Bexar County, Texas, because of conflicting duties, or absence or inability to act; or, upon the failure or refusal of such County Judge to act for any reason or cause, shall also be authorized and empowered to act for and in the place and stead of said such County Judge in any lunacy, probate and condemnation proceeding or matter, and also may perform for the County Judge of Bexar County any and all other ministerial acts required by the laws of this State of said County Judge of Bexar County, Texas, and upon any such certification, the Judge of said County Court at Law No. 3, of Bexar County, Texas, shall give preference and priority to all such actions, matters and proceedings so certified, and any and all such acts thus performed by the Judge of said County Court at Law No. 3, of Bexar County, Texas, shall be valid and binding upon all parties to such actions, matters and proceedings the same as if performed by the County Judge of Bexar County, Texas. Provided, that the powers thus conferred on the Judge of the County Court at Law No. 3, of Bexar County, Texas, shall extend to and include all powers of the County Judge of Bexar County, Texas, except his powers and duties in connection with the transaction of the business of the County as presiding officer of the Commissioners Court, and in connection with the budget of Bexar County. And provided further that the provisions of this paragraph shall be in addition to and cumulative of the provisions of House Bill No. 748, Acts 1951, Regular Session, Fifty-second Legislature, Page 601, Chapter 355.

Notwithstanding the additional powers and duties conferred upon the Judge of the County Court at Law No. 3, of Bexar County, Texas, by the provisions of this paragraph, no additional compensation or salary shall be paid to said Judge, but the compensation or salary of such Judge shall remain the same as now, or as may be hereafter, fixed by law.

Sec. 3. From and after the passage and taking effect of this Act, civil and criminal actions, matters and proceedings may be filed in said County Court at Law No. 3, of Bexar County, Texas, in the same manner and under the same conditions, circumstances and instances as now obtain for the filing of actions, matters and proceedings, civil and criminal, in the County Court at Law No. 1, of Bexar County, Texas, and in the County Court at Law No. 2, of Bexar County, Texas, and all such actions, matters and proceedings shall be docketed in the order in the Court in which filed, or in such other manner as may be determined by a majority of the Judges of said County Court at Law by an order duly made by them and entered upon the minutes of each such County Court at Law.

Sec. 4. The Clerk of said County Court at Law No. 3, of Bexar County, Texas, shall keep a separate docket for said County Court at Law No. 3, of Bexar County, Texas, the same as is now or may be provided by law for the keeping of dockets for the County Court at Law No. 1, of Bexar County, Texas, and the County Court at Law No. 2, of Bexar County, Texas; he shall tax the official Court Reporter's fee as costs in civil actions in said County Court at Law No. 3, of Bexar County, Texas, in like manner as said fee is taxed in civil cases in the District Courts of this State. 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, and the Judge of the County Court at Law No. 3, of Bexar County, Texas, and each of them may, with the consent of the Judge of the Court to which transfer is to be made, transfer civil or criminal actions, matters and proceedings from his respective court to any one of the other courts by the entry of an order to the effect upon the docket of such court; and the Judge of the County Court at Law to which any such action, matter or proceeding, civil or criminal, shall have been transferred, shall have jurisdiction to hear and determine said matter or matters and render and enter the necessary and proper orders, decrees and judgments therein, and in the same manner and with the same force and effect as if such case, action, matter or proceeding had been originally filed in said County Court at Law to which transferred. Provided, however, that no cause, action, matter, case or proceeding shall be transferred without the consent of the Judge of the Court to which transferred.

Sec. 5. The Judge of the County Court at Law No. 3, of Bexar County, Texas, together with the Judges of the County Court at Law No. 1, of Bexar County, Texas, and County Court at Law No. 2, of Bexar County, Texas, may, at any time, exchange benches, and may, at any time, sit and act for and with each other in any civil or criminal case, matter or proceeding now, or hereafter, pending in either of said County Courts at Law of Bexar County, Texas; and any and all such acts thus performed by the Judge of the County Court at Law No. 1, of Bexar County, Texas, or by the Judge of the County Court at Law No. 2, of Bexar County, Texas, or by the Judge of the County Court at Law No. 3, of Bexar County, Texas, shall be valid and binding upon all parties to such cases, matters and proceedings.

Sec. 6. The practice in said County Court at Law No. 3, of Bexar County, Texas, shall be the same as prescribed by law relating to County Courts and County Courts at Law. Appeals and writs of error may be taken from judgments and orders of said County Court at Law No. 3, of Bexar County, Texas, and from judgments and orders of the Judge thereof, in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by law relating to appeals and writs of error from judgments and orders of the County Courts and County Courts at Law throughout this State, and the respective judges thereof, in similar cases. And appeals may also be taken from interlocutory orders of said County Court at Law No. 3, of Bexar County, Texas, appointing a receiver, and also from orders of said County Court at Law No. 3, of Bexar County, Texas, overruling a motion to vacate or an order appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the District Courts throughout this State.

Sec. 7. The Judge of the County Court at Law No. 3, of Bexar County, Texas, shall appoint an official shorthand reporter for such Court, who shall be well-skilled in his profession and shall be a sworn officer of the Court, and shall hold his office at the pleasure of the Court and all of the provisions of Chapter 13, Title 42, of the Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the law relating to "official court reporters" shall, and the same are hereby made to, apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the

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District Courts of Bexar County, Texas, and paid in the same manner that compensation of official shorthand reporters of said District Court of Bexar County is paid.

Sec. 8. The County Clerk of Bexar County, Texas, shall be the clerk of the County Court at Law No. 3, of Bexar County, Texas, in addition to his duties as they are now, or may hereafter be, prescribed by law. The seal of said Court shall be the same as provided by law for County Courts, except that the seal of the County Court at Law No. 3, of Bexar County, Texas, shall contain the words "County Court at Law No. 3, of Bexar County, Texas." The County Clerk of Bexar County, Texas, shall, upon taking effect of this Act, or as soon thereafter as may be possible, appoint a deputy for said County Court at Law No. 3, of Bexar County, Texas; provided, however, that the person so appointed must be acceptable to the Judge of said Court, and such appointment must be confirmed in writing by the Judge of said Court before the same becomes effective. Said deputy so appointed shall take the oath of office prescribed by the Constitution of Texas, and the County Clerk of Bexar County, Texas, shall have power and authority to require said deputy to furnish bond in such amount, conditioned and payable as may be prescribed by law. Said deputy shall act in the name of his principal and he may do and perform all such official acts as may be lawfully done and performed by said County Clerk of Bexar County in person; it shall be the duty of said deputy to attend all sessions of said County Court at Law No. 3, of Bexar County, Texas, and perform such services in and for said Court as are usually performed by the County Clerk and his deputies of the several County Courts of this State; and said deputy shall also perform any and all other services that may, from time to time, be assigned him by the Judge of said Court. Said deputy shall, in all cases, both civil and criminal, that may be filed in said County Court at Law No. 3, of Bexar County, Texas, or that may be transferred to said Court from the County Court at Law No. 1, of Bexar County, Texas, or that may be transferred to said Court from the County Court at Law No. 2, of Bexar County, Texas, tax and assess and collect the same fees and costs, and in the same manner, as now provided by law for the County Courts of this State and the Judges thereof in similar cases; and all such fees and costs, when collected by said County Clerk and his deputies, as well as any and all other sums of money received by said County Clerk and his deputies in their official capacity, shall by said Clerk and his deputies be deposited in such fund, or paid to the proper person or persons entitled to the same, and in the manner as may be provided by law. The deputy appointed hereunder is hereby authorized to act for the deputy appointed by the Judge of the County Court at Law No. 1, of Bexar County, Texas, and he shall also be authorized to act for the deputy appointed by the Judge of the County Court at Law No. 2, of Bexar County, Texas, and each and all of said deputies shall be, and they are hereby, authorized to act for each other, in any matter pertaining to the clerical business of said Court, and it shall be the duty of said deputies to thus act for one another when requested to do so by the Judges of the several County Courts at Law of Bexar County, but they shall receive no additional compensation for so serving. Said deputy so appointed shall, from and after his said appointment, confirmation and qualification, as herein provided, continue as such deputy at the pleasure of the Judge of said County Court at Law No. 3, Bexar County, Texas, and should said Judge, for any reason whatsoever, not further desire the services of such deputy, the County Clerk of Bexar County, Texas, shall, upon request of such Judge, appoint another deputy for such Court; such appointment, however, to be made in the manner as hereinabove provided. In the event of a vacancy caused by any reason whatsoever,

the County Clerk of Bexar County, Texas, shall immediately appoint another deputy for said Court, such appointment, however, to be made in the same manner as hereinabove provided. The salary of the deputy appointed for said County Court at Law No. 3, of Bexar County, Texas, shall be determined and fixed by the Judge of said Court but shall not exceed the salary now being paid to, or that in the future may be paid to, the deputy for County Court at Law No. 1, of Bexar County, Texas, or the deputy for the County Court at Law No. 2, of Bexar County, Texas; said annual salary to be paid to said deputy in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the County Clerk of Bexar County, Texas, and such payment of said salary shall be made in the manner provided by law. However, before such monthly salary is paid to said deputy, the Judge of said County Court at Law No. 3, of Bexar County, Texas, shall cause to be filed with the County Clerk of Bexar County, Texas, or with the proper officer of said County, a written statement, signed by the Judge, certifying that said deputy has performed the services required of him and that he is entitled to receive said salary and such salary of said deputy shall be paid to him only upon certificate being signed and filed by said Judge. Provided, that nothing contained in this section of this Act is intended to change or alter the duties and powers that have heretofore been and are now being exercised by the County Clerk of Bexar County, Texas, except as herein specifically and expressly stated.

Sec. 9. The Sheriff of Bexar County, Texas, shall, by and through a deputy to be appointed as hereinafter provided, attend all sessions of said County Court at Law No. 3, of Bexar County, Texas, and said Sheriff shall, upon the taking effect of this Act, or as soon thereafter as may be possible, appoint one (1) deputy for said Court, provided, however, that the person thus appointed must be acceptable to the Judge of said Court and said appointment of said deputy must be approved and confirmed in writing by said Judge before the same becomes effective. The deputy sheriff so appointed shall, before assuming his duties, take the oath of office prescribed by the Constitution of Texas, and the Sheriff of Bexar County, Texas, shall have the power and authority to require said deputy to furnish bond in such amount, conditioned and payable as may be prescribed by law. Said Deputy shall act in the name of his principal and he may do and perform all such official acts as may be lawfully done and performed by the Sheriff of Bexar County, Texas, in person. Said deputy shall, from and after his appointment, confirmation and qualification, as hereinabove provided, continue as such deputy at the pleasure of the Judge of said County Court at Law No. 3, of Bexar County, Texas, and should said Judge for any reason whatsoever, not further desire the services of said deputy sheriff, the Sheriff of Bexar County, Texas, shall, upon request of such Judge, appoint another deputy for such court; such appointment, however, to be made in the same manner as hereinabove provided. It shall be the duty of the deputy sheriff appointed as herein provided, to attend all sessions of said County Court at Law No. 3, of Bexar County, Texas, and also perform and render such services in and for said Court, and for the Judge thereof, as are usually and generally performed and rendered by Sheriffs and their deputies in and about the several district and County Courts of this State, and including the serving of any and all process, subpoenas, warrants and writs of any and all kinds, nature and character, in both civil and criminal cases, matters and proceedings; and it shall be the duty of said deputy sheriff to also perform and render any and all other services

that may, from time to time, be assigned to him, by the Judge of said Court. Said deputy sheriff shall have, possess and enjoy the same rights, powers, authority and privileges that the Sheriffs and their deputies throughout this State now or may hereafter have, possess and enjoy; and said deputy sheriff is authorized and empowered to act for the deputy sheriff of the County Court at Law No. 1, of Bexar County, Texas, and he is also authorized and empowered to act for the deputy sheriff of the County Court at Law No. 2, of Bexar County, Texas, and all of said deputy sheriffs may, and they are hereby authorized and empowered to, act for one another, and it shall be their duty to act for one another when required to do so by either of the Judges of said Courts or by said Sheriff; but said deputy thus acting for another shall not be entitled to receive, nor shall they receive, any additional compensation. The Sheriff of Bexar County, Texas, shall, in the event of a vacancy caused by any reason whatsoever, immediately appoint another deputy for such court, such appointment, however, to be subject to the approval and written confirmation of the Judge of said Court. The salary of the deputy sheriff appointed for said County Court at Law No. 3, of Bexar County, Texas, shall be determined and fixed by the Judge of said Court but shall not exceed the salary now being paid to, or that in the future may be paid to, the deputy sheriff for County Court at Law No. 1, of Bexar County, Texas, or the deputy sheriff for County Court at Law No. 2, of Bexar County, Texas; and said annual salary shall be paid to such deputy sheriff in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the Sheriff of Bexar County, Texas, and such payment of said salary shall be made in the manner provided by law. However, before such monthly salary is paid to said deputy sheriff, the Judge of said County Court at Law No. 3, of Bexar County, Texas, shall cause to be filed with the Sheriff of Bexar County, Texas, or with the proper officer of said County, a written statement, signed by said Judge, certifying that said deputy sheriff has performed and rendered the services required of him and that he is entitled to receive his salary. Provided, that nothing contained in this Section of this Act is intended to change or alter the deputies and powers of the Sheriff of Bexar County, Texas, except as herein specifically and expressly provided.

Sec. 10. At the next General Election after the effective date of this Act there shall be elected a Judge of the County Court at Law No. 3, of Bexar County, Texas, who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five (5) years, well informed in the laws of the State, who shall have resided in and been actively engaged in the practice of law in Bexar County, Texas, for a period of not less than four (4) years prior to such General Election, and who shall hold his office for four (4) years and until his successor shall have been duly elected and qualified. When this Act becomes effective, the Commissioners Court of Bexar County, Texas, shall appoint a Judge of said County Court at Law No. 3, of Bexar County, Texas, who shall have the qualifications herein prescribed and who shall serve until the next General Election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of said County Court at Law No. 3, of Bexar County, Texas, shall, in like manner as hereinabove provided, be filled by said Commissioners Court of Bexar County, Texas, the appointee thereof to hold office until the next succeeding General Election and until his successor shall be duly elected and qualified.

Sec. 11. The Judge of the County Court at Law No. 3, of Bexar County, Texas, shall take the oath of office prescribed by the Constitu-

tion of Texas, but no bond shall be required of such Judge. The Judge of the County Court at Law No. 3, of Bexar County, Texas, shall receive and shall be paid the same salary as is now, or as may hereafter be, prescribed by law for the Judges of the County Court at Law No. 1, of Bexar County, Texas, and of the County Court at Law No. 2, of Bexar County, Texas. Said salary shall be paid to said Judge 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.

Sec. 12. A special judge may be appointed or elected for the County Court at Law No. 3, of Bexar County, Texas, and in the same manner as may now or hereafter be provided by the general laws of this State relating to the appointment and election of a special judge, or judges, of the several District and County Courts and County Courts at Law of this State; and every such special judge thus appointed or elected for said Court shall receive for the services he may actually perform as such special judge the same amount of pay which the regular judge of said court would be entitled to receive for such services; and said amount to be paid to such special judge shall be paid out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said County upon orders of the Commissioners Court of Bexar County, Texas; but no part of the amount paid to any special judge shall be deducted from or paid out of the salary of the regular judge of said County Court at Law No. 3, of Bexar County, Texas.

Sec. 13. The County Court at Law No. 3, of Bexar County, Texas, or the Judge thereof, shall have power to grant all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law No. 3, of Bexar County, Texas.

Sec. 14. The County Court at Law No. 3, of Bexar County, Texas, shall hold six (6) terms of court each year, commencing on the first Monday in January, March, May, July, September and November of each year and each term shall continue until the business of said Court shall have been disposed of; provided, however, that no term of said Court shall continue beyond the date fixed for the commencement of its new term, except upon an order entered on its minutes during the term extending the term for any particular causes therein specified.

Sec. 15. For the purpose of disposing of the business of said County Court at Law No. 3, of Bexar County, Texas, there shall be appointed by the Criminal District Attorney of Bexar County, Texas, in addition to the assistants now provided by law, one assistant for the purpose of conducting the duties of his office in said Court. Said assistant shall be paid the same salary as is now, or may be hereafter, paid to the assistants serving in County Court at Law No. 1, of Bexar County, Texas, and in County Court at Law No. 2, of Bexar County, Texas, the same to be paid in equal monthly installments, by said County, upon warrants drawn against the General Fund by orders of the Commissioners Court. Acts 1957, 55th Leg., p. 1337, ch. 454.

Emergency. Effective June 6, 1957.

Section 16 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 17 was a severability provision.

PARTICULAR COUNTY COURTS

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

Glasscock—Jurisdiction restored: Acts 1957, 55th Leg., p. 399, ch. 196, effective May 6, 1957.

Gonzales—Jurisdiction increased: Acts 1957, 55th Leg., p. 278, ch. 127, § 1, effective April 30, 1957.

Gonzales—Jurisdiction diminished: Acts 1957, 55th Leg., p. 867, ch. 383, effective April 30, 1957.

Morris. Jurisdiction diminished: Acts 1883, Feb. 9, ch. 11, p. 6. Jurisdiction restored: Acts 1957, 55th Leg., p. 78, ch. 37, effective March 29, 1957.

GILLESPIE COUNTY COURT

Art. 1970—318. Gillespie County Court; probate jurisdiction conferred; civil and criminal jurisdiction diminished

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

GLASSCOCK COUNTY COURT

Art. 1970—320. Glasscock County Court; civil and criminal jurisdiction diminished

Jurisdiction restored, see note under art. 1970—310.

STEPHENS COUNTY COURT

Art. 1970—321. Stephens County Court; civil and criminal jurisdiction diminished

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

PANOLA COUNTY COURT

Art. 1970—323a. Panola County Court; Panola District Court; jurisdiction; transfer of dockets

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

LUBBOCK COUNTY

Art. 1970—340. County Court at Law of Lubbock County

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

Art. 1970—340.1. County Court at Law No. II of Lubbock County

Section 1. There is hereby created a Court to be held in Lubbock, Lubbock County, Texas, which shall be known as the County Court at Law No. 2 of Lubbock County, Texas.

Sec. 2. The County Court at Law No. 2 of Lubbock County, Texas, shall have and exercise jurisdiction in all matters and causes; civil and

criminal, original and appellate, over which by the General Laws of the State, the County Court of said County would have jurisdiction, except as provided in Section 7 of this Act.

The jurisdiction of the County Court at Law No. 2 of Lubbock County, and the Judge thereof, shall extend to all matters of eminent domain of which jurisdiction has heretofore vested in the County Court of Lubbock County or in the County Judge; but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Lubbock County as the presiding officers of such Commissioners Court, as to roads, bridges, and public highways, and matters of eminent domain which are now in the jurisdiction of the Commissioners Court or the Judge thereof.

Sec. 3. The County Court at Law No. 2 of Lubbock County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the General Laws of this State is conferred upon Justice Courts.

Sec. 4. The County Court at Law No. 2 of Lubbock County shall have concurrent original jurisdiction with the County Court at Law No. 1 of Lubbock County. The Judges in either County Court at Law may try cases in the other County Court at Law and cases may be transferred by the respective Judges from one (1) Court to the other County Court at Law.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Court at Law No. 2 of Lubbock County in civil cases of which said Court had appellate or original concurrent jurisdiction with the Justice Court, where the judgment or amount in controversy would not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justice Courts of jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to said County Courts at Law of Lubbock County over such matters as are specified in this Act, nor shall this Act be construed to deny the return of an appeal to the County Courts at Law of Lubbock County from the Justice Court, where the return of appeals to the County Court at Law or the County Court now exists by law.

Sec. 7. The County Court of Lubbock County shall have and retain, as heretofore, the general jurisdiction of the Probate Court and of jurisdiction now conferred by law over probate matters, and the Court herein created shall have no other jurisdiction than that named in this Act, and the County Court of Lubbock County as now and heretofore existing shall have all jurisdiction which it now has, save and except that which is given the County Court at Law No. 1 and County Court at Law No. 2 of Lubbock County; but the County Court now existing shall have no jurisdiction over other matters, civil or criminal. The County Judge of Lubbock County shall be the Judge of the County Court of said County, and all ex officio duties of the County Judge shall be exercised by said Judge of the County Court of Lubbock County, except in so far as the same shall by this Act be committed to the County Court at Law No. 2 of Lubbock County.

Sec. 8. The jurisdiction and authority now vested by law in the County Court of Lubbock County and the County Court at Law No. 1 of Lubbock County, for the drawing, selection, and service of jurors, shall be exercised by said Court; but juries summoned for any of said Courts may by order of the Judge of the Court in which they are summoned be transferred to either of the other Courts for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

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Sec. 9. The terms of the County Court at Law No. 2 of Lubbock County and the practice therein, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to County Courts. The terms of the County Court at Law No. 2 of Lubbock County, shall be held as now established for the terms of the County Court of Lubbock County and the same may be changed in accordance with the law governing the change in the terms of the County Court of Lubbock County, Texas.

Sec. 10. There shall be elected in Lubbock County by the qualified voters thereof, at each general election, a Judge for the County Court at Law No. 2 of Lubbock County, who shall be a regularly licensed attorney at law in this State. No person shall be elected or appointed Judge of said Court who has not been a resident citizen of said Lubbock County for the immediate preceding two (2) years and a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. The person elected as such Judge shall hold his office for four (4) years and until his successor shall have been duly elected and qualified.

Sec. 11. The County Attorney of Lubbock County shall represent the State in all prosecutions in said County Court at Law No. 2 of Lubbock County, as provided by law for such prosecutions in County Courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 12. As soon as this Act becomes effective the Commissioners Court of Lubbock County shall appoint a Judge of the County Court at Law No. 2 of Lubbock County, who shall hold his office until the next general election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said Court.

Sec. 13. The Judge of the County Court at Law No. 2 of Lubbock County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

Sec. 14. The Judge of the County Court at Law No. 2 of Lubbock County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 15. A special Judge of the County Court at Law No. 2 of Lubbock County may be appointed or elected as provided by law relating to County Courts and to the Judge thereof, who shall receive the sum of Fifteen Dollars (\$15) per day for each day he so actually served, to be paid out of the general fund of the County by the Commissioners Court.

Sec. 16. In the case of the disqualification of the Judge of the County Court at Law No. 2 of Lubbock County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a special Judge to try such case or cases where the Judge of the County Court at Law No. 2 of Lubbock County is disqualified. In case of the selection of such special Judge by agreement of the parties or their attorneys, such special Judge shall draw the same compensation as that provided in Section 15 of this Act.

Sec. 17. The County Court at Law No. 2 of Lubbock County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law No. 2.

Sec. 18. The County Clerk of Lubbock County shall be the Clerk of the County Court at Law No. 2 of Lubbock County, and the seal of said Court shall be the same as that provided by law for County Courts; except the seal shall contain the words "County Court at Law of Lubbock County."

Sec. 19. The Sheriff of Lubbock County shall in person or by deputy attend the said Court when required by the Judge thereof.

Sec. 20. The jurisdiction and authority now vested by law in the County Court and in the County Court at Law No. 1, of Lubbock County for the selection and service of jurors shall also be exercised by the County Court at Law No. 2, of Lubbock County. All petit jurors summoned for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said Courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the Court for which they were originally drawn.

Sec. 21. Any vacancy in the office of the Judge of the County Court at Law No. 2 of Lubbock County shall be filled by the Commissioners Court, and when so filled the Judge shall hold office until the next General Election and until his successor is elected and qualified.

Sec. 22. The Judge of the County Court at Law No. 2 of Lubbock County shall receive the same salary and be paid from the same fund and in the same manner as is now prescribed or may be established by law for the County Judge of Lubbock County, Texas, to be paid out by the County Treasurer of Lubbock County, Texas, on the order of the Commissioners Court of said County, and said salary shall be paid monthly in equal installments.

Sec. 23. The Judge of the County Court at Law No. 2 of Lubbock County shall assess the same fees as are now prescribed by law relating to the County Judge's fees, all of which shall be collected by the clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Act.

Sec. 24. The Judge of the County Court at Law No. 2 of Lubbock County, Texas, shall appoint an official shorthand reporter for such Court who shall be well-skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court. Such reporter shall take the oath required of official Court Reporters and shall receive a salary as set by the Commissioners Court of Lubbock County, Texas, of not less than Three Thousand Dollars (\$3,000) per annum, to be paid out of the County Treasury of Lubbock County, Texas, as other County officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended and all other provisions of the law relating to official Court Reporters shall be and are hereby made to apply in all their provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 25. The laws of Texas and the rules of procedure and rules of evidence governing trials in and appeals from all proceedings in County Courts shall be applicable to, govern and control proceedings in and appeals from the County Court at Law No. 2 of Lubbock County.

Sec. 26. All cases appealed from the Justice Court and other inferior Courts of Lubbock County, Texas, shall be made direct to the County Court at Law No. 1 or No. 2 of Lubbock County, under the provisions governing appeals to County Courts.

Sec. 27. The Judge of the County Court at Law No. 2 of Lubbock County is authorized to appoint an official interpreter for such County Court at Law. And the County Commissioners shall by resolution fix the compensation and shall prescribe the duties of such official interpreter.

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The Judge of the County Court at Law No. 2 of Lubbock County shall have authority to terminate the employment of such interpreter at any time. The official interpreter so appointed by the Judge of the said County Court at Law shall take the constitutional oath of office, and in addition thereto shall make oath that as such official interpreter he will faithfully interpret all testimony given in the County Court at Law No. 2 and which oaths shall qualify him for service as official interpreter of such Court in all cases before such Court during his term of office. Acts 1957, 55th Leg., p. 227, ch. 109.

Emergency. Effective April 25, 1957.

Section 28 of the Act of 1957 provided: "If any part, section, paragraph, sentence, or clause contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portion of this Act, and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity."

Title of Act:

An Act creating a County Court at Law No. 2 for Lubbock County, Texas, and making other provisions relative thereto; and declaring an emergency. Acts 1957, 55th Leg., p. 227, ch. 109.

HIDALGO COUNTY

Art. 1970—341. County Court at Law of Hidalgo County

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

GALVESTON COUNTY PROBATE COURT

Art. 1970—342. Probate Court of Galveston County

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

HUNT COUNTY

Art. 1970—344. County Court at Law of Hunt County

Section 1. There is hereby created a Court in Hunt County, to be called the County Court at Law of Hunt County; provided, however, that the provisions of this Act shall not become operative until the Commissioners Court of Hunt County enters an order adopting same, and the Commissioners Court shall have discretionary power to determine whether to adopt same. The Court so created shall cease to exist on December 31, 1959, unless extended by Act of the Legislature.

Sec. 2. The County Court at Law of Hunt County shall have jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of the State the County Court of said County would have jurisdiction, except as provided in Section 3 of this Act; and upon adoption of this Act by the Commissioners Court of Hunt County, all cases pending in the County Court of said County, other than probate matters and such as are provided in Section 3 of this Act, shall be and the same are hereby transferred to the County Court at Law of Hunt County, and all writs and process, civil and criminal, heretofore issued by or out of the County Court of said County, other than pertaining to matters over which by section 3 of this Act, jurisdiction remains in the County Court of Hunt County, shall be and the same are hereby made returnable to the County Court at Law of Hunt County. The jurisdiction of the County Court at Law of Hunt County and the Judge thereof shall

extend to all matters of eminent domain of which jurisdiction has been heretofore vested in the County Court or in the County Judge, but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Hunt County as the presiding officer of such Commissioners Court as to roads, bridges, and public highways, as are now within the jurisdiction of the Commissioners Court or the County Judge as presiding officer thereof. The County Court at Law of Hunt County and the Judge thereof shall have concurrent jurisdiction with the County Court of Hunt County and the Judge thereof in the trial of insanity cases and the restoration thereof, approval of applications for admission to State Hospitals and Special Schools where admissions are by application, and the power to punish for contempt.

Sec. 3. The County Court of Hunt County shall retain as heretofore the general jurisdiction of a probate Court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and the apprenticing of minors as provided by law; and the said Court, and the Judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said Court, and also to punish contempts under such provisions as are or may be provided by law governing County Courts throughout the State; but said County Court of Hunt County shall have no other jurisdiction, civil or criminal. The County Judge of Hunt County shall be the Judge of the County Court of Hunt County. All ex officio duties of the County Judge shall be exercised by the said Judge of the County Court of Hunt County, except in so far as the same shall by this Act be committed to the Judge of the County Court at Law of Hunt County.

Sec. 4. The County Court at Law of Hunt County shall hold its sessions at the County seat of Hunt County. The terms of said Court shall begin on the first Mondays in January, March, May, July, September and November in each year, and each term shall continue in session until and including the Saturday next preceding the beginning of the next succeeding term thereof. The practice in said Court, and appeals and writs of error therefrom, shall be as prescribed by the Laws relating to County Courts.

Sec. 5. The Judge of the County Court at Law of Hunt County shall be a qualified voter in Hunt County, and shall be a regularly licensed attorney at law in this State, and shall have resided in this State and have been actively engaged in the practice of law or as the Judge of a Court for a period of not less than three (3) years next preceding his appointment or election.

Immediately upon the adoption of the provisions of this Act by the Commissioners Court, the Commissioners Court of Hunt County shall make the initial appointment of the Judge, who shall serve until the next General Election or until his successor shall be duly elected and qualified. At the General Election in 1958 and every fourth year thereafter, so long as the Court continues in existence, there shall be elected by the qualified voters of Hunt County a Judge of the County Court at Law of Hunt County for a regular term of four (4) years to commence on the first day of January following his election, subject to termination by cessation of the existence of the Court. Any vacancy in the office shall be filled by the Commissioners Court of Hunt County until the next

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General Election. The Judge of said Court may be removed from office in the same manner and for the same causes as provided by the laws of this State for removal of County Judges.

Sec. 6. The Judge of the County Court at Law of Hunt County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 7. A Special Judge of the County Court at Law of Hunt County may be appointed or elected under the same circumstances and in the same manner as provided by law relating to County Courts and to the Judges thereof. He shall receive the sum of Fifteen Dollars (\$15) per day for each day he actually serves, to be paid out of the general fund of the County by the Commissioners Court.

Sec. 8. The County Court at Law of Hunt County and the Judge thereof shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, and supersedeas, and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said Court or of any other Court or tribunal inferior to said Court.

Sec. 9. The Clerk of the County Court of Hunt County shall be the Clerk of the County Court at Law of Hunt County. The County Attorney of Hunt County shall represent the State in all prosecutions pending in said Court, and he shall be entitled to the same fee as now prescribed by law for such prosecutions in the County Courts. The Sheriff of Hunt County shall in person or by deputy attend the said Court when required by the Judge thereof; and the various sheriffs and constables of this State executing process issued out of said Court shall receive the fees now or hereafter fixed by law for execution of process out of County Courts.

Sec. 10. The Judge of the County Court at Law of Hunt County shall assess the same fees as are or may be established by law relating to County Judges, all of which shall be collected by the Clerk of said Court and be by him paid into the County Treasury. The Judge of said County Court at Law shall receive an annual salary of not less than Six Thousand Dollars (\$6,000), payable monthly, to be paid out of the County Treasury by the Commissioners Court in the same manner as the other elected County officials who are on a salary basis. And said Commissioners Court may, if and when it sees fit, pay the Judge of said Court a larger amount of annual salary, but not to exceed the maximum salary allowed under the provisions of Chapter 427, Acts of the Fifty-fourth Legislature.¹

Sec. 11. The Judge of the County Court at Law of Hunt County shall appoint an official reporter who shall be well-skilled at his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court. He shall receive a salary of not less than Two Thousand, Four Hundred Dollars (\$2,400) per year, which salary shall be set by the Commissioners Court of Hunt County and shall be paid out of the County Treasury of Hunt County, and may be raised from time to time by the Commissioners Court as they see fit. And all other provisions of the law relating to official court reporters are hereby made to apply in so far as they are applicable to the official court reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act.

Sec. 12. The Judge of the County Court at Law of Hunt County shall have the power to make and publish rules as to the docketing and disposi-

tion of criminal and civil cases in said Court not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure.

Sec. 13. The seal of the County Court at Law of Hunt County shall be the same as that provided by law for County Courts except that such seal shall contain the words "County Court at Law of Hunt County, Texas." And said seal shall be judicially noted.

Sec. 14. The Judge of the County Court at Law of Hunt County shall be entitled to traveling expenses and shall be entitled to necessary office expenses in the same manner as is now or shall hereafter be allowed County Judges.

Sec. 15. At the expiration of the County Court at Law of Hunt County, all jurisdiction herein conferred upon said Court shall be resumed by the County Court of Hunt County, and all cases and proceedings pending in the County Court at Law shall be transferred to the County Court. Acts 1957, 55th Leg., p. 558, ch. 264.

¹ Article 3883i.

Effective 90 days after May 23, 1957, date of adjournment.

Section 16 of the Act of 1957 provided that partial invalidity should not affect the

remaining portions of the Act. Section 17 repealed all conflicting laws and parts of laws to the extent of such conflict.

TARRANT COUNTY

Art. 1970—345. Tarrant County Probate Court

Section 1. There is hereby created in and for Tarrant County, Texas, effective September 1, 1957, a county court to be called Probate Court of Tarrant County.

Sec. 2. The Probate Court of Tarrant County shall have the general jurisdiction of a Probate Court within the limits of Tarrant County, concurrent with the jurisdiction of the County Court of Tarrant County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and habitual drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and habitual drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. On the first day of the initial term of said Probate Court of Tarrant 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 Tarrant County, such number of such proceedings and matters then pending in the County Court of Tarrant County as shall be, as near as may be, one-half in number of the total of all of the same then pending, and all writs and processes theretofore issued by or out of said County Court of Tarrant County in such matters or proceedings shall be returnable to the Probate Court of Tarrant County as though originally issued therefrom. All such new matters and proceedings filed on said day, or thereafter filed with the County Clerk of Tarrant 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 the same are deposited with him for filing, beginning first with the County Court of Tarrant County. The County Judge of Tarrant County, in his discretion, may, by an order entered upon the Minutes of the County Court of Tarrant County, on or after the first day of the initial term of said Probate Court of Tarrant County, transfer to said Probate Court any such matter or proceeding then or

thereafter pending in the County Court of Tarrant 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 Tarrant 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 Tarrant County. The County Judge of Tarrant County shall be the Judge of the County Court of Tarrant County, and all ex officio duties of the County Judge of Tarrant County, as they now exist, shall be exercised by the County Judge of Tarrant County, except in so far as the same shall by this Act expressly be committed to the Judge of the Probate Court of Tarrant County. Nothing in this Act contained shall be construed as in anywise impairing or affecting the jurisdiction of the County Court at Law of Tarrant County.

Sec. 5. The practice and procedure in the Probate Court of Tarrant 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 Tarrant 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 Tarrant County in each year, and the first of such terms shall be known as the January-June Term; it shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January. The initial term of said Court shall begin on the first Monday after the effective date of this Act.

Sec. 8. There shall be elected in said County by the qualified voters thereof, at the General Election, for a term of four (4) years and until his successor shall have been duly qualified, a Judge of the Probate Court of Tarrant County, who shall be well informed in the laws of the State, and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years prior to his election. A judge of said Court shall be appointed by the Commissioners Court of Tarrant County as soon as may be after the passage of this Act, who shall hold office from the date of his appointment until the next General Election, and until his successor shall be duly elected and qualified.

Sec. 9. The Judge of the Probate Court of Tarrant County shall execute a bond and take the oath of office as required by the laws relating to the County Judges.

Sec. 10. Any vacancy in the office of the Judge of the Probate Court of Tarrant County may be filled by the Commissioners Court of Tarrant 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 Tarrant County, the County Judge of Tarrant County shall sit and act as Judge of said Court, and may hear and determine, either in his own courtroom or in the courtroom of said Court, any matter or proceeding there pending, and may enter any orders in such matters or proceedings as the Judge of said Court might enter if personally presiding therein.

Sec. 12. In case of the absence, disqualification or incapacity of the Judge of the Probate Court of Tarrant County and the County Judge of Tarrant County, a Special Judge of the Probate Court of Tarrant County may be appointed or elected, as provided by the general laws relating to the County Courts and to the Judges thereof.

Sec. 13. The County Clerk of Tarrant County shall be the Clerk of the Probate Court of Tarrant 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 Tarrant County." The sheriff of Tarrant 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 Tarrant County shall collect the same fees as are now or hereafter may be established by law relating to County Judges as to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected, and from and after the date of his qualifications as Judge of said Court he shall receive an annual salary to be fixed by order of the Commissioners Court of Tarrant County, of not less than Seven Thousand, Five Hundred Dollars (\$7,500) nor more than Ten Thousand Dollars (\$10,000), payable monthly out of the County Treasury by the Commissioners Court.

Sec. 15. The Commissioners Court of Tarrant County shall provide a secretary for the Judge of the Probate Court of Tarrant County, and such other and additional clerical assistants as may be required to properly carry on the business of said Court, at salaries to be fixed by the Commissioners Court.

Sec. 16. The Commissioners Court of Tarrant County is hereby authorized to amend the county budget for the fiscal year of 1957, if necessary, from and at the effective date of this Act for the balance of said fiscal year, in order to provide for the salaries of the Judge of the Probate Court and employees authorized in this Act. Acts 1957, 55th Leg., p. 1204, ch. 400.

Effective 90 days after May 23, 1957, date of adjournment.

Section 17 repealed conflicting laws and parts of laws to the extent of such conflict only. As to all other laws and parts of laws, this Act shall be cumulative. Sec-

tion 18 provided that if any section, or part of this Act shall be held unconstitutional the invalidity of such portion of the Act shall not be construed to affect any other part of the Act.

JURISDICTION OF PROBATE COURTS

Art. 1970a—1. Probate courts specially created; jurisdiction as to mentally ill, mentally retarded and persons afflicted with tuberculosis

Section 1. In all counties of the State of Texas having Probate Courts specially created by the Legislature, such courts shall share jurisdiction concurrently with the County Courts of such counties in relation to proceedings under the Mentally Retarded Persons Act, and such Probate Courts shall have jurisdiction concurrently with the County Courts of such counties in relation to all proceedings for the commitment, temporarily or otherwise, of persons who are not charged with any

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

criminal offense who are mentally ill, or against whom information of mental illness has been given to the judge of any such Probate Court, whether such proceeding is for the commitment of such persons for treatment or for observation and/or treatment. The judges of such Probate Courts shall have the authority to hear and determine matters relating to the foregoing proceedings in the same manner and with the same powers as are vested in the County Courts and the judges thereof under the laws of the State of Texas.

Sec. 2. The Probate Courts referred to in Section 1 hereof shall have jurisdiction, concurrently with the County Courts of their respective counties, in relation to all proceedings with respect to the treatment of persons afflicted with tuberculosis or epilepsy, and the judges of such Probate Courts shall have authority to do all things relative to the commitment of persons so afflicted which the county judges are authorized to do.

Sec. 3. Nothing in this Act shall be construed to divest or in any manner impair or reduce the jurisdiction or authority of the County Courts and the judges thereof, or to limit the jurisdiction conferred upon Probate Courts by other laws. Acts 1957, 55th Leg., p. 799, ch. 334.

Emergency. Effective May 31, 1957.

Title of Act:

An Act relating to the jurisdiction of Probate Courts; and declaring an emergency. Acts 1957, 55th Leg., p. 799, ch. 334.

TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY

CHAPTER SEVEN—THE JURY

1. JURIES IN CERTAIN COUNTIES

Art. 2094. 5151 Selecting names for wheel

Between the first and fifteenth days of August of each year, in each county having a population of at least forty-six thousand (46,000), or having therein a city containing a population of at least eighteen thousand (18,000), as shown by the last preceding Federal Census, and in each county having two (2) or more District Courts holding sessions therein, regardless of population, except as hereinafter provided, the tax collector or one of his deputies, together with the sheriff or one of his deputies, and the county clerk or one of his deputies, and the district clerk or one of his deputies, shall meet at the courthouse of their county and select from the list of qualified jurors of such county as shown by the tax lists in the tax assessor's office for the current year, the jurors for service in the district and county courts of such county for the ensuing year, in the manner hereinafter provided.

Provided, however, that the provisions of this Act shall not apply to any county having a population of less than twenty thousand (20,000) inhabitants, according to the last preceding Federal Census, when such county is a part of two (2) or more Judicial Districts, which Judicial Districts embrace more than two (2) counties. As amended Acts 1929, 41st Leg., p. 89, ch. 43, § 1; Acts 1949, 51st Leg., p. 868, ch. 467, § 1; Acts 1950, 51st Leg., 1st c. 8, p. 47, ch. 6, § 1; Acts 1957, 55th Leg., p. 327, ch. 147, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 3 repealed all conflicting laws and parts of laws to the extent of such conflict only. Section 4 was a severability clause.

Section 2 of the amendatory Act of 1957 amended Vernon's Ann.C.C.P. art. 591.

4. THE JURY IN COURT

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

All competent jurors are liable to jury service, except the following persons:

17. All school teachers, which shall include public, parochial and private school teachers. Added Acts 1957, 55th Leg., p. 802, ch. 337, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

CHAPTER THIRTEEN—GENERAL PROVISIONS

3. OFFICIAL COURT REPORTER

Art.

2326j—1. Appointment and compensation of reporters in 10th, 56th and 122nd judicial districts [New].

2326j—2. Appointment and compensation of reporter in 84th judicial district [New].

Art.

2326j. Shorthand reporters in district courts and county courts at law in counties of 613,000 or more population [New].

2. RECEIVERS

Art. 2320a. Reorganization and adjustment of affairs of debtors

Securities Act, exemption of securities carrying out reorganization, see art. issued to security holders or creditors in 581—5.

3. OFFICIAL COURT REPORTER

Art. 2326a. Expenses and manner of payment

Section 1. All official shorthand reporters and deputy official shorthand reporters of the District Courts of the State of Texas composed of more than one county, when engaged in the discharge of their official duties in any county in this state other than the county of their residence shall, in addition to the compensation now provided by law for their services, be allowed their actual and necessary expenses while actually engaged in the discharge of such duties, not to exceed the sum of Six Dollars (\$6.00) per day for hotel bills, and not to exceed Four Cents (4¢) a mile when traveling by railroad or bus lines, and not to exceed Ten Cents (10¢) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid after the completion of each term of court by the respective counties of the Judicial District for which they are incurred, each county paying the expenses incidental to its own regular or special term of court, and said expenses shall be paid to the official or deputy official shorthand reporter by the Commissioners Court of the county, out of the general fund of the county, upon the sworn statement of the reporter, approved by the Judge.

Provided there shall not be paid to any such official shorthand reporter, or his deputy, more than One Thousand Dollars (\$1,000.00) in any one year under the provisions of this Act; provided further, that in districts containing two counties only, the expenses herein allowed shall never exceed Two Hundred Dollars (\$200.00) per annum; in districts containing three counties only, the expenses herein allowed shall never exceed Four Hundred Dollars (\$400.00) per annum; in districts containing four counties only, the expenses herein allowed shall never exceed Seven Hundred Dollars (\$700.00) per annum; in districts containing five or more counties the expenses herein allowed shall never exceed One Thousand Dollars (\$1,000.00) per annum.

The account for such services herein provided for shall be sworn to in duplicate by the reporter, and approved by the District Judge, and one copy of said account shall be filed by the reporter with the clerk of the District Court of the county where the Judge of the district resides.

Whenever a special term of any District Court in this state is convened and the services of an additional official or deputy official shorthand reporter is required, then this Act shall also apply to said shorthand reporter so employed by the Judge of said special term, and all expenses as herein provided shall be allowed and paid said shorthand reporter so employed for said special term by the county wherein said special term is convened and held, and shall be in addition to the expenses herein provided for the official or deputy official shorthand reporter of the district.

Provided, however, that whenever any official or deputy official shorthand reporter is called upon to report the proceedings of any special term of court, or on account of the sickness of any official shorthand reporter of any Judicial District, necessitating the employment of a shorthand re-

porter from some other county within the state, then the shorthand reporter so employed shall receive and be paid all actual and necessary expenses in going to and returning from the place where he or she may be called on to report the proceedings of any regular or special terms of court. As amended Acts 1957, 55th Leg., p. 486, ch. 234, § 1.

Emergency. Effective May 16, 1957.

Section 2 of the amendatory Act of 1957 was a severability clause.

Art. 2326j. Shorthand reporter for sixteenth Judicial District

Section 1. The Judge of the Sixteenth Judicial District of Texas, composed of the Counties of Cooke and Denton, or the Judge of the Judicial District of which the Counties of Cooke and Denton are a part thereof, shall appoint an official shorthand reporter for such district in the manner now provided for district courts in this State; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Forty-eight Hundred Dollars (\$4800) per annum, nor more than Eight Thousand Dollars (\$8,000) per annum, said salary to be fixed and determined by the District Judge of the Sixteenth Judicial District composed of the Counties of Cooke and Denton, or by the District Judge of which the Counties of Cooke and Denton are a part thereof, and said salary shall be in addition to transcript fees which shall not be more than Thirty Cents (30¢) per one hundred (100) words, and said reporter shall, in addition, receive allowances for traveling and hotel expenses as now provided by Chapter 56, House Bill No. 276, Acts, Regular Session of the Forty-first Legislature, 1929,¹ which allowances, as now provided by law, are fixed and established as a part of this Act. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts, by the respective counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the Judicial District.

Sec. 2. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for traveling and hotel expenses shall be as provided for in this Act, and not otherwise. Re-enacted and amended Acts 1957, 55th Leg., p. 837, ch. 366, § 1.

¹ Article 2326a.

Emergency. Effective May 31, 1957.

Title of Act:

An Act relating to the official shorthand reporter of the Sixteenth Judicial District of Texas; re-enacting and amending Acts of the Fifty-first Legislature, Regular

Session, 1949, Chapter 248, by fixing the maximum and minimum salary and by fixing the fee for transcripts; and declaring an emergency. Acts 1957, 55th Leg., p. 837, ch. 366.

Art. 2326j—1. Appointment and compensation of reporters in 10th, 56th and 122nd judicial districts

The judges of the Tenth, Fifty-sixth, and One Hundred Twenty-second Judicial Districts of Texas, composed of the County of Galveston, shall each appoint an official shorthand reporter for his respective Judi-

cial District in the manner now provided for District Courts in this state; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Each of said official shorthand reporters shall receive a salary of not less than Sixty-six Hundred Dollars (\$6600.00) per annum, nor more than Eight Thousand Dollars (\$8,000.00) per annum, said salary to be fixed and determined by the District Judges of the Tenth, Fifty-sixth and One Hundred Twenty-second Judicial Districts composed of Galveston County, and said salary shall be in addition to transcript fees which shall not be more than Thirty Cents (30¢) per hundred (100) words. Said salary when so fixed and determined by the District Judges of said respective Judicial Districts shall be paid monthly out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern, except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the District Judges of said Judicial Districts and not otherwise; and the transcript fees shall be as provided for in this Act, and not otherwise. Acts 1957, 55th Leg., p. 820, ch. 350, § 1, as amended Acts 1957, 55th Leg., 2nd C. S., p. 169, ch. 12, § 1.

Emergency. Effective Dec. 10, 1957.

Title of Act:

An Act to fix the maximum salary and provide other compensation for the Court Reporters of the 10th and 56th Judicial

District Courts of Galveston County; and declaring an emergency. Acts 1957, 55th Leg., p. 820, ch. 350.

Art. 2326j—2. Appointment and compensation of reporter in 84th judicial district

Section 1. The Judge of the 84th Judicial District of Texas, composed of the Counties of Hansford, Hutchinson and Ochiltree, or the Judge of the Judicial District of which the Counties of Hansford, Hutchinson and Ochiltree are a part thereof, shall appoint an official shorthand reporter for such District in the manner now provided for district courts in this State who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Four Thousand, Eight Hundred Dollars (\$4,800) per annum, nor more than Eight Thousand, Five Hundred Dollars (\$8,500) per annum, said salary to be fixed and determined by the District Judge of the 84th Judicial District composed of the Counties of Hansford, Hutchinson and Ochiltree, or by the District Judge of which the Counties of Hansford, Hutchinson and Ochiltree are a part thereof, and said salary shall be in addition to transcript fees as now provided by law, and said reporter shall, in addition, receive allowances for traveling and hotel expenses as now provided by law, which allowances are fixed and established as a part of this Act. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts, by the respective counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the Judicial District.

Sec. 2. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the

District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for traveling and hotel expenses shall be as provided for in this Act and not otherwise. Acts 1957, 55th Leg., 2nd C. S., p. 187, ch. 25.

Effective 90 days after Dec. 3, 1957, date of adjournment.

Title of Act:

An Act to authorize and require the appointment of an official shorthand reporter of the 84th Judicial District of Texas; fixing maximum and minimum salary

to be paid in addition to compensation for transcripts, statement of facts and other fees; providing the time, method and manner of payment; repealing all laws or parts of laws in conflict; providing a saving clause and declaring an emergency. Acts 1957, 55th Leg., 2nd C.S., p. 187, ch. 25.

Art. 2326l. Shorthand reporters in district courts and county courts at law in counties of 613,000 or more population

Section 1. In all counties in the State of Texas having a population of six hundred and thirteen thousand (613,000) or more, according to the 1950 census, the Judge of each District Court, civil or criminal, and the Judge of each County Court at Law, civil or criminal, shall appoint an official shorthand reporter for such court. Said appointment shall be evidenced by an order entered in the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the Judge of the Court in which such reporter serves. The compensation of such reporters shall be fixed by the Commissioners Court after the recommendation of the Judge of the court in which such reporter serves at not less than Forty-eight Hundred Dollars (\$4,800) per annum and not more than Eight Thousand Dollars (\$8,000) per annum, in addition to compensation for transcripts, statements of fact and other fees.

Sec. 2. A certified copy of the order appointing such reporter and the recommendation of the Judge as to the salary to be paid such reporter shall be transmitted to the Commissioners Court of such counties, who shall annually make provision for the payment of any such salary set by the Commissioners Court out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statements of fact and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal Articles 2326a, 2326h, 2327a-1 and 2326c, Vernon's Annotated Civil Statutes. The last four mentioned Articles shall remain in full force and effect. Acts 1957, 55th Leg., p. 204, ch. 92.

Emergency. Effective April 19, 1957.

Section 4 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Title of Act:

An Act to authorize and require the appointment of official shorthand reporters in each District Court and each County Court at Law heretofore and hereafter created in counties having a population of

six hundred and thirteen thousand (613,000) or more, according to the 1950 census; fixing maximum and minimum salaries to be paid, in addition to compensation for transcripts, statement of fact and other fees, providing the time, method and manner of payment; repealing all laws or parts of laws in conflict; providing a saving clause; and declaring an emergency. Acts 1957, 55th Leg., p. 204, ch. 92.

TITLE 43—COURTS—JUVENILE

| Art. | | Art. | |
|----------|---|----------|--|
| 2338—2a. | Referee for juvenile courts; counties of 806,700 or more [New]. | 2338—7a. | Domestic Relations Court for Hutchinson County; compensation of judge [New]. |
| 2338—3a. | Compensation of judge and clerk of Court of Domestic Relations for Potter County [New]. | 2338—8. | Court of Domestic Relations for Smith County [New]. |
| | | 2338—9. | Juvenile Court and Court of Domestic Relations for Dallas County [New]. |

Art. 2338—2a. Referee for juvenile courts; counties of 806,700 or more

Office created; appointment; compensation; term of office; qualifications

Section 1. There is hereby created the office of Referee for the Juvenile Courts in counties having a population of eight hundred and six thousand, seven hundred (806,700) or more according to the last Federal census. The Referee shall be appointed by the Judge of the Juvenile Court with the approval and consent of the Juvenile Board of such counties. He shall receive such compensation as the Commissioners Court of such counties shall fix as his salary and shall be paid out of the officer's salary fund of such counties. He shall serve from date of his appointment after the effective date of this Act until the 31st of December, 1958; thereafter he shall serve for a term of two (2) years and shall be subject to removal for cause by the Judge of the Juvenile Court with the approval of the Juvenile Board of such counties. He shall be an attorney licensed to practice law in this State and shall be a citizen of this State.

Reference of cases; procedure; hearing; review by court

Sec. 2. Whenever the Judge sitting as a Juvenile Court shall deem it advisable, he may refer to the Referee any case before him involving children alleged to be dependent, neglected, or delinquent, or any other matters where the Juvenile Court is given exclusive jurisdiction, for hearing evidence and making findings of fact thereon, and for formulating conclusions of law, and for recommending judgment to be entered in such cases. The order of reference may specify or limit the powers of the Referee and may direct him to report only upon particular issues, or to do, or perform particular acts; or to receive and report on evidence only, and may fix the time and place for beginning and closing hearings, and for filing reports. Subject to the limitations and specifications stated in the order, the Referee shall have the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary and proper for the efficient performance of his duties under the order, including the ordering of investigations by the probation officer, or the probation department of such counties. He may require the production of evidence before him, upon all matters embraced in the reference, and he may rule upon the admissibility of evidence, unless otherwise directed by the order of reference. He shall have the authority to issue summons for the appearance of witnesses, and swear said witnesses for said hearing and he may, himself, examine them. And said witness appearing before him and being duly sworn shall be subject to the penalties of perjury. He may conduct the hearing in an informal manner, subject to the order of reference. If the witnesses after being duly summoned, shall fail to appear, or, having appeared, shall refuse to answer questions, the Judge of the Juvenile Court shall have the power to issue attachment against

such witnesses, and to fine and imprison them in like manner as the district and county courts are empowered to do in like cases.

The court may confirm, modify, correct, reject, reverse, or recommit the report for further information, after it is filed, as the court may deem proper and necessary in the particular circumstances of the case. Where judgment has been recommended, the court at its direction may approve the recommendation of the Referee and render judgment, or may disapprove the recommendation and hear further evidence before rendition of judgment.

Notice of hearing; presence at hearing

Sec. 3. Prior to the hearings by the Referee the parties at interest, parties defendant or parties respondent, shall be given due notice of the time and place of said hearing for at least two (2) whole days exclusive of the day of notice and the day of hearing. In case of a hearing involving a juvenile alleged to be delinquent, the said juvenile under consideration shall be present at said hearing, together with his parent or guardian, or person having custody.

Demand for jury trial

Sec. 4. In any proceeding where the trial before a jury may be demanded, the Referee shall refer the case back to the court for a full hearing before the court and jury subject to the usual rules of the Court in such cases.

District attorney; prosecution or defense by

Sec. 5. The District Attorney shall prosecute or defend all cases involving children alleged to be dependent, neglected, or delinquent referred to the Referee by the Judge of the Juvenile Court.

Record of proceedings by court reporter

Sec. 6. The Judge of the Juvenile Court shall have the authority to assign the regular court reporter of the court to make a record of all proceedings before the Referee where deemed necessary. Acts 1957, 55th Leg., p. 384, ch. 186.

Emergency. Effective May 6, 1957.

Title of Act:

An Act providing for a Referee for Juvenile Courts in counties having a population of eight hundred and six thousand, seven hundred (806,700) or more; authorizing the appointment of a Juvenile Court Referee; providing for the qualification of

such Referee; providing for the duties and authority of such Referee; providing for compensation for such Referee; and making other provisions in regard thereto; and declaring an emergency. Acts 1957, 55th Leg., p. 384, ch. 186.

Art. 2338—3a. Compensation of judge and clerk of Court of Domestic Relations for Potter County

Section 1. From and after the effective date of this Act the Judge of the Court of Domestic Relations of Potter County, Texas, shall receive such compensation as allowed other District Judges by the laws of this state which shall be paid by the Commissioners Court of Potter County out of the General Fund or the Officers' Salary Fund of the county, said annual salary to be paid to the Judge of the Court of Domestic Relations in equal monthly installments, drawn upon the County Treasurer upon order of the Commissioners Court of Potter County.

Sec. 1a. From and after the effective date of this Act the Clerk of the Court of Domestic Relations of Potter County, Texas, shall receive the same salary as fixed by law for the District Clerk of Potter County, the

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

same to be paid in twelve (12) equal monthly installments. Acts 1957, 55th Leg., 1st C. S., p. 50, ch. 23.

Emergency. Effective Dec. 2, 1957.

Section 2 of the Act of 1957, 1st C.S., repealed all conflicting laws and parts of laws to the extent of such conflict; section 3 was a severability provision.

Art. 2338—7a. Domestic Relations Court for Hutchinson County; compensation of judge

Section 1. From and after the effective date of this Act the Judge of the Court of Domestic Relations of Hutchinson County, Texas, shall receive such compensation as allowed other District Judges by the laws of this State which shall be paid by the Commissioners Court of Hutchinson County out of the General Fund or the Officers' Salary Fund of the County, said annual salary to be paid to the Judge of the Court of Domestic Relations in equal monthly installments, drawn upon the County Treasurer upon order of the Commissioners Court of Hutchinson County. Acts 1957, 55th Leg., p. 343, ch. 157.

Emergency. Effective May 6, 1957.

Section 2 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 3 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 2338—8. Court of Domestic Relations for Smith County

Creation of court

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

Jurisdiction

Sec. 2. (a). Said Court of Domestic Relations shall have jurisdiction of all cases involving adoptions, removal of disability of minority and coverture, change of name of persons, 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. It shall also have jurisdiction over all criminal cases involving crimes against children, including wife and child desertion, contributing to the delinquency of a minor, enticing a minor from legal custody as provided in Articles 602, 534, 534a, 535 and amendments thereto of the Penal Code of this State. All cases enumerated or included above may be instituted in or transferred to said Court.

(b) Said Court of Domestic Relations shall have jurisdiction to hear contempt proceedings on, or any motion to alter, amend, or modify any judgment of a domestic relations case, (such cases that are described in Section 1 of this Act) heretofore determined by the County Court of Smith County, the Seventh Judicial District Court for Smith County or the One Hundred Fourteenth Judicial District Court for Smith County.

(c) The Juvenile Board of Smith County, Texas, shall be authorized to designate the Court of Domestic Relations as the Juvenile Court of said County. As amended Acts 1957, 55th Leg., p. 865, ch. 381, § 1; Acts 1957, 55th Leg., 2nd C. S., p. 185, ch. 23, § 1.

Emergency. Effective Dec. 10, 1957.

Qualifications of judge; term of office

Sec. 3. The Judge of the Court of Domestic Relations hereby established shall be a legally licensed attorney at law in the State. No person shall be elected or appointed Judge of said Court who has not been a practicing attorney of the State of Texas for at least four (4) years immediately prior to his appointment or election. The person elected such judge shall hold the office for four (4) years and until a successor shall have been duly elected and qualified.

Appointment of judge; term of office; subsequent elections; quarters for court

Sec. 4. Upon the effective date of this Act, the Juvenile Board of Smith County, Texas, by a majority vote of said members, shall appoint a Judge of the Court of Domestic Relations in and for Smith County who shall hold office until the next General Election after said appointment and until his successor shall be duly elected and qualified. Thereafter, the Judge of the Court of Domestic Relations for Smith County shall be elected as provided by the Constitution and laws of this State for the election of Judges for County Domestic Relations Courts.

The Commissioners Court of Smith County shall provide suitable quarters for the holding of said Court.

Salary of judge; oath of office

Sec. 5. The Judge of the Court of Domestic Relations hereby established shall be paid by the Commissioners Court of Smith County, such salary as the Juvenile Board by a majority vote of said members, may fix, at not less than Seven Thousand, Five Hundred Dollars (\$7,500), nor more than Twelve Thousand Dollars (\$12,000), same to be paid out of the General Fund of the County in twelve (12) equal monthly installments.

The Judge of the Court of Domestic Relations of Smith County shall take an oath of office as required by law relating to County Judges.

Transfer of cases from other courts

Sec. 6. When the Court of Domestic Relations is organized and the Judge thereof shall qualify, the County Judge of Smith County and the Judges of the Seventh Judicial District and the One Hundred Fourteenth Judicial District may transfer, at their discretion, to said Court of Domestic Relations all cases which may then be pending in their respective Courts in Smith County, or all cases which have been adjudicated by their respective Courts and whose judgment they still have jurisdiction over, of which by this Act said Court of Domestic Relations is hereby given jurisdiction of, including all filed papers and certified copies of all orders entered by them. As amended Acts 1957, 55th Leg., 2nd C. S., p. 185, ch. 23, § 1.

Emergency. Effective Dec. 10, 1957.

Transfers to other court

Sec. 7. All cases and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court but the Judge of said Court may transfer any such cases or matters to the County or District Courts having jurisdiction thereof under the laws of the State to be tried in such court in which such transfer is made with the permission and consent of the Judge thereof.

Place of holding court; dockets and minutes

Sec. 8. The said Court of Domestic Relations shall sit and hold court in Smith County and shall maintain all necessary dockets and minutes therein.

Officers and boards to furnish suggestions

Sec. 9. It shall be the duty of all officers, agents, and employees of the Child Welfare Department, County Welfare Office, County Health Officer, Sheriff and Constables within Smith County to furnish to said Court such services in the line of their respective duties as shall be required by said Court. As amended Acts 1957, 55th Leg., p. 865, ch. 381. § 1.

Appointment of officers, investigators and court reporter; salaries

Sec. 10. The Judge of the Court of Domestic Relations shall have authority to appoint such officers and investigators that might be necessary to the proper administration of its jurisdiction in Smith County; when he deems it necessary to the proper administration of such Court, he may appoint a Court Reporter provided such appointments are approved by the Juvenile Board of Smith County, by a majority vote of said members, the salaries and compensation of such officers and Court Reporter to be determined by the Juvenile Board by a majority vote of said members and to be paid by the Commissioners Court out of the General Fund of Smith County for the services rendered therein.

Injunctions and writs; contempts

Sec. 11. The Judge of the Court of Domestic Relations herein created shall have power to issue injunctions, temporary injunctions and restraining orders and such other writs as are now or hereafter may be issued under the laws of this State by the County and District Courts when necessary in cases or matters in which said Court has jurisdiction, and also power to punish for contempt.

Terms of court; number of sessions

Sec. 12. Terms of the Court of Domestic Relations in and for Smith County shall be as follows: on the first Mondays in January and July of each year and may continue until the date herein fixed for the beginning of the next succeeding term therein. As soon as this Act becomes effective and the Judge of the Court of Domestic Relations is appointed and qualified, he shall begin a term of Court which shall continue until the day fixed for the beginning of the next succeeding term of Court and thereafter the terms of Court of the Court of Domestic Relations in and for Smith County, shall begin and end on the above-mentioned date. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court as is deemed by him proper and expedient for the dispatch of business.

Disqualification of judge; special judge; compensation

Sec. 13. In the event of disqualification of the Judge of the Court of Domestic Relations to try a particular case because of illness, inability, failure or refusal of said Judge to hold Court at any time, a Special Judge of the Court of Domestic Relations of Smith County may be appointed or elected as provided by law relating to county courts and to the Judge thereof, who shall receive the same compensation as that provided in Section 5 of this Act; such compensation shall not be deducted from the salary of the Regular Judge, but shall be in addition thereto.

Vacancies in office

Sec. 14. Any vacancy in the office of the Judge of the Court of Domestic Relations in and for Smith County shall be filled by the Juvenile Board of Smith County by a majority vote of its members, and when so filled, the Judge shall hold office until the next general election and until his successor is elected and qualified.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the Sixth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts, and in all criminal cases, appeals shall be to the Court of Criminal Appeals.

Practice and procedure

Sec. 16. The practice and procedure rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by the laws and rules pertaining to district and county courts providing the juries shall be composed of twelve (12) members.

Writs and process in transferred cases

Sec. 17. All writs and processes issued by or out of the Districts or County Court prior to the time any case is transferred by either of said courts to the Court of Domestic Relations in and for Smith County 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 under such transfer.

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

Sec. 18. The said Court of Domestic Relations shall be a Court of Record, shall sit and hold court at the county seat in Smith County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Smith County shall serve as 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 in so far 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, Smith County, Texas" engraved thereon.

Sheriffs and constables; performance of duties

Sec. 19. 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 for said Court of Domestic Relations as is required of them by law with reference to process and writs for District Courts.

Suits involving custody of children; investigations

Sec. 20. In all suits for divorce where it appears from the petition or otherwise that the party to such has a child or children under the age of eighteen (18) years, and in any other case involving the custody of any such child or children, the said Court or Judge thereof in its or his discretion may require any such Juvenile Officer, Investigator or Child Welfare Unit to make a thorough and complete investigation as to the necessities, environment and surroundings of the child or children and of the disposition that shall be made of such child or children and to make reports thereof to the Court, and if desired by the Court, to produce such evidence on any hearing in such case as may have been developed in connection with such examination or investigation.

Dependent, neglected or delinquent children; prosecution and defense of cases by Criminal District Attorney

Sec. 21. The Criminal District Attorney of Smith County or his duly and legally qualified assistant, or assistants, shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Unit, County Welfare Office, County Health Officer or any other welfare agency is interested and shall represent the State in all proceedings in said Court of Domestic Relations.

Juvenile Board; counsel and advice; cooperation with judge

Sec. 22. The Juvenile Board and its members shall give Counsel and advice to the Judge of said 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.

Removal of judge

Sec. 23. The Judge of said Court of Domestic Relations shall be subject to removal from the office for the same reasons and in the same manner as is provided by the Constitution and laws of this State for the removal of County Officers.

Partial invalidity

Sec. 24. If any Section, clause, or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect and the validity of the remainder of this Act shall not be affected thereby. Acts 1957, 55th Leg., p. 20, ch. 16.

Emergency. Effective March 1, 1957.

Art. 2338—9. Juvenile Court and Court of Domestic Relations for Dallas County

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

Sec. 2. The Judge of the Juvenile Court of Dallas County, and the Judge of the Court of Domestic Relations, hereby established, shall each be an attorney licensed to practice law in this State. Each Judge shall be paid a salary which shall be equal to the total salary paid to a District Judge of Dallas County. Said salary shall be paid out of the General Fund of Dallas County in twelve (12) equal monthly installments.

Sec. 3. The Juvenile Court shall have jurisdiction concurrent with the District Courts in Dallas County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act¹ 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 of minors, change of name of persons; 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 the Juvenile Court.

Sec. 4. Immediately after this Act takes effect all cases now pending in the District Court of Dallas County, designated as the Juvenile Court of said County, shall be transferred to the Juvenile Court created by this Act. Thereafter, the Judges of the District Courts or of the Court of Domestic Relations of Dallas County may transfer any case, within the jurisdiction of the Juvenile Court created by this Act, to said Juvenile Court, and the Judge of the Juvenile Court may transfer any case pending in said court, with the consent of the Judge, to any other District Court or the Court of Domestic Relations of Dallas County. Said Juvenile Court may also sit for any of the District Courts of Dallas County or the Court of Domestic Relations and hear and decide for such courts any case coming within the jurisdiction of the Juvenile Court created by this Act. All District Courts of Dallas County may likewise sit for, hear and decide cases pending in the said Juvenile Court, as the sitting for, hearing and deciding of cases is now or may hereafter be authorized by law for all District Courts of Dallas County.

Sec. 5. Immediately after this Act takes effect the District Clerk of Dallas County shall file in the Juvenile Court created by this Act all cases involving adoption, delinquency, dependency, and independent actions involving child custody and support of minors, including cases under the Reciprocal Support Act and all applications to change the name of persons.

Sec. 6. Immediately upon the passage of this Act, the Governor, by and with the advice and consent of the Senate, shall appoint a suitable person as Judge of the Juvenile Court and a suitable person as Judge of the Court of Domestic Relations, who shall hold office until the next General

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

Election and until his successor shall be duly elected and qualified. The first elective term of said courts shall be for two (2) years. Thereafter, the term of office of the Judge of the Juvenile Court and of the Judge of the Court of Domestic Relations shall be for four (4) years and each of said Judges shall be appointed and elected as provided by the Constitution and laws of the State for the election or appointment of District Judges. Vacancies in the office shall be filled by appointment by the Governor, by and with the advice and consent of the Senate. 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 may select a Special Judge who shall hold the court and proceed with the business thereof.

Sec. 7. The District Attorney of Dallas County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent or in support cases coming under the Reciprocal Support Act.

Sec. 8. Said Court of Domestic Relations shall have jurisdiction concurrent with the District Courts in Dallas County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act 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 of minors, change of name of persons; 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 the Court of Domestic Relations.

Sec. 9. Immediately after this Act takes effect, all divorce cases now pending in the District Courts of Dallas County shall be transferred to the Court of Domestic Relations court created by this Act. Thereafter, the Judges of the District Courts or of the Juvenile Court of Dallas County may transfer any case, within the jurisdiction of the Court of Domestic Relations created by this Act, to said Court of Domestic Relations, and the Judge of the Court of Domestic Relations may transfer any case pending in said court, with the consent of the Judge, to any other District Court or the Juvenile Court of Dallas County. Said Court of Domestic Relations may also sit for any of the District Courts of Dallas County or the Juvenile Court and hear and decide for such courts any case coming within the jurisdiction of the Court of Domestic Relations created by this Act. All District Courts of Dallas County may likewise sit for, hear and decide cases pending in said Court of Domestic Relations, as the sitting for, hearing and deciding of cases is now or may hereafter be authorized by law for all District Courts of Dallas County.

Sec. 10. Immediately after this Act takes effect, the District Clerk of Dallas County shall file in the Court of Domestic Relations created by this Act all divorce cases.

Sec. 11. The said Juvenile Court and Court of Domestic Relations shall be courts of record, shall sit and hold court at the county seat of

Dallas County, shall have a seal and maintain all necessary dockets, records and minutes therein.

Sec. 12. It shall be the duty of the Probation Department, the Sheriff and Constables of Dallas County to furnish said Juvenile Court and Court of Domestic Relations such service 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 with reference to process and writs from said Juvenile Court and Court of Domestic Relations as is required of them by law with reference to process and writs from District Courts.

Sec. 13. The said Juvenile Court and Court of Domestic Relations and the Judges thereof, shall have the power to issue writs of habeas corpus and mandamus, 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 Juvenile Court or Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Sec. 14. The terms of the Juvenile Court and the Court of Domestic Relations shall begin on the first Monday in January and July of each year, respectively, and each term of said courts shall continue until the convening of the next successive term.

Sec. 15. The Judges of the Juvenile Court and of the Court of Domestic Relations shall be members of the Juvenile Board of Dallas County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts of Dallas County, the County Judge of Dallas County, the Judge of the Juvenile Court of Dallas County and the Judge of the Court of Domestic Relations of Dallas County. The 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 for such other administrative duties as are now or may hereafter be required, from county funds, as they are entitled to receive under general or special law. The members of the Juvenile Board shall continue to have the same authority as is now provided by law, and such Juvenile Board may assign the Judge of the Juvenile Court to handle the duties of the Domestic Relations Court, and in like manner, assign the Judge of the Court of Domestic Relations to handle the duties of the Juvenile Court.

Sec. 16. The Judge of the Court of Domestic Relations and the Judge of the Juvenile Court shall each have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Dallas County and whose salary shall be paid by the Commissioners Court of Dallas County. A bailiff shall be designated by the Sheriff of Dallas County to serve each of the Courts as in other courts of the county.

Sec. 17. The district Clerk of Dallas County shall also act as District Clerk for the Juvenile Court and the Court of Domestic Relations of Dallas County.

Sec. 18. The Sheriff of Dallas County shall attend either in person or by deputy the Juvenile Court and the Court of Domestic Relations as required by law in Dallas County or when required by the Judges thereof, and the Sheriffs and Constables of the several counties of this State, when executing process out of said courts, shall receive fees provided by General Law for executing process out of District Courts.

Sec. 19. Appeals in all civil cases from judgments and orders of the Juvenile Court and the Court of Domestic Relations shall be to the Court

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of Civil Appeals of the Fifth 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.

Sec. 20. 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 the Juvenile Court and the Court of Domestic Relations shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members. Acts 1957, 55th Leg., p. 1490, ch. 511.

¹ Article 2328b—1 et seq.

Section 21 of the Act of 1957 provided that if any Section, clause or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect, and the validity of the remainder of this Act shall not be affected thereby. Laws relating to the handling of juvenile cases not in conflict with this Act shall govern the in-

vestigation of juvenile cases, hearings and disposition of cases.

This article did not become effective until 90 days after adjournment of the legislature, in absence of recital in emergency clause of H.B. No. 940 that Act should take effect and be in force from and after its passage. Op. Atty. Gen., 1957, No. W.W.—173.

TITLE 44—COURTS—COMMISSIONERS

2. POWERS AND DUTIES

Art.
2351a—6. Rural fire prevention districts [New].
2351h. Counties of 800,000 or more; petty cash fund for county welfare department; audits [New].

Art.
2368a—5. Validation of contracts, scrip and time warrants; refunding bonds; acts and proceedings; exceptions [New].
2370b. County office buildings; courts buildings; jail buildings, etc.; construction; improving; equipping, etc. [New].

2. POWERS AND DUTIES

Art. 2351. 2241, 1537, 1514 Certain powers specified

Optional County Road Law of 1947, powers and duties of commissioner's court under, see art. 6716—1.

Art. 2351a—6. Rural fire prevention districts

Organization authorized

Section 1. Rural Fire Prevention Districts may be organized in the State of Texas under the provisions of Section 48-d of Article III of the State Constitution for the protection of life and property from fire and for the conservation of natural resources as in this Act provided.

District within one county; petition to county judge

Sec. 2. (1) When it is proposed to create a Rural Fire Prevention District under the provisions of this Act wholly within one county, there shall be presented to the County Judge of that county a petition signed by not less than one hundred (100) of the qualified voters who own taxable real property within the proposed district, or in the event there are less than one hundred such voters then by a majority of such voters.

(2) The County Judge of each county shall have jurisdiction to receive and act on the petition if it shows:

(a) That the district is to be created and operated under the provisions of Article III, Section 48-d of the Constitution of Texas;

(b) Name of the proposed district, which shall be "_____ County Rural Fire Prevention District No. —," filling in name of county and proper consecutive number;

(c) Designation of the boundaries of the proposed district by metes and bounds, or other sufficient legal description;

(d) That none of the land encompassed within said district is now included within any other rural fire protection district;

(e) The mail address of each petitioner.

(3) Said petition shall in addition contain the signed agreement of at least two of the petitioners therein, obligating themselves to pay the cost incident to the formation of the proposed district not to exceed One Hundred Fifty Dollars (\$150.00), which shall include, among any other necessary and incidental expenses, the cost of publication of notices and election costs.

Filing of and hearing on petition

Sec. 3. If the petition is in proper form, the County Judge shall file same with the County Clerk. The Commissioners Court shall at its next

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regular or special session set the place, day and hour when it will hear and consider the petition.

Notices of hearing

Sec. 4. The County Clerk shall issue notices of such hearing, which shall state that such district is proposed and shall further state:

(a) That the district is to be created and operated under the terms of Article III, Section 48-d of the Constitution of Texas;

(b) Name of the proposed district;

(c) Designation of the boundaries of said districts, as stated in the petition therefor;

(d) The place, day and hour of hearing on the petition;

(e) and shall notify all persons who may have an interest therein that they are invited to attend said hearing and present their grounds, if any, for or against the formation of said district.

Said notice shall be prepared in multiple copies, one of which shall be retained by the clerk, and sufficient additional copies as may be necessary delivered to the Sheriff.

The Sheriff shall post one copy at the court house door at least twenty (20) days prior to the date of hearing, and have published in a newspaper of general circulation in the proposed district once a week for two consecutive weeks, the first publication thereof to be made at least twenty (20) days prior to the date of hearing.

The return of each officer executing such notice shall be endorsed or attached to a copy of the same, and show the execution of the same, specifying the dates of posting, and publication, and shall be accompanied by a printed copy of such publication.

Hearing on petition by commissioners court; jurisdiction and powers

Sec. 5. At the time and place set for the hearing of the petition, or such subsequent date as may then be fixed, the Commissioners Court shall proceed to hear such petition and all issues in respect to the creation of such proposed district, and any person interested may appear before the court in person or by attorney and contend for or contest the creation of such district, and offer testimony pertinent to any issue thereon. Such court shall have exclusive jurisdiction to determine all issues in respect to the creation of such district, may adjourn the hearing from day to day and from time to time as the facts may require, and shall have power to make all incidental orders deemed proper in respect to the matters before it.

Granting or denying petition; fixing boundaries of district

Sec. 6. If it shall appear on hearing by the court that the organization of a district as prayed for is feasible and practicable, would benefit the land included therein, and will be conclusive to the public safety, welfare and convenience, and aid in the conservation of the real property or natural resources within said district, the court shall so find and grant the petition and fix the boundaries thereof; otherwise it shall deny the petition.

Appeal to district court by persons aggrieved

Sec. 7. Any person or other owner of real or personal property situated within said district as created, who may consider himself aggrieved by the decision of the Commissioners Court, may appeal to the district court in the same manner as is provided for appeals in cases involving estates of decedents.

Elections

Sec. 8. Upon granting of the petition, the Commissioners Court shall call an election to confirm the organization and authorize the levy of a tax, not to exceed three cents (3¢) on the One Hundred Dollars (\$100.00) valuation. The election shall be held not less than thirty (30) nor more than sixty (60) days from the order calling the same; and notice of such election shall be given in the same mode and manner as hereinabove required for hearing on the petition to form the District. The notice shall contain the proposition submitted, the classification of voters who are authorized to vote, and the time and place for holding the election.

Except as modified by this Act the general law relating to elections shall govern the election required by this Act.

The election to confirm the district and to authorize the levy of the tax shall be submitted as a single proposition to the people residing therein who are qualified to vote.

Incorporated city, town or village included in proposed district; referendum

Sec. 8(a). If the area of the proposed District encompasses the territory of any incorporated city, town or village, the Commissioners Court, in making the determinations required in Section 6 of this Act, shall also determine whether those findings would be the same as to the remaining portion of the proposed district excluding any or all such incorporated municipalities in the event any one or more of such incorporated municipalities should fail to cast a majority vote in favor of the district and the tax.

This finding shall be made as to each particular city, town or village whose territory is proposed to be included within the area of the proposed district.

No district hereafter created shall include the area of any incorporated city, town, or village, unless a majority of the electors residing in the municipality and participating in the election called by the Commissioners Court to confirm the district and levy the tax have voted in favor of both the creation of the district and the levy of the tax.

Should a majority of the voters residing in a municipality and participating in the election vote against creation of the district or levy of the tax, the municipality shall not be included within the district, but its exclusion shall not affect the creation of the district embracing the remainder of the proposed territory if the findings of the Commissioners Court made as required in Section 6 and in this section of this Act are favorable to the creation of the district, as thus restricted.

Election favoring confirmation of district; order of commissioners court

Sec. 9. If a majority of those voting at such election, as provided in Section 2 of this Act, vote in favor of the confirmation of the district, it shall thenceforth be deemed an organized Rural Fire Prevention District under this Act; and the Commissioners Court shall enter its order accordingly in its minutes in the following substantial form:

Whereas, at an election duly and regularly held on the — day of —, A. D. 19—, within that portion of — County, State of Texas, described as: (insert description unless the district is county-wide) there was submitted to the legal voters thereof the question whether the above described territory shall be formed into a Rural Fire Protection District under the provisions of the laws of this state; and

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

Whereas, at such election ——— votes were cast in favor of formation of said district and ——— votes were cast against such formation; and

Whereas, the formation of such Rural Fire Prevention District received the affirmative vote of the majority votes cast at such election as provided by law;

Now, therefore, the County Commissioners Court of ——— County, State of Texas, does hereby find, declare and order that the tract hereinbefore described has been duly and legally formed into a Rural Fire Prevention District under the name of ———, under and pursuant to Article III, Section 48-d of the Constitution of Texas, and with the powers vested in such district conferred by law."

Districts declared political subdivisions of state; powers

Sec. 10. Such fire protection districts are hereby declared to be political subdivisions of the state, and shall have full authority to carry out the objects of their creation and to that end are authorized to acquire, purchase, hold, lease, manage, occupy and sell real and personal property or any interest therein; to enter into and to perform any and all necessary contracts; to appoint and employ the necessary officers, agents and employees; to sue and be sued; to levy and enforce the collection of taxes in the manner and subject to the limitations herein provided against the lands and other property within the district for the district revenues; to accept and receive donations; and to do any and all lawful acts required and expedient to carry out the purposes of this Act.

Further powers of districts

Sec. 11. Any fire protection district organized under the provisions of this Act shall further have authority:

(1) To lease, own, maintain, operate and provide fire engines and all other necessary or proper apparatus, instrumentalities, machinery, and equipment for the prevention and extinguishment of fires in the district and as authorized in this Act;

(2) To lease, own and maintain real property, improvements and fixtures thereon suitable and convenient for housing, repairing and caring for fire-fighting equipment;

(3) To enter into contracts with any others, including incorporated cities or towns or others districts whereby fire fighting facilities and fire extinguishment services may be available to the district, upon such terms as the governing body of the district shall determine. The contract may provide for reciprocal operation of service and facilities if the contracting parties find that such operation would be mutually beneficial, and not detrimental to the district.

(4) The Board of Fire Commissioners may cause inspections to be made within the district pertinent to the causes and prevention of fires therein, and may promote such educational programs as it may deem proper to more fully effect the purposes of this Act.

(5) To do and perform all things in its discretion proper and necessary to fully carry out the intent of this Act.

Limitation on indebtedness; tax levy

Sec. 12. No indebtedness shall be contracted in any one year in excess of funds then on hand or which may be satisfied out of current revenues for the year. The Board of Fire Commissioners shall annually levy and cause to be assessed and collected a tax upon all properties, real and personal, situated within the district and subject to taxation, in an amount

not to exceed three cents (3¢) on the One Hundred Dollars (\$100.00) valuation for the support of the district, and for the purposes authorized in this Act.

The values of property in the said district shall be the same values as are shown on the county tax rolls.

Board of Fire Commissioners; organization, officers; bond of treasurer

Sec. 13. (1) The Board of Fire Commissioners, who shall be appointed by the Commissioners Court, shall be the governing body of the districts created under the provisions of this Act. They shall serve for a term of two years and until their successors are appointed and qualified.

(2) Upon the canvass of the election returns and entering of the order creating the district (provided in Section 9), the Commissioners Court shall name five commissioners to serve until January 1st of the next year. On that date, the court shall designate three of such commissioners to serve for a term of two years and two commissioners to serve for one year. Annually on January 1st thereafter, the court shall appoint a successor to each commissioner whose term has expired. Vacancies on the board shall be filled by the Commissioners Court for their unexpired term.

Each of said fire commissioners shall take the official oath required of members of the Legislature of this state before entering upon his duties.

(3) Said fire commissioners shall choose from their number a president, vice-president, secretary and treasurer, who shall have and perform respectively, the duties usually incumbent upon their said offices. The office of secretary and treasurer may be vested in the same person.

The treasurer shall enter into and file with the county clerk his bond conditioned upon the faithful performance of the duties of his office. The sufficiency and amount of the bond shall be determined by the County Judge before it may be filed.

Powers and duties of fire commissioners; meetings; records; quorum; compensation

Sec. 14. The Board of Fire Commissioners shall administer all the affairs of said district in accordance with the provisions of this Act; shall hold regular monthly meetings, and such other meetings as deemed advisable; and shall keep proper minutes and records of all their acts and proceedings. A majority of said board shall constitute a quorum.

No fire commissioner shall receive any compensation for his services, but when on official business of the district may be compensated for their reasonable and necessary expenses. All moneys of the district shall be disbursed by check signed by the treasurer countersigned by the president, but no payments from tax moneys shall be paid unless a sworn itemized account covering the same has been presented to and approved by the board.

The board shall not later than February 1st of each year render in writing to the Commissioners Court of the county an accounting of its administration for the preceding calendar year and of the financial condition of the district.

The board shall further render such reports as may be required from time to time by the State Fire Marshall and other authorized party or agency.

No fire commissioner shall become interested in any contract or transaction in which said district is a party whereby he may receive any money

consideration or other thing of value, other than as a resident or property owner of the district.

Liberal construction of act; partial invalidity

Sec. 15. The provisions of this Act and proceedings thereunder shall be liberally construed with a view to effect their objects. If any section or provision of this Act shall be adjudged to be invalid or unconstitutional, such adjudications shall not affect the validity of the Act as a whole, or any section, provision, or part thereof not adjudged to be invalid or unconstitutional.

Validation of orders or proceedings of commissioner's court

Sec. 16. The order of any Commissioners Court by which a rural fire prevention district has been or has sought to be created or established, wholly within one county, are hereby in all things validated, ratified and confirmed, and such district shall be hereafter deemed to have been established and in existence as of the date of the entry of the order by the Commissioners Court which declared such rural fire prevention district to be in existence; provided, however, that this Act shall not apply to validate the organization or creation of such district unless each of the following steps have also been taken: (a) that the Commissioners Court has entered a finding that the court has investigated the benefits to be derived from the creation of the district and that all of the properties and persons within the territorial confines of the district will be benefited by the creation or existence of such district with the powers authorized under this law and under the provisions of Article III, Section 48-d, of the Constitution of Texas; and (b) the order creating the district has heretofore been filed in the deed records of the county, which order or supplement thereto shows the area of the district; and (c) the Commissioners Court has heretofore appointed fire commissioners for the governing of the rural fire prevention district; and (d) the proposition for the creation of the district, levying a tax, or both, has been submitted to the electorate and a majority of those participating in such election voted in favor of the district, the tax, or both, such election having been called by the Commissioners Court.

Taxation; levy and collection

Sec. 17. In those districts validated and declared to be and to have been established under the provisions of Section 16 of this Act, the district shall have the right to levy and collect the rate of tax of not to exceed the rate of tax voted at the election required under the provisions of Section 16; provided, however, that if the election sought to authorize more than a tax of three cents (3¢) per One Hundred Dollars (\$100.00) valuation contrary to the provisions of Article III, Section 48-d of the Constitution of Texas, the provisions of this section shall not be effective.

Validation of governmental proceedings of districts

Sec. 18. All governmental proceedings of the districts (which are validated by the provisions of Section 16 of this Act) are hereby in all things validated, ratified and confirmed. Acts 1957, 55th Leg., p. 130, ch. 57.

Emergency. Effective April 10, 1957.

Art. 2351h. Counties of 800,000 or more; petty cash fund for county welfare department; audits

Section 1. In all counties in the State of eight hundred thousand (800,000) population or over, the Commissioners Courts in providing for

the support of paupers, through a County Welfare Department, may authorize the disbursement of not to exceed Two Thousand, Five Hundred Dollars (\$2,500) to the head of such department to be used as a petty cash fund, so that immediate cash for transportation and other expenses of such paupers may be handled without delay. This fund must be established under such system as provided and installed by the county auditor of such county, with such reports as required by him to be made by the head of the Welfare Department.

In making payments to support such paupers as should be furnished support by the counties, the Commissioners Court may, with the concurrence of the county auditors, make one (1) payment to the head of the Welfare Department, with the actual disbursements to be made to such paupers by such head of the County Welfare Department on warrants designed by the county auditor, and further subject to his audit at any time. Such disbursements, if made in the prescribed manner, shall be reported on such forms and at such times as the county auditor may prescribe.

Sec. 2. This Act shall be cumulative with all other laws pertaining to this subject unless they be in conflict with this Act, in which cases this Act shall govern. Acts 1957, 55th Leg., p. 223, ch. 106.

Emergency. Effective April 24, 1957.

Section 3 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 2368a—5. Validation of contracts, scrip and time warrants; re-funding bonds; acts and proceedings; exceptions

Section 1. 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 (including home-rule cities) or town in this state has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including home-rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including home-rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work 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 and fifty thousand (350,000), according to the last preceding federal census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental Acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including home-rule cities) or town, and of all officers and officials thereof, authorizing the issuance

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

of or pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including home-rule cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental Acts, orders, resolutions or other instruments, or bonds executed, adopted, or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding federal census, or any proceedings, governmental Acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is involved in litigation at the time this Act becomes effective. Acts 1957, 55th Leg., p. 543, ch. 253.

¹ Article 2368a, §§ 5, 6.

Emergency. Effective May 20, 1957.

Art. 2370b. County office buildings; courts buildings; jail buildings, etc.; construction; improving; equipping, etc.

Power to acquire, construct, reconstruct, remodel, etc., buildings

Section 1. Whenever the Commissioners Court of any county determines that the county courthouse is not adequate in size or facilities to properly house all county and district offices and all county and district courts and all justice of the peace courts for the precincts in which the courthouse is situated, and to adequately store all county records and equipment (including voting machines) and/or that the county jail is not adequate in size or facilities to properly confine prisoners and other persons who may be legally confined or detained in a county jail, the Commissioners Court may purchase, construct, reconstruct, remodel, improve and equip, or otherwise acquire an office building or buildings, or courts building or buildings, or jail building or buildings (in addition to the existing courthouse and/or jail), or an additional building or buildings in which any one or more of the county or district offices or county, district or justice of the peace courts, or the county jail or any other county facilities or functions may be housed, conducted and maintained; and may purchase and improve the necessary site or sites therefor, and may use such building or buildings for any or all of such purposes, provided that any such building or buildings so acquired shall be located in the county seat, and provided that no justice of the peace court shall be housed, conducted or maintained in any such building if said building is located out of the boundaries of the precinct of such justice of the peace court.

Use of buildings

Sec. 2. Such building or buildings, when purchased, constructed or otherwise acquired and equipped may also be used for the purpose of carrying on such other public business as may be authorized by the Commissioners Court, and/or the Commissioners Court may also lease or rent any part or parts of any such building or buildings, (which may not be presently needed for any of the above purposes) to the State of Texas and any of its political subdivisions, and the Federal Government.

Bond issue; levy of taxes

Sec. 3. To pay for the purchase, construction, reconstruction, remodeling, improvement and equipment of any such building or buildings and/or jail or jails, including the purchase and improvement of the site or sites therefor, the Commissioners Court is authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, which taxes shall be levied, pursuant to the authority of Article 8, Section 9 of the Constitution of the State of Texas, as amended, for permanent improvement fund purposes; and such bonds may mature serially or otherwise as may be determined by the Commissioners Court of the county, not exceeding forty (40) years from their date, and such bonds may contain such option or options of redemption or no option of redemption as may be determined by the Commissioners Court; and the issuance of such bonds and the levy and collection of such taxes shall otherwise be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, governing the issuance of bonds by cities, towns and/or counties in this State.

Bond elections; propositions submitted

Sec. 4. The Commissioners Court may submit at any bond election one proposition for the issuance of such bonds which proposition may include all the purposes authorized herein for which such bonds may be issued; or it may, at its option, submit at any bond election one or more separate propositions for the issuance of such bonds, each of which separate propositions may include any one or more of the purposes authorized herein for which such bonds may be issued.

Notices; posting

Sec. 5. The acquisition or use of any such building or buildings for any of the purposes herein authorized shall not alter, change or affect any requirement of any law to the effect that certain notices shall be posted at the courthouse door of the county; all notices which have heretofore been required to be posted at the courthouse door of the county shall be posted at the door of the main courthouse and nothing in this Act shall require that additional notices shall be posted at the door or doors of the building or of any of the buildings acquired or used pursuant to the authority herein granted.

Provisions cumulative

Sec. 6. The provisions of this Act are in addition to all the powers given by, and are cumulative of, all other provisions of the Laws of the State of Texas on the same subject. Acts 1957, 55th Leg., p. 1386, ch. 476.

Emergency. Effective June 10, 1957.

Section 7 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

TITLE 46—CREDIT ORGANIZATIONS

Art.

2481. Guaranty fund [New].

2482. Dividend [New].

Art. 2481. Guaranty fund

From the income of each credit union for each fiscal year which remains after the deduction of all expenses for such year, the following amounts shall be credited to a reserve designated as the guaranty fund: twenty per cent (20%) for each of the first five (5) fiscal years of the existence of the credit union, and ten per cent (10%) for each of the remaining fiscal years. The term, "expenses," as used in this Section and the next Section of this Act shall not be construed to include losses on bad debts. The term, "existence," as used herein, includes existence as a predecessor credit union, State or Federal. Said fund belongs to the association and shall be held to meet contingencies and losses in its business. In any fiscal year, the credit union may charge all its losses on bad debts for that year against the guaranty fund to the extent of any balance therein, regardless of whether the net income after expenses is sufficient to cover any of such losses. If the guaranty fund is exhausted, then losses in excess thereof shall be charged against any income after expenses. All entrance fees shall be added at once to the guaranty fund. But upon the recommendation of the Board of Directors, the members at an annual meeting may increase, and whenever said fund equals or exceeds ten per cent (10%) of the amount of capital stock actually paid in, may decrease the amount required by this Article to be credited as a guaranty fund. Formerly article 2482. Reassigned and codified as article 2481 and amended Acts 1957, 55th Leg., p. 679, ch. 285, § 1.

Emergency. Effective May 23, 1957.

Section 3 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 4 was a severability provision.

Former article 2481 was reassigned and codified as article 2482 and amended by Acts 1957, 55th Leg., p. 679, ch. 285, § 2.

Art. 2482. Dividend

A dividend may be paid from income which has been actually collected from the time the credit union began business to the close of the fiscal year next preceding such payment, after deduction of all expenses and the statutory guaranty fund to the close of said fiscal year. Before any such dividend may be paid, it shall first be declared at the annual meeting. Such dividend shall be paid on all fully paid shares outstanding at the close of the fiscal year, but shares which become fully paid during the year shall be entitled only to a proportional part of said dividend, calculated from the first day of the month following such payment in full. Dividends due to a member shall be paid to him in cash or credited to the account of partly paid shares for which he has subscribed. Dividends shall not exceed six per cent (6%) per annum. Formerly art. 2481. Reassigned and codified as art. 2482 and amended Acts 1957, 55th Leg., p. 679, ch. 285, § 2.

Emergency. Effective May 23, 1957.

Former article 2482 was reassigned and codified as article 2481 and amended by Acts 1957, 55th Leg., p. 679, ch. 285, § 1.

Repeal of conflicting laws and severability provision of amendatory Act of 1957, see note under art. 2481.

Art. 2514. May incorporate

Securities Act inapplicable to sale and issuance of securities, see art. 581—5.

TITLE 48—DESCENT AND DISTRIBUTION

Arts. 2570—2583a. Repealed. Acts 1955, 54th Leg., p. 88, ch. 55, § 434.
Eff. Jan. 1, 1956

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TITLE 49—EDUCATION—PUBLIC

CHAPTER ONE—UNIVERSITY OF TEXAS

Art.
2603h. Sale of certain land in Galveston
for construction of psychopathic
hospital [New].

Art. 2603a. Board for lease of oil and gas land

Method of sale of oil and gas

Sec. 4. Whenever there shall be such demand for the purchase of oil and gas in any university land as will reasonably insure that said oil and gas may be sold advantageously, the Board shall place said oil and gas in said lands on the market in separate tracts of such area and extent as the Board may determine most suitable for the profitable marketing thereof, but in no event shall any tract in which oil and gas is offered for sale as a unit exceed an area of six thousand (6,000) acres. The sale of said oil and gas shall be made at public auction and shall be held in Austin, Texas, at any hour between ten o'clock A. M. and five o'clock P. M. The Board shall cause an advertisement to be made of such sale in two or more newspapers of general circulation in this state. Such advertisement shall state the method, time and place of sale; the primary term of the lease proposed to be executed covering any sale; the royalty to be paid; and that lists describing the land to be sold may be obtained from the Board; and such other matters as in the judgment of the Board are deemed advisable. In addition to the foregoing mandatory provisions, the Board in its discretion may cause said advertisement to be placed in oil and gas journals in and out of the state and to be mailed generally to such persons as they think might be interested. As amended Acts 1957, 55th Leg., p. 528, ch. 245, § 1.

Emergency. Effective May 20, 1957.

Sale by competitive bids

Sec. 5. The oil and gas in each tract shall be offered for sale for a bonus in addition to the stipulated royalty. Each tract shall be offered separately. Each bid shall be subject to such royalty as is specified in the official advertisement preceding the sale, but in no event shall be less than one-eighth ($\frac{1}{8}$) of the gross production of oil and gas in the land; and shall further be subject to the payment of an annual rental after the first year of not less than Ten Cents (10¢) per acre, payable each year in advance, unless the royalties received from such land during the preceding year shall equal or exceed the amount of the annual rental payment; and shall be subject to the payment of a special fee equal to one per cent (1%) of the total sum bid, which special payment shall constitute a special fund from which the Board for Lease is hereby authorized and directed to defray the expenses of the sale, including the payment for the services of the auctioneer crying the sale, and for the payment of the general operating expenses in geologizing, oil field supervision and auditing oil and gas production of university lands, including salaries and traveling expenses of persons employed by the Board of Regents of The University of Texas for said purposes; provided the Board for Lease is also hereby authorized to direct the Comptroller of The University of Texas to transmit to the State Treasurer for deposit to the credit of the Permanent Uni-

versity Fund any unexpended balances remaining in said special fund after reserving a sufficient amount therein for the payment of current expenses as set out herein. The highest successful bidder shall pay to the Commissioner of the General Land Office on the day said bid is accepted the full amount of bonus bid and the fee to defray the expenses provided herein. As amended Acts 1957, 55th Leg., p. 206, ch. 94.

Emergency. Effective April 24, 1957.

Art. 2603h. Sale of certain land in Galveston for construction of psychopathic hospital

Section 1. In consideration of the payment by the Trustees of the Sealy-Smith Foundation of Galveston, Texas, of a sum equal to its appraised value, the Board of Regents of The University of Texas is hereby authorized to sell and convey to the Trustees of the Sealy-Smith Foundation the following described land in the City of Galveston, Galveston County, Texas:

Being all, or any part thereof, of that certain tract or parcel of land, to wit: Lots 11, 12, 13 and 14 of Block 667 of the City of Galveston, Galveston County, Texas.

Sec. 2. The Chairman of the Board of Regents of The University of Texas, following specific affirmative action by the Board, and upon receipt of the agreed consideration, is hereby authorized and empowered to execute and deliver to the Trustees of the Sealy-Smith Foundation a proper instrument conveying title to the property described in Section 1 of this Act.

Sec. 3. The proceeds from the sale of this property to the Sealy-Smith Foundation shall be a part of the local funds of the Medical Branch of The University of Texas for the use and benefit of the Medical Branch and the consideration received from the sale of this property is hereby appropriated for this purpose.

Sec. 4. The land herein authorized to be conveyed is to be used as a site of a psychopathic hospital, and in the event the land is not so utilized the title to the same shall revert to the Board of Regents of The University of Texas.

Sec. 5. No state funds, either local, from the general revenue, or from other sources, shall be used for the constructing or equipping of this hospital facility.

Sec. 6. Title to the hospital facility shall remain in the name of the Trustees of the Sealy-Smith Foundation and such property shall not hereafter be sold, granted, leased or in any manner conveyed to the Medical Branch of The University of Texas, or to The University of Texas. The psychopathic hospital facility to be erected by the Sealy-Smith Foundation shall be operated by the Medical Branch of The University of Texas as an integral part of the hospital operations of the Medical Branch, but without cost or expense to the Medical Branch or to the state for maintenance, operations, repairs, or otherwise.

Sec. 7. By agreement between the Board of Regents of The University of Texas and the Trustees of the Sealy-Smith Foundation, the purpose or use of this hospital facility to be constructed by the Sealy-Smith Foundation may be changed to any other purpose or use consistent with the purposes of the Foundation and with the operation of a medical school; provided, however, that no agreement shall be made which will impose upon the Medical Branch or the State of Texas any obligation for maintenance, operation, repairs, or otherwise. Acts 1957, 55th Leg., p. 549, ch. 257.

Emergency. Effective May 20, 1957.

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

Title of Act:

An Act authorizing the Board of Regents of The University of Texas, in consideration of the payment to it of the appraised value, to convey to the Trustees of the Sealy-Smith Foundation certain land in the City of Galveston, Texas, for the pur-

pose of constructing thereon a psychopathic hospital; prescribing procedures and conditions for the sale of this property; making an appropriation; and declaring an emergency. Acts 1957, 55th Leg., p. 549, ch. 257.

CHAPTER TWO—AGRICULTURAL AND MECHANICAL COLLEGE

Art.

2613a—8. Purchase of land for forest tree seedling nursery; reforestation program [New].

Art. 2613a—3. Lease of lands for oil, gas or other mineral development authorized

Disposition of funds

Section 1. (a) 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 be acquired hereafter for the use of the Texas Agricultural and Mechanical College System.

(b) All moneys 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 "Texas Agricultural and Mechanical College System Special Mineral Investment Fund." In the judgment of the said Board of Directors, said Special Mineral Investment Fund may be invested so as to produce an income which may be expended under the direction of the said Board of Directors in erecting permanent improvements for the Texas Agricultural and Mechanical College System and in payment of expenses incurred in connection with the administration of this Act. The unexpended income likewise may be invested as herein provided.

(c) The income from the investment of the Special Mineral Investment Fund shall be deposited to the credit of a fund to be known as the "Texas Agricultural and Mechanical College System Special Mineral Income Fund" and shall be appropriated by the Legislature exclusively for the Texas Agricultural and Mechanical College System for the purposes herein provided. On September 1, 1957, the State Comptroller shall transfer the balance in the "Agricultural and Mechanical College of Texas Special Mineral Fund" to the funds established herein. As amended Acts 1957, 55th Leg., p. 658, ch. 280, § 1.

Emergency. Effective May 22, 1957.

Art. 2613a—8. Purchase of land for forest tree seedling nursery; reforestation program

The Board of Directors of the Agricultural and Mechanical College of Texas is authorized to acquire by purchase in the name of the State of Texas, for the use and benefit of the Texas Forest Service, and to improve the same, a sufficient quantity of land suitable for the operation thereon of a forest tree seedling nursery in the reforestation program of the Texas Forest Service and for the production of other forest products.

Provided, however, that not more than four hundred acres of land may be purchased under the terms of this Act, and provided further that the selling price of seedlings produced thereon shall, as far as is practical, represent the cost of production plus at least ten per cent (10%). Acts 1957, 55th Leg., p. 530, ch. 247, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 2615d. Adjunct of College authorized to be located in Kimble County

Section 1. The Board of Directors of the Agricultural and Mechanical College of Texas is authorized to establish in Kimble County an adjunct of the College to be located on land furnished without cost to the State of Texas.

Sec. 2. That the Board of Directors of the Agricultural and Mechanical College of Texas is authorized to provide at said adjunct any services which conform to the leading object of the Agricultural and Mechanical College of Texas as defined in Article 2608 of the Revised Civil Statutes of Texas, 1925, including research, subject to the following exceptions:

1. That no undergraduate course carrying college credit will be offered at the adjunct in Kimble County during the eight (8) months between the first day of October and the first day of June of any school year.

2. That not more than Three Hundred Thousand Dollars (\$300,000) may be expended from available plant funds for buildings and improvements without the specific authorization of the Legislature of Texas.

3. College credits received at the adjunct in Kimble County shall not be counted toward graduation from Agricultural and Mechanical College of Texas, unless an equivalent number of college credits for graduation shall have been received at the Agricultural and Mechanical College of Texas, located at College Station, Texas. As amended Acts 1957, 55th Leg., p. 1384, ch. 474, § 1.

Emergency. Effective June 10, 1957.

CHAPTER FIVE—TEXAS WOMAN'S UNIVERSITY

TEXAS WOMAN'S UNIVERSITY

Art.

2624b. Names "College of Industrial Arts" and "Texas College for Women" in statutes mean Texas Woman's University [New].

Art.

2624c. Acts and appropriations confirmed in behalf of Texas Woman's University [New].

TEXAS WOMAN'S UNIVERSITY

Art. 2624. 2682 Name of institute

The industrial institute and college located at Denton, in Denton County, for the education of white girls in the arts and sciences now known as the Texas State College for Women, shall hereafter be known as the Texas Woman's University. As amended Acts 1957, 55th Leg., p. 603, ch. 270, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

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

Art. 2624b. Names "College of Industrial Arts" and "Texas College for Women" in statutes mean Texas Woman's University

Wherever the name "College of Industrial Arts," or the name "Texas State College for Women," or any reference to either, appears in any Acts of any Legislature of this state, such name and such reference shall hereafter mean and apply to the Texas Woman's University, in order to conform to the new name of said university as provided in Section 1 hereof. Acts 1957, 55th Leg., p. 603, ch. 270, § 2.

Art. 2624c. Acts and appropriations confirmed in behalf of Texas Woman's University

All legislative Acts and appropriations heretofore passed either in or by reference to the College of Industrial Arts, or to the Texas State College for Women, or to the Texas Woman's University are in all things ratified and confirmed in behalf of the Texas Woman's University. Acts 1957, 55th Leg., p. 603, ch. 270, § 3.

CHAPTER SIX—TEXAS TECHNOLOGICAL COLLEGE

Art.

2632e. Lease or conveyance of campus land to City of Lubbock for museum [New].

Art. 2632e. Lease or conveyance of campus land to City of Lubbock for museum

The Board of Directors of Texas Technological College of Lubbock is hereby authorized to rent, lease, or convey, for a sum of money to be determined by said Board of Directors, a part of the campus of said College, not to exceed four acres, to the City of Lubbock for the sole purpose of building, with bonds, or current city taxes, and maintaining with city tax money, a history, science, and art museum. As amended Acts 1957, 55th Leg., 1st C. S., p. 97, ch. 32, § 1.

Sec. 2. The Board of Directors is hereby authorized to rent or lease a building or any part of a building on said parcel of land to the City of Lubbock for the sole purpose of maintaining a history and art museum for a sum of money to be determined by the Board of Directors.

Sec. 3. The Board of Directors is hereby authorized to dedicate for public use a street or streets leading to and connecting with the said parcel of land and building and to provide ingress and egress to and from a public highway and to and from adjacent parking lots.

Sec. 4. The Board of Directors, at their discretion, are hereby authorized to contract with the City of Lubbock for the staffing, operation, and maintenance of a history and art museum with funds provided by the City of Lubbock.

Sec. 5. The Board of Directors is hereby authorized to enter into such contracts and agreements as may be necessary and proper to carry out the provisions of this Act; and provided further, that no expenditure of money by the Board of Directors shall be made except as may be appropriated by the Legislature. Acts 1957, 55th Leg., p. 1374, ch. 469.

Emergency. Effective Dec. 2, 1957.

Emergency. Effective June 10, 1957.

CHAPTER NINE—STATE TEACHERS' COLLEGES

1. GENERAL PROVISIONS

Art. 2647h. East Texas State College; change of name [New].

1. GENERAL PROVISIONS

Art. 2647h. East Texas State College; change of name

Section 1. The name of East Texas State Teachers College, located at Commerce, Texas, is hereby changed to East Texas State College.

Sec. 2. Wherever the name East Texas State Teachers College or any reference thereto appears in the Constitution or Statutes of this State, such name and such reference shall hereafter mean and apply to East Texas State College in order to conform to the new name of the college as provided in Section 1 hereof. All appropriations and benefits to East Texas State Teachers College shall be available to and apply to East Texas State College, and all contracts, bonds, or other debenture effected under its old name shall be likewise applicable to such college under its new name. Acts 1957, 55th Leg., p. 833, ch. 361.

Emergency. Effective September 1, 1957 by the terms of sections 3 and 4 of the Act of 1957.

Title of Act:

An Act changing the name of East Texas State Teachers College to East Texas State College; fixing an effective date; and declaring an emergency. Acts 1957, 55th Leg., p. 833, ch. 361.

CHAPTER NINE A—TUITION AND CONTROL OF FUNDS OF STATE INSTITUTIONS

Art. 2654c. Tuition rates in State institutions of collegiate rank

Section 1. (a) The Governing Boards of the several institutions of collegiate rank supported in whole or in part by public funds appropriated from the State Treasury shall cause to be collected from students registering in the said schools, tuition or registration fees at the rates hereinafter prescribed.

| Item No. | Type of Student | Rate |
|----------|---|---------|
| 1. | Resident student registered for twelve (12) or more semester credit hours of work per semester of four and one-half (4½) months | \$ 50 |
| 2. | Resident student registered for twelve (12) or more term hours of work per term of three (3) months | 30 |
| 3. | Non-resident student registered for twelve (12) or more semester credit hours of work per semester of four and one-half (4½) months | 125-200 |
| 4. | Non-resident student registered for twelve (12) or more term hours of work per term of three (3) months | 150 |
| 5. | Resident or non-resident student registered for less than twelve (12) semester credit hours of work, shall pay a sum proportionately less than herein prescribed therefor but not less than | 15 |
| 6. | Resident or non-resident student registered for less than twelve (12) term hours of work, shall pay a sum proportionately less than herein prescribed therefor but not less than | \$ 10 |

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

| Item No. | Type of Student | Rate |
|----------|---|---------|
| 7. | Resident student registered for a summer session of twelve (12) weeks | \$ 50 |
| 8. | Non-resident student registered for a summer session of twelve (12) weeks | 125-200 |
| 9. | Resident or non-resident student registered for less than a full semester credit hour or term hour load in a summer session shall pay a sum proportionately less than herein prescribed therefor but not less than | 10 |
| 10. | Resident or non-resident student registered in a Medical or Dental Branch, School or College, per semester or its equivalent | 150-200 |
| 11. | Resident or non-resident students registered for a course or courses in art, architecture, drama, speech or music, where individual coaching or instruction is the usual method of instruction, shall pay a fee in addition to the regular tuition, said fee to be designated by the Governing Board of such institution; but in no event shall such fees be more per course per semester of four and one-half (4½) months, or per summer session, than | 75 |

(b) The Governing Boards of the several state-supported institutions are hereby authorized and directed to have reserved and set apart in a separate account on the books of the respective institutions, out of the fees levied and collected from students under subsection (a), Section 1 of this Act, an amount to be determined by the Legislature for each institution in the biennial Appropriation Bill, for the purpose of creating a special fund to be used in awarding Tuition Scholarships to needy resident students enrolled in such respective institutions. Tuition Scholarships shall be awarded to students with the approval of the President or other administrative heads of each such respective institution in accordance with such rules and regulations governing the award of such Tuition Scholarships as may be promulgated by the Governing Boards of said respective institutions. Rules and regulations shall be subject to the following conditions:

(1) Eligibility shall be based primarily on financial need. In determining need, consideration should be given to the student's own efforts to finance his education as evidenced by part-time jobs, loans from private sources or financial capacity of the parents.

(2) Awards shall be based on character and satisfactory scholastic record.

(3) Recipients of such Tuition Scholarships must be classified as "resident students" under the provisions of this Act.

(4) Tuition Scholarships shall be awarded in an amount of Twenty-five Dollars (\$25) per semester or Fifty Dollars (\$50) per long session for each student. The amount of such awards shall be credited to said student as partial payment of his tuition fees; provided that students otherwise entitled to a refund shall receive such refund based only on that portion of the tuition actually paid by the student.

(5) Tuition Scholarships shall be awarded in an amount not to exceed One Hundred and Twenty-five Dollars (\$125) per semester or Two Hundred and Fifty Dollars (\$250) per long session for each full-time medical or dental student. The amount of such awards shall be credited to said student as partial payment of his tuition fees; provided that students otherwise entitled to a refund of tuition shall receive such refund based only on that portion of the tuition actually paid by the student.

(6) Not later than thirty (30) days after the close of each fiscal year, each institution shall transfer any unused balances in the fund set up

for scholarship awards to the tuition income account from which the scholarship fund was established.

(c) The Governing Boards of the several institutions of collegiate rank supported in whole or in part by public funds appropriated from the State Treasury shall cause to be collected from each non-resident student registered for twelve (12) or more semester credit hours of work per semester of four and one-half (4½) months, or for a summer session of twelve (12) weeks, tuition or registration fees as follows: for the year beginning on September 1, 1957, a fee of not less than One Hundred and Twenty-five Dollars (\$125) or more than Two Hundred Dollars (\$200), such fee to be not less than Fifty Dollars (\$50) greater than the fee in effect for non-resident students at the beginning of the preceding year; for the year beginning on September 1, 1958, a fee not less than One Hundred and Seventy-five Dollars (\$175) or more than Two Hundred Dollars (\$200), providing that no tuition rate shall be reduced thereby; and for the year beginning on September 1, 1959, and thereafter, a fee of not less than Two Hundred Dollars (\$200).

(d) Any non-resident tuition may, within the discretion of the institution, be charged to the United States Government for veterans enrolled under the provisions of any Federal law and regulations authorizing educational or training benefits for veterans.

(e) The term "residence" as used in this Act means "domicile"; the term "resided in" means "domiciled in"; provided, the Governing Board of each institution required under this Act to charge a non-resident registration fee is hereby authorized and directed to promulgate such rules and regulations as may be necessary to administer this Act. For the purposes of this Act, the status of a student as a "resident", or "non-resident" student is to be determined as follows:

(1) A non-resident student is hereby defined to be a student of less than twenty-one (21) years of age, living away from his family and whose family resides in another state, or whose family has not resided in Texas for the twelve (12) months immediately preceding the date of registration; or a student of twenty-one (21) years of age or over who resides out of the state or who has not been a resident of the state twelve (12) months immediately preceding the date of registration.

(2) Individuals who have come from without the state and who are gainfully employed within the state for a period of twelve (12) months prior to registering in an educational institution shall be classified as "resident students" as long as they continue to maintain such legal residence in the state.

(3) Individuals who have come from without the state and who register in an educational institution prior to having resided in the state for a period of twelve (12) months shall be classified as "non-resident students," and such "non-resident student" classification shall be presumed to be correct as long as the residence of such individual in the state is during their attendance at educational institutions, regardless of whether such individuals have become qualified voters, registered motor vehicles and paid personal property taxes thereon, obtained Texas drivers' licenses, or have otherwise attempted to establish legal residence within the state; and provided further, that the provisions of this paragraph relating to non-resident student registration fees shall not apply to junior colleges located immediately adjacent to State boundary lines, which institutions shall collect from each non-resident student who registers for twelve (12) or more semester or term hours of work an amount equivalent to the amount charged students from Texas by similar schools in the State of which the said non-resident student shall be a resident.

(4) Individuals of twenty-one (21) years of age or less whose families have not resided in Texas for the twelve (12) months immediately preceding the date of registration, shall be classified as "non-resident students" regardless of whether such individuals have become the legal wards of residents of Texas or have been adopted by residents of Texas while such individuals are attending educational institutions in Texas or within a year prior to such an attendance or under circumstances indicating that such guardianship or adoption was for the purpose of obtaining status as a "resident student."

(f) All aliens shall be classified as "non-resident students"; provided, however, that an alien who is living in this country under a visa permitting permanent residence or who has filed a Declaration of Intention to become a citizen with the proper federal immigration authorities shall have the same privilege of qualifying for resident status for fee purposes under this Act as has a citizen of the United States. Provided, however, that a resident alien residing in a junior college district located immediately adjacent to State boundary lines shall be charged the resident tuition by such junior college.

(g) The Governing Boards of the several state-supported institutions of higher learning are hereby authorized to assess and collect from each non-resident student failing to comply with the rules and regulations of the Governing Boards concerning non-resident fees, a penalty not to exceed Ten Dollars (\$10) a semester.

(h) Officers, enlisted men and women, selectees or draftees of the Army, Army Reserve, National Guard, Air Force, Air Force Reserve, Navy, Navy Reserve, or 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 register themselves, their husband or wife as the case may be, and their children, in state institutions of higher learning by paying the regular 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 or women, selectees or draftees have been stationed on active duty within the state.

(i) The Board of Regents of The University of Texas is hereby authorized to fix a uniform tuition fee for all medical and dental students who are pursuing courses leading to the M. D. and D. D. S. degrees in the Medical and Dental Schools of The University of Texas not to exceed Two Hundred Dollars (\$200) for each semester. Provided, however, that the Board may not increase the tuition fee of medical and dental students more than Fifty Dollars (\$50) per semester over the preceding semester fee until the maximum tuition fee is reached. For all students registered in the Medical and Dental Schools of The University of Texas in programs other than those leading to the M. D. and D. D. S. degrees the Board of Regents of The University of Texas is authorized to charge the same tuition in effect at the Main University of The University of Texas.

(j) The foregoing provisions requiring the Governing Boards to collect tuition shall not be interpreted as depriving the Boards of the right to collect such special fees as they are authorized by law to collect; provided, however, that laboratory fees or charges shall only cover actual materials and supplies used by the student. As amended Acts 1953, 53rd Leg., p. 866, ch. 351, § 1; Acts 1957, 55th Leg., p. 1297, ch. 435, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Sections 2-4, 6, of the amendatory Act of 1957 read as follows:

"Sec. 2. It is the intent of the Legislature by increasing the tuition fees at the state-supported institutions of higher edu-

cation to provide additional funds for both increased teaching salaries and new teaching positions at these institutions, while at the same time providing tuition scholarships to protect any student who would incur financial hardship in paying the increased fees; and such intent shall be a

primary consideration of the Texas Commission on Higher Education in making recommendations to the Legislature, and of the Legislature in appropriating such funds to the respective institutions.

"Sec. 3. All tuition and registration fees collected or becoming due prior to the effective date of this Act shall be governed by the laws existing prior to the passage of this Act, and no additional fee shall be charged to students registering before the effective date of this Act for semesters or terms for which they are registered.

"Sec. 4. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict. Provided nothing herein shall be construed or intended to repeal Article 2654b, Acts of the Forty-first Legislature, 1929, Second Called Session, Page 90, Chapter 52, Section 1; and Article 2654b-1, Acts of the Forty-third Legislature, 1933, First Called Session, Page 10, Chapter 6, Acts of the Forty-eighth Legislature, 1943, Page

568, Chapter 337, Section 1, and Acts of the Forty-ninth Legislature, 1945, Page 552, Chapter 338, Section 1, and Acts of the Fifty-third Legislature, 1953, Page 75, Chapter 55, Section 1.

"Sec. 6. This Act shall become effective as to tuition and registration fees charged beginning September 1, 1957."

Section 5 of the amendatory Act of 1957 was a severability clause.

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 [former subsection (6) of section 1 of this article] hereof, whereby the student's tuition is paid by the said Armed Forces."

Art. 2654d—1. Investments and time deposits; student deposit fund

Section 1. That the governing boards of the several State institutions of higher education may, at their discretion, invest in United States Government securities, or place on time deposit with a bank located in the State of Texas, provided such time deposit shall be fully secured by United States Government securities, not more than eighty-five per cent (85%) of the 'General Property Deposits' which is permitted by Chapter 221, Acts of the Regular Session of the Forty-third Legislature (Article 2654d, Section 2, Vernon's Annotated Civil Statutes).

Sec. 2. There is hereby established a student deposit fund which shall be used for the purpose of scholarship awards and for the support of student union programs at the respective institutions in the manner hereinafter set forth. The income from the investment or time deposits shall become a part of this fund, and any general property deposits which heretofore or hereafter remain without call for refund for a period of four (4) years from the date of last attendance at any of the institutions shall be forfeited and become a part of and operative to the permanent use and purpose of the student deposit fund. Direct expenses of the administration of the funds shall be paid from the student deposit fund. Nothing in this Act shall be construed to prohibit refund of any balance remaining in the 'General Property Deposits' when made on proper demand and provided the above limitation of four (4) years has not run. The governing boards of the respective institutions may require that no student withdraw his deposit until he has been graduated or has apparently withdrawn permanently from school.

Sec. 3. The student deposit fund, consisting of the income from the investment or time deposits of the 'General Property Deposits' and forfeited 'General Property Deposits,' as provided in this Act, shall be used, at the discretion of the respective governing boards of the several institutions of higher education, either for the purpose of making student scholarship awards to needy and deserving students, or for the support of a general student union program, or for both such purposes. The governing boards shall administer the scholarship awards for the institutions under their jurisdiction, including the selection of recipients and the amounts and conditions of the awards; provided, however, that the recipients of such awards are residents of the State of Texas as de-

financed for tuition purposes. Any use of such funds for the support of student union programs shall be approved as to amount and purpose by the respective governing boards of the several institutions; provided, however, that at the Main University of The University of Texas, A. & M. College at College Station, and Texas Technological College at Lubbock such funds shall be available for scholarship purposes only. As amended Acts 1957, 55th Leg., p. 1349, ch. 459, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

CHAPTER ELEVEN—COUNTY SCHOOLS

Art. 2676. Election

Section 1. The general management and control of the public free schools and high schools in each county, unless otherwise provided by law shall be vested in five (5) county school trustees elected from the county, one (1) of whom shall be elected from the county at large by the qualified voters of the county and one (1) from each Commissioner's Precinct by the qualified voters of each Commissioner's Precinct, who shall hold office for a term of two (2) years. The time for such election shall be the first Saturday in April of each year; the order for the election of county school trustees to be made by the county judge at least thirty (30) days prior to the date of said election, and which order shall designate as voting places within each common or independent school district the same voting place or places at which votes are cast for the District Trustees of said common and independent school districts, respectively. The election officers appointed to hold the election for District Trustees in each of said school districts, respectively, shall hold this election for county school trustees.

Sec. 2. It shall be no valid objection that the voters of a Commissioner's Precinct are required by the operation of this Act to cast their ballots at a polling place outside the Commissioner's Precinct of their residence.

Sec. 3. Each year there shall be elected alternately two (2) county school trustees and three (3) county school trustees in each county. All vacancies shall be filled by the remaining trustees. All elections heretofore held in accordance with the foregoing provisions of this Act are hereby in all things validated and all trustees so elected shall continue to hold office until the expiration of the term for which they were originally elected. As amended Acts 1957, 55th Leg., p. 1383, ch. 473.

Emergency. Effective June 10, 1957.

Section 2 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 2688c. Counties of 25,700 to 26,700 population having no common school districts; office abolished; county judge to perform duties

Section 1. From and after the effective date of this Act the duties now performed by County Superintendents in all counties in this state having a population of not less than twenty-five thousand, seven hundred (25,700) and not more than twenty-six thousand, seven hundred (26,700), according to the last preceding Federal Census and in which there are no Common School Districts, shall be performed by the County Judges of such counties, and the office of County Superintendent, as such, shall cease to exist; provided, however, that the County Superintendents in

such counties who have been heretofore elected to the office of County Superintendent shall serve until the expiration of the time for which they were elected, and that thereafter the duties now performed by County Superintendents in such counties shall be performed by the County Judges of such counties.

Sec. 2. In counties coming under the provisions of this Act, the County Judge shall receive 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 so 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 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; Acts 1957, 55th Leg., 1st C. S., p. 5, ch. 6, § 1.

Effective 90 days after Nov. 12, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957, 1st C.S., repealed all conflicting laws and parts of laws; section 3 provided that if

any section was declared unconstitutional it should not affect the remainder.

Art. 2693. 2756 General duties

Budget officer of common and rural high school districts, duties of superintendent as, see art. 689a—19a.

Art. 2695. 2759 Transfers

Transfer of pupils to schools within and outside district, see, also, art. 2901a.

CHAPTER THIRTEEN—SCHOOL DISTRICTS

1. COMMON SCHOOL DISTRICTS

Art.

2745c. Time for filing application as candidate for trustee; printing ballot; absentee voting [New].

3. INDEPENDENT DISTRICTS IN CITIES

2774d. Trustees in districts of 30,220 or more scholastics; term of office; election date [New].

4. TAXES AND BONDS

Art.

2789e. Refunding bonds payable from taxes; maximum interest; validation of bonds previously issued; incontestability [New].

2802i—30. Additional tax for construction, repair and equipment of school buildings; purchase of sites; election [New].

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

6. DISTRICTS IN LARGE COUNTIES

Art.

2815g—1b. Election of trustees of independent districts in counties of 500,000 or over and 11,000 or more scholastics; terms of office [New].

Art.

2815g—51. Validation of districts; acts of trustees; additions of territory; elections; bonds; boundaries; taxes; exceptions [New].

7. JUNIOR COLLEGES

2815h—8. Refunding bonds authorized; interest rate; approval; registration [New].

1. COMMON SCHOOL DISTRICTS

Article 2741. 2815-6 Establishment of districts

Publication of annual financial statements by districts, see art. 29b.

Art. 2742d. School districts and bonds validated

Publication of annual financial statements by districts, see art. 29b.

Art. 2745c. Time for filing application as candidate for trustee; printing ballot; absentee voting

In all elections for the office of county school trustee or trustee of any school district, however created or designated, the applications of candidates for a place on the ballot shall be filed not less than thirty (30) days prior to the day of the election and the ballots shall be printed not less than twenty (20) days prior to the day of the election. In each election it shall be the duty of the officer or board charged with the preparation of the ballots to deliver to the county clerk, on or before the twentieth day preceding the day of the election, a sufficient number of ballots to accommodate applications for absentee ballots in such election; and it shall be the duty of the county clerk to conduct the absentee voting in the election in accordance with the general election laws relating to absentee voting. Paper ballots shall be used for absentee voting in all such elections, including elections in districts where voting machines are used at regular polling places. Acts 1957, 55th Leg., p. 555, ch. 262, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the Act of 1957 amends art. 2746a. Section 3 repealed all conflicting laws and parts of laws.

Title of Act:

An Act fixing the deadline for filing applications of candidates in elections for the office of county school trustee or trustee of any school district; fixing the time for

printing of the ballots in such elections; making provisions relative to absentee voting in such elections; amending Article 2746a, Revised Civil Statutes of Texas, 1925, as amended; repealing conflicting laws; and declaring an emergency. Acts 1957, 55th Leg., p. 555, ch. 262.

Art. 2746a. 2820 Official ballot

All of the ballots for the election of a school trustee in common school districts and in independent school districts having fewer than five hundred (500) scholastics as shown by the last preceding scholastic census roll approved by the State Department of Education and exclusive of transfers shall be printed with black ink on clear white paper, of sufficient thickness to prevent the marks thereon being seen through the paper, and be of uniform style and dimension; at the top of the ballot there shall be printed "Official Ballot, _____ School District," the number or name of the school district in which the election is to be held to be

filled in by the judge of the county when he orders the ballots printed. Any person desiring to have his name placed on said official ballot, as a candidate for the office of trustee of a common school district or of an independent school district as herein provided shall, at least thirty (30) days before said election, file a written request with the county judge of the county in which said district is located, requesting that his name be placed on the official ballot, and no candidate shall have his name printed on said ballot unless he has complied with the provisions of this Act; provided that five (5) or more resident qualified voters in the district may request that certain names be printed. The county judge, at least twenty (20) days before the election, shall have the ballots printed as provided in this Act, placing on the ballot the name of each candidate who has complied with the terms of this Act, and deliver a sufficient number of printed ballots and amount of supplies necessary for such election to the presiding officer of the election at least one (1) day before said election is to be held, said election supplies, ballots, boxes, and tally sheets to be delivered by the county judge by mail or in any other manner by him deemed best, to the presiding officer of said election in sealed envelopes which shall not be opened by the election officer until the day of the election. The expenses of printing the ballots and delivering same to the presiding officer, together with the other expenses incidental to said election shall be paid out of the available maintenance funds belonging to the school district in which said election is held, or to be held. The officers of said election shall be required to use the ballots so furnished by the county judge as provided herein. The election officers shall make returns of said election to the county judge and certify the result in the same manner as is now required by law, and said ballot boxes which shall have been furnished by local school officials shall be sent to the county judge and said election returns shall be canvassed by the Commissioners Court and together with ballot boxes shall be safely preserved for a period of three (3) months next after the date of the election. The ballot used at the election shall be the stub ballot provided for in the general election laws, and all provisions of the general election laws relating to ballot stubs and stub boxes shall apply to the election. As amended Acts 1957, 55th Leg., p. 555, ch. 262, § 2.

Effective 90 days after May 23, 1957, date of adjournment.

Repeal of conflicting laws, see note under Art. 2745c.

Art. 2756c. Abolishment of certain districts; authority of State Board of Education to create districts and annex territory abolished

Sec. 2a. When any school district created under Senate Bill No. 274, Chapter 112, Acts of 44th Legislature, Regular Session,¹ has been abolished as provided in Section 1 of this Act, the county board of school trustees of the county wherein the military reservation territory lies is hereby authorized and required to add such territory to a school 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. Added Acts 1957, 55th Leg., p. 462, ch. 223.

¹ Article 2756b.

Emergency. Effective May 16, 1957.

2. INDEPENDENT DISTRICTS IN TOWN

Art. 2757. 2851—54 Incorporation of town

Publication of annual financial statements by districts, see art. 29b.

3. INDEPENDENT DISTRICTS IN CITIES

Art. 2768. 2867—8 Assumption of control

Publication of annual financial statements by districts, see art. 29b.

Art. 2774d. Trustees in districts of 30,220 or more scholastics; term of office; election date

Section 1. Any independent school district heretofore created having thirty thousand, two hundred and twenty (30,220) or more scholastics according to the last official scholastics census shall have the right by a majority vote of the board of trustees to adopt the terms and provisions of this Act.

Sec. 2. After the adoption of this Act as above provided, the term of office of any trustee thereafter elected to the board of trustees of said independent school district shall be as follows:

a. For the trustees to be elected at an election to be held on the first Saturday in April of 1958, for a term of six (6) years and until their successors are elected and qualified.

b. For the trustees to be elected at an election to be held on the first Saturday in April of 1959, for a term of three (3) years and until their successors are elected and qualified.

c. For the trustees to be elected at an election to be held on the first Saturday in April of 1960, for a term of six (6) years and until their successors are elected and qualified.

Sec. 3. The elections for the terms of office above provided shall be held on the first Saturday of April in each of the respective years 1958, 1959, and 1960, and regularly thereafter on the first Saturday in April in each even-numbered calendar year two (2) or three (3) trustees, as the case may be, shall be elected for a term of six (6) years and until their successors are elected and qualified. Acts 1957, 55th Leg., p. 1385, ch. 475.

Emergency. Effective June 10, 1957.

Section 4 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Title of Act:

An Act authorizing any independent school district heretofore created having

thirty thousand, two hundred and twenty (30,220) or more scholastics to fix the term of office of school trustee; providing for the date of election; providing a saving clause; and declaring an emergency. Acts 1957, 55th Leg., p. 1385, ch. 475.

4. TAXES AND BONDS

Art. 2784e—1. Maximum tax rate in school districts; maintenance; elections; bond issues

Sec. 3. The provisions of this Act shall be cumulative of other laws; provided, however, that this Act shall not apply to any school district until and unless a maintenance tax hereunder is adopted by majority vote of the resident, qualified, property tax-paying voters of the district who own taxable property therein and which has been duly rendered for taxation, voting at an election therefor, and if such tax is so adopted, then

the provisions of this Act shall apply to such district; provided, further, that elections for bonds under this Act may be held at the same time as maintenance tax elections (including the first maintenance tax election called and held under this Act). Acts 1955, 54th Leg., p. 1635, ch. 528, as amended Acts 1957, 55th Leg., p. 167, ch. 74, § 1.

Emergency. Effective April 19, 1957.

Art. 2786. Bonds

Whenever the proposition to issue bonds is to be voted on in any common or independent school district hereunder, the petition, election order and notice of election must distinctly specify the amount of the bonds, the rate of interest, their maturity dates, and the purpose for which the bonds are to be used. The ballots for such election shall have written or printed thereon the words "For the issuance of bonds and the levying of the tax in payment thereof," and "Against the issuance of bonds and the levying of the tax in payment thereof." Such bond shall bear not more than five per cent interest per annum and shall mature in serial annual installments over a period of not exceeding forty years from their date. Such bonds shall be examined by the Attorney General and if approved, registered by the Comptroller. All bonds shall be sold to the highest bidder for not less than their par value and accrued interest, and the proceeds of such sale shall be deposited in the county depository for the common school districts, and in the district depository for the independent school districts, to the credit of such districts, and shall be disbursed only for the purpose for which the said bonds were issued, on warrants issued by the district trustees and approved by the county superintendent for common school districts, and by the president of the board of trustees and countersigned by the secretary of the said board for independent school districts. As amended Acts 1957, 55th Leg., 2nd C. S., p. 160, ch. 6, § 1.

Emergency. Effective Dec. 12, 1957.

Art. 2786d. Investment of bond proceeds in obligations of United States; interest bearing secured time bank deposits

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 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, place the proceeds of such bonds on interest bearing time deposit, secured in the manner provided in Article 2832, Revised Civil Statutes, with a state or national banking corporation within this state, or 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 interest bearing secured time deposits or bonds or other obligations of the United States of America shall be of a type which cannot be cashed, sold or redeemed for an amount less than the sum deposited or invested therein by such school district; and when such sums so placed or 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, such time deposits or bonds or other obligations of the United States of America in which such sums have been placed or invested shall be cashed, sold or redeemed and the proceeds thereof shall be used for the purposes for which

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

the bonds of the school district were originally authorized, issued and sold. Acts 1953, 53rd Leg., p. 464, ch. 150, § 1, as amended Acts 1957, 55th Leg., p. 490, ch. 237, § 1.

Emergency. Effective May 16, 1957.

Section 2 of the amendatory Act of 1957 laws to the extent of such conflict only. repealed all conflicting laws and parts of Section 3 was a severability clause.

Art. 2788a. Independent districts containing city of 100,000

Application of law

Section 1. The provisions of this law shall be applicable to any independent school district in this State having a scholastic population of sixty thousand (60,000) or more, according to the last preceding official scholastic census taken by such district, and which heretofore has adopted or hereafter shall adopt plans for financing a school building program that is proposed to be completed over a period of years. As amended Acts 1957, 55th Leg., p. 858, ch. 374, § 1.

Emergency. Effective May 31, 1957.

Art. 2789e. Refunding bonds payable from taxes; maximum interest; validation of bonds previously issued; incontestability

Section 1. All bonds heretofore or hereafter issued by any school district in the State of Texas payable from taxes (whether secured by limited or unlimited taxes, and whether issued under laws heretofore or hereafter enacted) may be refunded by the issuance of refunding bonds in the manner provided by Article 2789, Revised Civil Statutes of Texas, 1925, as amended, and such refunding bonds shall be secured in the same manner as the bonds refunded; provided, that such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid, in which event such refunding bonds may bear interest at a higher rate; provided further, that the rate of interest on any such bonds (whether issued to refund original bonds or refunding bonds) shall never exceed the maximum rate of interest authorized at the election at which the original bonds were voted. Such refunding bonds shall be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, as is provided in the instance of other bonds of school districts.

Sec. 2. All refunding bonds heretofore issued by school districts which have been approved by the Attorney General of Texas are hereby in all things validated.

Sec. 3. All bonds (whether original or refunding) issued by school districts in this state, after such bonds have been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, shall be incontestable except for forgery or fraud. Acts 1957, 55th Leg., p. 26, ch. 18.

Emergency. Effective March 5, 1957.

Title of Act:

An Act authorizing the issuance of refunding bonds by school districts and containing provisions relating to such bonds; validating all refunding bonds heretofore issued by school districts and approved by the Attorney General of Texas; providing

that all bonds issued by school districts, after they have been approved by the Attorney General and registered by the Comptroller of Public Accounts, shall be incontestable except for forgery or fraud; and declaring an emergency. Acts 1957, 55th Leg., p. 26, ch. 18.

Art. 2802i—30. Additional tax for construction, repair and equipment of school buildings; purchase of sites; election

Section 1. Any school district, whether created under general or special law, having all or a portion of its territory situated in a county having a population of more than one hundred and ninety thousand (190,000), according to the then last preceding Federal census, shall have the authority to levy an ad valorem tax, not to exceed fifty cents (50¢) per One Hundred Dollars (\$100) valuation, for the purpose of paying the cost of the purchase, construction, repair, renovation or equipment of public free school buildings and the purchase of necessary sites therefor, provided, however, that no bonds or other evidence of indebtedness may be issued payable in whole or in part from the tax herein authorized; and provided further that no contract shall be made which will encumber more than the revenues to be collected from said tax in any one fiscal year.

Sec. 2. This additional tax for the maintenance of public free schools shall not be levied or collected until such time as it has been approved by a majority of the resident, qualified, property-taxpaying voters who own taxable property within the district which has been duly rendered for taxation, participating in an election called for that purpose, have approved the additional maintenance tax. Nothing herein shall prohibit the submission of other propositions at such election; provided, however, that the proposition for the additional maintenance tax shall not be included in any other maintenance tax proposition, but shall be voted upon separately.

Sec. 3. It is the intent of this Act to confer upon the school districts situated in large counties the right and power to make contracts for the expenditure of current funds for the same purpose as it may issue bonds, without the necessity of issuing bonds and paying the interest on such obligations, and shall be construed to this end and as not being in conflict with the provisions of any other law regulating the issuance of bonds. The election for the additional maintenance tax may be called without the necessity of a petition, but shall in all other respects be held in the manner provided by Article 2785, Revised Civil Statutes of Texas, 1925, as amended, or as hereafter amended.

Sec. 4. The provisions of this statute shall not preclude the use of other tax revenues for the same purposes to the extent it is now lawful for such revenues to be so used. Acts 1957, 55th Leg., p. 106, ch. 51.

6. DISTRICTS IN LARGE COUNTIES**Art. 2815g—1b. Election of trustees of independent districts in counties of 500,000 or over and 11,000 or more scholastics; terms of office****Application of Act**

Section 1. This Act shall apply to all independent school districts having eleven thousand (11,000) or more scholastics according to the last official scholastic census and which are situated in a county having a population of five hundred thousand (500,000) inhabitants or more according to the last preceding federal census, which districts were heretofore created by having been converted from a common school district into an independent school district under and pursuant to Chapter 5, Acts of the 41st Legislature, Fifth Called Session, as amended by Chapter 311, Acts of the 50th Legislature, Regular Session,¹ and which districts have a Board of School Trustees consisting of seven (7) Trustees, four (4) of whose terms of office will expire

or whose predecessors' terms of office did expire on the first Saturday in May, 1957, and three (3) of whose terms of office will expire on the first Saturday in May, 1958, and as of the effective date of this Act the terms of such Trustees are for some period of time other than a period of six (6) years from the date of such Trustees' respective elections.

Voted on separately; ballot, designation on

Sec. 2. All candidates for School Trustee in any such independent school district, notwithstanding any contrary or inconsistent provision of any other general law, shall be voted upon and elected separately for positions on said Board of Trustees, and all candidates shall be designated on the official ballots according to the number of such position to which they seek election, except as provided in Section 4(a) hereof. Such official ballot shall have printed on it the following:

“Official Ballot for Electing Trustees of
 _____ Independent School District”

giving the name of the school district, the date of the election, together with the designating number of each position to be filled, with the list of candidates under or for the position to which they respectively seek election.

Terms of office; positions determined by lot

Sec. 3. If this Act becomes effective on or before April 1, 1957, then:

(a) Within five (5) days from such effective date of this Act, the Trustees of any such independent school district shall determine by lot which positions they shall hold on said Board of Trustees as follows: Those trustees whose terms of office expire on the first Saturday in May, 1957, shall draw for positions numbers 1, 2, 3, and 4; and those Trustees whose terms of office expire on the first Saturday in May, 1958, shall draw for positions numbers 5, 6 and 7.

(b) Positions numbers 1, 2, 3 and 4 shall be open for candidates to be elected at an election to be held on the first Saturday in May, 1957.

(c) The terms of office of the Trustees elected to positions numbers 1 and 2 on the first Saturday in May, 1957, shall be for a primary term of five (5) years, and the terms of office of their successors thereafter elected to positions numbers 1 and 2 shall be for six (6) years each from and after their election.

(d) The terms of office of the Trustees elected to positions numbers 3 and 4 on the first Saturday in May, 1957, shall be for a primary term of three (3) years, and the terms of office of their successors thereafter elected to positions numbers 3 and 4 shall be for six (6) years each from and after their election.

(e) Positions numbers 5, 6 and 7 (being those Trustees whose terms of office expire on the first Saturday in May, 1958) shall be open for candidates to be elected at an election to be held on said first Saturday in May, 1958, and the terms of office of each of the Trustees elected at said election to positions numbers 5, 6 and 7 shall each be for a term of six (6) years, and the terms of office of their successors thereafter elected to positions numbers 5, 6 and 7 shall be for a period of six (6) years each from and after their election.

Terms of office; vacancies

Sec. 4. If this Act becomes effective after April 1, 1957, but before May 5, 1957:

(a) An election shall be held on the first Saturday in May, 1957, to elect four (4) Trustees for a term of two (2) years each to fill the

vacancies of the four Trustees whose terms expire on said first Saturday in May, 1957.

(b) After the date of said election, but within sixty (60) days from such date, the Trustees shall determine by lot in the manner set out below in paragraph (a) of Section 5 which positions they shall hold on said Board of Trustees, and thereafter vacancies shall be filled and elections shall be held for positions on said Boards for the terms and at the times and in the manner provided by paragraphs (b) to (f), inclusive, of Section 5 of this Act, and by Sections 6, 7, 8 and 9 hereof.

Terms of office; positions determined by lot

Sec. 5. If this Act becomes effective on or after May 5, 1957, then:

(a) Within sixty (60) days from such effective date of this Act, the Trustees of any such independent school district shall determine by lot which positions they hold on said Board of Trustees as follows: Those four (4) Trustees elected on the first Saturday in May, 1957, for a term of two (2) years, shall draw for positions numbers 1, 2, 3 and 4; and those three (3) Trustees whose terms of office expire on the first Saturday in May, 1958, shall draw for positions numbers 5, 6 and 7.

(b) Positions numbers 1, 2, 3 and 4 shall be open for candidates to be elected at an election to be held on the first Saturday in May, 1959.

(c) The terms of office of the Trustees elected to positions numbers 1 and 2 on the first Saturday in May, 1959, shall be for a term of six (6) years, and the terms of office of their successors thereafter elected to positions numbers 1 and 2 shall be for six (6) years each from and after their election.

(d) The terms of office of the Trustees elected to positions numbers 3 and 4 on the first Saturday in May, 1959, shall be for a primary term of four (4) years and the terms of office of their successors thereafter elected to positions numbers 3 and 4 shall be for six (6) years each from and after their election.

(e) Positions numbers 5, 6 and 7 shall be open for candidates to be elected at an election to be held on the first Saturday in May, 1958.

(f) The terms of office of the Trustees elected to positions numbers 5, 6 and 7 on the first Saturday in May, 1958, shall be for a primary term of three (3) years, and the terms of office of their successors thereafter elected to positions numbers 5, 6 and 7 shall be for six (6) years each from and after their election.

Elections after original election

Sec. 6. After the expiration of the terms herein provided for, all subsequent terms shall be for a six-year term and elections shall be held every two (2) years, and at each such election there shall be elected alternately three (3) Trustees or two (2) Trustees, as the case may be, each for a term of six (6) years.

Vacancies

Sec. 7. If any vacancy or vacancies occur in the office of Trustee, such vacancy or vacancies shall be filled by the majority of the remaining School Trustees of such school district but any School Trustee or Trustees so appointed to fill a vacancy shall serve only for the unexpired term of his or her predecessor.

Notice of candidacy; filing, time of; ballot; voting machines

Sec. 8. Any person desiring to be a candidate for a position for the office of a Trustee to be voted upon at an election held hereunder shall, not less than twenty-five (25) days prior to the date of said election, file with the Board of Trustees ordering such election written notice announcing his or her candidacy, designating in such written notice and request to have his or her name placed on the official ballot and the number of such position on such Board of Trustees for which he or she, as the case may be, desires to become a candidate. All candidates so requesting shall have their names printed on the official ballot for the position number so designated by and in such written notice of candidacy. No person who does not so file said written notice and request, within the time aforesaid, shall be entitled to have his or her name printed upon said official ballot to be used at any such election. No candidate shall be eligible to have his or her name placed on the official ballot under more than one position to be filled at any such election. The names of the candidates for each position shall be arranged by lot by the Board of Trustees of such independent school district. No language used in any part of this Act shall be interpreted to preclude the use of voting machines in any such election.

Voting for one candidate by each voter

Sec. 9. In any such election each voter shall vote for only one candidate for each such position. The candidate receiving the highest number of votes in each respective position voted upon at any such election shall be entitled to serve as a Trustee on said Board, holding the position thereon to which he or she, as the case may be, shall have been so elected. Acts 1957, 55th Leg., p. 79, ch. 38.

¹ Article 2742j.

Emergency. Effective April 1, 1957.

Section 10 of the Act of 1957 provided that, if any section, sentence, clause, phrase or word of this Act is for any reason held to be invalid, the validity of the remaining portions of this Act shall not be

affected thereby, it being the intent of the Legislature that no portion of this Act shall become inoperative by reason of the invalidity of any other portion. Section 11 repealed all conflicting laws and parts of laws.

Art. 2815g—51. Validation of districts; acts of trustees; additions of territory; elections; bonds; boundaries; taxes; exceptions

Section 1. All school districts, including any independent school district controlled by a municipality and including common school districts, independent school districts, junior college districts, consolidated common school districts, consolidated independent school districts, rural high school districts, all county line school districts, including county line common school districts, county line independent school districts, county line rural high school districts, county line consolidated common school districts, county line consolidated independent school districts, and all other school districts, groups or annexations of whole districts, or parts of districts, whether established, organized, and/or created by vote of the people residing in such districts, or proposed districts, or by action of the governing body of any such municipalities, or by action of the county school boards, or by action of the county judge, or by action of the Commissioners Courts, and whether created by General or Special Law in this State, and heretofore recognized by either State or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally established in the first instance, and further provid-

ing that whenever a vacancy occurs on the board of trustees of a rural high school established under the provisions of Article 2922(a), (c), and (f) shall be filled for the unexpired term by appointment by the county board of trustees.

All acts of the county boards of trustees of any and all counties in rearranging, consolidating, grouping, annexing, changing, detaching and attaching of territory, or subdividing any and all such school districts, or increasing or decreasing the area thereof, or abolishing school districts in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, and all acts of the governing bodies of any such municipalities in annexing territories to such municipally controlled school districts, are hereby in all things validated.

All acts and orders of the county boards of school trustees of any and all counties in rearranging, annexing, detaching or attaching of territory, increasing or decreasing the area, or changing the boundaries of any and all junior college districts, are hereby in all things validated.

All acts and orders of the county 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 called for the consolidation of one or more common school districts and/or one or more independent school districts with an independent school district, but did not provide for the consolidation of each such common school district and/or independent school district with each other such district.

All acts of the county judges, and/or the Commissioners Courts, and/or the county boards of school trustees in converting or changing one type of school district into another type of school district, are hereby in all things validated, and all elections called by such officers for such conversion or change, in which election a majority of the qualified voters voting therein voted in favor thereof, are hereby in all things validated, and all such converted or changed school districts are hereby in all things validated as though they had been legally established in the first instance.

All acts of the governing bodies of municipalities and/or of the boards of trustees of municipally controlled or assumed school districts and/or

cities and towns constituting separate and independent school districts and/or extended municipal school districts, in ordering elections for the separation or divorcement of such schools and/or districts from municipal control, jurisdiction or authority, in which elections a majority of the qualified voters voting therein voted in favor of such separation or divorcement, are hereby in all things validated, and the school districts formed by such separation or divorcement are hereby in all things validated, and the organization and acts of the boards of trustees of any and all such districts are hereby in all things validated.

The boundary lines of any and all such school districts are hereby in all things validated. The names of any and all such school districts are hereby in all things validated.

All acts of the boards of trustees in such school districts or the governing bodies of such municipalities or the county judges or the Commissioners Courts ordering an election or elections, declaring the results of such elections, levying, attempting or purporting to levy taxes for and on behalf of such school districts, and all bonds issued and now outstanding, and all bonds heretofore voted but not issued, and all tax elections, bond elections, and bond assumption elections following such consolidation, annexation, grouping, attachment or detachment, conversion, change, etc., are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county or school district or municipality in the creation of any district was omitted, shall in nowise invalidate such district; and the fact that by inadvertence or oversight any act was omitted by the board of trustees of any such district or the county judge or the Commissioners Court or the governing body of any such municipality in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such districts, or in the issuance of the bonds of any such district, shall in nowise invalidate any of such proceedings or any bonds so voted or issued by such district. All revenue bonds issued and outstanding, and all revenue bonds authorized but not yet issued for and on behalf of school districts and all proceedings relating thereto are hereby in all things validated. All acts of the boards of trustees of school districts or the governing bodies of municipalities or the county judges or the Commissioners Courts in entering into leases of real estate or other property to such school districts and all such leases are hereby in all things validated; and all tax or revenue bonds issued or authorized to be issued to construct, erect, or purchase improvements for such school districts on such leased real estate are hereby in all things validated.

Sec. 2. All school districts mentioned in this Act are hereby authorized and empowered to levy, assess, and collect the same rate of tax, or not to exceed the rate of tax as heretofore authorized or attempted to be authorized by any act of the district or by any election of the tax-paying voters of said districts or by any Act whether General or Special, by the Legislature, or as is now being levied, assessed, and collected therein and heretofore authorized or attempted to be authorized by any act or acts of said districts, or by any Act, whether General or Special, of the Legislature.

Sec. 3. This law shall not apply to any district which is now involved, or which within forty-five (45) days from the effective date of this law becomes 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; and this law shall not apply to any district involved in proceedings now pending before the County Boards of Education, State Commissioner of Education or

before the State Board of Education in which proceedings the organization or creation of such district or the consolidation or annexation of territory in or to such district is attacked if such administrative procedure or litigation is ultimately determined against the validity of the district. 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. Acts 1957, 55th Leg., p. 440, ch. 214.

Emergency. Effective May 10, 1957.

Section 4 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

7. JUNIOR COLLEGES

Art. 2815h. Junior College Districts

Sec. 17. Two (2) or more contiguous independent school districts or two (2) or more contiguous common school districts, or a combination composed of one or more independent school districts, with one or more common school districts of contiguous territory within the same county, having a combined taxable wealth of not less than Nine Million, Five Hundred Thousand Dollars (\$9,500,000), and having a scholastic population of not less than seven thousand (7,000) the next preceding school year, and not less than four hundred (400) students in the last four (4) years in the classified high school or high schools of said districts may, by vote of the qualified voters of the said territory, establish and maintain a Union Junior College. Any county or combination of contiguous counties in the State, having a taxable property valuation of not less than Nine Million, Five Hundred Thousand Dollars (\$9,500,000), and having a scholastic population of not less than seven thousand (7,000) the next preceding school year, and not fewer than four hundred (400) students in the last four (4) years of the classified high school or high schools within the proposed territory during the next preceding school year, may, by vote of the qualified voters of the proposed territory, establish and maintain a county or joint county Junior College. As amended Acts 1957, 55th Leg., 1st C. S., p. 103, ch. 37, § 1.

Emergency. Effective Dec. 2, 1957.

Scholastic enrollment of proposed district; waiver

Sec. 17(a). Provided the proposed district may have less than seven thousand (7,000) scholastic enrollment, but not less than five thousand (5,000) in the next preceding school year, and where the State Board of Education finds that the proposed district is in a growing section, and that there is a public convenience and necessity for such Junior College. Provided, further, that as to counties having a population of not less than twenty thousand (20,000) nor more than thirty thousand (30,000) inhabitants according to the last preceding Federal Census and having either (1) an existing Junior College which has been created, operated and maintained for at least twenty-five (25) years, or (2) a taxable property evaluation of One Hundred Million Dollars (\$100,000,000) or more, the State Board of Education may waive the five thousand (5,000) scholastic enrollment requirement of this section, but in no case shall a proposed district qualify with less than four thousand, five hundred (4,500) scholastics. Acts 1957, 55th Leg., 1st C. S., p. 103, ch. 37, § 1.

Emergency. Effective Dec. 2, 1957.

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

Art. 2815h—8. Refunding bonds authorized; interest rate; approval; registration

Section 1. Junior College Districts are hereby authorized to issue refunding bonds for the purpose of refunding outstanding bonds of such district and coupons evidencing interest on such bonds. Such refunding bonds shall be authorized by resolution of the governing board of the district; may be issued as term bonds or serial bonds, maturing in either case in not exceeding forty (40) years from their date; shall bear interest at not to exceed five per cent (5%) per annum. Such refunding bonds shall be signed by the president of the governing body, countersigned by the secretary thereof, and have the seal impressed thereon. The governing body may provide for the execution of the bonds by the facsimile signatures of said officials in the manner provided by Chapter 293, Acts of the Fifty-fourth Legislature, 1955.

Sec. 2. Before any such refunding bonds are exchanged for outstanding bonds they shall be submitted to the Attorney General for his examination; and if an examination shows that the refunding bonds have been authorized in accordance with this Act, he shall execute his certificate approving them, and the Comptroller of Public Accounts shall register them in such manner as may be directed by the Attorney General.

Sec. 3. If such bonds receive the certificate of the Attorney General, and are registered by the Comptroller's Office, they shall be held in every action, suit or proceeding in which their validity is or may be brought into question, prima facie valid and binding obligations. In every action brought to enforce collection of such bonds, the certificate of the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of its validity, together with the coupons attached thereto. The only defense which can be offered against the validity of such bonds shall be forgery or fraud. This Article shall not be construed to give validity to any such bonds as may be issued in excess of the limit fixed by the Constitution, or contrary to its provisions.

Sec. 4. The provisions of this Act shall be cumulative of existing laws and shall not be construed as repealing any other law authorizing the issuance of refunding bonds by Junior College Districts. Acts 1957, 55th Leg., p. 811, ch. 343.

Emergency. Effective May 31, 1957.

Art. 2815l. Junior colleges organized under special law; validation; may choose to be governed by general law

Publication of annual financial statements by districts, see art. 29b.

Art. 2815n. Trustees of junior college districts to which other districts annexed

Number of trustees

Sec. 2a. Whenever the Board of Trustees of the Junior College District shall, under the provisions of Section 2 of this Act, reach a total membership of ten (10), additional members of said Board of Trustees shall not be elected until such time as the assessed valuation of the original Junior College District shall amount to the sum of Two Hundred Million Dollars (\$200,000,000), or the assessed valuation of the annexed areas shall amount to Fifty Million Dollars (\$50,000,000); thereafter, additional members of said Board of Trustees shall continue to be se-

lected by the use of the formula provided for in Section 2 of this Act; except, however, that Twenty-five Million Dollars (\$25,000,000) of taxable assessed value of property shall be used in said formula instead of the Ten Million Dollars (\$10,000,000) of assessed valuation provided for in Section 2 hereof. Added Acts 1957, 55th Leg., p. 280, ch. 129, § 1.

Emergency. Effective April 30, 1957.

Art. 2815r—1. Buildings, structures and additions; construction, acquisition and equipment; powers of district regents

Additional fees and charges for use of classrooms, etc., for instructional purposes; pledge of revenues

Sec. 5a. It is expressly provided that the governing board of each junior college district is authorized to fix fees and charges to be charged students or other persons for the use of any classroom building or other structure used for instructional purposes, which is a part of the physical plant of the institution, whether constructed from proceeds of bonds or notes issued under authority of this Act or from funds derived from other sources; and the governing board is authorized to pledge the revenues received therefrom to the payment of the interest on and the principal of bonds or notes for the construction, acquisition and equipment of classroom buildings or other structures used for instructional purposes, or additions thereto, or for any other type of building or structure authorized by this Act, and for the acquisition of sites therefor. The fees and charges authorized herein shall be in amounts deemed to be reasonable by the governing board, taking into consideration the cost of providing the facilities, the use to be made of them and the advantages to be derived therefrom by the users thereof and by the institution, and may be charged in addition to the tuition and fees authorized by other statutes. Added Acts 1957, 55th Leg., p. 8, c. 7, § 1.

Emergency. Effective Feb. 21, 1957.

Bonds and notes as authorized investments

Sec. 6a. All such bonds and notes shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto. Added Acts 1957, 55th Leg., 1st C. S., p. 47, ch. 20, § 1.

Emergency. Effective Dec. 2, 1957.

CHAPTER SIXTEEN—FREE TEXTBOOKS

2. DISTRIBUTION OF BOOKS

Art.

2876k. Braille textbooks for blind scholars [New].

2. DISTRIBUTION OF BOOKS

Art. 2875. Requisitions

“Requisitions for books shall be made in the following manner: On the first day of April each teacher shall make report to the principal of the maximum attendance of his or her grade, or school, if not a graded school. If the school has only one teacher, said report as to the maximum attendance of pupils of each grade of work shall be made by the teacher to the board of school trustees and to the county superintendent. Reports as to the maximum attendance for the school shall be made not more than one week subsequent to the first school day of April by the principal to the city or town superintendent or by the principal to the county superintendent if the school is not situated in a city or town. The city or town superintendent of schools shall compile reports of principals and make reports to the State Commissioner of Education. The county superintendent shall compile reports of the rural schools in his county and make reports to the State Commissioner of Education. Books needed by the rural schools shall be requisitioned and distributed entirely through the office of the county superintendent, provided that common school districts and/or common consolidated school districts with a scholastic population of three hundred (300) and above may elect to have their books requisitioned and distributed in the same manner that applies to city and town superintendents. The duties of the county superintendent with reference to the care and distribution of textbooks shall be subject to the approval of the county board of trustees and the State Commissioner of Education. Reports as to the maximum attendance of each school under their direction shall be made to the State Commissioner of Education by the aforesaid superintendent of cities, towns, and counties not later than April 25th; provided that should the school close before this date, it shall be the duty of the teacher to file with the county superintendent and with the board of school trustees reports complying with the provisions of this Act. Blank forms for reports and for requisitions of textbooks shall be furnished to all boards of school trustees by the State Department of Education. Requisitions for books for a subsequent session shall be based on said reports to the maximum number of scholastics in attendance the preceding school session, plus an additional ten per cent (10%), and such requisition shall be made through the State Commissioner of Education and by him furnished to the state depository designated by contractors of books not later than June 1st of each year; provided that in cases of unforeseen emergency the state depository shall fill small orders for books on requisition approved by the State Department of Education. One copy of each textbook used in the work taught by the teacher shall be issued by the school trustees, or their representatives, to each teacher as a desk copy, such books to be returned to the trustees or their representatives at the close of the session; provided, however, that the principal or superintendent shall furnish a copy of his requisition to the county school superintendent at the time the requisition is forwarded to the State Commissioner of Education. As

amended Acts 1955, 54th Leg., p. 55, ch. 42, § 1; Acts 1957, 55th Leg., p. 553, ch. 260, § 1.

Emergency. Effective May 20, 1957.

Art. 2876k. Braille textbooks for blind scholastics

Section 1. The State Board of Education is hereby authorized to acquire, purchase and contract for, with or without bid, subject to rules and regulations adopted by the Board, books published in Braille recommended as suitable and usable as textbooks for the education of the blind scholastics in the public school systems of this state in grades one to twelve, inclusive. The Board may also enter into agreements providing for the acceptance, requisition and distribution of books and instructional aids pursuant to the Public Law 922, Eighty-fourth Congress,¹ or as amended.

Sec. 2. Such Braille textbooks and teacher copies requisitioned and purchased by the Board pursuant to contract signed by the Chairman thereof and the costs of administration thereof shall be paid for out of the Textbook Fund of this state as are textbooks for the seeing. All such books acquired by the Board shall be distributed by the Central Education Agency pursuant to rules and regulations recommended by the State Commissioner of Education and adopted by the Board.

Sec. 3. All Braille books available and submitted on invitation shall be examined by the State Textbook Committee for its recommendation as to their suitability and usability as textbooks for the blind in the public school systems.

Sec. 4. It is the intention of the Legislature that such Braille books may be obtained and distributed pursuant to rules and regulations adopted by the State Board of Education as it may act on the recommendations of the State Textbook Committee and the State Commissioner of Education. All such books so acquired shall be the property of the State of Texas, to be controlled, distributed, and disposed of pursuant to Board regulations.

Sec. 5. For the purposes of this Act, a pupil is considered blind if his vision comes within the following definition of blindness: Central visual acuity of 20 over 200 or less in the better eye with correcting glasses, or a peripheral field so contracted that the widest diameter of such field subtends an angular distance no greater than 20 degrees. Acts 1957, 55th Leg., p. 762, ch. 315.

¹ 20 U.S.C.A. §§ 101, 102.

Effective 90 days after May 23, 1957, date of adjournment.

CHAPTER NINETEEN—MISCELLANEOUS PROVISIONS

Art.

- 2900a. Dual school system; local option elections as to continuance or abolition; penalty [New].
- 2901a. Transfer and placement of pupils to schools within and outside district, transfer of funds and teachers [New].
- 2906—1. Maintenance of law and order; closing of schools; transfer of pupils [New].
- 2906—2. Prevention of military occupation or closure of schools; assistance of Attorney General [New].

Art.

- 2906—3. Registration of organizations designed to interfere with operation of public schools; violation; penalty [New].
- 2909d. University and Agricultural and Mechanical College bonds or notes payable from income of Permanent University Fund [New].
- 2919g. Annual audit of school district accounts [New].

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

Art. 2900a. Dual school system; local option elections as to continuance or abolition; penalty

Section 1. That no board of trustees nor any other school authority shall have the right to abolish the dual public school system nor to abolish arrangements for transfer out of the district for students of any minority race, unless by a prior vote of the qualified electors residing in such district the dual school system therein is abolished.

Sec. 2. An election for such purpose shall be called only upon a petition signed by at least twenty per cent (20%) of the qualified electors residing in such district. Such petition shall be presented to such office or board now authorized to call school elections. Such an election may be set for the same date as the school trustee election in that district, if such petition is filed within ninety (90) days to such date, otherwise the official or board shall call such an election within sixty (60) days after filing of such petition. The election shall be conducted in a manner similar to that for the election of school trustees. No subsequent election on such issues shall be called within two (2) years of a prior election held hereunder.

Sec. 3. School districts which maintained integrated schools for the 1956-1957 school year shall be permitted to continue doing so hereafter unless such system is abolished in accordance with the provisions of this Act. No student shall be denied transfer from one school to another because of race or color.

Sec. 4. Any school district wherein the board of trustees shall violate any of the above provisions shall be ineligible for accreditation and ineligible to receive any Foundation Program Funds during the period of time of such violation. Any person who violates any provision hereof shall be guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000). Acts 1957, 55th Leg., p. 671, ch. 283.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 2901a. Transfer and placement of pupils to schools within and outside district; transfer of funds and teachers

Legislative finding and declaration of policy

Section 1. The Legislature finds and declares that the rapidly increasing demands upon the public economy for the continuance of education as a public function and the efficient maintenance and public support of the public school system require, among other things, consideration of a more flexible and selective procedure for the establishment of units, facilities and curricula and as to the qualification and assignment of pupils.

The Legislature also recognizes the necessity for a procedure for the analysis of the qualifications, motivations, aptitudes and characteristics of the individual pupils for the purpose of placement, both as a function of efficiency in the educational process and to assure the maintenance of order and good will indispensable to the willingness of its citizens and taxpayers to continue an educational system as a public function, and also as a vital function of the sovereignty and police power of the State.

Continuing studies by State Board of Education

Sec. 2. To the ends aforesaid, the State Board of Education shall make continuing studies as a basis for general reconsideration of the efficiency of the educational system in promoting the progress of pupils in

accordance with their capacity and to adapt the curriculum to such capacity and otherwise conform the system of public education to social order and good will. Pending further studies and recommendations by the school authorities the Legislature considers that any general or arbitrary reallocation of pupils heretofore entered in the public school system according to any rigid rule of proximity of residence or in accordance solely with request on behalf of the pupil would be disruptive to orderly administration, tend to invite or induce disorganization and impose an excessive burden on the available resources and teaching and administrative personnel of the schools.

Authority of local boards; limitation

Sec. 3. Pending further studies and legislation to give effect to the policy declared by this Act, the respective district and county Boards of School Trustees hereinafter referred to as "Local Boards," are not required to make any general reallocation of pupils heretofore entered in the public school system and shall have no authority to make or administer any general or blanket order to that end from any source whatever, or to give effect to any order which shall purport to or in effect require transfer or initial or subsequent placement of any individual or group in any unit or facility without a finding by the Local Board or authority designated by it that such transfer or placement is as to each individual pupil consistent with the test of the public and educational policy governing the admission and placement of pupils in the public school system prescribed by this Act.

Assignment, transfer and continuance of pupils; authority of local boards; factors to be considered

Sec. 4. Subject to appeal in the respect herein provided, each Local Board of School Trustees shall have full and final authority and responsibility for the assignment, transfer and continuance of all pupils among and within the public schools within its jurisdiction, and may prescribe rules and regulations pertaining to those functions. Subject to review by the Board as provided herein, the Board may exercise this responsibility directly or may delegate its authority to the Superintendent or other person or persons employed by the Board. In the assignment, transfer or continuance of pupils among and within the schools, or within the classroom and other facilities thereof, the following factors and the effect or results thereof shall be considered, with respect to the individual pupil, as well as other relevant matters: Available room and teaching capacity in the various schools; the availability of transportation facilities; the effect of the admission of new pupils upon established or proposed academic program; the suitability of established curricula for particular pupils; the adequacy of the pupil's academic preparation for admission to a particular school and curriculum; the scholastic aptitude and relative intelligence or mental energy or ability of the pupil; the psychological qualification of the pupil for the type of teaching and associations involved; the effect of admission of the pupil upon the academic progress of other students in a particular school or facility thereof; the effect of admission upon prevailing academic standards at a particular school; the psychological effect upon the pupil of attendance at a particular school; the possibility or threat of friction or disorder among pupils or others; the possibility of breaches of the peace or ill will or economic retaliation within the community; the home environment of the pupil; the maintenance or severance of established social and psychological relationships with other pupils and with teachers; the

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

choice and interests of the pupil; the morals, conduct, health and personal standards of the pupil; the request or consent of parents or guardians and the reasons assigned therefor.

In considering the factors and the effect or results thereof the Board or its agents shall not consider and shall not use as an element of its evaluation any matter relating to the national origin of the pupil or the pupil's ancestral language.

Local Boards may require the assignment of pupils to any or all schools within their jurisdiction on the basis of sex, but assignments of pupils of the same sex among schools reserved for that sex shall be made in the light of the other factors herein set forth.

Mutual agreements between local boards

Sec. 5. Local Boards may, by mutual agreement, provide for the admission to any school of pupils residing in adjoining districts whether in the same or different counties, and for transfer of school funds or other payments by one Board to another for or on account of such attendance.

Teachers; assignment and reassignment

Sec. 6. Subject to the provisions of law governing the tenure of teachers, Local Boards shall have authority to assign and reassign or transfer all teachers in schools within their jurisdiction.

Objections to or petition for assignment of pupil; hearing; investigations; examination of pupils

Sec. 7. A parent or guardian of a pupil may file in writing with the Local Board objections to the assignment of the pupil to a particular school, or may request by petition in writing assignment or transfer to a designated school or to another school to be designated by the Board. Unless a hearing is requested, the Board shall act upon the same within thirty (30) days, stating its conclusion. If a hearing is requested the same shall be held beginning within thirty (30) days from receipt by the Board of the objection or petition, at a time and place within the school district designated by the Board.

The Board must conduct such hearing and such hearing shall be final on behalf of the Board.

In addition to hearing such evidence relevant to the individual pupil as may be presented on behalf of the petitioner, the Board shall be authorized to conduct investigations as to any objection or request, including examination of the pupil or pupils involved, and may employ such agents and others, professional and otherwise, as it may deem necessary for the purpose of such investigations and examinations.

Commingleing of races; written objection of parent or guardian

Sec. 8. Any other provisions of law notwithstanding, no child shall be compelled to attend any school in which the races are commingled when a written objection of the parent or guardian has been filed with the Board, if such be the decision of the Local Board. If in connection therewith a requested assignment or transfer is refused by the Board, the parent or guardian may notify the Board in writing that he is unwilling for the pupil to remain in the school to which assigned, and the assignment and further attendance of the pupil shall thereupon terminate; and such child shall be entitled to such aid for education as may be authorized by law.

Finality of board's decision; appeal

Sec. 9. The action of the Board shall be final except that in the event that the pupil or the parent or guardian, if any, of any minor or, if none, of the custodian of any such minor shall, as next friend, file exception before such Board to the final action of the Board as constituting a denial of any right of such minor guaranteed under the Constitution of the United States, and the Board shall not, within fifteen (15) days reconsider its final action, an appeal may be taken from the final action of the Board, on that ground alone, to the District Court of the county in which the School Board is located by filing with the Clerk within thirty (30) days from the date of the Board's final decision a petition stating the facts relevant to such pupil as bearing on the alleged denial of his rights under the Constitution, accompanied by bond with sureties approved by the Clerk, conditioned to pay all costs of appeal if the same shall not be sustained.

Prior action by district unaffected

Sec. 9A. Nothing in this Act shall affect any action heretofore taken by any school district in this State covering the subject matter of this Act.

Partial invalidity

Sec. 10. The provisions of this Act are severable, and if any section or provision of this Act shall be held to be in violation of the Constitution of Texas or of the United States, such decision shall not affect the validity or enforceability of the remainder of this Act. Acts 1957, 55th Leg., p. 683, ch. 287.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 2906. School terms and attendance; late afternoon and evening school programs

(a) Public schools shall be taught for five days in each week. Schools shall not be closed on legal holidays unless so ordered by the trustees. A school month shall consist of not less than twenty school days, inclusive of holidays, and shall be taught for not less than seven hours each day, including intermissions and recesses.

(b) In school districts having 10,000 scholastics or more the Board of Trustees of such school district may provide for late afternoon and evening school programs. The Board of Trustees of any district providing for such late afternoon and evening school programs shall determine which pupils shall be admitted or assigned to such school programs. The attendance of eligible pupils as defined from time to time by the policies of the State Board of Education shall be applicable to those pupils attending such late afternoon or evening school programs. As amended Acts 1957, 55th Leg., p. 1258, ch. 419, § 1.

Emergency. Effective June 6, 1957.

Art. 2906—1. Maintenance of law and order; closing of schools; transfer of pupils

Section 1. The purpose of this Act is to further provide for the maintenance of law, peace, and order in the operation of the public schools without resort to military occupation or control. The duties and powers vested in public officials and school boards under this Act shall be in addition to and cumulative of those with which they are vested

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

under existing law for accomplishment of the purpose of this Act or any section thereof.

Sec. 2. The Governor, through the Department of Public Safety, shall provide assistance when called upon by local authorities to prevent violence and maintain peace and order in the operation of public schools; provided that the Texas National Guard and other military forces shall not be used for direction or control of the operation, or attendance at such schools. In any instance where the Governor by written proclamation, or the school board having jurisdiction finds that violence or the danger thereof cannot be prevented except by resort to military force or occupation of a public school, the school board may close the school and suspend its operation for such period as the board finds it necessary to maintain order and the public peace in accordance with the terms of this Act.

Sec. 2½. In any instance where the school board having jurisdiction finds that violence or the danger thereof cannot be prevented except by resort to military force or occupation of a public school, and certifies such fact to the Governor, it shall be the duty of the Governor to close such school and suspend its operation until such time as the aforesaid school board shall certify to the Governor that such closure is no longer necessary in the maintenance of order and public peace; and upon such certification that the closure is no longer necessary, the Governor must cancel and annul such closure, and issue a proclamation to that effect.

In the event a school is closed under the provisions of this section, then the provisions of Sections 4 and 5 of this Act shall apply.

The provisions of this section are in addition to and cumulative of other provisions of this Act.

Sec. 3. In the event the National Guard or any other military troops or personnel are employed or used upon order of any Federal authority on public school property or in the vicinity of any public school for direction or control of the order, operation, or attendance at such school, the school board having jurisdiction may close the school and suspend its operation so long as said troops remain on or within the vicinity of the school for any of such purposes.

Sec. 4. If any school is closed pursuant to Sections 2 and 3 hereof, the salaries of school officials, teachers, and employees shall not be affected, and they shall be assigned to such duties as may be determined by the school board having jurisdiction. Neither shall state aid as provided by law or school accreditation be affected. The school board may authorize and provide for the transfer of pupils to another school in the district upon petition of the parents or persons standing in loco parentis. Compulsory attendance laws shall not be applicable when pupils are unable to attend school because of the application of this Act.

Sec. 5. Upon closure of any school pursuant to Sections 2 and 3 hereof, the school board and the State Board of Education shall use all personnel, funds and facilities necessary to provide out-of-classroom instruction for the pupils concerned and for the reopening of such school at the earliest possible time that peace and order can be maintained without the use or occupation of military forces. Acts 1957, 55th Leg., 2nd C. S., p. 161, ch. 7.

Effective 90 days after Dec. 3, 1957, date of adjournment.

Section 6 of the Act of 1957, 2nd C.S., was a severability clause.

Art. 2906—2. Prevention of military occupation or closure of schools; assistance of Attorney General

In order to help prevent situations which might result in the occupation of public schools by military forces or the closure thereof, the Attorney General is authorized to assist any public school board which requests his assistance in the defense of any lawsuit in a Federal Court which seeks to challenge the constitutionality of a statute of this state; provided that this section shall not apply with respect to any controversy which may occur between a public school board and an agency of the state which, under existing law, the Attorney General is authorized or required to represent. Acts 1957, 55th Leg., 2nd C. S., p. 163, ch. 8, § 1.

Effective 90 days after Dec. 3, 1957, date of adjournment.

Section 2 of the Act of 1957, 2nd C.S., made an appropriation.

Title of Act:

An Act authorizing the Attorney General, upon request, to assist any School Board in defense of any lawsuit in a Federal Court challenging constitutionality of a state statute and transferring funds for such purpose; and declaring an emergency. Acts 1957, 55th Leg., 2nd C.S., p. 163, ch. 8, § 1.

Art. 2906—3. Registration of organizations designed to interfere with operation of public schools; violation; penalty

Section 1. It is hereby declared that the purpose of this Act is to provide for the maintenance of law, peace and order in the operation of the public schools without the use of military forces by requiring certain organizations engaged in activities designed to hinder, harass, and interfere with the powers and duties of the State of Texas to control and operate its public schools, and which activities may result in serious disturbance of the public peace, to register and report certain information upon the request of the County Judge. The Legislature further declares that the disclosure of such information is essential to the health, safety and general welfare of the people of Texas.

Sec. 2. The term "organization" as used herein means any group of persons, whether incorporated or unincorporated, and includes any civic, fraternal, political, mutual benefit, legal, medical, trade or other kind of organization.

Sec. 3. Any organization operating or functioning within any county of this State engaged in activities designed to hinder, harass, and interfere with the powers and duties of the State of Texas to control and operate its public schools, upon the request of the County Judge of such County shall file with the County Clerk's Office the following information, subscribed under oath before a notary public, within seven (7) days after such request is made:

- (a) The official name of the organization and list of members.
- (b) The office, place of business, headquarters or usual meeting place of the organization.
- (c) The officers, agents, servants, employees or representatives of the organization.
- (d) The purpose or purposes of the organization.
- (e) A statement disclosing whether the organization is subordinate to a parent organization, and if so, the name of the parent organization.

It shall be the duty of the person having custody or control of the records of the organization to furnish the information herein required.

Sec. 4. Information filed pursuant to Section 3 of this Act is hereby declared public and subject to the inspection of any interested party.

Sec. 5. Any person or organization who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon

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

conviction thereof shall be fined not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200) and each day of violation shall constitute a separate offense. Acts 1957, 55th Leg., 2nd C. S., p. 180, ch. 20.

Effective 90 days after Dec. 3, 1957, date of adjournment.

Section 6 of the Act of 1957, 2nd C.S., was a severability provision.

Title of Act:

An Act to provide for the maintenance of law, peace and order in the operation of the public schools without the use of

military forces by requiring certain organizations to file certain information under oath in the County Clerk's Office upon the request of the County Judge; providing a penalty for violations; declaring provisions of the Act severable; and declaring an emergency. Acts 1957, 55th Leg., 2nd C.S., p. 180, ch. 20.

Art. 2909d. University and Agricultural and Mechanical College bonds or notes payable from income of Permanent University Fund

Registration of bonds or notes

Section 1. All bonds or notes hereafter issued pursuant to the provisions of Article VII, Section 18 of the Texas Constitution, approved by vote of the people on August 23, 1947, or pursuant to the provisions of the amendment to said Article VII, Section 18, approved by vote of the people on November 6, 1956, shall be registered by the Comptroller of Public Accounts of the State of Texas after they have been approved by the Attorney General of Texas.

Refunding of bonds or notes

Sec. 2. Any bonds or notes heretofore or hereafter issued pursuant to the constitutional provisions described in Section 1 hereof, or issued pursuant to this Act, may be refunded by the governing board which issued any such bonds or notes, upon such terms and conditions, including interest rates and maturities, as may be determined by said Board, provided that such terms and conditions shall not be inconsistent with the applicable constitutional provisions. Any such bonds or notes may be so refunded by the issuance of refunding bonds or notes, either to be exchanged for the bonds or notes being refunded and cancelled, or to be sold, with the proceeds thereof to be used for the redemption and cancellation of the bonds or notes being refunded.

Examination of refunding bonds by Attorney General; incontestability after approval and registration

Sec. 3. All refunding bonds or notes authorized to be issued hereunder and the records relating to their issuance, including any proceedings relating to the redemption of any outstanding bonds or notes, shall be submitted to the Attorney General of Texas for examination, and if he finds that they have been issued in accordance with law, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration they shall be incontestable. When any such refunding bonds or notes are issued to be exchanged for any outstanding bonds or notes, the Comptroller of Public Accounts shall register and deliver such refunding bonds upon surrender for cancellation of the bonds or notes being refunded. When any such refunding bonds or notes are sold, with the proceeds thereof to be used for redeeming any outstanding bonds or notes, the Comptroller of Public Accounts shall register such refunding bonds or notes, even though the bonds or notes to be redeemed shall not have been surrendered for redemption or cancellation.

Negotiability; legal investments; security for deposits of public funds

Sec. 4. All bonds and notes, whether original or refunding, heretofore or hereafter issued pursuant to the constitutional provisions described in Section 1 hereof, or issued pursuant to this Act, shall be fully negotiable instruments, and all said bonds and notes shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts and all other political corporations or subdivisions of the State of Texas; and all said bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts and all other political corporations or subdivisions of the State of Texas; and all said bonds and notes shall be lawful and sufficient security for said deposits to the extent of their par value when accompanied by all unmatured coupons appurtenant thereto.

Freedom from taxation

Sec. 5. The carrying out of the purposes of the aforesaid constitutional provisions and of this Act will be performing an essential public function under the constitution, and all said bonds and notes, whether original or refunding, heretofore or hereafter issued pursuant to said constitutional provisions or this Act, and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Partial invalidity

Sec. 6. In case any one or more of the sections, provisions, clauses or words of this Act or the application of such sections, provisions, clauses or words to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses or words of this Act or the application of such sections, provisions, clauses or words to any other situation or circumstance, and it is intended that this law shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause or word had not been included herein. Acts 1957, 55th Leg., p. 546, ch. 255.

Emergency. Effective May 20, 1957.

Art. 2919g. Annual audit of school district accounts

Section 1. The board of school trustees of each and every school district of the State, whether created under General or Special Law, for the scholastic year beginning September 1, 1957, and annually thereafter, shall have its school district fiscal accounts audited at district expense by a Texas certified or public accountant holding a permit from the Texas State Board of Public Accountancy. Such annual audit shall be completed following the close of each such fiscal year.

Sec. 2. Such independent audit shall meet at least the minimum requirements as shall be, and in such form as may be prescribed by the State Board of Education and approved by the State Auditor.

Sec. 3. Each treasurer (depository) receiving or having control of any school fund of any school district shall keep a full and separate itemized account with each of the different classes of its school funds coming into his hands; provided further, the treasurer's records of the district's itemized accounts and records shall be made available to audit.

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

Sec. 4. A copy of the annual audit report, approved by the board of school trustees, shall be filed by the district with the Texas Central Education Agency on or prior to the first day of December next following the close of the scholastic year for which audit was made. Where the board of trustees declines or refuses to approve its auditor's report, it shall nevertheless file with the said Central Education Agency a copy of the audit report with its statement detailing reasons for failure to approve same.

Sec. 5. The audit reports shall be reviewed by the Central Education Agency, and the State Commissioner of Education shall notify the board of trustees of objections, violations of sound accounting practices or law and regulation requirements, or of recommendations concerning same should he desire to make any. Where the audit report reflects that Penal Laws have been violated, the Commissioner of Education shall address such information to the appropriate county or district attorney, and to the Attorney General of Texas. The Commissioner of Education shall have access to all vouchers, receipts, district fiscal and financial records, and such other school records as he may deem needed and appropriate for the review, analysis and passing on audit reports.

Sec. 6. The audit report on the independent audit for the scholastic year 1957-58 and thereafter as herein described and required to be had and filed annually under the provisions of the Act shall be submitted in lieu of the treasurer's (depository) report heretofore required to be filed annually with the State Commissioner of Education. Acts 1957, 55th Leg., p. 1286, ch. 429.

Effective 90 days after May 23, 1957, date of adjournment.

Section 7 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 8 provided

that if any section was declared unconstitutional, it should not affect the remainder.

CHAPTER NINETEEN A—RURAL HIGH SCHOOLS

Art. 2922a. Authority to establish

Publication of annual financial statements by districts, see art. 29b.

Art. 2922f. Elementary Schools—Abolition, Annexation and Consolidation

No elementary school district shall be abolished, annexed or consolidated with any other elementary school district except in the following manner:

(a) Abolishment. When an elementary school district in any rural high school district fails to have an average daily attendance of at least twenty pupils the preceding scholastic year in the school or schools within said district, it may be discontinued by the board of trustees of such elementary school district; or if such elementary school district does not have a regularly elected and qualified board of trustees, then by the board of trustees of the rural high school district in which it is a component district. The provisions of this subsection shall not, however, apply to any independent school district which has been previously created by a special Act of the Legislature of the State of Texas.

(b) Annexation. After the discontinuance of such school or schools in said elementary school district, the board of trustees of the rural high school district in which it is situated may petition the county board of school trustees for the annexation of such abolished elementary

school district to any other elementary school district in said rural high school district, which is contiguous thereto; and thereupon such elementary school district may be abolished by the county board of school trustees and the territory theretofore comprising said elementary school district may be annexed to any contiguous elementary school district in said rural high school district. Such annexation shall be for all purposes. When an elementary school district has thus been enlarged by annexation of another elementary school district, either its own board of trustees, or in event it does not have a regularly elected and qualified board of trustees, then the board of trustees of the rural high school district in which it is a component district shall have authority to move or otherwise dispose of the buildings and other property of the discontinued or abolished elementary district as such board of trustees may in its discretion deem proper and for the benefit of the district as a whole.

(c) Consolidation. Any one or more of the elementary school districts situated in and being a part of a rural high school district may consolidate with any one or more of the other elementary school districts which are also component districts of said rural high school district, provided they are contiguous, by following the procedure for consolidation in conformity with Article 2806, Revised Civil Statutes of Texas, 1925. In this manner any number or all of the component elementary districts within a rural high school district may become consolidated for all school purposes. This consolidation of all of the elementary school districts within a rural high school district shall not affect in any manner the rural high school district which has previously existed; but in cases where all component elementary districts of a rural high school district consolidate, the consolidation shall result in one component elementary school district being situated in and forming the entire area of a rural high school district and the board of trustees of the rural high school district shall continue to act as the board of trustees not only of the rural high school district but also of the enlarged component district.

(d) Consolidation for all Purposes. When all of the component elementary districts within a rural high school district shall cease to maintain separate schools in said districts and shall transfer all scholastics to one central school in the rural high school district where both elementary and high school grades are maintained under one administration, and thereby all elementary schools shall discontinue and abandon the operation of schools therein, thereupon by following the procedure for consolidation in conformity with Article 2806, Revised Civil Statutes of Texas, 1925, all such districts may become one consolidated district for both elementary and high school district purposes and each elementary school district shall cease to maintain any separate identity. Such consolidated district may maintain its status as a rural high school district and may thereby become known as a consolidated rural high school district or it may through such consolidation proceedings change its status to an independent school district. The petitions, orders for elections in each district, notices of elections, order canvassing returns, declaring results and ordering final consolidation shall recite whether or not the district as consolidated shall maintain its status as a consolidated rural high school district or shall become a consolidated independent school district, as provided in Article 2806, Revised Civil Statutes of Texas. Such instruments shall likewise stipulate the name by which said district is to be known in event such elections result in affirmative vote for such consolidation in each of the component districts.

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

(e) Validation of Previous Annexations and Consolidations. All acts of the school trustees of any elementary school district, the school trustees of any rural high school district, the county board of school trustees in any county in the State of Texas and the County Judge and Commissioners Court in abolishing, annexing and consolidating an elementary school district in any rural high school district in this state and in ordering elections under the provisions of Article 2922f, Chapter 19-a of the Revised Civil Statutes of Texas, are hereby in all things ratified, confirmed and validated, and any and all elections pursuant to such orders where a majority of the voters voting in such elections in each district voted in favor of the consolidation of such districts are hereby in all respects confirmed, ratified and validated. All elections ordered and held in such enlarged consolidated elementary districts or in the rural high school district as a whole following such consolidation for the purpose of authorizing a maintenance tax, assumption of bonded indebtedness and authorization of construction bonds, and which elections resulted favorably to the levy of such taxes, the assumption of such bonded indebtedness and the issuance of new construction bonds, are hereby ratified, confirmed and validated. All consolidation proceedings, elections and orders had under the provisions of Article 2922f, Chapter 19-a, of the Revised Civil Statutes of Texas, whereby all component elementary school districts of an existing rural high school district consolidated for school purposes, and in the proceedings for such consolidation the consolidated district was considered as a rural high school district, and in all cases subsequent to such election the board of trustees of such rural high school district, the county and state school authorities and the voters of said district have recognized such consolidated district as a consolidated rural high school district, are hereby in all respects ratified, confirmed and validated and all such districts shall be and are hereby declared to be consolidated rural high school districts by such consolidation proceedings to the same extent as if such district had been consolidated under the provisions of this Act. This validating section shall not apply to any such district which on the effective date hereof is involved in litigation which questions the legality of the creation of such district, or the validity of any election held in the creation thereof of any election held subsequent thereto for the purpose of authorizing the levy of maintenance taxes, the assumption of bonded indebtedness or the issuance of new construction bonds. As amended Acts 1957, 55th Leg., p. 1252, ch. 416, § 1.

Emergency. Effective June 6, 1957.

Section 2 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Section 3 repealed all conflicting laws and parts of laws to the extent of such conflict.

Art. 2922i. Warrants

Budgets and accounting systems, common and rural high school districts, see art. 689a—19a.

Art. 2922l(8). Collector of taxes in certain districts; appointment; duties; compensation; bonds

Section 1. In any rural high school district having an assessed valuation in excess of Four Million Dollars (\$4,000,000) according to the last preceding assessment roll and having an average daily attendance of more than five hundred and fifty (550) students during the preceding school year, the board of trustees may appoint a collector of taxes, who

shall perform the duties in the collection of taxes of the district which are now required of the county tax collector. The collector of taxes shall receive such compensation for his services as the trustees of the district may allow, not to exceed five per cent (5%) of the total amount of taxes received by him. He shall give bond in the estimated amount of taxes coming annually into his hands payable to and to be approved by the president of the board, conditioned for the faithful discharge of his duties and that he will pay over to the depository for such rural high school district all funds coming into his hands by virtue of his office as such collector. Any premium on his bond shall be payable out of funds of the district. As amended Acts 1957, 55th Leg., p. 1424, ch. 492, § 1.

Emergency. Effective June 10, 1957.

CHAPTER TWENTY—TEACHERS' RETIREMENT

Art. 2922—1. Teachers' Retirement System

Creditable Service

Sec. 4. 1. Prior Service Credits.

5. Reinstatement of Former Service Credits.

(a) Any teacher or auxiliary employee who has heretofore executed a waiver of membership in the Retirement System shall have the privilege of electing to receive full former service credit, provided such teacher or auxiliary employee after becoming a member of the Retirement System shall deposit before August 31, 1959, all back deposits, assessments and dues which he would have paid or deposited had he been a member of the System during each of the years that he actually taught or was employed as an auxiliary employee in the public schools following the date on which he first became eligible for membership in the System, together with interest from the date each amount was payable at the rate of two and one-half per cent (2½%) per annum.

(b) Any person who heretofore became a member of the Retirement System and who thereafter terminated such membership and withdrew his accumulated deposits, but who has since returned to service as a teacher or auxiliary employee or who returns to service as a teacher or auxiliary employee prior to September 1, 1959, and who, following such resumption of membership, renders service for five (5) consecutive years, shall have the privilege of depositing the total amount withdrawn plus all back assessments and dues, together with simple interest thereon at two and one-half per cent (2½%) per annum from date of withdrawal of same to date of redeposit, and thereupon such member shall be entitled to credit for all prior service and membership former service to which he was entitled prior to such termination and withdrawal. The amounts to be deposited shall be determined in each case by the Board of Trustees and in no event shall any such person be granted retirement upon such former service credits until the amount so determined shall have been paid in full.

Provided further, that membership in either the Teacher Retirement System or the State Employees Retirement System would qualify an individual to deposit funds in either of the two systems under the provisions of this Act. As amended Acts 1957, 55th Leg., p. 240, ch. 116.

Emergency. Effective April 29, 1957.

Article 2922-1 became effective November 6, 1956, upon adoption of the amendment to Const. art. 3, § 48a, proposed by S.J.R. No. 5, Acts 1955; 54th Leg., p. 1814.

CHAPTER TWENTY-TWO—FOUNDATION SCHOOL PROGRAM

Art.
2922—16a. Finances; annual local fund as-
signment; determination;
appropriation [New].

Art.
2922—24. Professional unit allocations to
districts of 100 square miles
with less than one pupil per
square mile and having high
school [New].

Art. 2922—13. Units

Professional units

Section 1.

(4) **Exceptional Children Teacher Units.** Exceptional children teacher units, special or convalescent, for each school district, separate for whites and separate for negroes, shall be allotted as follows:

a. It is the purpose of this allotment of exceptional children teacher units to provide competent educational services for the exceptional children in Texas between and including the ages of six (6) and seventeen (17), for whom the regular school facilities are inadequate or are not available.

In interpreting and carrying out the provisions of this Act, the words "exceptional children" wherever used, will be construed to mean physically handicapped children and mentally retarded children; the words "physically handicapped children" wherever used, will be construed to include any child of educable mind whose body functions or members are so impaired that he cannot be safely or adequately educated in the regular classes of the public schools, without the provision of special services; and the words "mentally retarded children" wherever used, will be construed to include any child whose mental condition is such that he cannot be adequately educated in the regular classes of the public schools, without the provision of special services. The term "special services" may be interpreted to mean transportation; special teaching in the public school curriculum; corrective teaching, such as lip reading speech correction, sight conservation, and corrective health habits; and the provision of special seats, books and teaching supplies, and equipment required for the instruction of exceptional children. As amended Acts 1957, 52nd Leg., p. 323, ch. 197, § 1; Acts 1957, 55th Leg., p. 1160, ch. 386, § 1.

Emergency. Effective June 6, 1957.

Section 1a of the amendatory Act of 1957, provided that there is hereby appropriated out of the Foundation School Fund the state's share of the necessary funds to finance the provisions of this Act.

Art. 2922—14. Salaries

Salary Schedule

Section 1. Beginning with the school year of 1957-58, the Board of Trustees of each and every school district in the State of Texas shall pay their teachers, both whites and Negroes, upon a salary schedule providing a minimum beginning base salary plus increments above the minimum for additional experience in teaching as hereinafter prescribed. The salaries fixed herein shall be regarded as minimum salaries only and each district may supplement such salaries.

All teachers and administrators shall have a valid Texas certificate. Salary increments for college training shall be based upon training received at a college recognized by the State Commissioner of Education for the preparation of teachers.

Any law or parts of laws in conflict with Section 1 of Article IV of this Act are hereby repealed.

Provided that payment of at least the minimum salary schedule provided herein shall be a condition precedent: (1) to a school's participation in the Foundation School Fund; and (2) to its name being placed or continued upon the official list of affiliated or accredited schools. The annual salaries as provided herein may be paid in twelve (12) payments at the discretion of the local school boards.

The salary of each professional position listed in Section 2 of Article II of this Act shall be determined as follows:

1. Classroom Teachers. The annual salary of classroom teachers shall be the monthly base salary, plus increments, multiplied by nine (9); provided that if the length of the school term is less than nine (9) months, the annual salary shall be such base salary and increments multiplied by the number of months in the term.

a. The minimum base pay for a classroom teacher who holds a Bachelor's Degree and no higher degree, shall be Three Hundred and Fifty-six Dollars (\$356) per month. Six Dollars (\$6) per month shall be added for each year of teaching experience not to exceed Seventy-two Dollars (\$72) per month.

b. The minimum base pay for a classroom teacher who has less than two (2) years of college training shall be Two Hundred and Forty-three Dollars (\$243) per month. Six Dollars (\$6) per month shall be added for each year of teaching experience, not to exceed Seventy-two Dollars (\$72) per month.

c. The minimum base pay for a classroom teacher who has two (2) but less than three (3) years of college training shall be Two Hundred and Sixty-eight Dollars (\$268) per month. Six Dollars (\$6) per month shall be added for each year of teaching experience, not to exceed Seventy-two Dollars (\$72) per month.

d. The minimum base pay for a classroom teacher who has three (3) or more years of college training but who does not hold a Bachelor's Degree shall be Two Hundred and Ninety-three Dollars (\$293) per month. Six Dollars (\$6) per month shall be added for each year of teaching experience, not to exceed Seventy-two Dollars (\$72) per month.

e. The minimum monthly base pay for a classroom teacher who holds a Master's Degree shall be Three Hundred and Eighty-one Dollars (\$381) per month. Six Dollars (\$6) per month shall be added for each year of teaching experience, not to exceed One Hundred and Fifty-six Dollars (\$156) per month.

2. Vocational Teachers. a. The minimum monthly base pay and increments for teaching experience for a vocational teacher conducting a nine (9), ten (10), or twelve (12) months vocational program approved by the State Commissioner of Education shall be the same as that of a classroom teacher as provided herein; provided that vocational trade and industrial teachers having qualifications approved by the State Board for Vocational Education shall be eligible for the minimum monthly base pay for a classroom teacher who holds a recognized Bachelor's Degree and a valid teacher's certificate.

The annual salary of vocational teachers shall be the monthly base salary, plus increments, multiplied by nine (9), ten (10), or twelve (12) as applicable.

Provided that the minimum salaries hereinabove prescribed for vocational teachers mean total salaries of such teacher to be received for public school instruction, whether they be paid out of State and/or Federal funds. Provided, further, that none of the provisions of this Act shall apply to teachers in distributive adult education.

Expenses where allowable shall be paid from a separate Vocational Fund. No such expense shall be counted as part of the cost of the Minimum Foundation School Program.

3. Special Service Teachers. The minimum monthly base salary and increments for teaching experience for special service teachers shall be the same as those provided herein for classroom teachers. The annual salary of such teachers shall be the monthly base salary, plus increments, multiplied by nine (9).

Provided that a registered nurse shall be considered, for the purpose of computing salaries, as having a Bachelor's Degree; and that a librarian having a recognized certificate or degree based upon five (5) years of recognized college training therefor shall be considered as having a Master's Degree.

4. Teachers of Exceptional Children. The minimum monthly base salary and increments for teaching experience for teachers of exceptional children shall be the same as that prescribed in this Act for classroom teachers. The annual salary of such teachers shall be the monthly base salary, plus increments, multiplied by nine (9), except that in cases where the State Commissioner of Education approves such a unit for more than nine (9) months, the annual salary shall be the monthly base salary plus increments multiplied by the number of months approved by the State Commissioner of Education.

5. Supervisors and/or Counsellors. The minimum monthly base salary and increments for teaching experience for supervisors or counsellors shall be the same as that prescribed in this Act for classroom teachers, to which shall be added Thirty Dollars (\$30) per month. The annual salary for such supervisors or counsellors shall be the monthly base salary, plus increments, multiplied by ten (10).

6. Principals.

a. Principals in Districts Having No Accredited Two (2) or Four (4) Year High School.

In such a district having from three (3) to five (5) classroom teacher units, inclusive, the designated classroom teacher who serves as part-time principal shall be paid an additional monthly salary allowance of Six Dollars (\$6) per month for each classroom teacher unit, and the annual salary of such part-time principal shall be the monthly base salary plus increments multiplied by nine (9); provided that if the length of the school term is less than nine (9) months, the annual salary shall be such base salary and increments multiplied by the number of months in the term.

In such a district having from six (6) to nineteen (19) classroom teacher units, inclusive, the designated classroom teacher who serves as part-time principal shall be paid an additional monthly salary allowance of Six Dollars (\$6) per month for each classroom teacher unit, but not to exceed Seventy-two Dollars (\$72) per month, and the annual salary of such part-time principal shall be the monthly base salary plus increments multiplied by ten (10); provided that if the length of the school term is less than nine (9) months the annual salary shall be such base salary and increments multiplied by the number of months in the term.

In such a district having twenty (20) or more classroom teacher units, the designated classroom teachers who serve as part-time principals shall be paid an additional monthly salary allowance of Seventy-two Dollars (\$72) per month, and the annual salary of such part-time principal shall be the monthly base salary plus increments multiplied by nine (9).

In such a district having twenty (20) or more classroom teacher units a full-time principal shall be paid an additional monthly salary allowance of Seventy-five Dollars (\$75) per month, and the annual salary of such full-time principal shall be the monthly base salary plus increments,

multiplied by ten (10) except that the annual salary of one (1) such full-time principal shall be the monthly base salary plus increments multiplied by twelve (12).

b. Principals in Districts Having a Two-Year Accredited High School, But No Four-Year Accredited High School.

In such a district having nineteen (19) or fewer classroom teachers the designated classroom teacher who serves as part-time principal shall be paid an additional monthly salary allowance of Fifty Dollars (\$50) per month, and the annual salary of such part-time principal shall be the monthly base salary plus increments multiplied by twelve (12).

In such a district having twenty (20) or more classroom teachers, the designated classroom teachers who serve as part-time principals shall be paid an additional monthly salary allowance of Sixty Dollars (\$60) per month, and the annual salary of such part-time principals shall be the base salary plus increments multiplied by nine (9).

In such a district having from twenty (20) to twenty-nine (29) classroom teacher units, inclusive, the full-time principal shall be paid an additional monthly salary allowance of Seventy Dollars (\$70) per month and the annual salary of such full-time principal shall be the monthly base salary plus increments multiplied by twelve (12).

In such a district having from thirty (30) to forty-nine (49) classroom teachers, the full-time principal shall be paid an additional monthly salary allowance of Ninety Dollars (\$90) per month, and the annual salary of such full-time principal shall be the monthly base pay plus increments multiplied by twelve (12).

In such a district having fifty (50) or more teachers, the full-time principals shall be paid an additional monthly salary allowance of Sixty Dollars (\$60) per month, and the annual salary of such full-time principals shall be the monthly base salary plus increments multiplied by ten (10), except that one (1) of such principals shall receive an additional monthly salary allowance of One Hundred and Twenty Dollars (\$120) per month instead of Sixty Dollars (\$60) per month, and the annual salary of such principal shall be the monthly base salary plus increments multiplied by twelve (12).

c. Principals in Districts Having a Four-Year Accredited High School and Having From Nine (9) to Nineteen (19) Classroom Teacher Units. In such a district the teacher who serves as the elementary principal shall receive an additional allowance of Six Dollars (\$6) per month for each teacher under his supervision, but not to exceed Seventy-two Dollars (\$72) per month, and the classroom teacher serving as part-time high school principal shall be paid an additional salary allowance of Seventy-two Dollars (\$72) per month, and the annual salary of such part-time elementary and high school principals shall be the monthly base salary plus increments multiplied by nine (9).

d. Principals in Districts Having a Four-Year Accredited High School and Having Twenty (20) or More Classroom Teachers. In such a district the classroom teachers who serve as part-time principals shall receive an additional salary allowance of Seventy-two Dollars (\$72) per month, and the annual salary of such part-time principals shall be the monthly base pay plus increments multiplied by nine (9).

In such a district the full-time principal shall receive an additional salary allowance of Seventy-five Dollars (\$75) per month, and the annual salary of such principals shall be the monthly base salary plus increments multiplied by ten (10), except that in school districts eligible under the terms of this Act for two (2) or more full-time principals, one-half of such full-time principals shall each receive as his annual salary the monthly base salary plus increments multiplied by eleven (11). (No credit for fractions).

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

7. Superintendents.

a. In districts having a four-year accredited high school and eligible for ten (10) or less classroom teacher units, whites and Negroes combined, the minimum monthly base salary and increments for teaching experience for superintendents shall be the same as that prescribed in this Act for classroom teachers, to which shall be added Fifty Dollars (\$50) per month; eleven (11) to nineteen (19) teachers, Seventy-five Dollars (\$75) per month; twenty (20) to twenty-nine (29) teachers, One Hundred Dollars (\$100) per month; thirty (30) to forty-nine (49) teachers, One Hundred and Ten Dollars (\$110) per month; fifty (50) to seventy-five (75) teachers, One Hundred and Twenty-five Dollars (\$125) per month; seventy-six (76) to one hundred (100) teachers, One Hundred and Fifty Dollars (\$150) per month; one hundred and one (101) to one hundred and fifty (150) teachers, One Hundred and Seventy-five Dollars (\$175) per month; one hundred and fifty-one (151) to two hundred (200) teachers, Two Hundred Dollars (\$200) per month; two hundred and one (201) to three hundred (300) teachers, Two Hundred and Twenty-five Dollars (\$225) per month; three hundred (300) or more teachers, Two Hundred and Fifty Dollars (\$250) per month.

b. The annual salary for superintendents shall be the monthly base salary plus increments, multiplied by twelve (12).

Total Cost of Professional Salaries

Sec. 2. The total cost of professional salaries of positions allowable for purposes of this Act shall be determined by application of the salary schedule to the total number of approved professional units, provided that such professional units are served by approved professional position employments. As amended Acts 1954, 53rd Leg., 1st C.S., p. 13, ch. 5, § 1; Acts 1955, 54th Leg., p. 1152, ch. 436, § 1; Acts 1957, 55th Leg., p. 1165, ch. 390, § 1.

Emergency. Effective June 6, 1957 and as provided in Section 1 of the Act.

Art. 2922—15. Services and operating costs

Services. transportation

Sec. 2. (1) The County Boards of School Trustees of the several counties of this state, subject to the approval of the State Commissioner of Education, are hereby authorized to establish and operate an economical public school transportation system within their respective counties. In establishing and operating such transportation systems, the County Boards of School Trustees shall: (1) requisition buses and supplies from the State Board of Control as provided for in this Article; (2) prior to June 1st of each year, with said Commissioner's approval, establish school bus routes within their respective counties for the succeeding school year; (3) employ school bus drivers; and (4) be responsible for the maintenance and operation of school buses. State warrants for transportation shall be made payable to the County School Transportation Fund in each county for the total amount of transportation funds for which the county is eligible under the provisions of this Act.

Provided, however, that when requested by the Board of Trustees of an independent school district, the County Board of School Trustees shall authorize such independent district to: (1) employ its school bus drivers; (2) be responsible for the maintenance and operation of its school buses; and (3) receive transportation payments direct from the state. When the County School Superintendent reports such authorization to the State Commissioner of Education, state warrants for transportation funds for which the district is eligible shall be made to the District Transportation Fund, which is hereby created.

The County Boards of School Trustees and the State Commissioner of Education shall promulgate regulations in regard to the use of school buses for purposes other than transporting eligible pupils to and from their classes.

School buses shall be operated upon approved school bus routes, and no variations shall be made therefrom. The penalty for varying from authorized routes and for unauthorized use of buses shall be the withholding of transportation funds from the offending county or school district. In the event the violation is committed by a district which receives no Foundation School Funds, the penalty provisions of Article XI, Section 2, of Senate Bill No. 116, Acts of the 51st Legislature,¹ shall be invoked.

(2) The total annual transportation cost allotment for each district or county shall be based on the following formula:

(a) A typical bus route is defined as being from forty-five (45) to fifty-five (55) miles of daily travel and composed of sixty per cent (60%) surfaced roads and forty per cent (40%) dirt roads, over which fifteen (15) or more pupils who live two (2) or more miles from school are transported.

(b) Allowable total base costs of maintenance, operation, salaries, depreciation, etc., for each bus shall be:

| | |
|--------------------|---------------------|
| 72 capacity bus | \$2,350.00 per year |
| 60-71 capacity bus | 2,250.00 per year |
| 49-59 capacity bus | 2,150.00 per year |
| 42-48 capacity bus | 2,050.00 per year |
| 30-41 capacity bus | 1,950.00 per year |
| 20-29 capacity bus | 1,850.00 per year |
| 15-19 capacity bus | 1,450.00 per year |

The capacity of a bus shall be interpreted as the number of eligible children being transported who live two (2) or more miles from school along the approved route served by the bus. A bus that makes two (2) or more routes or serves two (2) or more schools shall be considered as having a capacity equal to the largest number of eligible children on the bus at any one time.

(c) For each one per cent (1%) increase of dirt road above forty per cent (40%), add one-half per cent ($\frac{1}{2}\%$) to the allowable total cost.

(d) For each five (5) miles or major fraction thereof increase in daily bus travel above fifty-five (55) miles add one per cent (1%) of the total cost of operation. For each five (5) miles or major fraction thereof less than forty-five (45) miles daily travel, deduct one per cent (1%) from the total cost of operation.

(e) [Blank]

(f) The State Commissioner of Education may grant not to exceed Seventy-five Dollars (\$75.00) per pupil per year for private or commercial transportation for eligible pupils from isolated areas. The need for this type of transportation grant shall be determined on an individual basis and the amount granted shall not exceed the actual cost. Such grants shall be made only in extreme hardship cases and no such grants shall be made if such pupils live within two (2) miles of an approved school bus route or city public transportation services.

(3) All bus routes and transportation systems shall be reviewed by the State Commissioner of Education and he shall be responsible for establishing criteria for evaluating the several transportation systems of this state, but all such criteria shall be subject to the approval of the State Board of Education. The Commissioner shall evaluate all transportation systems as rapidly as possible. No new bus routes or bus route extensions shall be approved prior to the survey of the transportation sys-

tem of the district or county requesting new equipment or extensions. In cities having public transportation, no child residing within the city limits of such city shall be eligible to be transported at state expense unless such child resides more than two (2) miles, measured by the nearest practical route, from public transportation service of such city.

In approving a transportation system for a district or a county, consideration shall be given to providing transportation for only those pupils who live two (2) or more miles from the school they attend, and no consideration shall be given to providing transportation for pupils from one district to another when their grades are taught in their home districts unless the transfer of such pupils has been approved by the County Boards of School Trustees as provided by law. There shall be no duplication of bus routes or duplication of services within sending districts by buses operated by two (2) school districts and/or counties except upon approval by the Commissioner of Education. All funds paid to the several transportation units for the operation of transportation systems of this state shall be expended for no other purpose. The Commissioner of Education shall formulate rules and regulations for enforcing the transportation sections of this Act, subject to the approval of the State Board of Education. Appeals may be had from policies of County Boards of Trustees affecting transportation to the Commissioner of Education, and to the State Board of Education in matters relating thereto.

(4) Motor vehicles used for the purpose of transporting school children, including school buses, chassis and/or bodies of school buses purchased through the State Board of Control as provided for in Section 3, Article V of this Act (Article 634(B), V.C.S.) shall be paid for by the State Board of Control and the Legislature may appropriate out of any money in the State Treasury not otherwise appropriated, a certain sum not exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00) or so much thereof as necessary, to the State Board of Control to be used for such purchases.

Any such sum or sums appropriated shall be known as the School Bus Revolving Fund and when the school buses provided for in this Act are delivered to the various schools coming within the provisions of this Act, the governing bodies of such schools shall reimburse the State Board of Control for the money expended for such school buses, motor vehicles, chassis and/or bus bodies provided for herein and such money shall be deposited by the State Board of Control to the School Bus Revolving Fund. As amended Acts 1951, 52nd Leg., p. 325, ch. 198, § 1; Acts 1957, 55th Leg., p. 1237, ch. 409, § 1.

¹ Article 2922—21.

Effective beginning scholastic year 1957-58.

Sections 2-4 of the amendatory Act of 1957 read as follows:

"Sec. 2. It is the intention of the Legislature that the provisions of Senate Bill No. 355, Chapter 215, Acts of the 52nd Legislature, Regular Session, shall not be construed as repealed by this amendatory Act.

"Sec. 2-a. In addition to the appropriation made from the Foundation School

Fund by Article III of House Bill No. 133, Acts of the 55th Legislature, Regular Session, 1957, and supplemental thereto, there is appropriated out of the Foundation School Fund for the biennium beginning September 1, 1957 and ending August 31, 1959 such amounts as may be necessary to carry out the provisions of this Act.

"Sec. 3. This Act shall take effect and be operative beginning with the scholastic year 1957-58 and thereafter."

Art. 2922—16a. Finances; annual local fund assignment; determination; appropriation

Sec. 1a. The sum of the amounts to be charged for the 1957-58 school year against the local school districts of the State toward the Foundation

School Program shall be Sixty-four Million, Two Hundred and Five Thousand Dollars (\$64,205,000) and thereafter, the local fund assignment annually shall be determined as now provided in Section 2 of Article VI of Senate Bill No. 116, Chapter 334, Acts of the Fifty-first Legislature, as amended in Senate Bill No. 1, Chapter 5, Acts of the Fifty-third Legislature, First Called Session, 1954.¹

Sec. 1b. In addition to the appropriation made from the Foundation School Fund by Article III of House Bill No. 133,² Acts of the Fifty-fifth Legislature, Regular Session, 1957, and supplemental thereto, there is hereby appropriated for the biennium ending August 31, 1959, all moneys allocated to the Foundation School Fund by Senate Bill No. 117, Chapter 335, Acts of the Fifty-first Legislature, Regular Session, 1949 (Article 7083a, Section 2 (4-a), Vernon's Civil Statutes), as amended, and any balances remaining in the Foundation School Fund at the end of each fiscal year, to pay the State's part of the Foundation School Program as provided for in Senate Bill No. 116, Chapter 334, Acts of the Fifty-first Legislature, Regular Session, 1949, (Articles 2922—11 to 2922—22, Vernon's Civil Statutes) as amended, and Senate Bill No. 355, Chapter 215, Acts of the Fifty-second Legislature, 1951 (Article 2922—23, Vernon's Civil Statutes).

There is hereby specifically appropriated out of any moneys in the General Revenue Fund not otherwise appropriated the amount necessary for each month if on a monthly basis, or each year if on a yearly basis, of the biennium ending August 31, 1959, to pay the full amounts contemplated and provided by Senate Bill No. 117, Chapter 335, Acts of the Fifty-first Legislature, Regular Session, as amended, should there be insufficient money in the Fund created by said Senate Bill No. 117, supra, to carry out in full the purposes and provisions of said Senate Bill No. 117, Senate Bill No. 116, supra, and Senate Bill No. 355, supra, as amended. The above appropriation shall be expended under the terms and provisions of said Senate Bill No. 117, Senate Bill No. 116 and Senate Bill No. 355, as amended, and by the same officers named therein respectively. Acts 1957, 55th Leg., p. 1165, ch. 390.

¹ Article 2922—16.

² Vernon's Texas Session Laws, ch. 385, p. 935.
Effective June 6, 1957 and as provided in
Section 1 of the Act.

Art. 2922—24. Professional unit allocations to districts of 100 square miles with less than one pupil per square mile and having high school

Section 1. Any school district containing one hundred (100) square miles or more and having fewer than one (1) pupil per square mile, and which operates and maintains a four-year accredited high school may be allotted by the State Commissioner of Education for Foundation School Program Act and Fund purposes the number of professional units determinable as earned by the application of a sparse area formula approved by the State Board of Education; provided that the State Commissioner of Education shall take into consideration the density and distribution of population in the district, road conditions, and the proximity of the school to another four-year accredited high school in making such allotments.

Sec. 2. This law shall become effective beginning with the 1957-58 school year. Acts 1957, 55th Leg., p. 159, ch. 69.

Effective beginning with 1957-58 scholastic year.

ELECTION CODE

CHAPTER FIVE—SUFFRAGE

Art. 5.03. Qualifications for voting for bond issues, lending credit, expending money, or assuming debt

When an election is held by any county, or any number of counties, or any political subdivision of the State, or any political subdivision of a county or any defined district now or hereafter to be described and defined within the State, and which may or may not include towns, villages or municipal corporations, or any city, town or village, for the purpose of issuing bonds or otherwise lending credit, or expending money or assuming any debt, only qualified electors who own taxable property in the State, county, political subdivision, district, city, town or village where such election is held, and who have duly rendered the same for taxation, shall be qualified to vote and all electors shall vote in the election precinct of their residence. Property shall be deemed to have been duly rendered for taxation, for the purpose of determining eligibility to vote in an election as provided in this Code and in Article VI, Section 3a of the Constitution of this State, only if the property was rendered to the county, city, district, or other political subdivision holding the election within the period of time fixed by law for such rendition, or was placed on the tax rolls by the tax assessor prior to the date on which the election was ordered, if the regular rendition period expired before that date. In making up the certified list of owners of taxable property to be used at an election, the tax collector shall include thereon only the names of persons owning taxable property which has been duly rendered for taxation, as herein defined. As amended Acts 1957, 55th Leg., p. 99, ch. 48, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 3 provided that, if any provision of this Act or the application thereof to any per-

son or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Art. 5.05. Absentee voting

Subdivision 6. The ballots cast in the office of the county clerk shall be deposited when voted in a ballot box locked with two (2) locks, the keys of one of which shall be kept during the period of absentee voting by the sheriff and the keys of the other by the county clerk. On the day of the election the ballots and the ballot envelopes which have been received by mail shall be delivered by the county clerk and the sheriff and unlocked in the presence of a special canvassing board of three (3) or more members named by the authority which is authorized by law to name the presiding judges of that election. The clerk shall deliver the ballots and the ballot envelopes to the canvassing board at such hour as the board shall direct, but not earlier than the hour at which the polls are opened and not later than 1:00 p. m. If delivered before 1:00 p. m., the clerk shall deliver to the board, at 1:00 p. m., all absentee ballots received by mail before 1:00 p. m. of the day of the election which have not previously been delivered to the board. This special election board shall open the ballot boxes and the carrier envelopes, announce the elector's name and compare the signature upon the application with the signature upon the affidavit

on the ballot envelope. In case the election board finds the affidavits duly executed, that the signatures correspond, that the applicant is a duly qualified elector of the precinct, and that he has not voted in person at said election, they shall open the envelope containing the elector's ballot in such manner as not to deface or destroy the affidavit thereon, take out the ballot therein contained without permitting same to be unfolded or examined and having endorsed the ballot in like manner as other ballots are required to be endorsed, deposit the same in the proper ballot box and enter the elector's name in the poll list the same as if he had been present and voted in person. If the ballot be challenged by any election officer, supervisor, party challenger, or other person, the grounds of challenge shall be heard, and decided according to law, including the consideration of any affidavits submitted in support of or against such challenge. If the ballot be admitted, the words "absentee voter" shall be set down opposite the elector's name on the poll list. If the ballot be not admitted, there shall be endorsed on the back thereof the word "rejected," and all rejected ballots shall be enclosed, securely sealed, in an envelope on which the words "rejected absentee ballots" have been written, together with a statement of the precinct and the date of the election, signed by the judges and clerks of election and returned in the same manner as provided for the return and preservation of official ballots voted at such election. This special election board shall cast these absentee votes and then shall open the ballot box and proceed to count and make out returns of all ballots cast absentee in the same way as is done at a regular polling place making announcement of the vote and revealing information as to the results in accordance with Section 105 of the Election Code of Texas.¹ This special canvassing board shall possess the same qualifications, be paid the same wage, and be subject to the same laws and penalties as regular election judges. Supervisors may be appointed as for regular voting boxes.

The county clerk shall return the poll tax receipts and the exemption certificates to the absentee voters at the end of thirty (30) days unless a contest has been filed. As amended Acts 1957, 55th Leg., p. 100, ch. 49, § 1.

¹ Article 8.23.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 5.11. Mode of paying poll tax

The poll tax must either be paid in person or by someone duly authorized by the taxpayer in writing to pay the same, and to furnish the Collector the information necessary to fill out the blanks in the poll tax receipt. Such authority and information must be signed by the party who owes the poll tax, and must be deposited with the Tax Collector and filed and preserved by him. A taxpayer may pay his poll tax by a remittance of the amount of the tax through the United States mail to the County Tax Collector, accompanying said remittance with a statement in writing showing all the information necessary to enable the Tax Collector to fill out the blank form of the poll tax receipt, which statement must be signed by the party who owes the poll tax, but the husband may sign for the wife and in like manner the wife may sign for the husband, and the Tax Collector shall issue and mail to the taxpayer at his last known address a poll tax receipt, or, if requested to do so by the taxpayer in writing, the Collector may hold said receipt to be delivered to the taxpayer in person. The husband may pay the poll tax of his wife and receive the receipt therefor. In like manner the wife may pay the poll tax of her husband and receive the receipt therefor. The Assessor and Collector of Taxes may at such places as shall in his discretion be necessary or advisable, have a duly authorized

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

and sworn deputy for the purpose of accepting poll taxes and giving receipts therefor. As amended Acts 1957, 55th Leg., p. 1326, ch. 448, § 1.

Emergency. Effective June 6, 1957.

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict.

CHAPTER SIX—OFFICIAL BALLOT

Art. 6.05. Form of the Ballot

All official ballots shall be printed on white paper of uniform style and of sufficient thickness to prevent the marks thereon to be seen through the paper. A suitable number of sample ballots may be printed on yellow paper for any election or primary but no ballot on yellow paper may be cast or counted. The tickets of each political party shall be printed on one ballot, arranged side by side in columns separated by a parallel rule. The space which shall contain the title of the office and the name of the candidate shall be of uniform style and type on all tickets. At the head of each ticket shall be printed the name of the party.

Upon each official ballot in every general, special, or primary election there shall be in the top right-hand corner a detachable stub formed by a perforated line which shall start two (2) inches below the top right-hand corner of the ballot and shall extend two (2) inches to the left and thence to the top edge of the ballot. Upon the stub thus formed there shall be no printing or writing except the number of such ballot and the date and designation of the election, and the words, 'NOTE: VOTER'S SIGNATURE TO BE AFFIXED ON THE REVERSE SIDE.' All ballots prepared for an election shall be numbered consecutively beginning with No. 1 in each county and the identical number that appears on the stub shall also appear in the top left-hand corner of the ballot. Those identical numbers in the top left-hand corner and on the stub in the top right-hand corner shall be printed or stamped in consecutive order on all the ballots prepared for any election, with a separate number for each ballot, at the time of printing and before they are divided up and delivered to the election judges.

"The title of the office and the name or names of the candidates in each column shall be opposite the same office in other columns. When a party has not nominated a full ticket, the title of any office for which a nomination has not been made shall not be printed in that party's column on the ballot. In the write-in column the titles of all offices shall be printed to correspond to a full ticket. When presidential electors are to be voted upon, their names shall not appear on the official ballot, but the names of the candidates for President and Vice-President, respectively, of the political parties, as defined in the law, shall appear at the head of their respective tickets, printed as one race, and the votes for presidential electors of the various parties shall be canvassed, counted, and returns made in accordance with Section 171 and Section 172 of this Code.¹ When Constitutional Amendments or other propositions are to be voted on, they shall appear once on each ballot in uniform style and type.

On each official ballot where officers are to be elected or nominated, there shall be printed immediately below the words "Official Ballot" the following instruction note: "Vote for the candidate of your choice in each race by scratching or marking out all other names in that race." On each official ballot on which party columns appear, the following shall be added to the instruction note: "You may vote for all the candidates of

a party by running a line through every other party column." As amended Acts 1957, 55th Leg., p. 802, ch. 338, § 1.

¹ Articles 11.02, 11.03.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 6.06. How to mark ballot

In all elections, general, special, or primary, the voter shall mark out the names of all candidates he does not wish to vote for. When party columns appear on a ballot, a voter desiring to vote a straight ticket may do so by running a line with a pencil or pen through all other tickets on the official ballot, making a distinct marked line through all tickets not intended to be voted; and when he desires to vote a mixed ticket, he shall do so by running a line through the names of such candidates as he desires to vote against. If the name of the person for whom the voter wishes to vote is not printed on the ballot, the voter shall mark through the names which appear on the ballot in that race and shall write in the name of the candidate for whom he wishes to vote in a general election in the write-in column under the appropriate office title, and in a primary or special election in an appropriate space under the title of the office.

The failure of a voter to mark his ballot in strict conformity with these directions shall not invalidate the ballot, and a ballot shall be counted in all races in which the intention of the voter is clearly ascertainable. As amended Acts 1957, 55th Leg., p. 802, ch. 338, § 2.

CHAPTER SEVEN—ARRANGEMENT AND EXPENSES OF ELECTION**Art. 7.14. Providing for voting machines**

Sec. 7a. Special Canvassing Board. In all elections, both county-wide and less than county-wide, the authority charged with holding the election may in its discretion determine by proper resolution to have absentee ballots counted by a special canvassing board as provided in Subdivision 6 of Section 37¹ of this Code. Should the authority determine to use this method, it shall cause a notice to that effect to be posted in the office of the county clerk or other officer conducting the absentee voting in that election, at least twenty (20) days before the day of the election, and the procedure set out herein shall be used in conducting the absentee voting and in counting and making return of the absentee ballots in that election.

Absentee voting shall be conducted by the county clerk, city secretary, or other officer charged by law with the duty of conducting absentee voting for that election; and as used herein the word "clerk" shall mean the officer charged with the duty of conducting the absentee voting.

The ballot used shall be the stub ballot provided for elsewhere in this Code. The absentee voting shall be conducted by the clerk in the manner prescribed for county-wide elections in Sections 37 and 38² of this Code. The special canvassing board for counting the ballots and making return thereof shall be appointed and compensated as provided in Subdivision 6 of Section 37. Supervisors may be appointed as for regular polling places where voting machines are not used.

On the day of the election, the clerk shall deliver to the canvassing board at such hour as the board shall direct, but not earlier than the hour at which the polls are opened and not later than 1:00 p.m., all ab-

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

sentees ballots and ballot envelopes theretofore received. If delivered before 1:00 p.m., the clerk shall deliver to the board, at 1:00 p.m., all absentee ballots received by mail before 1:00 p.m. of the day of the election which have not previously been delivered to the board. The special canvassing board shall count the absentee ballots and make return thereof in the same way as prescribed for county-wide elections in Sections 37 and 38 of this Code.

The clerk shall return the poll tax receipts and the exemption certificates of the absentee voters as soon after the day of the election as convenient for him. Added Acts 1957, 55th Leg., p. 798, ch. 333, § 1.

¹ Article 5.05, subd. 6.

² Article 5.06.

Effective 90 days after May 23, 1957, date of adjournment.

Sec. 15. Manner of Voting. But one voter shall be admitted at a time, and no voter shall be permitted to keep the curtain of the machine closed longer than two (2) minutes. However, if because of some bodily infirmity a voter is physically unable to operate the machine or to see, he may be assisted by two (2) election officials, or by a person selected by the voter, who shall operate the machine so as to vote the ballot in accordance with the voter's wishes, and shall be permitted to keep the curtain of the machine closed no longer than five (5) minutes. The provisions of Section 95 of this Code shall govern the assistance rendered under this section in so far as they can be made applicable. As amended Acts 1957, 55th Leg., p. 338, ch. 153, § 1.

Emergency. Effective May 6, 1957.

Section 1 of the Act of 1957 amended article 8.13.

CHAPTER EIGHT—CONDUCTING ELECTIONS AND RETURNS THEREOF

Art. 8.13 Aid to voter

Not more than one person at the same time shall be permitted to occupy any one compartment, voting booth or place prepared for a voter, nor shall any assistance be given a voter in preparing his ballot, except when a voter is unable to prepare the same himself because of some bodily infirmity, such as renders him physically unable to write or to see, in which case two (2) judges of such election shall assist him, they having first sworn that they will not suggest, by word or sign or gesture, how such voter shall vote; that they will confine their assistance to answering his questions, to stating the propositions to be voted on, and to naming candidates and the political parties to which they belong; and that they will prepare his ballot as such voter himself shall direct. The voter must in every case explain in the English language how he wishes to vote, and no judge of the election shall use any other than the English language in aiding the voter, or in performing any duty as such judge of the election. If the election be a general election, the judges who assist such voters shall be of different political parties, if there be such judges present, and if the election be a primary election one or more supervisors may be present when the assistance herein permitted is being given, but each supervisor must remain silent except in cases of irregularity or violation of the law.

Instead of being assisted by two (2) election judges as hereinabove provided, a voter who is entitled to assistance may select any qualified voter residing in the precinct to assist him, and no other person shall be per-

mitted to be present while the ballot is being prepared. Before assisting the voter, the person selected shall take the following oath, which shall be administered by one of the election judges: "I solemnly swear that I will not suggest, by word or sign or gesture, how the voter shall vote; I will confine my assistance to answering his questions, to stating propositions to be voted on and to naming candidates and the political parties to which they belong; I will prepare his ballot as the voter himself shall direct; and I will not use any other than the English language in aiding the voter."

Where any assistance is rendered in preparing a ballot other than as herein allowed, the ballot shall not be counted, but shall be void for all purposes. As amended Acts 1957, 55th Leg., p. 338, ch. 153, § 1.

Emergency. Effective May 6, 1957.

Section 2 of the Act of 1957 amended article 7.14, § 15.

CHAPTER TWELVE—UNITED STATES SENATORS

Art. 12.02. Vacancy in office of United States Senator or Congressman-at-Large

1. When a vacancy occurs in the representation of this State in the United States Senate or in the representation of this State in the House of Representatives of the Congress of the United States by a Congressman elected by the people at large, such vacancy shall be filled for the unexpired term in the manners herein provided.

2. If a vacancy exists in the representation of this State in the Senate of the United States at a time when the Congress is in session, the Governor shall forthwith make a temporary appointment of a suitable and qualified person to represent this State in the Senate of the United States until a senator is elected and shall have qualified.

3. If a vacancy occurs in the office of a United States Senator or a Congressman-at-Large during the year in which a general election is held in this State and prior to the first day of June of said year, the Governor shall, within five (5) days after the vacancy occurs, issue writs of election directing that the nomination and election of a United States Senator or of a Congressman-at-Large to fill such vacancy shall be accomplished in the manner provided by law for the nomination and election of the Governor; provided that when a vacancy in either or both of said offices is to be filled in this manner, a candidate for nomination by any political party shall have until July 1st of the election year to make application to have his name placed on the official ballot to be used in the primary election held by said political party for choosing its nominee for said office to run in the general election.

4. If such vacancy occurs in either or both of the aforesaid offices during a year in which no general election is to be held or after the first day of June of a general election year, the vacancy shall be filled at a special election or at special elections, the first of which shall be called by writ of election, issued by the Governor within five (5) days after the vacancy occurs, directing that a special election be held throughout the State on a specified day, which shall be not less than sixty (60) days nor more than ninety (90) days after the date of the writ, for the purpose of electing a United States Senator or a Congressman-at-Large to fill the existing vacancy and to serve for the unexpired term of the then vacant office; provided, however, that an election to fill a vacancy occurring within sixty (60) days after the effective date of this Act may be held at any

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

time not less than thirty (30) or more than ninety (90) days after the vacancy occurs.

5. In all special elections called to fill a vacancy in the office of United States Senator or in the office of Congressman-at-Large a majority vote of the electors participating in said elections shall be necessary for election. In event no candidate receives a majority of the votes cast at the first election, the Governor shall, within five (5) days after the results of said election were officially declared, call a second election to be held throughout the State on a specified day which shall be not less than thirty (30) nor more than forty (40) days after the date of the writs issued by the Governor. In the second special election the candidates shall be limited to the participants in the first election who received the largest and next largest number of votes at the first election. The Secretary of State shall, within five (5) days after the results of the first election are officially declared, certify to the County Clerk of each County in the State the names of the said two (2) candidates who are eligible to participate in the second election and the Clerks will make up the ballot for said election according to said certificate. The candidate who receives the largest number of votes in the second election shall receive a Certificate of Election to the unexpired term of the office for which he was a candidate.

6. All special elections called for the purpose of filling vacancies in the two (2) offices mentioned in this Section shall be conducted according to existing law as supplemented by this Section, but if there is a conflict between this Section and the existing law, the provisions of this Section shall prevail. As amended Acts 1957, 55th Leg., p. 421, ch. 201, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

CHAPTER THIRTEEN—NOMINATIONS

1. BY PARTIES OF TWO HUNDRED THOUSAND (200,000) VOTES OR OVER

Art.

13.08a Assessment of candidates in counties of 800,000 or more inhabitants [New].

Art.

13.43a Contests for office of precinct chairman or county chairman [New].

1. BY PARTIES OF TWO HUNDRED THOUSAND (200,000) VOTES OR OVER

Art. 13.08. Expenses of primary

Prior to the assessment of the candidates, the county committee shall also carefully estimate the cost of printing the official ballots, renting polling places where same may be found necessary, providing and distributing all necessary poll books, blank stationery and voting booths required, compensation of election officers and clerks and messengers, and report the result in each precinct to the county chairman, as provided for herein, and all other necessary expenses of holding such general and second primaries in such counties and, on the second Monday in May preceding each general primary, shall apportion such cost among the various candidates for nomination for district, county and precinct offices only as herein defined, and offices to be filled by the voters of such district, county or precinct only in such manner as in their judgment is just and equitable; provided that where a district office, except for Members of the Legislature, covers more than one (1) county, the assessment of such a candidate

by that county shall not be more than a sum which is the quotient of the amount which he would be assessed if he represented only one (1) county determined by the formula used to assess county candidates, when divided by the number of counties in his district. However, where a member

Art. 13.08a. Assessment of Candidates in Counties of 800,000 or More Inhabitants.

Candidates for any precinct, county or district office and the office of Congress in counties which have a population of eight hundred thousand (800,000) or more, according to the last preceding federal census, except candidates for the State Legislature and State Board of Education, shall not be assessed a sum in excess of seven and one-half percent (7-1/2%) of the aggregate annual salary provided for any office of two-year terms, and twelve and one-half percent (12-1/2%) of the aggregate annual salary provided for any office of four-year terms, to have their names placed on the ballot in any primary election. Candidates for the State Board of Education shall not be assessed a sum in excess of the amount stated in Section 186 of this Code.

Notwithstanding other provisions of law, the county executive committee in any county which has a population of eight hundred thousand (800,000) or more, according to the last preceding federal census, may require candidates for State Senator or State Representative to pay an amount not exceeding Three Hundred Dollars (\$300.00) to have their names placed upon the ballot in a primary election. A candidate for nomination for State Senator or Representative shall pay the full amount of Three Hundred Dollars (\$300.00) at the time he files his application for a place on the ballot. The payment must accompany the application and must be in the form of cash, money order, cashier's check or certified check. The application and payment must be delivered to the proper party chairman or secretary by the deadline for making application for a place on the ballot, and it shall not be sufficient for the application and payment to have been mailed before the deadline unless they are actually delivered by the deadline. After the county executive committee makes the assessments as provided in Section 186 of this Code, it shall refund to each candidate within thirty days thereafter the amount of the payment in excess of the assessment against the candidate. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 186a, added Acts 1957, 55th Leg., p. 1426, ch. 494, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 13.09. Balloting at primaries

The vote at all primary elections shall be by official ballot, which shall have a detachable stub as described in Section 61 of this Code. The name of the party shall be printed at the head of the ballot, and under such head shall be printed the names of all candidates, those for each nomination being arranged in the order determined by the various committees as herein provided for, beneath the title of the office for which the nomination is sought. An appropriate space for a write-in candidate shall be provided under the title of each office. The ballot shall also contain the instruction note prescribed in Section 61 of this Code.¹

The official ballot shall be printed in black ink upon white paper and beneath the name of each candidate for state and district offices there shall be printed the county of his residence. The ballot shall be printed by the county committee in each county, which shall furnish to

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

the presiding officer of the general primary for each voting precinct at least as many of such official ballots plus ten per cent (10%) as there are poll taxes paid for such precinct, as shown by the tax collector's list.

Where two (2) or more candidates are to be nominated for the same office, to be voted for by the qualified voters of the same district, county or justice precinct, such candidates shall be voted for and nominations made separately and all such nominations shall be separately designated on the official ballots by numbering the same "Place No. 1," "Place No. 2," etc. Each candidate for such nominations shall designate in the announcement of his candidacy, and in his request to have his name placed on the official ballot, the number of the nomination for which he desires to become a candidate, and the names of all candidates so requesting shall have their names printed beneath the title of the office and the number so designated. Each voter shall vote for only one candidate for each nomination. As amended Acts 1957, 55th Leg., p. 802, ch. 338, § 3.

¹ Article 6.05.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 13.34. County and precinct conventions

On the first Saturday after the primary election day of 1952, and each two years thereafter, there shall be held in each county a county convention of each party to be composed of one delegate from each precinct in such county, for each twenty-five votes, or major fraction thereof, cast for the party's candidate for Governor in such precinct at the last preceding general election, which delegate or delegates shall be elected by the qualified voters of each precinct on primary election day at precinct conventions to be held on said day, which county convention shall elect one delegate to the state convention for each three hundred votes, or major fraction thereof, cast for the party's candidate for Governor in such county at the last preceding general election. The delegates to said convention so elected, or such of them as may attend said convention, shall cast the vote of the county in such convention. The qualified voters of each voting precinct of the county shall assemble on the date named and shall be called to order by a precinct chairman who shall have been previously elected by the qualified voters of the precinct; or if such elected chairman is unavailable, then the precinct chairman appointed by the county executive committee of the party, and who shall be a qualified voter of said election precinct; or in his absence, by any qualified voter. Before transacting any business the precinct chairman shall cause to be made a list of all qualified voters present. The name of no person shall be entered upon said list nor shall he be permitted to vote, be present at, or to participate in the business of such convention until it is made to appear that he is a qualified voter in said precinct from a certified list of the qualified voters, the same as is required in conducting a general election. Any qualified voter, whose name appears on the certified list of qualified voters, shall be permitted to participate in and vote in said convention. Said precinct convention shall elect from among those present and qualified a permanent chairman and such other officers as may be necessary to conduct its business. The chairman of said convention shall possess all the power and authority that is given to election judges by the provisions of this Code. After the convention is organized it shall elect its delegates to the county convention and transact such other business as may properly come before it. The officers of the precinct convention shall keep a written record of its proceedings, including a list of delegates elected to the county con-

vention which shall constitute the returns from said convention. The record, and a copy thereof, shall be signed officially, sealed up and safely transmitted by the permanent chairman of the precinct convention within three (3) days after the precinct convention to the county clerk of the county, who shall affix his file mark thereto and who shall promptly deliver the original copy of such return to the chairman of the county executive committee, and the return filed with the county clerk shall be open to public inspection during the regular office hours. The chairman of the county executive committee shall deliver the list of delegates named by the precinct conventions in the county to the county convention, and said lists shall constitute the temporary roll of those selected as delegates to the county convention and only delegates on such temporary roll shall be permitted to vote in the temporary organization of said county convention. The county convention shall elect a permanent chairman and such other officers as may be necessary to conduct its business and immediately upon the adjournment of each such county convention the permanent chairman thereof shall make out a certified list of the delegates chosen, together with a copy of all resolutions adopted by the county convention, and shall sign the same, the permanent secretary of such convention attesting his signature, and within five (5) days after said county convention shall forward such certified list, resolutions and copies of each thereof by sealed registered letter to the Secretary of State in Austin, Texas, who shall affix his file mark thereon and who shall deliver the originals thereof to the chairman of the state executive committee, prior to the state convention, who shall deliver the same to the state convention; and such lists shall constitute the temporary roll of those selected as delegates to such convention, and only delegates on such temporary roll shall be permitted to vote in the temporary organization of the state convention. No person shall be permitted to hold a proxy or vote a proxy at a state convention from more than one county. The county executive committee in its meeting on the second Monday in June preceding the general primary election or, upon its failure to act, the county chairman, shall determine the hour and place at which the precinct conventions shall be held on primary election day, and the county chairman shall be required to post a copy of this order on a bulletin board at the county court house and file a copy of the same in the office of the county clerk where the same shall be open to public inspection. This notice shall be posted by the county chairman at least ten (10) days prior to the holding of the precinct conventions. Also at this meeting the county executive committee, or, upon its failure to act, the county chairman, shall decide the hour and place at which the county convention shall be held on the first Saturday after primary election day, and the county chairman shall post this order on the bulletin board at the county court house and also file a copy of this notice with the county clerk. This notice shall also be posted at least ten (10) days prior to the date of the county convention. Should the county chairman fail to post such orders and file such notices, then any member of the county executive committee may post such orders and file such notices and such shall constitute the orders and notices required herein. Should more than one such member of the county executive committee post such orders and file such notices, then the first posting and filing in point of time shall prevail. Representatives of newspapers, wire news services, radio and television stations shall have the right to attend precinct conventions, the county conventions, and the state convention for the purpose of reporting the proceedings thereof. Acts 1951, 52nd Legislature, p. 1097, ch. 492, art. 212, as amended Acts 1957, 55th Leg., p. 430, ch. 206, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

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

Art. 13.43a. Contests for office of precinct chairman or county chairman

Notwithstanding any other provision of this Code, and particularly notwithstanding Section 220 thereof, the district courts of this state are vested hereby with jurisdiction to order recounts and to hear and determine election contests relative to the party offices of precinct chairman and county chairman, the same as though it were a contest for a place on a party ticket for public office.

Any candidate for precinct chairman or county chairman, within two days after the canvass of the votes by the county executive committee, may file in the district court an application for a recount of the votes for such office. The sum of Fifty Dollars (\$50.00) in cash to cover the cost of such recount shall be deposited with the clerk at the time of filing. Thereupon it shall be the duty of the court to order forthwith a recount of such votes by three disinterested commissioners appointed by the court. The report of the commissioners showing the results of such recount shall be filed with the court at such time as the court may direct, but in no event later than five days from the date of the order of the court appointing the commissioners. Either party within three days from the filing of such report may file a contest as to such election, and the recount thereof, and the same shall be tried and adjudicated the same as though it were a contest for a place on a party ticket for public office. The court shall have the power to issue all orders and writs necessary to protect its jurisdiction and effectuate and facilitate such recount and the trial of any such election contest.

If no contest is filed within such three-day period by either party, and there be only two candidates for such office, the court shall enter an order declaring the person receiving the highest number of votes as shown by such recount to be duly elected precinct chairman or county chairman.

If there be more than two such candidates, and none of them is shown by the recount to have received a majority of the votes cast in such race, the court shall enter its order declaring the two persons receiving the highest number of votes to be the two candidates to be placed on the ballot for the second primary.

In its final judgment the court shall assess the costs as in any civil suit. Appeals shall lie from the orders of the court the same as though it were a contest for a place on a party ticket for public office. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 220a, added Acts 1957, 55th Leg., p. 545, ch. 254, § 1.

Emergency. Effective May 20, 1957.

Tex.St.Supp. '58—20

TITLE 51—ELEEMOSYNARY INSTITUTIONS

CHAPTER ONE—GENERAL PROVISIONS

Art.

3174b—1. Repealed.

research and education in mental illness [New].

3174b—4. Outpatient clinics; mental hospital; community hospital for

Art. 3174b—1. Repealed. Acts 1957, 55th Leg., p. 505, ch. 243, § 103. Eff. Jan. 1, 1958

Repealed article, Acts 1955, 54th Leg., p. 52, ch. 38, § 1, related to nonresident patients and students and power of Board for

Texas State Hospitals and Special Schools to discharge on escape, etc.

Art. 3174b—4. Outpatient clinics; mental hospital; community hospital for research and education in mental illness

Statement of Purposes and Public Policies

Section 1. It is the sense of the Legislature that the Board for Texas State Hospitals and Special Schools be authorized to establish such outpatient clinics for treating the mentally ill as such Board deems necessary and as funds for their operation are made available; and that a total mental health program be established in a given area of this State which shall consist of the following: (1) An area or community hospital of approximately sixty (60) beds to be used for treating the mentally ill and for research, training, and education in treating mental illness and an outpatient clinic which may be operated in conjunction with the community hospital; the outpatient clinics to be authorized and the community hospital and clinic to be provided for in this Act; and (2) A separate larger mental hospital of approximately five hundred (500) beds.

Authorization for Outpatient Clinics

Sec. 2. The Board for Texas State Hospitals and Special Schools is authorized to establish outpatient clinics for treatment of the mentally ill in such locations as deemed necessary by said Board and as money for their operation shall be made available. The Board shall acquire facilities, provide a staff, make rules and regulations, and make contracts with persons, corporations, and agencies of local, State, and Federal governments as shall be necessary for the establishment and operation of said clinics.

Establishment of Community or Research Hospital

Sec. 3. There shall be constructed, established, and maintained an area or community hospital of approximately sixty (60) beds to be used in treating the mentally ill and for research, training, and education in mental illness and an outpatient clinic which may be operated in conjunction with the community hospital. Such hospital and clinic shall be located within a city where a recognized medical center is located and operating. The Board for Texas State Hospitals and Special Schools shall designate the city and select a site or sites therein for the location of said community hospital and outpatient clinic. Such site or sites shall be accessible and convenient to the local medical center and shall contain sufficient land served by adequate utilities to meet the requirements of said hospital and outpatient clinic. Said Board shall take title to the land or lands

so selected by them in the name of the State of Texas for the use and benefit of said hospital and clinic; provided, that the Attorney General's Department shall first approve the title to the land or lands so selected by the Board.

Location and Construction of Mental Hospital

Sec. 4. The Board for Texas State Hospitals and Special Schools shall select the site for said mental hospital, and the Board, in selecting such site, shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants and available medical facilities, and the same shall contain sufficient land and have utilities readily available. Said Board shall take title to the land so selected by them in the name of the State of Texas for the use and benefit of said hospital; provided, however, that the Attorney General's Department shall first approve the title to the land so selected by the Board. There shall be constructed upon said grounds so selected permanent, suitable, substantial, and fireproof buildings sufficient in all respects to be used for the treatment of the mentally ill; said buildings are to be provided with modern improvements for furnishing water, heat, ventilation, and sewage.

Preparation of Plans

Sec. 5. The Board for Texas State Hospitals and Special Schools shall proceed, within the limits of legislative appropriation of funds, to prepare plans and specifications for said buildings; and said Board is authorized to make contracts with such persons, corporations, or agencies of State, local, and Federal governments, and to accept gifts or grants of land as said Board deems proper and necessary to effect the purposes of this Act within the limits of appropriations authorized therefor.

Personnel; Patients

Sec. 6. Upon the completion of the buildings and facilities for either or both of said research hospital or the larger separate mental hospital, the Board for Texas State Hospitals and Special Schools shall appoint such personnel as are necessary to operate and maintain such hospital and clinic and to adequately treat such patients as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit patients to the area or community hospital and shall provide for their care and maintenance under the same applicable laws, rules and regulations as govern the admission and care of mentally ill persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally ill. The outpatient clinic shall be operated under such rules and regulations as the Board may promulgate.

The Board for Texas State Hospitals and Special Schools is hereby authorized, in its discretion, to operate and maintain such hospital and clinic as a part of such other hospital as may be constructed or operated by the Board.

Appropriation

Sec. 7. There is hereby appropriated to the Board for Texas State Hospitals and Special Schools such Federal funds as the United States Government may grant for the construction of such buildings, and such other funds as may be given or granted by any State agency, foundation, estate, or individual, and said Board is authorized and directed to obtain and expend such funds as may become available for the programs and facilities authorized by this Act.

Temporary Facilities

Sec. 8. Until such hospital and clinic is constructed, the Board for Texas State Hospitals and Special Schools is hereby authorized to rent, or accept and use, such temporary facilities as are available and necessary for the establishment of research, training, and treatment activities at such location or locations as may be selected by the Board. Acts 1957, 55th Leg., p. 1280, ch. 427.

Emergency. Effective Sept. 1, 1957.
Title of Act:

An Act authorizing outpatient clinics and establishing and providing for a community hospital for research and education in men-

tal illness; for a large mental hospital and for outpatient clinics; regulating and providing for the operation of same; and declaring an emergency. Acts 1957, 55th Leg., p. 1280, ch. 427.

CHAPTER TWO—STATE HOSPITALS

Art.

3193—1. Repealed.

3196c—1. Narcotic drug addicts; voluntary treatment and commitment in state hospitals [New].

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

Arts. 3186, 3186a. Repealed. Acts 1957, 55th Leg., p. 1413, ch. 486, § 22. Eff. Jan. 1, 1958

Arts. 3193—3196. Repealed. Acts 1957, 55th Leg., p. 505, ch. 243, § 103. Eff. Jan. 1, 1958

Repealed article 3193—1, Acts 1955, 54th Leg., p. 1113, ch. 411, related to initial admissions; mode and procedure; Abilene State Hospital excepted.

Art. 3196c—1. Narcotic drug addicts; voluntary treatment and commitment in state hospitals

Eligibility for admission

Section 1. Any person who has been a bona fide resident of the State of Texas for a continuous period of twelve (12) months immediately prior to making application for admittance to a state hospital as herein provided, and who is addicted to the use of narcotic drugs, shall be eligible for admission into, and care and treatment in, a state hospital under the jurisdiction of the Board of Texas State Hospitals and Special Schools.

Admission of addicts; certification; refusal of admittance

Sec. 2. If there be facilities available in a state hospital, the Board may in its discretion admit into a state hospital, for care and treatment, any person eligible for admission under this Act who voluntarily applies for such admission, and who is certified to the Board by a reputable practicing physician licensed to practice medicine in this State, by written statement certifying that to the best of his knowledge and belief such applicant is a narcotic drug addict and is in need of hospitalization and treatment; provided, however, that the Board may refuse admittance to any applicant who has been a patient receiving treatment solely for drug addiction in a state hospital and who has been released for admittance, if, in the opinion of the Board, no useful purpose would be served by the admission of such applicant.

**Period of treatment; voluntary consent to detention;
waiver of right to release**

Sec. 3. A patient admitted to a state hospital under the provisions of this Article may be treated in the hospital until he is pronounced cured by the medical authorities of the hospital unless the Superintendent of the hospital determines that further treatment will not likely be beneficial; provided, however, that the patient shall be released upon his request for release at any time. Any applicant who applies for admission to a state hospital under the provisions of this Article shall be deemed to have voluntarily consented to his detention in the hospital and shall waive any right to be released from the hospital before the expiration of such period of time.

Payments for maintenance

Sec. 4. Any person admitted to a state hospital under the provision of this Article shall, if he has sufficient funds, be required to pay for his maintenance at the same rate charged other patients for maintenance at such hospital, and all the provisions of Chapter 152, Acts of the Regular Session of the Forty-fifth Legislature, 1937 (Article 3196a, Vernon's Texas Civil Statutes) shall be applicable to any person admitted to a state hospital under the provisions of this Article. However, no person otherwise eligible for admittance to a state hospital under the provisions of this Article shall be denied admittance thereto, and care and treatment therein, because of financial inability to pay for his maintenance.

Delinquent children as addicts; commitment

Sec. 5. When any juvenile is declared to be a delinquent child because of his habitual use of or addiction to narcotic drugs, or when the judge of the juvenile court finds that any delinquent child under the jurisdiction of the court is addicted to the use of narcotic drugs, the court may order the child to be committed to the custody of the Board for Texas State Hospitals and Special Schools for treatment in a state hospital, providing there are facilities available in a State Hospital and the Board consents to such admission, to remain in the hospital until the medical authorities of the hospital certify that he is cured or that further treatment will not likely be beneficial. The delinquent child shall continue to be subject to the jurisdiction and orders of the committing court during the time of his confinement in the hospital, and shall be remanded to the court upon his discharge. Acts 1957, 55th Leg., p. 340, ch. 154.

Emergency. Effective May 6, 1957.

Section 6 of the Act of 1957 was a severability clause.

Title of Act:

An Act providing for voluntary treatment and commitment of narcotic drug addicts in state hospitals under the jurisdiction

of the Board of Texas State Hospitals and Special Schools; prescribing the conditions and procedures for commitment, admission, and release; providing a saving clause; and declaring an emergency. Acts 1957, 55th Leg., p. 340, ch. 154.

Art. 3196d. Repealed. Acts 1957, 55th Leg., p. 505, ch. 243, § 103.
Eff. Jan. 1, 1958

CHAPTER THREE—OTHER INSTITUTIONS

TEXAS BLIND, DEAF AND ORPHAN SCHOOL

ABILENE STATE SCHOOL [NEW]

Art.

Art.

3222a. Relocation of site; new facilities; disposition and transfer of lands [New].

3232b. Abilene State School, name changed to.

TEXAS SCHOOL FOR THE BLIND

Art. 3207a. State Commission for the Blind; quorum; vacancies; powers and duties

Section 1. There is hereby created and established the State Commission for the Blind, consisting of six (6) members to be appointed by the Governor and confirmed by the Senate of Texas; two (2) to be reputable blind citizens of Texas, and the other four (4) to be outstanding citizens of Texas, and whose terms of office shall be for six (6) years each, or until their successors shall have been appointed and qualified; provided, however, that the Board shall annually elect a chairman from its membership and that four (4) members shall constitute a quorum for the transaction of business; providing the term of two (2) members to expire January 1, 1945, the term of two (2) members to expire January 1, 1947, and the term of two (2) members to expire January 1, 1949; provided, however, that the present members of the State Commission for the Blind who have previously been appointed by the Governor and confirmed by the Senate shall continue to hold office for the terms to which they have been appointed. The Governor shall designate which appointee he desires to fill each term and shall make such appointments immediately after the effective date of this Act. Vacancies shall be filled for any unexpired term by appointment by the Governor with the advice and consent of the Senate. On January 1, 1945, and biennially thereafter, vacancies existing on said Commission shall be filled, and members selected shall be appointed for a full term of six (6) years, and each member of said Commission shall hold office until his successor has been appointed and has qualified by taking the oath of office. As amended Acts 1957, 55th Leg., p. 1318, ch. 443, § 1.

Emergency. Effective June 6, 1957.

Section 2 of the amendatory Act of 1957 rights and duties that matured before its provided that this Act does not affect effective date.

TEXAS BLIND, DEAF AND ORPHAN SCHOOL

Art. 3222a. Relocation of site; new facilities; disposition and transfer of lands

Section 1. The Texas Youth Council is hereby authorized to relocate the State Blind, Deaf and Orphans School now situated on Bull Creek Road in the City of Austin, Texas, to a more suitable site.

Sec. 2. From funds appropriated in the general appropriation bill, the Texas Youth Council is directed to construct a new Blind, Deaf and Orphans School.

Sec. 3. The Texas Youth Council is authorized to enter into an inter-agency contract with the Board for State Hospitals and Special Schools for the purpose of transferring the present site of the Blind, Deaf and Orphans School to the Board for Texas State Hospitals and Special Schools for use by the Hospital Board as it so needs. The Texas Youth

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

Council is further authorized to accept by an inter-agency contract suitable land now owned or acquired by the Hospital Board for the purpose of constructing a new Blind, Deaf and Orphans School. Should the State Hospital Board not have a suitable tract of land for such purposes, then in such event the State Hospital Board shall purchase a suitable tract of land in or near Austin, Texas to be approved by the Texas Youth Council in exchange for the present facilities at the Blind, Deaf and Orphans School. The Hospital Board is authorized to purchase such site out of any funds appropriated to them by House Bill No. 133 of the 55th Legislature¹; provided, however, such monies shall not be appropriated or transferred from any medical treatment funds, for the purpose of this Act. Acts 1957, 55th Leg., p. 1164, ch. 389.

¹ Vernon's Texas Session Laws, ch. 385, p. 870.

Effective 90 days after May 23, 1957, date of adjournment.

ABILENE STATE SCHOOL [NEW]

Art. 3232a. Repealed. Acts 1957, 55th Leg., p. 505, ch. 243, § 103. Eff. Jan. 1, 1958; Acts 1957, 55th Leg., p. 1207, ch. 401, § 7. Eff. June 6, 1957

Art. 3232b. Abilene State School, name changed to

Section 1. The name of "Abilene State Hospital" created by H. B. No. 337, Chapter 406,¹ Acts of the Fifty-first Legislature, Regular Session, 1949, is hereby changed to Abilene State School. Hereafter the Abilene State School shall be operated under the provisions of the Mentally Retarded Persons Act being Senate Bill No. 221, Chapter 119,² Acts of the Fifty-fourth Legislature, Regular Session, 1955.

Sec. 2. All laws heretofore or hereafter enacted by the Legislature applicable or relating to "Abilene State Hospital" shall hereafter be applicable and relate to Abilene State School.

Sec. 3. All appropriations heretofore made and now effective or appropriations hereafter made by the Legislature for the use and benefit of "Abilene State Hospital" shall be available for the use and benefit of Abilene State School.

Sec. 4. All contracts heretofore entered into in behalf of "Abilene State Hospital" are hereby ratified, confirmed, and validated for and in behalf of Abilene State School.

Sec. 5. The Board shall employ a superintendent for the Abilene State School who shall possess such qualifications as the Board may prescribe.

Sec. 6. Epilepsy shall not bar the admission of any person to a State institution or school within this State. Acts 1957, 55th Leg., p. 1207, ch. 401.

¹ Article 3232a.

² Article 3871b.

Emergency. Effective June 6, 1957.

Section 7 of the Act of 1957 repealed art. 3232a.

State School for mentally retarded, see art. 3871c.

Title of Act:

An Act changing the name of "Abilene State Hospital"; providing for its opera-

tion; ratifying contracts; providing qualifications for the Superintendent; providing that epilepsy shall not be a bar to admission to a State institution or public school; repealing certain laws; and declaring an emergency. Acts 1957, 55th Leg., p. 1207, ch. 401.

AUSTIN STATE SCHOOL

Arts. 3233-3238. Repealed. Acts 1955, 54th Leg., p. 438, ch. 119, § 25,
eff. Sept. 6, 1955

Jurisdiction of probate courts specially
created; proceedings as to treatment of
tubercular persons, see art. 1970a-1.

TITLE 55—EVIDENCE

1. WITNESSES AND EVIDENCE

| | | | |
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| Art. 3726a. | Statements as to marital status, genealogy, legal heirs, in judgment, affidavit, etc., as evidence [New]. | Art. 3731b. | Photographic or photostatic copies of business and official records; admissibility [New]. |
|----------------|---|----------------|---|

1. WITNESSES AND EVIDENCE

Art. 3726a. Statements as to marital status, genealogy, legal heirs, in judgment, affidavit, etc., as evidence

On title to real property, any statement concerning the marital status, genealogy, or showing who were, or are, the legal heirs of any deceased person, when contained in any final judgment of a court of record in the State of Texas or in any affidavit, or in any other instrument, or in a certified copy of the record thereof, which for a period of not less than five years has been recorded in the office of the County Clerk of the county in which the property involved in a pending suit is situated, shall be received in such suit as prima facie evidence of the facts so stated, provided the original instrument, or a certified copy thereof, or a certified copy of the record thereof, be filed among the papers in such suit and notice of such filing be given to all adverse parties in such suit, or their attorneys of record therein, at least thirty days before the trial thereof; but if there be any error in any such statement contained in any such affidavit or instrument or judgment, the true facts may be proved by any party to the proceeding in which any such statement is offered in evidence, except no such party who is under the laws of this state legally bound by, or estopped to deny, any such affidavit, judgment, or other instrument may controvert such statement contained therein. Acts 1957, 55th Leg., p. 266, ch. 125, § 1.

Emergency. Effective April 30, 1957.

Section 2 of the Act of 1957 provided: 3726a of Title 55, Revised Civil Statutes of "When enacted the foregoing Section 1 of Texas (1925)." this Act shall be designated as Article

Art. 3731b. Photographic or photostatic copies of business and official records; admissibility

Section 1. Where any public officer of this state, the United States or another state or nation or of any political subdivision of any of the foregoing or his deputy or employee in the performance of the function of his office has kept or recorded any memorandum, document, entry or report and has caused the same to be copied or reproduced by any photographic, photostatic, microfilm or other process which accurately reproduces or forms a durable medium for so reproducing the original, such reproduction shall be admissible in evidence under the provisions of Section 3 of this Article.

Sec. 2. Where any business, as that term is defined in Chapter 321¹ of the General Laws of Texas 1951, in the regular course of business has kept any memorandum of or made any record of an act, event or condition, and has caused the same to be copied or reproduced by any photographic, photostatic, microfilm or other process which accurately reproduces or forms a durable medium for so reproducing the original, such reproduction shall be admissible in evidence under the provisions of Section 3 of this Article.

Sec. 3. Such photograph, photostat, microfilm or other reproduction shall be, so far as relevant, admitted in any judicial or administrative proceeding in this state as evidence of the matters stated therein, in any instance in which the original memorandum, record, document, entry or report would be admitted under the provisions of Chapter 321 or Chapter 471² of the General Laws of Texas 1951. In the case of public records the reproduction may be proved to be correct by following the procedure set forth in Chapter 471 of the General Laws of Texas 1951, as amended. In the case of business records the reproduction may be proved to be correct by the testimony of the entrant, custodian or other qualified witness.

Sec. 4. The existence or non-existence of the original shall not affect the admissibility of the reproduction. An enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under the direction of the court. The introduction of a reproduced record, enlargement or facsimile does not preclude admission of the original. Acts 1957, 55th Leg., p. 1257, ch. 418.

¹ Article 3737e.

² Article 3737a.

Emergency. Effective June 6, 1957.

Section 5 of the 1957 Act repealed inconsistent laws.

Title of Act:

An Act to provide for the proof of business and official records by the use of

photographic copies; and declaring an emergency. Acts 1957, 55th Leg., p. 1257, ch. 418.

**TITLE 59—FEEBLE MINDED PERSONS—PROCEEDINGS
IN CASE OF**

Art.

3871c. State School for mentally retarded
[New].

Art. 3871b. Mentally retarded persons

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

Art. 3871c. State School for mentally retarded

Establishment

Section 1. There shall be constructed, established, and maintained an additional school for the diagnosis, special training, education, supervision, treatment, care or control of mentally retarded persons of this State. It shall be known as the State School; that after the said State School has been located, then the name of the city near which it is located shall be added before the words "State School" which shall be its name.

The Board for Texas State Hospitals and Special Schools shall select a site for said school, and the Board, in selecting such site, shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants, and the same shall contain sufficient land and have utilities readily available. Said Board shall take title to the land so selected by them in the name of the State of Texas for the use and benefit of said school; provided, however, that the Attorney General's Department shall first approve the title to the land so selected by the Board.

Buildings

Sec. 2. There shall be constructed upon said grounds so selected permanent, suitable, substantial, and fireproof buildings sufficient in all respects to care for mentally retarded persons; said buildings are to be provided with modern improvements for furnishing water, heat, ventilation, and sewage.

The Board for Texas State Hospitals and Special Schools shall proceed to prepare plans and specifications for said buildings; and immediately after this Act becomes effective and title to the land designated as the site for said school shall have been approved by the Attorney General as being vested in the State of Texas, and upon the availability of sufficient appropriation, the Board shall contract for the erection of the necessary buildings for the proper operation of said school, as provided by law; and said Board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

Personnel; Patients

Sec. 3. Upon the completion of the buildings and facilities, the Board for Texas State Hospitals and Special Schools shall appoint such personnel as are necessary to operate and maintain such school and to adequately treat such persons as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit persons and shall provide for their care and maintenance under the same laws, rules and regulations as govern the admission and care of mentally retarded persons provided for in the General Laws of the

State of Texas governing institutions for the care of the mentally retarded. Acts 1957, 55th Leg., p. 1202, ch. 399.

Emergency. Effective June 6, 1957.

Abilene State School, see art. 3232b.

Title of Act:

An Act establishing and providing for a
State mentally retarded school; regulating

and providing for the operation of same;
and declaring an emergency. Acts 1957,
55th Leg., p. 1202, ch. 399.

TITLE 60—FEEDING STUFF

Art.
3880—A. Repealed.
3881a-3881d. Repealed.

Art.
3881e. Commercial Feed Control Act of
1957 [New].

Arts. 3872-3880, 3880—A, 3881, 3881a-3881d. Repealed. Acts 1957, 55th Leg., p. 35, ch. 23, § 17. Eff. Sept. 1, 1957

Prior to repeal Arts. 3872 and 3875 were amended by Acts 1953, 53rd Leg., p. 826, ch. 333, §§ 1, 2; Art. 3880—A, relating to sale and distribution of feeding stuff, was added by Acts 1947, 50th Leg., p. 759, ch. 374, § 1; Arts. 3881a-3881d, relating to special formula feeds, were added by Acts 1953, 53rd Leg., p. 826, ch. 333, §§ 6-8a.

Art. 3881e. Commercial Feed Control Act of 1957

Title

Section 1. This Act shall be known and may be cited as the "Texas Commercial Feed Control Act of 1957".

Administration

Sec. 2. The provisions of this Act shall be administered by the Director of the Texas Agricultural Experiment Station of the State of Texas, hereinafter referred to as the "Director".

Definitions

Sec. 3. The words and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meaning:

(a) The term "commercial feed" includes customer-formula feed as this term is used in this Act and means any material, whether simple, mixed, compounded, ground, unground, organic or inorganic, used as a feed for animals other than man, or any material including minerals, vitamins, antibiotics, antioxidants, medicines, drugs, chemicals and other substances, materials or elements, or parts thereof intended for use or used as an ingredient or component of a mixture of materials, used as a feed for animals other than man; but the term shall not be construed as including (1) unground hay, (2) planting seed, (3) cottonseed, (4) whole grain not containing chemical adulterants, (5) unadulterated cottonseed, peanut, or rice hulls, (6) feed products produced and sold by farmers, (7) individual mineral substances when not mixed with other material, or (8) materials furnished by the customer-buyer and which were produced by the customer-buyer or acquired by him from a source other than from the person whose services are engaged in the milling, mixing, or processing of a mixture prepared for and in accordance with the specific instructions of the customer-buyer.

(b) The term "sell" or "sale" includes exchange.

(c) The term "distribute" means to offer for sale, sell, barter, or otherwise supply commercial feeds.

(d) The term "Director" means the Director of the Texas Agricultural Experiment Station, and includes his duly appointed representatives.

(e) The term "person" means an individual of either sex, a firm, broker, jobber, partnership, corporation, company, legal entity, society, or association, and every agent, officer or employee of any thereof. The term imparts both the plural and the singular as the case may be.

(f) The term "container" means any bag, box, barrel, package, carton, object, apparatus, device, appliance or other container into which commercial feed is packed, stored, or placed for handling or transporting.

(g) The term "weight" means weight in the avoirdupois system.

(h) The term "feed ingredient" means each of the constituent materials making up a commercial feed.

(i) The term "customer-formula feed" means a mixture of commercial feeds or feed materials, each batch of which is mixed according to the specific instructions of the final purchaser.

(j) The term "brand" means the term, design, or trademark and other specific designation under which an individual commercial feed is distributed in this state.

(k) The terms "label" and "labeling" mean a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed in bulk or with which a customer-formula feed is distributed either in bulk or otherwise.

(l) The term "ton" means a net weight of two thousand pounds avoirdupois.

(m) The term "per cent" or "percentage" means percentage by weight.

(n) The term "official sample" means any sample of feed taken by the Director or his agent and designated as "official" by the Director.

(o) The terms "purchaser" and "customer-buyer" mean any person, firm, organization, agency, association, or group who buys or otherwise acquires a commercial feed, customer-formula feed, or custom-mix or custom-mill services.

(p) The term "custom-mix" or "custom-mill" means services only.

(q) The term "permit" means a document issued by the Director for the purpose of authorizing the payment of the inspection fee due on commercial feed when the tax is to be paid on the tonnage of feed sold rather than by the purchase of inspection tags (or certificates).

(r) The term "tag (or certificate)" means the tag (or certificate) supplied by the Director and is the method of paying the inspection fee other than by means of the permit.

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

Customer-Formula Feed, Special-Formula Feed, Made to Order Feed and Custom-Mixed or Custom-Milled Feeds

Sec. 4. (a) The terms "customer-formula feed," "special-formula feed" and "made to order feed" are synonymous and mean a mixture of commercial feed and/or feed material, all or any part of which is furnished by the person or distributor who processes, mixes, mills, or otherwise prepares such mixture, and which is mixed according to the specific instructions of the purchaser. The term "customer-formula feed" as used in this Act includes "special-formula feed," "made to order feed" and any other terms coming within this definition. Any portion of such a mixture that was produced by the purchaser or acquired by him from a source other than from the person who mixes, mills, or processes the mixture is exempt from payment of the inspection fee, but the name and quantity of each item supplied by the purchaser must be shown and properly identified as such on the invoice furnished the purchaser and the portion of such mixture that is furnished by the person or distributor who processes, mixes, mills or otherwise prepares such mixture, shall likewise be shown on the invoice setting forth the information provided for in Section 6(c) of this Act.

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

(b) No manufacturer or other person shall mix, mill, process or engage in a practice in the mixing, milling, or preparation of a customer-formula feed unless and until he has complied with the provisions of Section 7 of this Act.

(c) Under Section 3(a) of this Act, the term "commercial feed" is defined to include customer-formula feed. This definition is hereby reaffirmed, and all of the provisions of this Act which apply to commercial feed also apply with equal force and effect upon "customer-formula feed" except where the language specifically exempts "customer-formula feed".

(d) The terms "custom-mixed," "custom-milled," or similar terms, mean the service rendered a customer or purchaser in the milling, mixing or processing of materials produced by the customer or purchaser or acquired by him from a source other than from the person who mixes, mills, or processes the mixture, and are not subject to the provisions of this Act.

Registration

Sec. 5. (a) Each brand of commercial feed, except customer-formula feed, shall be registered before being offered for sale, sold or otherwise distributed in this state. The application for registration shall be submitted to the Director on forms furnished by the Director, and if the Director so requests, shall also be accompanied by a label or other printed matter describing the product. Upon approval by the Director, a copy of the registration shall be furnished to the applicant if the registration forms are submitted in duplicate. All registrations are considered permanent unless new registrations are called for by the Director or unless cancelled by the registrant. The application shall include the following information:

(1) The name and principal address of the person responsible for distributing the commercial feed;

(2) The name or brand under which the commercial feed is to be sold, offered for sale, delivered or distributed;

(3) The guaranteed analysis, listing:

a. The minimum percentage of crude protein;

b. The minimum percentage of crude fat;

c. The maximum percentage of crude fiber;

(4) When authorized by the Director, in accordance with rules and regulations which he is authorized to issue, the maximum or minimum or the maximum and minimum quantity determinable by laboratory methods of minerals, vitamins, antibiotics, antioxidants, medicines, drugs, chemicals, and other substances, materials, or elements or parts thereof regardless of whether the claim, if any, as to the use and purpose of any such item or items shall be prophylactic, therapeutic, or otherwise. All such items shall, when guaranteed or claimed, be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the Director;

(5) The common or usual name of each ingredient used in the manufacture of the commercial feed.

(b) A distributor shall not be required to register any brand of commercial feed which is already registered under this Act by another person.

(c) Changes in the guarantee of either chemical or ingredient composition of a commercial feed may be permitted provided satisfactory evidence is submitted showing that such changes would not result in a lowering of the feeding value of the product for the purpose for which designed.

(d) The Director is empowered to refuse registration of any application not in compliance with all provisions of this Act, and to cancel after

thirty (30) days notice any registration when it is subsequently found to be in violation of any provision of this Act or when he has satisfactory evidence that the registrant has used fraudulent or deceptive practices in attempted evasion of the provisions of this Act or regulations thereunder. Provided, however, that no registration shall be refused or cancelled until the registrant shall have been given opportunity to be heard.

(e) If the home office or principal place of business of the applicant for registration of a commercial feed is located outside of the State of Texas, the applicant must deposit with the Director an instrument in writing appointing a resident agent upon whom service may be had in actions filed by the state in the administration and enforcement of the provisions of this Act, or by a claimant for the recovery of damages.

Labeling

Sec. 6. (a) Manufacturers or other persons shall, before selling, delivering, or offering for sale any commercial feed in this state except customer-formula feed, have placed on or affixed to the container, on the outside thereof, in one group, in such size type and in such place and order as may be prescribed by the Director, a plainly printed statement in the English language showing:

(1) The net weight of the commercial feed in the container, or a statement to the effect that the net weight is shown on the container, in which case the net weight must be plainly printed in a conspicuous place on the container in type the size of which may be prescribed by the Director;

(2) The information authorized by Section 5(a) (1), (2), (3), (4), and (5) of this Act.

(b) Manufacturers or other persons shall, at the time of delivery of a commercial feed sold in bulk, except customer-formula feed sold in bulk or otherwise, furnish the purchaser a printed or written statement showing the information authorized by Section 5(a) (1), (2), (3), (4), and (5) of this Act.

(c) A customer-formula feed shall be labeled by invoice to show the following:

(1) Name and address of the mixer, miller or processor;

(2) Name and address of the purchaser;

(3) Date of the sale;

(4) Name or brand and number of pounds of each registered commercial feed used in the mixture, and the name and number of pounds of each ingredient added, including the portion, if any, supplied by the purchaser, and shall be in compliance with the provisions of Section 5(a) (4) of this Act; provided, however, that the Director may, only when all ingredients are furnished by the mixer, miller or processor, as an alternate to the method required by the preceding language of this Section 6(c) (4), promulgate procedures and prescribed forms that will permit a customer-formula feed to be invoiced and labeled by means of an identifying name, number or similar designation in order to eliminate the necessity of itemizing the name and quantity of each separate item or ingredient contained in such a customer-formula feed.

(5) The invoice bearing the above information shall accompany delivery and be supplied to the purchaser at the time of delivery.

Inspection Fee

Sec. 7. (a) For the purpose of administering the Texas Commercial Feed Control Act of 1957, including the cost of equipment and facilities and the cost of inspecting, analyzing, and examining commercial feed

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

manufactured for sale, sold, offered or exposed for sale or otherwise distributed in this state, and the expense of experiments and research relative to the value thereof, persons engaged in the manufacture, sale, or distribution of commercial feeds or the components of commercial feeds shall pay to the Director, at his office in College Station, Texas, an inspection fee of Ten Cents (10¢) per ton on all such commercial feed. The inspection fee herein levied shall be deposited in the State Treasury and shall there be set apart as a special fund to be known as the Feed Control Fund, and shall be used with the approval and consent of the Board of Directors of the Agricultural and Mechanical College of Texas for the purposes stated in this Section 7(a) of this Act.

(b) The procedure for paying the inspection fee of Ten Cents (10¢) per ton shall, subject to the approval and consent of the Director, be either by the use of tax tags (or certificates) or by means of the tonnage reporting system or by a combination of both such procedures, and shall, in addition to regulations which the Director is herewith authorized to issue, be in compliance with all the provisions of this Act.

(c) When the inspection fee is to be paid by the use of the tax tag (or certificate) on any commercial feed which is manufactured for sale, sold, or offered for sale, or otherwise distributed in this state, the manufacturer or any other person who causes it to be manufactured for sale or who sells the same or offers it for sale or makes delivery or distribution of any such commercial feed within the State of Texas, shall affix to each container or package of such commercial feed, except customer-formula feed, and to the invoice of such customer-formula feed distributed in bulk or otherwise, and to the invoice of each lot of such other commercial feed distributed in bulk, a tag (or certificate), to be furnished by the Director, stating that all charges specified in this Article have been paid, and containing the information provided for in Section 6 of this Act. The Director is hereby authorized, empowered, and directed to prescribe the form and denomination of such tags and certificates; provided, however, that if at any time the actual cost to the Feed Control Service of tags (or certificates), including the printing and handling thereof, should be in excess of fifty per cent (50%) of the amount of the inspection fee as provided in this Section 7, the Director may, after giving reasonable notice in such manner as he deems desirable, charge all persons who cause commercial feed to be manufactured, sold, exposed, or offered for sale or otherwise distributed, for the total actual cost of such tags (or certificates) in addition to the inspection fee of Ten Cents (10¢) per ton; and provided further, that on individual containers of five (5) pounds or less, a manufacturer or other person may for each state fiscal year (September 1st to August 31st, inclusive) or any fractional part thereof, pay in advance a fee of Twenty-five Dollars (\$25.00) for each brand of commercial feed manufactured for sale, sold, offered for sale or otherwise distributed in this state, and such manufacturer or other person shall not be required to affix official tags (or certificates) to such containers of the brands of commercial feed so registered.

(d) When the inspection fee is to be paid by means of the Tonnage Reporting System, the Director is authorized, at his discretion and under such rules and regulations as he may promulgate, to prescribe and furnish such forms and to require the filing of such reports, and shall issue permits bearing a number assigned by the Director on application therefor to any person who manufactures, sells, offers for sale, or who otherwise distributes or has available for distribution in this state, regardless of the manner, means or circumstances as to its entry, presence or existence within this state, any commercial feed. Each applicant for the issuance of a permit must deposit with the Director cash in the amount of

One Thousand Dollars (\$1,000.00) or securities acceptable to and approved by the Director of a value of at least One Thousand Dollars (\$1,000.00), or must post with the Director a surety bond payable to the State of Texas in the amount of One Thousand Dollars (\$1,000.00), 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 (\$1,000.00) and approved by the Director, conditioned upon the faithful performance of the provisions of this Article. Each such bond shall be in such form and be effective for such period of time as the Director may prescribe. In addition to all other provisions of this Act, each person who is issued a permit to sell, offer for sale, or otherwise distribute commercial feed and pay the inspection fee in accordance with the tonnage reporting system shall:

(1) Maintain and furnish such records as the Director may require to reflect accurately the total tonnage of all feed handled, and the portion of such tonnage that is sold, offered for sale, or otherwise distributed as commercial feed and is subject to the inspection fee of Ten Cents (10¢) per ton. The Director or his duly authorized representatives shall have permission to examine the records of the permittee at all reasonable times. All records shall be preserved and retained in usable condition, and shall be available for examination by the Director or his representatives for a period of not less than two (2) years unless otherwise authorized by the Director, and the Director may require the retention of such records for a period of more than two years in instances where it is deemed desirable to do so.

(2) File in the office of the Director at College Station, Texas, within thirty (30) days after the close of each quarter year ending with the last day of November, February, May, and August, sworn reports covering the tonnage of all feed sold during the preceding quarter together with the payment of tax due for such quarter. 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 the tax due, and the amount of the tax and the penalty shall constitute a debt, and shall be recoverable out of the bond hereinbefore referred to; provided that the Director may, if he deems it desirable to do so, require additional reports for the purpose of identification and verification of records.

(3) When located outside of the State of Texas and when distributing commercial feed in the State of Texas, maintain in the State of Texas the records and information required by this Section 7(d) of this Act or pay all costs incurred in the auditing of records at a location outside of the state. The Director is authorized and directed to revoke the permit and cancel all registrations of any permittee who fails to comply with this requirement. Itemized statements of costs incurred in any such audits shall be furnished the permittee by the Director promptly upon completion of any such audit, and he must pay the same within thirty (30) days from the date of such statement.

(4) Affix to each container or package of such commercial feed, except customer-formula feed, and to the invoice of each lot of commercial feed, except customer-formula feed, sold or otherwise distributed in bulk a printed statement setting forth the information provided for in Section 6(a) and (b) of this Act.

(5) Affix to the invoice of each customer-formula feed sold or otherwise distributed a statement setting forth the information provided for in Section 6(c) of this Act.

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(e) Venue of all suits for recovery of taxes and penalties for non-payment of same shall be in Brazos County, Texas.

Adulteration

Sec. 8. A commercial feed shall be deemed to be adulterated:

- (a) When its composition, quantity, or quality falls below or differs from that which it is purported or represented to possess by its labeling;
- (b) When it is moldy, sour, heated, or otherwise damaged whereby it is rendered injurious to animals;
- (c) When any ingredient has been in whole or in part omitted or extracted therefrom;
- (d) When any substance has been substituted wholly or in part therefor;
- (e) When damage or inferiority has been concealed in any manner;
- (f) When any substance has been added thereto or mixed or packed therewith so as to deceptively increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is;
- (g) When it bears or contains any poisonous or deleterious substance which may render it injurious to animals under ordinary conditions of use;
- (h) When it bears or contains any added hulls, shells, screenings, straw, stalks, corn cobs, or any other low-grade feeding material or filler, unless the name and percentage of such material are clearly and prominently printed on the label and labeling thereof;
- (i) When it consists in whole or in part of any diseased, filthy, putrid, or decomposed substance, unless such substance has been rendered harmless by sterilization or other effective processes;
- (j) When it is otherwise unfit for feeding to animals.

Misbranding

Sec. 9. A commercial feed shall be deemed to be misbranded:

- (a) When its container does not bear a tag (or certificate) as required by Section 7(c) of this Act, unless it is in compliance with the provisions of Section 7(d) of this Act;
- (b) When its container does not bear the labeling as required by Section 6 of this Act;
- (c) When its labeling is false in any particular;
- (d) When its container is so made, formed, or filled as to be misleading;
- (e) When it purports to be or is represented as a commercial feed for which a definition of identity and a minimum standard have been prescribed by regulation, unless it conforms to such definitions and standards;
- (f) When it is not subject to the provisions of this Section 9(e) of this Act, unless its label bears the common or usual name of the commercial feed, if any there be, and in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient;
- (g) When any medicines, drugs, or any of the other items named in Section 5(a) (4) of this Act are incorporated in such commercial feed, and the quantity of such item and warning statements and directions for use are not shown on the labeling in compliance with regulations issued by the Director.

Inspection, Sampling, and Analysis

Sec. 10. (a) The Director shall have reasonable access during regular business hours to all places of business, mills, buildings, vehicles, con-

tainers, bins, and parcels of whatsoever kind used in the manufacture, transportation, importation, sale or storage of any commercial feed, and shall have the power and authority to inspect each such place, mill, or vehicle, and to open any container, bin or parcel containing or supposed to contain any commercial feed, and to take samples therefrom in the manner prescribed by regulation by the Director as he deems necessary to determine whether such commercial feed is in compliance with the provisions of this Act.

(b) Each such sample shall be taken in the presence of the manufacturer or of any such other person, or in the presence of their representative, and shall be taken from a parcel, lot, or number of parcels in such number and quantity as the Director may determine to be representative of the parcel, lot or number of parcels. When the person in possession of commercial feed refuses to be present and to take part in the sampling of same, the Director may take such samples in the presence of two disinterested witnesses.

(c) In order that each sample may be properly identified with the lot of commercial feed sampled, the Director may examine and make copies of any invoice, transportation record, or other records pertaining thereto.

(d) In the case of bulk lots of feed, a composite sample shall be made up of portions taken at random from not less than four different positions in the bulk lot. The composite sample shall be thoroughly mixed and divided so that each division shall fairly represent the whole, and the said sample or any portion thereof shall be considered the official composite sample of said feed.

(e) Each such sample shall be sealed, with a label placed thereon which states the serial number of the sample and the date that it is taken, and which bears the signature of the person taking the sample, and shall be sent to the Director or his representative. A report stating the name or brand of the commercial feed or material sampled, the serial number, the manufacturer thereof, if known, the name of the person from whose possession the sample was taken, the date and place of taking the sample, and the name of the person taking the sample, and the name of the person witnessing the taking of the sample, shall also be sent to the Director or his representative.

(f) All analyses of samples shall be made according to the official methods adopted by the Association of Official Agricultural Chemists of North America, and such other methods as the Director may deem authentic by research and investigation.

(g) Each such sample shall be divided into not less than four (4) equal parts. If the Director causes one (1) or more portions of such sample to be analyzed, he shall retain not less than three (3) portions of such sample for the purpose stated in this Section 10(h) of this Act.

(h) In the event the Director finds, through chemical analyses or any other methods or procedure, that a commercial feed is in violation of any provision of this Act, he shall so notify in writing the manufacturer or other person who caused the feed to be sold, offered for sale or otherwise distributed, giving full details. The manufacturer or the person who causes the feed to be sold, offered for sale or otherwise distributed may thereupon, within fifteen (15) days after said notice has been received, request, and the Director shall so direct if requested, that two (2) retained portions of the sample of such feed be submitted for analysis to two (2) qualified chemists selected by the Director, and the Director shall if so requested within the same fifteen (15) day period direct that one (1) retained portion of the sample be furnished such manufacturer or other person. Each of said chemists shall certify in duplicate, under oath, his findings to the Director, whereupon one such duplicate from each chemist

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shall be forwarded by the Director to the manufacturer or other person. The three (3) chemical analyses thus obtained may be considered in determining whether any violation of this Act has occurred. The manufacturer or other person requesting the analyses shall pay the cost of such analyses except that if it is thus determined that no violation has occurred, the Director shall pay such expense.

Rules and Regulations

Sec. 11. The Director is hereby authorized to:

(a) Enforce the provisions of this Act and prescribe and enforce administrative rules and regulations promulgated under the authority of this Act.

(b) Prescribe, adopt, and publish regulations establishing definitions and minimum standards for commercial feed which, to the extent practicable in the discretion of the Director, shall be in harmony with the official pronouncements of the Association of American Feed Control Officials; provided, however, that prior to the issuance of any rules and regulations, the Director shall hold public hearings on any such proposed rules and regulations, the public hearings to be held pursuant to not less than fifteen (15) days notice in writing. Each such notice shall set forth the time and place of the hearing and a copy of the proposed rules and regulations, and shall be mailed upon request to such organizations which reasonably may be expected to be vitally affected by said proposed rules and regulations.

(c) Rule exempt from the inspection fee provision of this Act any commercial feed manufactured, sold, or delivered solely for investigational, experimental, or laboratory use by qualified persons, when such investigation or experiment is conducted in the public interest.

(d) Publish from time to time such information relative to feeds as he deems necessary or desirable to the public interest; provided, however, that the information concerning production and use of commercial feed shall not disclose the business or financial operations of any person.

Detained Commercial Feeds

Sec. 12. (a) Whenever the Director shall find a commercial feed which he has reasonable cause to believe is being sold or offered for sale in violation of any provision of this Act, he shall affix to the container of such feed a written notice stating that such feed has been detained and warning all persons not to dispose of such feed in any manner until permission is given by the Director, or by a court, or until the detainer expires as hereinafter provided. If the Director finds that detained feed is not in violation of any provision of this Act, he shall forthwith remove the detainer notice from such feed. The detainer notice shall expire and shall become a nullity at the expiration of ten (10) days after it is affixed to any feed unless prior to such time the Director has instituted proceedings to condemn such feed pursuant to the provisions of this Section 12(b) of this Act.

(b) If detained commercial feed is found, after examination and analysis, to be in violation of any provision of this Act, the Director shall petition the district or county court in whose jurisdiction the feed is located for an order for condemnation and confiscation of such feed. If it is determined by the court that the commercial feed violates any provision of this Act, such feed shall be disposed of by destruction or by sale in accordance with the judgment of the court, and if the feed is sold, the proceeds from such sale, less court costs and charges, shall be paid into the State Treasury. Provided, however, that when the violation of this Act which is

found by the court with respect to such feed can be corrected by proper processing or labeling, the court, after entry of the decree and after all costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such feed shall be properly processed or labeled, has been executed, shall make an order directing that such feed be delivered to the owner thereof for such processing or labeling under the supervision of the Director. The expense of such supervision shall be paid by the owner of the feed. The bond shall be returned to the owner when the Director notifies the court that the feed is no longer in violation of this Act, and that the supervision expense aforesaid has been paid.

Unlawful Acts

Sec. 13. It is hereby declared unlawful for any person to commit any of the following acts, or to conspire to commit any of such acts, or to cause any of such acts to be committed within the State of Texas:

(a) To engage in the preparation, manufacture, sale, exposure, or offer for sale or otherwise distribute a customer-formula feed in violation of any of the provisions of Section 4 or any other Section applicable to customer-formula feed;

(b) To sell, offer, expose, or distribute for sale any commercial feed, except customer-formula feed, without registering with the Director as provided for in Section 5 hereof;

(c) To sell, offer, expose, or distribute for sale any product used or intended for use as a feed for animals unless the provisions of Section 6 hereof have been conformed to with respect to such product;

(d) To sell, offer, expose, or distribute for sale any commercial feed unless the inspection fee is paid and all other provisions of Section 7 hereof have been conformed to with respect to such feed;

(e) To sell, offer, expose, or distribute for sale any commercial feed which is not labeled in accordance with the provisions of Section 6 hereof;

(f) To sell, offer, expose, or distribute for sale any commercial feed which is adulterated within the meaning of Section 8 hereof;

(g) To sell, offer, expose, or distribute for sale any commercial feed which is misbranded within the meaning of Section 9 hereof;

(h) To refuse to permit entry or inspection, or to refuse to permit the acquisition of samples and the examining and the copying of invoices and transportation records, of a commercial feed, or otherwise fail to comply with the provisions of Section 10 hereof;

(i) To refuse to make records available, furnish reports, pay the inspection fee, permit the examination of records, or otherwise fail to comply with the provisions of Section 7(d) of this Act;

(j) To dispose of a detained commercial feed in violation of Section 12 hereof.

Penalties

Sec. 14. (a) Any person who performs any act herein declared to be unlawful, or who causes such act to be performed or who conspires to perform such act, shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00). Before the Director reports a violation for such prosecution, an opportunity shall be given the distributor to present his views.

(b) Any person who violates any of the provisions of this Act shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dol-

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lars (\$200.00), and each separate violation shall constitute a separate offense.

(c) The venue for any and all criminal prosecution and civil suits instituted under the provisions of this Act shall be in the county in which the commercial feed is located at the time the alleged violation is discovered by or otherwise made known to the Director or his representative, except as provided for in Section 7(e) of this Act.

(d) If the Director deems any violation of this Act to be of a minor nature, and if he is of the opinion that the public interest will be served and protected by the issuance of a written warning to the violator, he shall have discretion to forego the filing of any criminal or condemnation proceeding with respect to such violation, and to refrain from taking any further administrative action relative thereto.

(e) It shall be the duty of each district attorney, criminal district attorney, or county attorney, to whom the Director or his duly appointed representative reports any violation of this Act, to cause appropriate proceedings to be instituted and prosecuted in the proper courts without delay in the manner provided by law.

(f) The Director is authorized to cancel all registrations and revoke the permit of and refuse to issue tags (or certificates) to any manufacturer or other person who fails to comply with any of the provisions of this Act or any rules or regulations issued under authority of this Act.

Publications

Sec. 15. The Director shall publish at least once a year, in such form as he may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as he may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold, offered for sale, or otherwise distributed within the state as compared with the analyses guaranteed in the registration and on the label; provided, however, that information concerning production and use of commercial feed shall not disclose the scope of operations of any person.

Pending Court Cases

Sec. 16. Any court cases which are pending on the effective date of this Act shall not be affected by the passage of this Act, but shall be acted upon in accordance with the provisions of Title 17, Revised Criminal Statutes, 1925, as amended, and Title 60, Revised Civil Statutes, 1925, as amended.

Repeal of Prior and Conflicting Laws

Sec. 17. Articles 1489 to 1498, inclusive, of the Penal Code of the State of Texas (1925) as amended by Chapter 333, Acts of the 53rd Legislature, Regular Session; Articles 3872 to 3881d, inclusive, of the Revised Civil Statutes of Texas (1925) as amended by Chapter 14, Acts of the 40th Legislature, Regular Session (1927), Chapter 61, Acts of the 45th Legislature, 2nd Called Session (1937), Chapter 374, Acts of the 50th Legislature, Regular Session (1947), and Chapter 333, Acts of the 53rd Legislature, Regular Session (1953), are superseded by this Act and are hereby repealed. All other laws and parts of laws in conflict herewith are hereby repealed insofar as they are in conflict.

Certain Exemptions from Livestock Remedy Act

Sec. 18. Any substance, material or product, or part or combination thereof, which is regulated by the provisions of this Act is hereby expressly exempted from the provisions of Chapter 94, Senate Bill No. 75, Acts of

the 49th Legislature, Regular Session (1945), codified in Vernon's Texas Civil Statutes, 1948, as Article 192—1, Texas Livestock Remedy Act.

Appeal

Sec. 19. Any person at interest aggrieved by any order or ruling of the Director may appeal from such order or ruling to the district court in the county of his residence by filing a petition in such district court within twenty (20) days from the date of such ruling or order. The action shall be tried and determined as in other civil causes, but the burden of proof shall rest upon the person appealing to show the regulation, order, ruling, acts, or charges complained of are unreasonable and unjust to him and constitute a gross abuse of the discretion vested in the Director. Either party to the action may appeal the decision of the district court to the appellate court having jurisdiction of the cause.

Constitutionality

Sec. 20. If any provision of this Act is declared unconstitutional or if the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons or circumstances shall not be affected thereby; and the Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause and phrase hereof regardless of the fact that the Act might not validly be applicable to certain persons or circumstances. Acts 1957, 55th Leg., p. 35, ch. 23.

Effective Sept. 1, 1957.

TITLE 61—FEES OF OFFICE

CHAPTER ONE—GENERAL PROVISIONS

Art.

3912e—5a. Repealed.
 3912e—5c. Additional compensation for judge of Bexar county as member of Juvenile Board [New].

Art.

3912i. Maximum salaries of justices of the peace and constables; precinct officers; certain counties [New].

Art. 3883i. Maximum and minimum salaries; certain precinct, county and district officials in certain counties

Counties of 600,000 or more; Judges of district courts

Sec. 10. In all counties of this State having a population of six hundred thousand (600,000) or more inhabitants according to the last preceding Federal Census, the Commissioners Courts of such counties shall pay to the Judges of the several District Courts in such counties a supplemental annual salary out of county funds in equal monthly installments for all judicial and administrative services performed by them; provided, however, that the aggregate annual salary of District Judges in such counties from both State and county funds shall not exceed the salary provided by law for the Justices of the Courts of Civil Appeals in this State. Any District Judge of the State who may be assigned to sit for the Judge of any District Court in such counties under the provisions of Article 200—A, Revised Civil Statutes, may, while so serving, receive in addition to his necessary expenses, additional compensation from county funds in an amount to be set by the Commissioners Court not to exceed the difference between the pay of such visiting Judge from all sources and that pay received from all sources by District Judges in the counties affected by the provisions of this Act, such amount to be paid by the county upon approval of the presiding Judge in which said Court is located. As amended Acts 1957, 55th Leg., p. 1309, ch. 440, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 3886h. Compensation of district attorney and assistants in 34th District

Section 1. The District Attorney of the Thirty-fourth Judicial District of this State shall be paid a salary in an amount not to exceed Eleven Thousand Dollars (\$11,000) per year. The First Assistant District Attorney of said Thirty-fourth Judicial District shall receive a salary not to exceed Seven Thousand, Five Hundred Dollars (\$7,500) per year; and the other Assistant District Attorneys and Investigators in said District shall receive salaries not to exceed Seven Thousand Dollars (\$7,000) a year.

Sec. 2. The Commissioners Court of El Paso County, Texas, in said Thirty-fourth 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. Acts 1953, 53rd Leg., p. 21, ch. 12, as amended Acts 1957, 55th Leg., p. 862, ch. 378, § 1.

Emergency. Effective May 31, 1957.

Section 2 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 3902j. Deputies, assistants and clerks of county or precinct officers; increase of compensation

Section 1. The Commissioners Court in each county of this State is hereby authorized, when in their judgment the financial condition of the county and the needs of the 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 maximum sum allowed under the law at the present time.

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. Acts 1951, 52nd Leg., p. 694, ch. 401, as amended Acts 1957, 55th Leg., p. 364, ch. 169, § 1.

Emergency. Effective May 6, 1957.

Section 3 of the Act of 1951 provided that partial invalidity should not affect the remaining portions of the Act.

Section 2 of the amendatory Act of 1957 was a severability clause.

Art. 3912e—5a. Repealed. Acts 1957, 55th Leg., p. 183, ch. 81, § 3. Eff. April 19, 1957

Article, derived from Acts 1955, 54th Leg., p. 736, ch. 266, related to additional compensation for county judge of Bexar county as member of Juvenile Board.

Art. 3912e—5c. Additional compensation for judge of Bexar county as member of Juvenile Board

Section 1. The County Judge of Bexar County, Texas, shall be allowed the additional compensation in the sum of Four Thousand, Five Hundred Dollars (\$4,500) per annum for serving as a member of the Bexar County Juvenile Board which shall be paid in twelve (12) equal monthly installments out of the General Fund of such County, and which additional compensation shall be in addition to all other salary or compensation now paid to such County Judge.

Sec. 2. This Act shall be cumulative of all existing general laws of this State and shall not be construed as repealing any such law fixing the compensation of the County Judge of Bexar County, Texas. Acts 1957, 55th Leg., p. 183, ch. 81.

Emergency. Effective April 19, 1957.

Section 3 of the Act of 1957 repealed article 3912e—5a. Section 4 provided that

partial invalidity should not affect the remaining portions of the Act.

Art. 3912i. Maximum salaries of justices of the peace and constables; precinct officers; certain counties

Counties of less than 20,000 population

Section 1. In each county in the State of Texas having a population of less than twenty thousand inhabitants according to the last preceding federal census where the precinct officials are compensated on a salary basis, the Commissioners Courts shall fix the salaries of the officials named

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

in this Act at not more than Five Thousand Dollars (\$5,000.00) per annum.

Counties of 20,000 to 46,000 population

Sec. 2. In each county in the State of Texas having a population of at least twenty thousand and not more than forty-six thousand inhabitants according to the last preceding federal census, the Commissioners Courts shall fix the salaries of the precinct officials named in this Act at not more than Six Thousand Dollars (\$6,000.00) per annum.

Counties of 46,000 to 98,000 population

Sec. 3. In each county in the State of Texas having a population of at least forty-six thousand and one and not more than ninety-eight thousand inhabitants according to the last preceding federal census, the Commissioners Courts shall fix the salaries of the precinct officials named in this Act at not more than Seven Thousand Dollars (\$7,000.00) per annum.

Counties of 98,000 to 195,000 population

Sec. 4. In each county in the State of Texas having a population of at least ninety-eight thousand and one and not more than one hundred ninety-five thousand inhabitants according to the last preceding federal census, the Commissioners Courts shall fix the salaries of the precinct officials named in this Act at not more than Eight Thousand Dollars (\$8,000.00) per annum.

Counties of 195,000 to 600,000 population

Sec. 5. In each county in the State of Texas having a population of at least one hundred ninety-five thousand and one and not more than six hundred thousand inhabitants according to the last preceding federal census, the Commissioners Courts shall fix the salaries of the precinct officials named in this Act at not more than Nine Thousand Dollars (\$9,000.00) per annum.

Act inapplicable to counties of over 600,000 population

Sec. 6. The provisions of this Act shall not apply to any county having a population in excess of six hundred thousand inhabitants, according to the last preceding federal census.

Justices of the peace and constables; applicability of act

Sec. 7. The provisions of this Act shall be applicable only to Justices of the Peace and Constables.

Funds from which salaries payable

Sec. 8. The salaries of the officials named in this Act shall be paid out of the Officers' Salary Fund and/or general fund of the respective counties.

Amount of salaries; fixing; construction of act

Sec. 9. The Commissioners Courts shall not be required to fix the salaries in all precincts at equal amounts, but shall have discretion to determine the amount of salaries to be paid each Justice of the Peace and each Constable in the several precincts on an individual basis without regard to the salaries paid in other precincts or to other officials. In arriving at the compensation to be paid the officials governed by the provisions of this Act the Commissioners Courts shall consider the financial condition of their respective counties and the duties and needs of their officials,

but in no event shall any Commissioners Court set the salary of any official at a figure in excess of the maximum compensation prescribed for the officials of that county by this Act, save and except as hereinafter provided, to-wit:

(1) In any county where the number of Justices of the Peace holding office and performing the duties of such office is less than the maximum number of Justices of the Peace authorized by the Constitution of Texas, the Commissioners Courts may increase the maximum salary of the Justice or Justices so performing the duties of the offices an additional amount not to exceed ten per cent (10%) of the maximum salary applicable to such office for each such constitutionally authorized Justice of the Peace not holding such office and not performing the duties of such office, provided that under no circumstances shall any Justice of the Peace under this subsection be paid more than twenty-five per cent (25%) over and above the maximum salary herein applicable to such office.

(2) In the event there are any Justices of the Peace or Constables in the State of Texas who are now being paid salaries in excess of the amount permissible under the provisions of this Act, this Act shall not be construed to require a reduction in the salaries being paid such officials so long as the present incumbents of such offices continue to hold such offices and perform the duties thereof, including both the present term for which they were elected and any terms for which they are re-elected; but in such cases, when the present incumbents of such offices vacate such offices for any reason, their successors in such offices shall receive not to exceed the maximum salaries fixed and determined in accordance with the provisions of this Act.

Fees and commissions; payment into county treasury

Sec. 10. All of the fees and commissions earned and collected by the officials named in this Act shall be paid into the County Treasury in accordance with the provisions of Section 61 of Article XVI of the Constitution of Texas, except the Justices of the Peace may have and retain, in addition to the salaries fixed by the Commissioners Courts, all fees, commissions, gifts, or payments made to them for performing marriage ceremonies, for acting as registrar for the Bureau of Vital Statistics, and for acting as exofficio notary public.

Commissioners court; authority to be exercised only at regular meetings

Sec. 11. The Commissioners Court shall not exercise the authority vested in said court by virtue of this Act, except at regular meeting of said court and after ten (10) days notice published in a paper of general circulation in the county to be affected thereby of the intended salaries to be raised and the amount of such proposed rate. Acts 1957, 55th Leg., p. 231, ch. 110.

Emergency. Effective April 25, 1957.

Section 12 of the Act of 1957 repealed all conflicting laws and parts of laws to extent of such conflict. Section 13 was a severability clause.

CHAPTER TWO—ENUMERATION

Art.

3927a. Construction of act [New].

Art. 3927. 3855, 2453, 2389 District Clerk

The clerks of the District Courts may with the approval of the Commissioners Court receive up to the following fees in civil cases for their services:

| | |
|--|--------|
| Filing original petition | \$2.50 |
| Filing each paper | .25 |
| Certifying to and affixing seal on any copy | 1.00 |
| Issuing each citation | 1.25 |
| Issuing each copy of citation | 1.25 |
| Issuing each injunction writ | 1.00 |
| Issuing each writ of possession or restitution | 1.00 |
| Issuing each other writ not otherwise provided for | 1.00 |
| Issuing each copy of writ | 1.00 |
| Recording return of any writ, including the return on all writs, except subpoenas | .50 |
| Docketing each cause | 1.00 |
| Entering on docket the appearance of each party to a suit, to be charged but once | .15 |
| Docketing each rule or motion, including rule for cost | .25 |
| Swearing each witness | .10 |
| Administering an oath, affirmation, or taking affidavit, certificate and seal; provided, that he shall only be allowed pay for one (1) certificate to each witness' claim for attendance in behalf of plaintiff, and one (1) each in behalf of defendant, at any one (1) term of court | .50 |
| Entering on docket each continuance | .15 |
| Issuing subpoena for one (1) witness | .50 |
| For each additional witness named in same subpoena | .15 |
| Swearing and impaneling a jury | 1.00 |
| Taking deposition, each one hundred (100) words | .15 |
| Issuing copies of interrogatories with certificate and seal per one hundred (100) words | .15 |
| Recording each judgment, order or decree not over three hundred (300) words | 2.00 |
| Recording judgment, order or decree which exceeds three hundred (300) words, an additional fee for each one hundred (100) words in excess of three hundred (300) | .20 |
| Abstracting judgment | 1.50 |
| Issuing each order of sale | 2.00 |
| Issuing each execution | 2.00 |
| Approving bond, except bond for costs | 2.00 |
| Filing record in cause appealed to District Court | 1.00 |
| Preparing and transmitting records and proceedings in cause to any inferior Court, for each one hundred (100) words | .10 |
| Preparing and transmitting mandate or judgment of District Court upon appeal from County Court | 1.00 |
| Making copy of all records, judgments, orders, petitions, pleadings, or papers on file or of record in his office, whether to be certified or not, for any party applying for same, for each one hundred (100) words | .25 |

| | |
|--|--------|
| Making transcript of records and papers in any cause upon appeal, or writ of error, with certificate and seal, for each one hundred (100) words | \$.25 |
| Taxing bill of costs in any case with copy of same | .50 |
| Transcribing, comparing and verifying record books of his office, payable out of county treasury, upon warrants issued on order of Commissioners Court, for each one hundred (100) words | .15 |
| Issuing certificate to any fact or facts contained in the records of his office | 1.00 |
| Issuing certificate of naturalization | 2.50 |
| Filing and recording the declaration of intention to be a citizen of the United States | 2.00 |
| Issuing each commission to take deposition | 1.00 |
| For performing such other duties as may be imposed by law, reasonable fees shall be charged. | |

Provided, however, the Judge of the District Court, may, in his discretion, prescribe one (1) fee to be paid the District Clerk for any and all services rendered in any one (1) case by the District Clerk and the fees set by the District Judge shall be in lieu of the fees prescribed in this Act for such services. The fee so prescribed shall be based on the amount fixed by the provisions of this Act for identical services and shall not exceed the total fees for such services fixed by this Act, and such fee shall be due and payable to the Office of the District Clerk upon the docketing of each case and such fees shall be considered as earned by the District Clerk upon such docketing. Any fees collected in excess of the amount prescribed by this Act shall, upon order of the District Judge, be refunded to the party paying such excess in amount. As amended Acts 1957, 55th Leg., p. 1293, ch. 433, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957 is article 3927a. Section 3 repealed all con-

flicting laws and parts of laws to the extent of such conflict. Section 4 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 3927a. Construction of act

This Act shall not be construed as amending or repealing any existing law concerning the exemption of the State of Texas or any political subdivision of the State of Texas from liability for costs or deposits therefor. Acts 1957, 55th Leg., p. 1293, ch. 433, § 2.

Art. 3930. 3860, 2457, 2393. County clerk

Clerks of the County Court may receive not to exceed the following fees:

| | |
|--|--------|
| Filing each paper, except subpoenas and other process | \$.25 |
| Issuing subpoena for one witness | .50 |
| For each additional witness named in same subpoena | .15 |
| Issuing notices, including copies for posting or publication | 1.25 |
| Docketing each application, complaint, petition, or proceeding, to be charged but once | 1.00 |
| Issuing each citation including copy thereof | 1.25 |
| Swearing and impaneling a jury | 1.00 |
| Swearing each witness | .10 |
| Issuing letters testamentary, of administration or guardianship | .75 |
| Administering oath to executor, administrator, or guardian | .25 |
| Administering oath with certificate and seal | .50 |
| Administering oath in other cases without certificate and seal | .25 |
| Entering each claim against an estate on claim docket | .25 |
| Approving bond, except bond for costs and notarial bond | 1.50 |

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| Approving and filing a notarial bond and qualifying notary public | \$2.00 |
| Issuing each commission to take depositions | 1.00 |
| Taking deposition, each 100 words | .15 |
| Issuing each execution, order of sale, writ of possession, restitution or other writ not otherwise provided for | 1.50 |
| Recording each final judgment or decree up to 200 words | 1.00 |
| Recording any final judgment or decree which exceeds 200 words, an additional fee for each 100 words in excess of 200 words | .20 |
| Abstracting judgment | 1.00 |
| Recording abstract of judgment | 1.00 |
| Taxing bill of costs in each cause, with a copy thereof | .50 |
| Recording return of any writ, when any such return is required by law to be recorded | .50 |
| Filing and recording each rental lien | 1.00 |
| Filing and registering each chattel mortgage or other written lien on personal property with or without transfer thereof in same instrument | .75 |
| Filing and registering separate or subsequent transfer thereof | .75 |
| Filing, registering and entering the satisfaction and release of the following: | |
| Any instrument registrable under Article 5498 of the Revised Civil Statutes of Texas, 1925, as a lien on personal property situated on realty | 1.50 |
| Any other chattel mortgage or instrument intended as a chattel mortgage or lien on personal property | .75 |
| Indexing each name in any instrument required or permitted to be filed, recorded or registered in the office of the County Clerk | .10 |
| Filing, recording and certifying to each tax receipt | .75 |
| Recording and certifying bills of sale under the stock laws | 1.00 |
| Recording each mark and brand or either | .75 |
| Revising the list of marks and brands, a reasonable fee | |
| Filing and recording the bond and sworn statement of a live-stock commission merchant | 1.00 |
| Making a certified copy of such bond and statement | 1.00 |
| Issuing and recording marriage license | 3.00 |
| Issuing each license other than marriage license where the law provides for him to issue same | 1.00 |
| “Transcribing, comparing and verifying record books of his office, payable out of the County Treasury upon warrant, issued under the order of the Commissioners Court, for each 100 words | .15 |
| Issuing each certificate to any fact or facts contained in the records of his office, not otherwise provided for | 1.00 |
| Recording, transcribing or copying all papers or records required or permitted by law to be recorded, transcribed or copied, with or without certificate and seal, for each 100 words, not otherwise provided for | .20 |
| and | |
| “Providing, however, that the minimum fee for recording any paper or record shall be | 1.00 |
| Filing assignment of accounts receivable or notice of assignments of accounts receivable | .75 |
| Filing notice of franchise tax liens in mortgage records | 1.00 |

| | |
|---|--------|
| Filing a notice of franchise tax liens in chattel mortgage records | \$.75 |
| Abstract of chattel mortgages, one mortgage, either written or oral | .50 |

For such other duties as may be prescribed by the Legislature, reasonable fees shall be charged.

As amended Acts 1957, 55th Leg., p. 477, ch. 228.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957 laws to the extent of conflict only. Section 3 was a severability clause. repealed all conflicting laws and parts of

TITLE 64—FORCIBLE ENTRY AND DETAINER

Art.

3975a. Notice to tenant to vacate for non-payment of rent; action to enforce [New].

Art. 3975a. Notice to tenant to vacate for non-payment of rent; action to enforce

That except where otherwise contracted orally or by written lease, upon default in payment of rent by a tenant, any landlord leasing to a tenant for a tenancy in excess of a period of week to week, upon default of payment of rent, shall give to such tenant a minimum of three (3) days written notice to vacate such premises delivered in person or by mail to the leased premises prior to filing an action for forcible entry or detainer. Upon the expiration of at least said three (3) days or stipulated length of notice, calculated from the date of delivery of the notice to the premises, if the tenant has not vacated said premises, action in forcible detainer or at common law may be commenced. Notice to vacate under the circumstances provided herein shall supplant existing periods of notice at common law. Acts 1957, 55th Leg., p. 354, ch. 163, § 1.

Emergency. Effective May 6, 1957.

Title of Act:

An Act requiring a minimum of three (3) days notice to tenants to vacate for non-payment of rent; providing for action in forcible detainer or at common law after

the expiration of notice; providing notice to vacate under this Act shall supplant existing periods of notice at common law; and declaring an emergency. Acts 1957, 55th Leg., p. 354, ch. 163.

TITLE 67—FISH, OYSTER, SHELL, ETC.

CHAPTER ONE—COMMISSIONER AND DEPUTIES

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| <p>Art. 4025b. Publications by Commission au- thorized; sale; price; compen-</p> | <p>sation for selling subscriptions [New].</p> |
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Art. 4025b. Publications by Commission authorized; sale; price; compensation for selling subscriptions

Section 1. The Game and Fish Commission is hereby authorized to disseminate information to the public regarding wildlife values and its management.

Sec. 2. Any bulletin, book, or magazine, published by authority of this Act, may be sold for a price not to exceed the cost of publication and mailing. All moneys received from the sale of publications provided for herein shall be remitted to the Game and Fish Commission at its office in Austin not later than ten (10) days following the date of collection. Said moneys shall be deposited in the State Treasury to the credit of the Game and Fish Fund, and used for all purposes provided for by law.

Sec. 3. Any person, authorized to issue hunting and fishing licenses is, under the terms of the same bond and authority, hereby authorized to sell subscriptions to any monthly publication, prepared and published by the Game and Fish Commission authorized in Section 1 of this Act. Such person may retain ten per cent (10%) of each subscription payment as his fee for collecting and remitting same to the Game and Fish Commission.

Sec. 4. The amount of money collected for each subscription to any monthly publication provided herein, shall be recorded on a prenumbered form bearing the name, complete address and length of the subscription period. Such prenumbered form shall be issued and accounted for in the same manner as hunting licenses. Acts 1957, 55th Leg., p. 438, ch. 212.

Emergency. Effective May 10, 1957.

CHAPTER TWO—FISH AND OTHER MARINE LIFE

Art.
4032b—1. License to fish [New].
4050c. Removal of rough fish and turtles
from public fresh waters [New].

Art.
4050c—1. Rough fish; taking by spear gun,
spear, or bow and arrow from
public fresh waters author-
ized [New].

Art. 4032b—1. License to fish

Fishing License

Section 1. It shall be unlawful for any person to fish in any of the waters of this State without first having procured from the Game and Fish Commission, or one (1) of its bona fide employees, or a county clerk or an authorized agent, a fishing license, the fee for which shall be Two Dollars and Fifteen Cents (\$2.15). Of this amount, the officer issuing same shall retain fifteen cents (15¢) as his fee for collecting same, except that employees of the Game and Fish Commission shall not be entitled to retain said fee.

Exceptions

Sec. 2. No persons under seventeen (17) years of age and no persons over sixty-five (65) years of age shall be required to possess the license provided for in this Act. No person, or member of such person's immediate family, shall be required to hold the license provided for in this Act when fishing upon property he owns or upon which he resides. No license shall be required of persons fishing with trotline, throw line, or ordinary pole and line having no reel or other winding device attached when fishing in the county of his residence. No other fishing license shall be required of a person who holds a commercial fishing license issued in this State.

Duplicate License

Sec. 3. In the event the holder of a license provided for in this Act shall have lost such license, or same shall have been destroyed, such license holder may file with the Game and Fish Commission or its bona fide employee, or a county clerk or an authorized agent, an application, in the form of an affidavit as to the facts of such loss or destruction, which affidavit shall contain the serial number of the license so lost or destroyed; whereupon said Commission or its bona fide employee, or a county clerk, or an authorized agent, may issue to such a person a duplicate fishing license, the fee for which shall be fifty cents (50¢). Of this amount twenty-five cents (25¢) may be retained by the issuing officer as his fee for issuing same, except that employees of the Game and Fish Commission shall not be entitled to retain such fee.

Form of License

Sec. 4. Each license issued under the provisions of this Act shall have printed across its face the year for which it is issued and shall bear the name and address and residence of the person to whom issued, and shall state the approximate weight, height, age, color of hair, and color of eyes of such person, in order that proper identification may be had in the field. Such duplicate fishing license shall be dated the date of issuance and shall remain in effect until and including the last day of August thereafter. Fishing licenses shall have printed thereon the following: "This license does not entitle the holder thereof to fish upon the enclosed and posted lands of another without the consent of the owner or his agent." It shall be unlawful for any person to issue or accept any license required by the provisions of this Act, except on a form provided by the Game and Fish Commission.

License Deputies

Sec. 5. Any person designated by the Executive Secretary of the Game and Fish Commission, its bona fide employees and the county clerk of each county in this State are hereby authorized to issue any license provided for by this Act, or that may hereafter be provided for, and all persons so issuing licenses shall fill out correctly and preserve for the use of said Commission the stubs attached thereto; and shall keep a complete and correct record of all licenses issued, showing the name and place of residence of each licensee and the serial number and the date of the license issued. The county clerk and all other persons issuing licenses shall within ten (10) days after the close of each calendar month, prepare a detailed report showing the serial number and date of each license issued during the month covered by the report, and the name and address of the person to whom issued, and shall forward such

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

report, with remittance of fees due the State, to the Game and Fish Commission at Austin, and said Commission shall credit such county clerk, or other person, with the amount so remitted. By the 10th of the next month after the licenses in a license book have all been issued, and only the stubs remain therein, such county clerk or other person shall forward such used license book to the Game and Fish Commission at Austin, in order that said Commission may furnish necessary information regarding holders of licenses to any officers of the State. All unissued licenses shall be returned to the Game and Fish Commission at Austin when request therefor is made by said Commission.

Disposition of Fees and Fines

Sec. 6. All moneys received from the sale of licenses provided for herein, after the payment of the fees allowed under this Act have been deducted, and all moneys received from penalties assessed for violations of this Act, and for violations of any fresh-water or salt-water fishing laws not otherwise disposed of by law, after deduction of fees allowed by law, shall be remitted to the Game and Fish Commission at Austin, and be deposited by said Commission in the State Treasury to the credit of the Special Game and Fish Fund, and shall be used for the propagation, distribution, management and protection of fish in all salt waters and all fresh waters within this State, and for the opening of fish passes into the Gulf of Mexico, including control of undesirable species of fish, and for the dissemination of information pertaining to the conservation of fish in this State. All expenditures shall be verified by affidavit to the Game and Fish Commission; and on the approval of such expenditures by the Executive Secretary of said Commission, it shall be the duty of the Comptroller of the State to draw his warrant on the Treasurer of the State for the amount of such expenditures, in favor of the person claiming the same, such warrant to be paid out of the Special Game and Fish Fund.

Fishing Under License of Another

Sec. 7. It shall be unlawful for any person to fish under the license issued to any other person, or to permit any other person to fish under a license issued to him.

Effective Date of Act

Sec. 8. This Act shall become effective on the 1st day of September, 1957.

Penalty

Sec. 9. Any person who shall fish in any waters of this State without the license required of him by this Act, or any person who shall fish under the license of another, or who permits another to fish under his license, or who fails or refuses on demand by any officer, to show such officer his fishing license required of him by this Act, or who shall violate any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than Ten Dollars (\$10), nor more than One Hundred Dollars (\$100). Acts 1957, 55th Leg., p. 498, ch. 239.

Effective September 1, 1957.

Section 10 of the Act of 1957 repealed all conflicting laws and parts of laws.

Art. 4050c—1. Rough fish; taking by spear gun, spear, or bow and arrow from public fresh waters authorized

Section 1. It shall be lawful to take rough fish with a spear gun and spear or bow and arrow in the public waters of the State of Texas at any time. Rough fish shall be defined as carp, buffalo, gasper gou, gar fish, and Rio Grande perch. A spear gun as used in this Act shall be defined as any type of device used for propelling a spear underwater as a means of taking fish.

Sec. 2. It shall be unlawful to have in possession any fish other than carp, buffalo, gasper gou, gar fish, and Rio Grande perch while using a spear gun and spear or bow and arrow for taking such fish. Acts 1957, 55th Leg., p. 211, ch. 98.

Emergency. Effective April 25, 1957.

Title of Act:

An Act making it lawful to take rough fish by spear fishing methods or with bow and arrow in the public fresh waters of the

State of Texas; defining rough fish; prohibiting possession of other fish when using such devices; and declaring an emergency. Acts 1957, 55th Leg., p. 211, ch. 98.

TITLE 70—HEADS OF DEPARTMENTS

Chap.

Art.

8. Publications of Executive Departments and State Agencies [New] ----4413(33)

CHAPTER TWO—COMPTROLLER OF PUBLIC ACCOUNTS**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. Provided that any claim for the amount of Fifty Dollars (\$50) or less may be presented for payment with or without the affidavit as set forth above; if such claim be presented for payment without such affidavit the claimant must certify under the penalties of perjury that to the best of his knowledge and belief the claim is true and correct, and upon such certificate the Comptroller may issue warrant in payment thereof. 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; Acts 1957, 55th Leg., p. 1411, ch. 485, § 1.

Effective 90 days after May 23, 1957, the date of adjournment.

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict.

CHAPTER FIVE—DEPARTMENT OF PUBLIC SAFETY

Art.

Art.

4413(4a). Expenditure of public funds; purposes [New].

4413(29b). Construction of act, reorganization or consolidation by commission [New].

4413(18a). Branch crime detection laboratories; counties to furnish building space; department to equip and operate [New].

Art. 4413(4a). Expenditure of public funds; purposes

In addition to the authority now provided by law, the Texas Department of Public Safety may expend public funds for the purposes of paying salaries, seasonal or contingent help, travel, transportation,

automobile maintenance and repairs, maintenance and repairs of aircraft, gas, oil, tires, bond premiums, office and equipment rentals, storage, repairs, forage, duplicating supplies, printing, telephone, telegraph, postage, stationery, clothing and furnishings, express, freight, drayage, utilities, service materials, office supplies, books, drugs, medical, hospital and laboratory expense, and funeral expense when death results in line of duty, necessary expenses for training and for operating law enforcement training schools, miscellaneous operating expenses, purchase of equipment, guns, automobiles, aircraft, land and construction costs, and any and all necessary equipment, services and supplies for the enforcement of all laws under the supervision of the Department of Public Safety. Acts 1957, 55th Leg., 1st C. S., p. 99, ch. 34, § 1.

Emergency. Effective Dec. 2, 1957.

Section 2 of the Act of 1957, 1st C.S. read as follow: "Monies appropriated to the Texas Department of Public Safety by the provisions of House Bill No. 133, Acts of the 55th Legislature, Regular Session, 1957, Chapter 385, may be expended for the purposes set out in Section 1 of this Act in addition to the purposes named in House Bill No. 133, Acts of the 55th Legislature, Regular Session, 1957, Chapter 385."

Title of Act:

An Act clarifying purposes for which monies may be expended by the Texas Department of Public Safety; providing additional purposes for which the monies appropriated by the provisions of House Bill No. 133, Acts of the 55th Legislature, Regular Session, 1957, Chapter 385, may be expended by the Texas Department of Public Safety; and declaring an emergency. Acts 1957, 55th Leg., 1st C.S., p. 99, ch. 34.

Art. 4413(18a). Branch crime detection laboratories; counties to furnish building space; Department to equip and operate

Section 1. The Commissioners Court of each county in this State is hereby authorized to furnish to the State Department of Public Safety the necessary building space for establishing a branch crime detection laboratory to serve the general area of the State in which the county is located. When a county offers to furnish the necessary space, the Department of Public Safety is authorized to equip and operate the laboratory within the limits of its general authority and available appropriations. Except where the Legislature has specifically directed the establishment and operation of a branch laboratory, the Public Safety Commission shall have the discretion to decide whether a branch laboratory should be established or maintained.

Sec. 2. Upon the condition that the Commissioners Court of El Paso County shall furnish without cost to the State the necessary building space, the Department of Public Safety is hereby specifically directed to establish and operate a branch crime detection laboratory in El Paso County for the purpose of serving the West Texas area, whenever in the discretion of the Department of Public Safety the efficient enforcement of law necessitates the establishment of such branch crime detection laboratory, and sufficient funds are available in the department. Acts 1957, 55th Leg., p. 1265, ch. 423.

Effective 90 days after May 23, 1957, date of adjournment.

Title of Act:

An Act authorizing counties to furnish building space for establishing branch crime detection laboratories by the State Department of Public Safety; directing the

Department of Public Safety to establish a branch laboratory in El Paso County, Texas, on stated conditions; and declaring an emergency. Acts 1957, 55th Leg., p. 1265, ch. 423.

Art. 4413(29b). Construction of act; reorganization or consolidation by commission

The enumeration herein of certain designated divisions and chiefs of divisions shall not be construed as mandatory and nothing herein

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

shall prevent the Public Safety Commission from affecting a reorganization or consolidation in the interest of the more efficient and economical management and direction of the Department, it being the purpose of this Act to authorize the Director, with the approval of the Public Safety Commission, to organize and maintain within this Department such divisions of service as are deemed necessary for the efficient conduct of the work of the Department. Provided that the number of divisions shall not exceed the number of divisions existing at the time of passage of this Act. And further that the division relating to Texas Rangers shall not be abolished. Added Acts 1957, 55th Leg., p. 554, ch. 261, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

CHAPTER EIGHT—PUBLICATIONS OF EXECUTIVE DEPARTMENTS AND STATE AGENCIES [NEW]

Art.

4413(33). Charge for sale of publications of executive departments and state agencies.

Art. 4413(33). Charge for sale of publications of executive departments and state agencies

Section 1. Any department or agency in the executive branch of the state government may, unless otherwise specifically directed by statute, set and collect a sales charge for publications and other printed matter when such charges are deemed to be in the public interest.

Sec. 2. In any instances where the amounts of such sales charges are not specifically set by statute, the charge authorized by this Act shall not be greater than an amount deemed sufficient by the publishing department or agency in the executive branch, to reasonably reimburse the state for the actual expense of printing such publications or printed matter.

Sec. 3. Money collected from the charges authorized by this Act shall be deposited in the fund from which the costs of printing the respective publications or materials were originally paid, and such moneys shall be subject to appropriation by the Legislature.

Sec. 4. Nothing in this Act shall be construed as amending or repealing existing laws respecting what publications or materials may be printed by the respective departments or agencies in the executive branch of the government of this state; or as altering the amounts of charges to be made for publications or printed materials specifically set forth in other statutes.

Sec. 5. Pursuant to the principle set forth in Article 16, Section 21, of the Constitution of Texas, no official or employee of the state government may, directly or indirectly, profit by or have any pecuniary interest in the preparation, printing or duplication, or sale, of publications and other printed matter issued by the respective departments or agencies in the executive branch of the government. Any official or employee who violates the provisions of this section shall be dismissed from state employment. Acts 1957, 55th Leg., p. 531, ch. 248.

Effective 90 days after May 23, 1957, date of adjournment.

Title of Act:

An Act authorizing the setting and collecting of a charge for the sale of publications and other printed matter produced by executive and administrative departments and agencies of the state, when deemed in

the public interest; providing for the deposit of such collected charges; prohibiting personal profit from such sales; and declaring an emergency. Acts 1957, 55th Leg., p. 531, ch. 248.

TITLE 71—HEALTH—PUBLIC

CHAPTER ONE—HEALTH BOARDS AND LAWS

Art. 4437e. Hospital Authority Act [New].

Art. 4418b. Commissioner; qualifications; executive head of State Department of Health

The Commissioner of Health shall be a legally qualified physician, licensed to practice medicine in the State of Texas, of good professional standing, and a graduate of a recognized medical school whose credits are recognized and acceptable by the University of Texas Medical School; and if not a resident of the State of Texas, he shall establish residence in the State of Texas immediately upon election by the State Board of Health to the capacity of Commissioner of Health. The State Commissioner of Health shall be the executive head of the State Department of Health; he shall devote his whole time to the duties of this office, and shall not engage in the private practice of medicine during his term of office. As amended Acts 1957, 55th Leg., p. 1418, ch. 488, § 1.

Emergency. Effective June 10, 1957. repealed all conflicting laws and parts of Section 2 of the amendatory Act of 1957 laws.

Art. 4436a—1. City-County Health Units in counties containing incorporated city

Section 1. In any county containing an incorporated city the Commissioners Court and the city council of such county and city by a suitable order of each of said bodies duly entered on the minutes of the Commissioners Court and city council may co-operate in forming a City-County Health Unit and combine health units of each political subdivision for such purpose and appropriate such funds by each of said governing bodies as may be agreed upon by the two said governing bodies to the combined health unit in such proportion as may be agreed upon between said Commissioners Court and said city council. Where any City-County Health Unit has been heretofore established and the population of the city participating in said health unit has exceeded one hundred and twenty thousand (120,000) according to the 1950 federal census, the joint operation of such health unit between the date of the 1950 census and the effective date of this Act is hereby validated. As amended Acts 1957, 55th Leg., p. 186, ch. 84.

Emergency. Effective April 19, 1957.

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws.

Art. 4437e. Hospital Authority Act

Creation; title

Section 1. Hospital Authorities without taxing power may be created as hereinafter provided. This law shall be known as the "Hospital Authority Act."

Definitions

Sec. 2. As used in this law, "City" means any incorporated city or town in this State;

"Governing Body" means the council, commission or other governing body of a City;

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

"Authority" means a Hospital Authority created under this Act;

"Board" or "Board of Directors" means the board of directors of the Authority;

"Bond Resolution" means the resolution authorizing the issuance of revenue bonds;

"Trust Indenture" means the mortgage, deed of trust or other instrument pledging revenues of, or creating a mortgage lien on properties, or both, to secure the revenue bonds issued by the Authority;

"Trustee" means the trustee under the Trust Indenture.

**Ordinance creating authority; status and powers; joint action
by two or more cities**

Sec. 3. When the Governing Body of a City shall find that it is to the best interest of the City and its inhabitants to create a Hospital Authority, it shall pass an ordinance creating the Authority and designating the name by which it shall be known. If the Governing Bodies of two (2) or more Cities shall find that it is to the best interest of such Cities to create an Authority to include such Cities, each Governing Body shall pass an ordinance creating the Authority and designating the name by which it shall be known. The Authority shall comprise only the territory included within the boundaries of such City or Cities and shall be a body politic and corporate. It shall have the power of perpetual succession, have a seal, may sue and be sued and may make, amend and repeal its by-laws.

Board of directors

Sec. 4. (a) The Authority shall be governed by a Board of Directors consisting of not less than seven (7) nor more than eleven (11) members to be determined at the time of creating the Authority. Except as hereinafter in this Section provided, the first Directors shall be appointed by the Governing Body of the City or by the Governing Bodies of the Cities, and they shall serve until their successors are appointed as hereinafter provided. If Authority includes more than one City, each Governing Body shall appoint an equal number of Directors unless otherwise agreed by the Cities. When the Authority issues its revenue bonds the resolution authorizing the issuance of the bonds or the Trust Indenture securing them may prescribe the method of selecting and the term of office of a majority of the members of the Board. The remaining members of the Board shall be appointed by the Governing Body of the City or the Governing Bodies of the Cities for two (2) year terms. The Trust Indenture may also provide that, in event of default as defined in the Trust Indenture, the Trustee may appoint all of the Directors, in which event the terms of the Directors then in office shall automatically terminate. Unless and until provision is made in the Bond Resolution or Indenture in connection with the issuance of bonds for the appointment by other means of part of the Directors, all of the Directors shall be appointed by the Governing Body of the City or each of the Cities, as the case may be, for terms not to exceed two (2) years, but the terms of Directors appointed prior to the issuance of the first issue of revenue bonds shall be subject to the exercise of the provision herein made for appointment of a majority of the members of the Board in connection with the issuance of the bonds. No officer or employee of any such City shall be eligible for appointment as a Director. Directors shall not receive compensation for services but shall be entitled to reimbursement of their expenses incurred in performing such service.

(b) In the event the Authority purchases from a nonprofit corporation a hospital then in existence or in process of construction, the first

members of the Board of Directors and their successors shall be determined as provided in the contract of purchase.

Organization of board; quorum; manager or executive director; legal counsel

Sec. 5. The Board of Directors shall elect from among their members a president and vice-president, and shall elect a secretary and a treasurer who may or may not be Directors, and may elect such other officers as may be authorized by Authority's bylaws. The offices of secretary and treasurer may be combined. The president shall have the same right to vote on all matters as other members of the Board. A majority of the members of the Board shall constitute a quorum and when a quorum is present action may be taken by a majority vote of Directors present. The Board shall employ a manager or executive director of the hospital and such other employees, experts and agents as it may see fit, but it may delegate to the manager the power to employ and discharge employees. The Board may employ legal counsel.

Powers as to construction, enlargement, etc., of hospital; location

Sec. 6. The Authority shall have the power to construct, enlarge, furnish and equip hospitals, purchase existing hospitals, furnishings and equipment for its hospitals, and to operate and maintain hospitals. A hospital need not be located within the City or Cities.

Revenue bonds

Sec. 7. The Authority may issue revenue bonds to provide funds for any of its purposes. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation of the hospital or hospitals and any other revenues resulting from the ownership of the hospital properties. The bonds may be additionally secured by a mortgage or deed of trust on real property of Authority or by a chattel mortgage on its personal property, or by both.

Procedure for bond issue; requisites; maturity; sale; registration

Sec. 8. The bonds shall be authorized by resolution adopted by a majority vote of a quorum of the Board of Directors, and shall be signed by the president or vice-president and countersigned by the secretary, or either or both of their facsimile signatures may be printed thereon. The seal of the Authority shall be impressed or printed thereon. The bonds shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the Authority, including the discount, if any, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six per cent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registerable as to principal or as to both principal and interest.

Bond resolution; notice of intent to adopt; publication; referendum

Sec. 9. (a) Before authorizing the issuance of bonds, other than refunding bonds, the Board of Directors shall cause a notice to be issued stating that it intends to adopt a resolution (herein called "Bond Resolution") authorizing the issuance of the bonds, the maximum amount there-

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

of, and the maximum maturity thereof. The notice shall be published once each week for two (2) consecutive weeks in a newspaper or newspapers having general circulation in the Authority, the first such publication shall be at least fourteen (14) days prior to the day set for adopting the Bond Resolution.

(b) If, prior to the day set for the adoption of the Bond Resolution, there is presented to the secretary or president of the Board of Directors a petition signed by not less than ten per cent (10%) of the qualified voters residing within the boundaries of the City or Cities comprising the Authority, who own taxable property in the Authority and who have duly rendered the same for taxation to the City in which such property is located or situated, requesting an election on the proposition for the issuance of the bonds, the bonds shall not be issued unless an election is held and a majority vote is in favor of the bonds. Such election shall be called and held in accordance with the procedure prescribed in Chapter 1, Title 22, Revised Civil Statutes of 1925, as amended, with the Board of Directors, president and secretary performing the functions therein assigned to the governing body of the City, the mayor and city secretary respectively. If no such petition is filed the bonds may be issued without an election. It is provided, however, that the Board of Directors may call such election on its own motion without the filing of the referendum petition.

Junior lien bonds; parity bonds

Sec. 10. Bonds constituting a junior lien on the net revenues or properties may be issued unless prohibited by the Bond Resolution or Trust Indenture. Parity bonds may be issued under conditions specified in the Bond Resolution or Trust Indenture.

Reserves for operating expenses

Sec. 11. Money for the payment of not more than two (2) years interest on the bonds and an amount estimated by the Board to be required for operating expenses during the first year of operation may be set aside for those purposes out of the proceeds from the sale of the bonds.

Refunding bonds

Sec. 12. Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this Act for other bonds, and may be exchanged by the Comptroller of Public Accounts of the State of Texas or sold and the proceeds applied in accordance with the procedure prescribed in Chapter 503, Acts of the Fifty-fourth Legislature.¹

¹ Article 717K.

Attorney General; approval of bonds; registration; negotiability

Sec. 13. Bonds issued under this Act and the record relating to their issuance shall be submitted to the Attorney General of Texas and if he finds that they have been issued in accordance with this law and constitute valid and binding obligations of the Authority and are secured as recited therein he shall approve them, and they shall be registered by Comptroller of Public Accounts of the State of Texas who shall certify such registration thereon. Thereafter they shall be incontestable. The bonds shall be negotiable and shall contain the following provision: "The holder hereof shall never have the right to demand payment thereof out of money raised or to be raised by taxation."

Nonprofit institution; rates charged; bond reserve fund

Sec. 14. The hospital shall be operated without the intervention of private profit for the use and benefit of the public. But it shall be the duty of the Board of Directors to charge sufficient rates for services rendered by the hospital and to utilize other sources of its revenues that revenues will be produced sufficient to pay all expenses in connection with the ownership, operation and upkeep of the hospital, to pay the interest on the bonds as it becomes due, to create a sinking fund to pay the bonds as they become due, and to create and maintain a bond reserve fund and other funds as provided in the Bond Resolution or Trust Indenture. The Bond Resolution or Trust Indenture may prescribe systems, methods, routines and procedures under or in accordance with which the hospital shall be operated.

Depositories

Sec. 15. The Authority may select a depository or depositories according to the procedures provided by law for the selection of city depositories or it may award its depository contract to the same depository or depositories selected by the City or Cities and on the same terms.

Tax exemption

Sec. 16. Recognizing the fact that the property owned by Authority will be held for public purposes only and will be devoted exclusively to the use and benefit of the public, it shall be exempt from taxation of every character.

Acquisition of property; easements

Sec. 17. For the purpose of carrying out any power conferred by this Act, Authority shall have the right to acquire the fee simple title to land and other property and easements by condemnation in the manner provided by Title 52, Revised Civil Statutes as amended, relating to eminent domain. Authority is hereby declared to be a municipal corporation within the meaning of Article 3268 of said Title 52. The amount of and character or interest in land, other property and easements thus to be acquired shall be determined by the Board of Directors.

Investment of funds; security

Sec. 18. The law as to the security for and the investment of funds, applicable to Cities, shall control, insofar as applicable ¹ the investment of funds belonging to Authority. The Bond Resolution or the Indenture or both may further restrict the making of such investments. In addition to other powers Authority shall have the right to invest the proceeds of its bonds, until such money is needed, in the direct obligations of or obligations unconditionally guaranteed by the United States Government, to the extent authorized in the Bond Resolution or Indenture or in both.

¹ So in enrolled bill. "To" should probably be inserted.

Donations, gifts and endowments

Sec. 19. The Board of Directors is authorized to accept donations, gifts and endowments to be held and administered as may be required by the respective donors, to the extent that such requirements would not contravene law. Acts 1957, 55th Leg., p. 1379, ch. 472.

Emergency. Effective June 10, 1957. that partial invalidity should not affect the Section 20 of the Act of 1957 provided remaining portions of the Act.

CHAPTER THREE—FOOD AND DRUGS

Art. 4476—3. Meat inspection

Definitions

Sec. 3. (a) Meat Product: Any edible part of the carcass of any cattle, calf, sheep, swine, goat, poultry, or domestic rabbit which is not manufactured, cured, smoked, processed, or otherwise treated. As used in this Act, the word 'poultry' means any slaughtered domesticated bird or commercially-produced game bird.

(b) Meat Food Product: Any article of food or any article which enters into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of the carcass of any cattle, calf, sheep, swine, goat, poultry, or domestic rabbit, if such portion is all or a considerable and definite portion of the article, except such articles as organotherapeutic substance, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession.

(c) Meat and Products: Carcass, parts of carcass, meat, products, food products, meat products, and meat food products, of or derived from cattle, calf, sheep, swine, goats, poultry, and domestic rabbits, which are capable of being used as food by man. As amended Acts 1957, 55th Leg., p. 68, ch. 32, § 1.

Emergency. Effective March 21, 1957.

False use of inspection mark, stamp, tag, or label prohibited

Sec. 8. For the purposes hereinbefore set forth the Commissioner of Health (formerly State Health Officer) or his representatives shall cause to be made by inspectors provided for that purpose, such inspections of all slaughtering, meat canning, sausage factories, salting, packing, rendering, or similar establishments in which cattle, calves, sheep, swine, goats, poultry, or domestic rabbits are slaughtered and the meat or meat food products thereof prepared for sale for human food within the State of Texas, as may be necessary to inform himself concerning the sanitary conditions of the same and to prescribe rules and regulations of sanitation under which such establishment shall be maintained not inconsistent with the current regulations governing the meat inspection of the United States Department of Agriculture; and the current Poultry Ordinance as developed by the U. S. Public Health Service; and any revised recommendations made by the U. S. Department of Agriculture and the Public Health Service of the U. S. Department of Health, Education and Welfare; and where the sanitary conditions of such establishment are such that the meat or meat food products are rendered unclean, unsound, unhealthful, unwholesome or otherwise unfit for human food, he shall refuse to allow such meat or meat food products to be labeled, marked, stamped, or tagged as "Texas State Approved Establishment No. —". As amended Acts 1957, 55th Leg., p. 68, ch. 32, § 2.

Emergency. Effective March 21, 1957.

CHAPTER THREE A—BEDDING

Art. 4476a. Bedding—Manufacture, repair or renovating

(e) Repealed. Acts 1957, 55th Leg., p. 207, ch. 95, § 1. Eff. April 24, 1957.

Section 2 of the repealing Act of 1957 re- to extent of such conflict. Section 3 was
pealed all conflicting laws and parts of laws a severability clause.

CHAPTER FOUR—SANITARY CODE

Article 4477. Sanitary Code

Rule 39a. Report of stillborn.—Subject to the regulations of the State Department of Health, a certificate of each stillbirth which occurs in this state shall be filed with the local registrar of the district in which the stillbirth occurred, and if the place of stillbirth is not known, the certificate shall be filed with the local registrar of the district in which the body was found. The standard certificate of stillbirth shall be in such form and shall provide for such items of information as may be prescribed by the State Department of Health. All items prescribed on the certificate of stillbirth are hereby declared necessary for the legal, social and sanitary purposes subserved by registration records. The person in charge of interment or of removal of the body from the district for disposition shall be responsible for obtaining and filing the certificate and shall supply on such certificate over his signature the data relating to the disposition of the body. He shall obtain the required information from the following persons, over their respective signatures: (a) Personal data shall be supplied by the person best qualified to supply them; (b) Except as otherwise provided, the medical certification shall be made by the person in attendance at the stillbirth. Stillbirths occurring without attendance shall be treated as deaths without medical attendance as provided in Rule 41a, Article 4477, Revised Civil Statutes of Texas. The certificate of stillbirth shall be filed in the same manner as a certificate of death and a burial-transit permit shall be required. As amended Acts 1951, 52nd Leg., p. 128, ch. 79, § 2; Acts 1957, 55th Leg., p. 534, ch. 250, § 1.

Emergency. Effective May 20, 1957.

Rule 47a. Form and contents of birth certificates; supplementary certificate; certificates of adoption, annulment and revocation.—The standard certificate of birth shall be in such form and shall provide for such items of information as may be prescribed by the State Department of Health. All items prescribed on the certificate of birth are hereby declared necessary for the legal, social and sanitary purposes subserved by registration records. Provided that the name of the father, or any information by which he might be identified, shall not be written into the birth or death certificate of any illegitimate child; and provided further, that any statement that the father of an illegitimate child wishes to make as to its parentage may, when placed in the form of an affidavit, be attached to the original birth record. The state registrar, county clerk, or local registrar shall not issue a certified copy disclosing illegitimacy or otherwise disclose illegitimacy unless the issuance of the certified copy or the disclosure is authorized by order of the county court of the county in which the birth, death, or fetal death occurred.

Subject to the regulations of the State Department of Health, any person: (a) legitimated by the subsequent marriage of its parents; (b) whose

parentage has been determined by a court of competent jurisdiction; or (c) adopted under the law existing at the time of adoption in this state or any other state or territory of the United States of America may request the state registrar to file a supplementary certificate of birth on the basis of the status subsequently acquired or established and of which proof is submitted. The application to file a supplementary certificate of birth may be filed by the person, if of age, or a legal representative of the person. The state registrar shall require such proof in these cases as the State Department of Health may by regulation prescribe. The preparation and filing of supplementary certificates of birth based on legitimation, paternity determination, and adoption shall be in accordance with the regulations of the State Department of Health. Provided, however, that when a child is adopted the new birth certificate shall be in the names of the parents by adoption, and the copies of birth certificates or birth records made therefrom shall not disclose the child to be adopted. After the supplementary certificate is filed, any information disclosed from the record shall be made from the supplementary certificate, and access to the original certificate of birth and to the documents filed upon which the supplementary certificate is based shall not be authorized except upon order of a court of competent jurisdiction.

A certificate of each adoption, annulment of adoption, and revocation of adoption ordered or decreed in this state shall be filed with the state registrar as hereinafter provided. The information necessary to prepare the certificates shall be supplied to the clerk of the court by the petitioner for adoption, annulment of adoption, or revocation of adoption at the time the petition is filed. The clerk of the court shall thereupon prepare the certificate on a form furnished by and containing such items of information as may be determined by the State Department of Health and shall, immediately after the decree becomes final, complete the certificate. On or before the 10th of each month, the clerk shall forward to the state registrar the certificates completed by him for decrees which have become final during the preceding calendar month.

Provided, that the above provisions shall not, in any way, be construed as affecting the property rights of natural or adoptive parents or of natural or adopted children, or as amending, modifying, or repealing any of the present laws of the State of Texas governing descent and distribution of property.

Subject to the regulations of the State Department of Health, any person whose name has been changed by court order may request the state registrar to attach to the original birth record an amendment reflecting the change of name. The request to attach such amendment may be made by the person, if of age, or a legal representative of the person. The state registrar shall require such proof of change of name as the State Department of Health may by regulation prescribe. As amended Acts 1951, 52nd Leg., p. 355, ch. 223, § 2; Acts 1957, 55th Leg., p. 532, ch. 249, § 1.

Emergency. Effective May 20, 1957.

Rule 51a. Blanks and registration forms; index of births and deaths; records; transcripts; fees; trial of issue regarding birth or death absent affidavit.—The State Department of Health shall prepare, print, and supply to local registrars all blanks and forms used in registering, recording, and preserving the returns, or in otherwise carrying out the purposes of this Act, and each city and incorporated town shall supply its local registrar, and each county shall supply the county clerk with permanent record books, in form approved by the State Registrar, for the recording of all births, deaths, and stillbirths occurring within their respective jurisdictions. The State Registrar shall prepare and issue such

detailed instructions as may be required to procure the uniform observance of its provisions and the maintenance of a perfect system of registration; and no other forms shall be used than those approved by the State Department of Health. He shall carefully examine the certificates received monthly from the local registrars, and if any such are incomplete or unsatisfactory he shall require such further information to be supplied as may be necessary to make the record complete and satisfactory. All physicians, midwives, informants, or undertakers, and all other persons having knowledge of the facts, are hereby required to supply, upon a form provided by the State Department of Health, or upon the original certificate, such information as they may possess regarding any birth, death, or stillbirth upon demand of the State Registrar, in person, by mail, or through the local registrar. After its acceptance for registration by the local registrar, no record of any birth, death, or stillbirth shall be altered or changed; provided, however, that if any such record is incomplete, or satisfactory evidence can be submitted proving the record to be in error in any respect, an amending certificate may be filed for the purpose of completing or correcting such record, which amendment shall be in a form prescribed by the State Department of Health and shall, if accepted for filing, be attached to and become a part of the legal record of such birth, death, or stillbirth. The State Registrar shall further arrange, bind, and permanently preserve the certificates in a systematic manner, and shall prepare and maintain a comprehensive index of all births and deaths registered; said index to be arranged alphabetically, in the case of deaths, by the names of decedents, and in the case of births, by the names of fathers and mothers. If any organization or individual is in possession of any record of births or deaths which may be of value in establishing the genealogy of any resident of this state, such organization or individual may file such record or a duly authenticated transcript thereof with the State Registrar. If any person desires a transcript of any such record, the State Registrar shall furnish the same upon application, together with a certificate that it is a true copy of such record, as filed in his office, and for his services in so furnishing such transcript and certificate he shall be entitled to a fee of Ten Cents (10¢) per folio, Fifty Cents (50¢) per hour or fraction of an hour necessarily consumed in making such transcript, and to a fee of Twenty-five Cents (25¢) for the certificate, which fees shall be paid by the applicant; provided, that before the issuance of any such transcript, the State Registrar shall be satisfied that the applicant is properly entitled thereto, and that it is to be used only for legitimate purposes.

“Provided further, that any citizen of the State of Texas wishing to file the record of any birth or death occurring in Texas prior to 1903, or occurring during or subsequent to 1903 and not previously registered as evidenced by a statement to that effect issued by the State Registrar, may submit to the probate court of the county in which the birth or death occurred, a record of that birth or death, written on the adopted forms of birth and death certificates; and provided further, that any citizen of the State of Texas wishing to file the record of any birth or death that occurred outside the State of Texas and not previously registered as evidenced by a statement to that effect issued by the proper State Registrar, may submit to the probate court in the county where he resides a record of that birth or death written on the adopted form of birth and death certificates. The certificate shall be substantiated by the affidavit of the physician, if any, present at the time of the birth, or in case of death, the affidavit of the physician last in attendance upon the deceased, or the undertaker who buried the body. When the affidavit of the physician or undertaker cannot be secured, the certificate shall be supported by (a) the

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

affidavit of some person who was acquainted with the facts surrounding the birth or death, at the time the birth or death occurred, provided that any person making such affidavit in support of a record falsified in any respect shall be guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not less than sixty (60) days and not more than one (1) year, or may be punished by both such fine and imprisonment; and (b) the affidavit of some person who was acquainted with the facts surrounding the birth or death, and who is not related to the individual by blood or marriage. Provided that when application is made as provided in this paragraph, a fee of One Dollar (\$1.00) shall be collected by the probate court, Fifty Cents (50¢) of which shall be retained by the court, and Fifty Cents (50¢) of which shall be retained by the clerk of the county court for recording said birth or death certificate. If the affidavit hereinafore mentioned of some person acquainted with the facts at the time the birth or death occurred cannot be secured, then the county judge shall order a trial of the issue as to the applicant's birth and hear the evidence of such witnesses and consider such documents relating thereto as may be available, including testimony regarding the family history, and after such hearing if the court concludes that it has been established beyond a reasonable doubt that the applicant was born within the United States, and at the time and place stated in the certificate, he shall enter judgment finding such facts relating to the applicant which judgment shall be accepted in lieu of the affidavit mentioned above, and sufficient, and shall order the State Registrar to accept the certificate of the applicant's birth. The fee for this hearing shall be the same as those set out in Article 3925 and Article 3930, Revised Civil Statutes of Texas, 1925, as heretofore amended. Within seven (7) days after the certificate has been accepted and ordered filed by the probate court, the clerk of that court shall forward the certificate to the State Bureau of Vital Statistics with an order from the court to the State Registrar that the certificate be accepted. The State Registrar is authorized to accept the certificate when verified in the above manner, and shall issue certified copies of such records as provided for in Section 21 of this Act.¹ Such certified copies shall be prima facie evidence in all courts and places of the facts stated thereon. The State Bureau of Vital Statistics shall furnish the forms upon which such records are filed, and no other form shall be used for that purpose. As amended Acts 1951, 52nd Leg., p. 355, ch. 223, § 2; Acts 1957, 55th Leg., p. 256, ch. 120, § 1.

¹ Article 4477, rule 54a.

Emergency. Effective May 18, 1957.

Rule 54a. Copies of records.—Subject to the regulations of the State Department of Health controlling the accessibility of vital records, the State Registrar shall, upon request, supply to any properly qualified applicant a certified copy of a record, or any part thereof, registered under the provisions of this Act,¹ for the making and certification of which he shall be entitled to a fee of One Dollar (\$1.00) to be paid by the applicant; provided, that such certified copies shall be issued in only such form as approved by the State Department of Health. And any such copy of a record, when properly certified by the State Registrar, shall be prima facie evidence in all courts and places of the facts therein stated. For any search of the files where a record is not found or a certified copy is not made, the State Registrar shall be entitled to a fee of One Dollar (\$1.00) for each hour or fractional part of an hour of time of search, said fee to be paid by the applicant. The State Registrar shall,

upon request of any parent or guardian, supply, without fee, a certificate limited to a statement as to the date of birth of any child when the same shall be necessary for admission to school, or for the purpose of securing employment. The State Registrar shall issue free of cost to any veteran, his widow, orphan or other dependents, a certified copy of any record not otherwise prohibited by law when such record is to be used in the settlement of a claim against the government. The State Registrar may issue, upon court order, without fee, a certified copy of a birth record in cases relating to child labor and the public schools. Provided, that the national agency in charge of the collection of vital statistics may obtain, without expense to the state, transcripts of vital records without payment of the fees herein prescribed; and provided further, that the State Registrar is hereby authorized to act as special agent for that agency in accepting the use of the franking privilege and blanks furnished by that agency; and provided further, that the Bureau of Vital Statistics of the State Department of Health is hereby authorized to enter into a contract with the national agency in charge of the collection of vital statistics in order to have transcribed for that agency copies of vital records filed with the State Bureau of Vital Statistics. The State Registrar shall keep a true and correct account of all money by him received under these provisions, and deposit the same with the State Treasurer at the close of each month and at such other intervals as the Registrar deems advisable, and all such money shall be kept by the State Treasurer in a special and separate fund, to be known as the vital statistics fund, and the amounts so deposited in this fund shall be used for defraying expenses incurred in the enforcement and operation of this Act.

The State Registrar shall refund to the applicant any fee received for services which the Bureau cannot render. If the money has been deposited in the vital statistics fund, the Comptroller shall issue a warrant against the fund, upon presentation of a claim signed by the State Registrar, for the purpose of refunding the payment. As amended Acts 1951, 52nd Leg., p. 145, ch. 87, § 4; Acts 1957, 55th Leg., p. 256, ch. 120, § 2.

¹ Rules 34a-55a; Vernon's Ann.P.C. art. 781a.

Emergency. Effective May 18, 1957.

CHAPTER FIVE—COUNTY HOSPITAL

Art.

4494o. Public Hospital Districts; counties of 75,000 or less population [New].

Art.

4494p. Optional Hospital District Law of 1957 [New].

Art. 4494o. Public hospital Districts; counties of 75,000 or less population

Establishing of districts; powers of districts

Section 1. The Commissioners Courts may establish one or more Public Hospital Districts in their respective counties in the manner provided by this Act, which said districts shall be empowered to own and operate hospitals and to supply hospital services for the residents of such districts and other persons. Such districts may or may not include villages, towns, and municipal corporations, or any portion thereof, but no land shall at the same time be included in more than one Public Hospital District created hereunder. It is provided, however, that no such district shall be formed unless the assessed valuation of all property in such district shall exceed Twenty-five Million Dollars (\$25,000,000.00), within a county having an assessed valuation of not less than Two Hundred Million Dollars (\$200,000,000.00), nor shall any such district be created in counties hav-

ing in excess of 75,000 population according to the then next preceding federal census.

Petition for election; tax levy; bond issue

Sec. 2. When it is proposed to establish a Public Hospital District as above provided, a petition praying for an election therefor, signed by not less than five per cent (5%) of the qualified taxpaying voters of the proposed territory, shall be presented to the Commissioners Court of the county in which the proposed district is situated, stating the boundaries of the proposed district, the public necessity therefor, and designating a name for such district, which shall include the name of the county. Said petition may also incorporate therein a request for the Commissioners Court, in the event an election is ordered for the creation of such district, to submit at the same election the question of levying a tax for the construction and/or equipment and/or maintenance and/or purchase of hospital buildings and grounds for such district, in the event same is created, and/or the bonds to be issued for the construction and/or the acquisition of sites therefor, and to provide for the interest and sinking fund for such bonds by levying of such taxes as will be necessary in this connection.

Cash deposit with petition; disposition

Sec. 3. Said petition shall be accompanied by Two Hundred Dollars (\$200.00) in cash, which shall be deposited with the clerk of said court, and by him held until after the results of the election for the creation of the district and issuance of bonds is officially made known. If said election is in favor of the establishment of said district, then the clerk shall return said deposit to the petitioners, their agent or attorney. If said election is against the establishment of such district, then the clerk shall pay out of said deposit upon vouchers approved and signed by the County Judge, all costs and expenses pertaining to said proposed district up to and including said election, and the balance shall be returned to the petitioners, their agent or attorney.

Hearing on petition; time for hearing; notice

Sec. 4. At the same session when said petition is presented, the court shall set said petition down for hearing at some regular or special session called for the purpose, not less than thirty (30) days nor more than sixty (60) days from the presentation of the said petition, and shall order the clerk to give notice of the date and place of said hearing by posting a copy of said petition and other order of the court thereon for twenty (20) days prior to the election in five public places in said county, one at the courthouse door, and four within the limits of the district.

Order for election; prerequisites; questions submitted

Sec. 5. If at the hearing, the court finds that such petition has been signed by the requisite number of qualified taxpaying voters, correctly describes the boundaries of the proposed district, and otherwise conforms to the provisions of this Act, then the court shall so find and shall enter an order for an election to be held in the proposed district within a time not less than twenty (20) days and not more than thirty (30) days after such order is issued, to determine whether or not such Public Hospital District shall be created and formed; and in the event the petition for the creation of such Public Hospital District was accompanied by a request to submit the question of levying of a tax for the construction and/or equipment and/or maintenance and/or purchase of hospital buildings and grounds for such district, in the event same is created and/or bonds to be issued

for the construction and/or equipment of hospital buildings and/or the acquisition of sites therefor, and to provide for the interest and sinking fund for such bonds by levying of such taxes as will be necessary in this connection, then such order shall also submit such question of levying a tax and/or issuing bonds according to the terms of said petition. Such order shall contain a description of the metes and bounds of such Public Hospital District to be formed, and shall fix the date of such election. A majority vote of the qualified taxpaying voters in said district voting in said election shall determine the question or questions submitted in said order.

Canvass of election returns; declaration and entry of results

Sec. 6. Said Commissioners Court shall within ten (10) days after holding such election make a canvass of the returns and declare the results of the election. The court shall then enter an order in the minutes as to the results.

Board of district hospital trustees; election; powers and duties

Sec. 7. Such Public Hospital District shall be governed, administered and controlled by and under the direction of a Board of five Public District Hospital Trustees elected at large from the Public Hospital District by the qualified voters of said district, it being provided that whenever an election is ordered for the creation of such district at the same election at which shall be determined the creation of such district, there shall also be submitted and voted upon the question of who shall be the Public District Hospital Trustees, in the event such district is created. The five candidates for Public District Hospital Trustees receiving the highest number of votes at such election shall be declared the Trustees of such Public District Hospital. Such Trustees so elected, when duly qualified hereunder, shall be the legal and rightful Public District Hospital Trustees for such district within the full meaning and purpose of this law. Such Trustees shall hold office until the next regular election for state and county officers and shall then and thereafter be elected every two years at each general election. Any candidate desiring to be voted upon as such first Trustee shall present a petition to the Commissioners Court not later than three days before the order authorizing the election is issued by the court, and shall be accompanied by a petition of not less than one hundred (100) of the qualified voters in such district, requesting that his name be placed on the ticket as a candidate for such Trustee. Said Board of Trustees shall adopt such rules, regulations, and bylaws as they may deem proper, and they shall have exclusive power to manage and govern said Public District Hospital and as such they shall constitute a body corporate by the name of "_____ County Public Hospital District No. _____" and in that name may acquire and hold real and personal property, sue and be sued, and may receive bequests and donations or other moneys or funds coming legally into their hands and may perform other acts for the promotion of health in said district.

Oath of trustees

Sec. 8. Before entering upon his duties, each Trustee shall take and subscribe before the County Judge an oath faithfully to discharge the duties of his office without favor or partiality, and to render a true account of his activities to the court whenever requested to do so. Such oath shall be filed by the clerk of the court and preserved as a part of the district records.

Bond of trustees

Sec. 9. Each Trustee shall give a good and sufficient bond for Five Thousand Dollars (\$5,000.00) payable to the County Judge for the use and benefit of the district, conditioned upon the faithful performance of his duties.

Compensation of trustees; expenses; organization; quorum; seal

Sec. 10. The Trustees shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties hereunder. The Trustees shall organize by electing one of their number chairman and one secretary, and such other officers as they may deem fit. Three Trustees shall constitute a quorum which shall be sufficient in all matters pertaining to the business of said district. All proceedings of the Board of Trustees shall be by motion or resolution recorded in a book or books kept for such purpose, which shall be public records. The Board of Trustees shall adopt an official seal.

Superintendent and other officers

Sec. 11. The Board of Trustees of such Public Hospital District shall appoint a superintendent and such other officers as they may deem necessary and fix the salary or other compensation to be received by each of them. All such appointments shall be for an indefinite time and may be removable at the will of the Board of Trustees. The superintendent shall be the chief administrative officer of the Public District Hospital and shall have control of administrative functions of said hospital. He shall be responsible to the Board of Trustees for the efficient administration of all affairs of the hospital. In case of the absence or temporary disability of the superintendent a competent person shall be appointed by the Board of Trustees. The superintendent shall be entitled to attend all meetings of the Board of Trustees and its committees and to take part in the discussion of any matters pertaining to the duties of his department, but shall have no vote. Such Public Hospital District superintendent shall have power, and it shall be his duty:

1. To carry out the orders of the Board of Trustees, and to see that all the laws of the state pertaining to matters within the functions of his department are duly enforced;

2. To keep the Board of Trustees fully advised as to the financial condition and needs of the district. To prepare, each year, an estimate for the ensuing fiscal year of the probable expenses of his department, and to recommend to the Board of Trustees what development work should be undertaken, and what extensions and additions, if any, should be made, during the ensuing fiscal year, with an estimate of the costs of such development work, extensions and additions. To certify to the Board of Trustees all the bills, allowances and payrolls, including claims due contractors of public works. To recommend to the Board of Trustees salaries of the employees of his office and a scale of salaries or wages to be paid for the different classes of service required by the district.

Additional bond issue; election

Sec. 12. If the proceeds of the original bond issue shall be insufficient to complete the construction and/or equipment and/or maintenance and/or purchase of hospital buildings and grounds for such district, or if the Trustees determine to provide for additional construction and/or equipment and/or maintenance and/or purchase of hospital buildings and

grounds, they shall certify to said court the necessity for an additional bond issue, stating the amount required, the purpose of same, the rate of interest of said bonds and the time for which they are to run. Said court shall thereupon order an election on the issuance of said bonds to be held within such district at the earliest possible legal time. The outstanding bonds and the additional bonds so ordered shall not exceed in amount one-fourth of the assessed value of the real property in such district, as shown by the latest annual assessment thereof made for state and county taxation.

Changes in proposed district; procedure; notice

Sec. 13. After the issuance of bonds is authorized the Trustees may make changes in said proposed Public District Hospital, additions, or betterments thereto, extensions thereof, or equipment therefor, which will be of advantage to the Public District Hospital, which changes will not increase the cost of such proposed project beyond the amount of bonds authorized. Such changes may be made by the Trustees by entering on the minutes a notation of such changes. Notice of such change or changes shall be given by publication of such notation with the book and page number of the minutes for two successive weeks in some newspaper of general circulation, published in the English language, within the county in which such district is situated.

Record book for bonds; inspection; recording fees

Sec. 14. Before issuing any bonds hereunder, the court shall provide a well-bound book, in which a record shall be kept by the County Clerk of all bonds issued, with their numbers, amount, rate of interest and date of issue, when due, where payable and amount received for the same, and the annual rate of assessment made each year to pay the interest on said bonds and provide a sinking fund for their payment, and upon the payment of any bond an entry thereof shall be made in said book. Said book shall at all times be open to inspection of all parties interested in said district either as taxpayers or bondholders. The County Clerk shall receive for his service in recording all bonds and other instruments of the district the same fees as provided by law for other like records.

Bonds; issuance; procedure; denominations; interest rate; majority

Sec. 15. All bonds issued hereunder shall be issued in the name of the district, signed by the County Judge and attested by the County Clerk, with the seal of the court affixed thereto. Such bonds shall be issued in denominations of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) each, and shall bear interest at not exceeding six per cent (6%) per annum, payable annually or semi-annually. Such bonds shall by their terms provide the time, place, manner and conditions of their payment, and the rate of interest thereon, as may be determined and ordered by the court. No bonds shall be made payable more than thirty (30) years after the date thereof.

Attorney General; certification of validity of bonds

Sec. 16. Before any bonds are offered for sale, the district shall forward to the Attorney General a copy of the bonds to be issued, a certified copy of the order of the court levying the tax to pay the interest and provide a sinking fund, and a statement of the total bonded indebtedness of such district as such, including the series of bonds proposed, and the assessed value of property for the purpose of taxation as shown by the lat-

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

est official assessment of the county, with such other information as the Attorney General may require. Such officer shall carefully examine said bonds, and if he shall find that they are issued in conformity with the constitution and laws, and that they are valid and binding obligations upon such district, he shall so officially certify.

Registration of bonds by Comptroller; prima facie evidence; defenses against validity

Sec. 17. When said bonds have been so approved, they shall be registered by the Comptroller in a book to be kept for that purpose, and the certificate of their approval shall be preserved of record for use in the event of litigation. Thereafter, said bonds shall be held prima facie valid and binding obligations in every action, suit or proceeding in which their validity is brought in question. In every suit to enforce the collection of said bonds, the certificate of the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence as prima facie proof of the validity of such bonds, together with the coupons attached thereto. The only defense that can be offered against the validity of such bonds shall be forgery or fraud.

Bond of county judge; payment of premium

Sec. 18. After the Public Hospital District bonds have been registered, the County Judge shall at once execute a good and sufficient bond, payable to the Trustees and approved by them, for an amount not less than the amount of the bonds issued, conditioned upon the faithful discharge of his duties. If said bond is executed by a satisfactory surety company, the district may pay a reasonable amount as premium on said bond, which shall be paid out of the construction and maintenance fund upon presentation of the bill therefor to the Trustees. If there is any controversy as to the reasonableness of the amount claimed as such premium, such controversy may be determined by any court of competent jurisdiction. Said premium may be deducted by the Board of Trustees from the commission allowed the County Judge on the sale of bonds by him.

Sale of bonds; disposition of proceeds; district funds

Sec. 19. When the bonds have been registered, the County Judge shall, under the direction of the Commissioners Court, advertise and sell such bonds on the best terms and for the best price possible, not less than the par value and accrued interest. All money received from such sale shall be turned over as received by the County Judge to the County Treasurer and shall be by him placed to the credit of the district in the construction and maintenance fund thereof. The County Treasurer of the county in which such district is situated shall be the treasurer of the district, and all funds in the district shall be paid to him as such treasurer and shall be disbursed by him only by warrants drawn and signed by the chairman of the Board of Trustees, or such other officer of the district as may be selected and designated by the Board of Trustees. The County Treasurer shall maintain in the name of the Public Hospital District such funds as may be created by the Board of Trustees, and into which shall be placed such moneys as the Board of Trustees may by its resolution direct. All such Public Hospital District funds shall be deposited with the county depositories under the same resolutions, contracts and securities as are provided by statute for county depositories, and all interest collected on such hospital funds shall belong to such Public Hospital District.

Tax levy to pay bonds and interest; sinking fund

Sec. 20. When bonds have been voted, the court shall annually levy and cause to be assessed and collected taxes upon all property within the district, whether real, personal, or otherwise, and sufficient in amount to pay the interest on such bonds as it falls due, and to redeem such bonds at maturity. Such taxes when so collected shall be placed in the interest and sinking fund.

Annual report by trustees

Sec. 21. The Trustees shall annually, on or before the first day of June, prepare and file with the court a full detailed report of the condition of the Public District Hospital with an estimate of the probable cost of maintenance, operation, and needed repairs during the ensuing year, together with an inventory of all funds, effects, property and accounts belonging to such district and a list of all lawful demands, debts, and obligations against the district. Such report shall be verified by the Trustees and carefully investigated and considered by the court before any levy of taxes is made under the succeeding section.

Assessment and collection of taxes; maximum rate; disposition

Sec. 22. Following the investigation and consideration of said above report, the Commissioners Court shall cause to be assessed and collected taxes upon all property in the district, whether real, personal, or otherwise, sufficient to maintain, keep in repair, to preserve and operate the Public District Hospital, and to pay all legal, just, and lawful debts, damages, and obligations against such district. Such levy shall never, in any one year, exceed two-tenths of one per cent ($\frac{2}{10}$ of 1%) of the total assessed valuation of such district for such year. Such taxes when so collected shall be placed in the construction and maintenance fund.

Sale of bonds not required for purpose for which voted

Sec. 23. If any bonds remain which are not required for the purpose for which they were voted, then with the consent of the Commissioners Court duly made of public record, such bonds or a part thereof may be sold and the proceeds of the sale thereof may be placed in the construction and maintenance fund and used for the purpose stated in the section next preceding.

County tax assessor; powers and duties; board of equalization

Sec. 24. In the assessment and collection of the taxes authorized hereunder, and in all matters pertaining thereto or connected therewith, the County Tax Assessor and Collector shall have the same powers and shall be governed by the same rules, regulations, and proceedings as provided for the assessment and collection of state and county taxes, unless otherwise herein provided. The Commissioners Court shall constitute a board of equalization for such district, and all laws governing boards of equalization for state and county taxing purposes shall govern such district board.

Lien and due date of taxes; penalty for non-payment

Sec. 25. The taxes authorized hereunder shall be a lien upon all property assessed therefor. The Commissioners Court shall, and it is empowered to, fix the time and determine the date when such taxes shall become due and payable; otherwise they shall become due and payable at the same time as state and county taxes. Upon the failure to pay such taxes when

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

due, the penalty provided by law for failure to pay state and county taxes at maturity shall in every respect apply to taxes hereunder.

**Additional books provided; assessments; compensation of assessor;
removal from office**

Sec. 26. The Commissioners Court shall provide all necessary additional books for the use of the Assessor and Collector and the County Clerk of such district, and charge the cost of same to the district. When ordered by the Commissioners Court, the Assessor shall assess all property within the district and list the same for taxation in the books or rolls furnished him by said Commissioners Court for said purpose, and return said books or rolls when he returns the state and county rolls for correction and approval. If said court finds them correct, it shall approve the same and direct the County Clerk to issue a warrant against the County Treasurer in favor of the Assessor to be paid from the district funds. The Assessor shall receive for said services such pay as the Commissioners Court deems proper. If the Assessor fails or refuses to comply with such order, he shall be suspended from the further discharge of his duties by the Commissioners Court, and removed from office in the mode prescribed by law for the removal of county officers.

Duties of county tax collector; additional bond

Sec. 27. The County Tax Collector shall be charged by the Commissioners Court with the assessment rolls of the district, and shall be allowed such compensation for the collection of said taxes as is allowed for the collection of other taxes. The Commissioners Court shall require said officer to give an additional bond or security in such sum as they deem proper and safe to secure the collection of said taxes. If such officer fails or refuses to give such additional security when requested by the court, within the time provided by law for such purposes, he shall be suspended from office by the Commissioners Court and immediately thereafter be removed from office in the mode prescribed by law.

Certified list of tax delinquent property; tax sale

Sec. 28. The collector shall make a certified list of all delinquent property upon which the Public District Hospital tax has not been paid, and return same to the Commissioners Court, which shall proceed to have the same collected by the sale of such property in the same manner provided by law for the sale of property for the collection of state and county taxes. The Trustees may purchase any property so sold, for the benefit of the district.

Elections as to separate officers for district; notice

Sec. 29. After the establishment of a district, and upon the petition of not less than five per cent (5%) of the qualified taxpaying voters thereof, the court may order an election to determine whether or not such district shall have a separate tax assessor, separate tax collector, and separate board of equalization for the assessment and collection of district taxes. Notice of such election shall be given as in the original election, and if said proposition carries by a two-thirds vote, the said Trustees shall appoint a suitable person as assessor and other such person as collector, and they shall give bond and exercise the same powers and perform the same duties as provided herein for the County Assessor and Collector; and the Trustees shall exercise all of the powers herein conferred upon said court with relation to the equalization of taxes. The general laws re-

lating to the assessment, collection and equalization of taxes, in so far as applicable, shall apply to the assessment, collection and equalization of district taxes.

County treasurer's duties

Sec. 30. The County Treasurer shall open an account with the district and keep an accurate account of all money received by him belonging to such district, and of all amounts paid out by him. He shall pay out no money except upon a voucher signed by the chairman or any two members of the Board of Trustees. He shall carefully preserve on file all orders for the payment of money, and as often as required by the Trustees or the court, he shall render a correct account to them of all matters pertaining to the financial condition of the district.

Compensation of treasurer

Sec. 31. The treasurer shall be allowed as pay for his services as such, one-fourth of one per cent upon all money received by him for the account of such district, and one-eighth of one per cent upon all money by him paid out upon the order of the district. He shall not be entitled to any commissions on any district money received by him from his predecessor in office.

Payment of obligations incurred in establishing district; sources

Sec. 32. After the establishment of a Public Hospital District all legal and just expenses, debts, and obligations other than bonds and interest thereon arising and created after the filing of the original petition and necessarily incurred in the creation, establishing, operation, and maintenance of such Public District Hospital shall be paid out of the construction and maintenance fund of such district, which fund shall consist of all money, effects, property, and proceeds received by such district from all sources, except that portion of the tax collections which shall be necessary to pay the interest on the bonded indebtedness as it falls due and the payment of bonds at maturity. Said tax collections shall be placed in and paid out of the interest and sinking fund of such district for such purposes, and such fund may be invested for the benefit of the district in such bonds and securities as the Attorney General may approve. Such funds shall be held for the respective purposes for which they were created, and if money is improperly paid out of either, the Commissioners Court may cause the County Treasurer to make the necessary transfer of such amount in the district accounts to restore the fund so improperly used.

Powers of districts

Sec. 33. All Public Hospital Districts organized under the provisions of this Act shall have the power:

(a) To construct, condemn and purchase, purchase and acquire, lease, add to, maintain, operate, develop and regulate, sell and convey all lands, property, property rights, equipment, hospital facilities and systems for the maintenance of hospitals, buildings, structures and any and all other facilities, and to exercise the right of eminent domain to effectuate the foregoing purposes or for the acquisition and damaging of the same or property of any kind appurtenant thereto, and such right of eminent domain shall be exercised and instituted pursuant to a resolution of the Board of Trustees and constituted in the same manner and by the same procedure as is or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the State of Texas in the acquisition of property rights. It is provided, however, that no

Public Hospital District shall have the right of eminent domain and the power of condemnation against any hospital, clinic, or sanatorium operated as a charitable, non-profit establishment or against a hospital, clinic or sanatorium operated by a religious group or organization, or against any privately owned or operated hospital or clinic, corporate or otherwise, in said district;

(b) To lease existing hospitals and equipment and/or other property used in connection therewith, and to pay such rental therefor as the Trustees shall deem proper; to provide hospital service for residents of said district in hospitals located outside the boundaries of said district, by contract or in any other manner said Trustees may deem expedient or necessary under the existing conditions; and said hospital district shall have the power to contract with other communities, corporations, or individuals for the services provided by said hospital district; and they may further receive in said hospital and furnish proper and adequate services to all persons not residents of said district at such reasonable and fair compensation as may be considered proper; provided, that it must at all times make adequate provision for the needs of the district, and residents of said district shall have prior rights to the available facilities of said hospitals, at rates set by the District Trustees;

(c) For the purposes aforesaid, it shall be lawful for any district so organized to take, condemn and purchase, lease, or acquire, any and all property, and property rights, for any of the purposes aforesaid, and any and all other facilities necessary or convenient, and in connection with the construction, maintenance and operation of any such hospital, except as herein duly excepted in paragraph (a) of this section;

(d) To contract indebtedness or borrow money for corporate purposes on the credit of the corporation or the revenues of the public hospitals thereof, and to issue bonds as herein provided;

(e) To enter into any contract with the United States government or any state, municipality, or other hospital district, or any department of those governing bodies, for carrying out any of the powers authorized by this Act;

(f) To sue and be sued in any court of competent jurisdiction; provided, that said Public Hospital District shall not be liable for negligence for any act of any officer, agent or employee of said district; and provided that all suits against the Public Hospital District shall be brought in the county in which the Public Hospital District is located;

(g) To make contracts, employ superintendents, attorneys and other technical or professional assistance and all other employees; to print and publish information or literature and to do all other things necessary to carry out the provisions of this Act.

Contracts exceeding \$2000; competitive bidding; bond of contractor

Sec. 34. Any contract of any nature whatsoever entered into by the Board of Trustees on behalf of said Public Hospital District in excess of Two Thousand Dollars (\$2,000.00) shall be let to the lowest bidder after advertising the same in one or more newspapers of general circulation in this state once a week for four consecutive weeks, and by posting notices thereof for at least twenty-five (25) days in four public places in the county, one at the courthouse door and at least two within the district. Any person, firm, or corporation desiring to bid on any such contract shall, upon application to the Trustees, be furnished with a copy of the plans and specifications or other data necessary in making said bid. All bids shall be in writing and sealed and delivered to the chairman of the Board of Trustees, with a certified check for at least five per cent

(5%) of the total amount bid, which shall be forfeited to the district in case the bidder refuses to enter into a proper contract if his bid is accepted. Any bid may be rejected if deemed too high. The contractor shall give bond in the amount of the contract price, payable to the Trustees, conditioned that he will faithfully perform the obligations, agreements, and covenants of the contract, and that in default thereof he will pay to said district all damages sustained by reason thereof. Said bond shall be approved by the Board of Trustees. Acts 1957, 55th Leg., p. 406, ch. 199.

Emergency. Effective May 8, 1957.

Section 35 of the Act of 1957 provided

that partial invalidity should not affect the remaining portions of the Act.

Art. 4494p. Optional Hospital District Law of 1957

Short title

Section 1. This Act shall be known and may be cited as the Optional Hospital District Law of 1957.

Purpose

Sec. 2. The purpose of this Act is to provide a method for establishment and administration of county-wide hospital districts, in addition to the method provided in Chapter 266,¹ Acts of the Fifty-third Legislature, Regular Session, as amended; and this Act shall in no way be considered as an amendment to any existing hospital district law nor shall it in any way be construed or considered as a repeal of any existing laws, but shall be cumulative of any and all existing laws providing for the creation and management of hospital districts. Any county may elect under which Act it desires to create its hospital district, and when it has so elected it shall be governed by the specific law under which it was so created unless and until changed by an election as provided in Section 18 of this Act.

¹ Article 4494n.

Creation of district

Sec. 3. (a) Any county authorized to establish a hospital district pursuant to Section 4 of Article IX of the Constitution of Texas, 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 as hereinafter set out, and may take over the hospital or hospital system, either owned separately by a county or jointly with a city, or may provide for the establishment of a hospital or hospital system to furnish medical aid and hospital care to the indigent and needy persons residing in the hospital district; provided, however, that such hospital district shall not be created unless and until an election is duly held in the county for such purpose, which election may be initiated by the Commissioners Court upon its own motion or upon a petition of one hundred (100) resident qualified property taxpaying voters, to be held not less than thirty days from the time the election is ordered by the Commissioners Court.

(b) At the time the order for the holding of such election is entered by the Commissioners Court, the Commissioners Court shall determine the amount of tax needed for the operation and maintenance of such hospital system and the retirement of any outstanding bonded indebtedness which is to be assumed by such district not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) assessed valuation.

(c) At the 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 under the Optional Hospital District Law of 1957; providing for the levy of a tax not to exceed (the amount determined by order of the Commissioners Court in its order calling the election) on the One Hundred Dollars (\$100) valuation”; and

“AGAINST the creation of a hospital district under the Optional Hospital District Law of 1957; providing for the levy of a tax not to exceed (the amount determined by order of the Commissioners Court in its order calling the election) on the One Hundred (\$100) valuation.”

If such county or city, either or both of them, has any outstanding bonds theretofore issued for hospital purposes (which by the provisions of Section 6 of this Act are required to be assumed by the hospital district), then the ballots for such election shall, instead of the foregoing, have printed thereon:

“FOR the creation of a hospital district under the Optional Hospital District Law of 1957; providing for the levy of a tax not to exceed (the amount of tax determined by the Commissioners Court in its order calling the election) on the One Hundred Dollars (\$100) valuation; and providing for the assumption by such district of all outstanding bonds heretofore issued by _____ County, and by any city in said county for hospital purposes”; and

“AGAINST the creation of a hospital district under the Optional Hospital District Law of 1957; providing for the levy of a tax not to exceed (the amount of tax determined by the Commissioners Court in its order calling the election) on the One Hundred Dollars (\$100) valuation; and providing for the assumption by such district of all outstanding bonds heretofore issued by _____ County, and by any city in said county for hospital purposes.”

Taxes of district; deposit of taxes and other income

Sec. 4. (a) The Commissioners Court of any county which has voted to create a hospital district shall have the power and the authority, and it shall be its duty, to levy on all property subject to hospital district taxation for the benefit of the district at the same time taxes are levied for county purposes, using the county values and the county tax roll, a tax of not to exceed the amount determined by the Commissioners Court in calling the election and so stated on the ballot in which the district was approved, on the One Hundred Dollars (\$100) valuation of all taxable property within the hospital district, for the purpose of (1) paying the interest on and creating a sinking fund for bonds which may have been assumed or which may be issued by the hospital district for hospital purposes, as herein provided; (2) providing for the operation and maintenance of the hospital or hospital system; and (3) for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

(b) The tax so levied shall be collected on all property subject to hospital district taxation by the assessor and collector of taxes for the county on the county tax values, and in the same manner and under the same conditions as county taxes. The assessor and collector of taxes shall charge and deduct from payments to the hospital district the fees for assessing and collecting the tax at the rate of not exceeding one and one-half per cent (1½%) of the amounts collected as may be determined by the Commissioners Court. Such fees shall be deposited in the county's

general fund, and shall be reported as fees of office of the tax assessor and collector. Interest and penalties on taxes paid to the hospital district shall be the same as in the case of county taxes. Discounts shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the district depository; and such funds shall be withdrawn only as provided herein. All other income of the hospital district shall be deposited in like manner with the district depository. Warrants against hospital district funds shall not require the signature of the county clerk.

(c) The Commissioners Court shall have the authority to levy the tax aforesaid for the entire year in which the hospital district is established, for the purpose of securing funds to initiate the operation of the hospital district, and to pay assumed bonds.

(d) After the creation of such district the tax levy so approved in the creation of the district shall not be increased unless and until an election is duly held in the county for such purpose, which election may be initiated by the Commissioners Court upon its own motion or upon a petition of one hundred (100) resident qualified property taxpaying voters, to be held not less than thirty (30) days from the time the election is ordered by the Commissioners Court. In calling the election the Commissioners Court shall determine the amount of increase in the tax levy needed for the proper maintenance of such hospital system, provided the increase together with the existing levy for the district shall not exceed seventy-five cents (75¢) in any one year. There shall be submitted to the qualified property taxpaying voters the proposition of whether or not the tax levy for the hospital district shall be increased, and a majority of the qualified property taxpaying voters participating in the election voting in favor of the proposition shall be necessary. The ballot shall have printed thereon:

"FOR the increase of the hospital district tax from (the existing tax levy) to (the amount of existing tax plus the increase determined by the Commissioners Court in its order calling the election) on the One Hundred Dollars (\$100) valuation"; and

"AGAINST the increase of the hospital district tax from (the existing tax levy) to (the amount of existing tax plus the increase determined by the Commissioners Court in its order calling the election) on the One Hundred Dollars (\$100) valuation."

(e) Increases in such hospital district tax levy may be had in the above manner from time to time so long as the total levy never exceeds seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation.

Bonds of district; taxes to pay bonds and interest; sinking funds

Sec. 5. (a) The Commissioners Court shall have the power and authority to issue and sell as the obligations of such hospital district, and in the name and upon the faith and credit of such hospital district, bonds for the acquisition, purchase, construction, equipment and enlargement of the hospital or hospital system, and for any or all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures, but such tax together with any other taxes levied for the district shall not exceed seventy-five cents (75¢) in any one year. Such bonds shall be executed in the name of the hospital district and on its behalf by the county judge of the county within which the hospital district is created, and countersigned by the county clerk, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of such county; and the approval of such bonds by the

Attorney General shall have the same force and effect as is by law given to his approval of bonds of such county.

(b) No bonds shall be issued by such hospital district (except refunding bonds) until authorized by a majority vote of the legally qualified property taxpaying voters, residing in such hospital district, voting at an election called and held in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of the State of Texas (1925), as amended, relating to county bonds. Such election may be called by the Commissioners Court at any time it deems advisable except that no election shall be held within two (2) years after a previous election. The same persons shall be responsible for the conduct of such election and the arrangement of all details thereof as the persons charged therewith in connection with other county-wide elections. The cost of any such election shall be a charge upon the hospital district and its funds; and the hospital district shall make provision for the payment thereof before the Commissioners Court shall be required to order such an election.

(c) In the manner hereinabove provided, the bonds of the hospital district may, without the necessity of any election therefor, be issued for the purpose of refunding and paying off any bonded indebtedness theretofore assumed by the hospital district and any bonds theretofore issued by the hospital district. Such refunding bonds may be sold and the proceeds thereof applied to the payment of any such outstanding bonds or may be exchanged in whole or in part for not less than a like amount of said outstanding bonds and interest matured thereon, but unpaid; provided the average interest cost per annum on the refunding bonds, computed in accordance with recognized standard bond interest cost tables, shall not exceed the average interest cost per annum so computed upon the bonds to be discharged out of the proceeds of the refunding bonds, unless the total interest cost on the refunding bonds, computed to their respective maturity dates, is less than the total interest cost so computed on the bonds to be discharged out of such proceeds. In the foregoing computations, any premium or premiums required to be paid upon the bonds to be refunded as a condition to payment in advance of their stated maturity dates shall be taken into account as an addition to the net interest cost to the hospital district of the refunding bonds.

(d) If the city and the county, or either of them, has voted bonds to provide hospital facilities, but such bonds have not been sold at the date of the creation of the hospital district, the authority for such bonds shall be canceled, and they shall not be sold.

County or city property or funds; transfer to district

Sec. 6. (a) Any lands, buildings or equipment that may be jointly or separately owned by such county and city, and by which medical services or hospital care, including geriatric care, are furnished to the indigent or needy persons of the city and county, shall become the property of the hospital district, and title thereto shall vest in the hospital district; and any funds of the city and county, or either, which are the proceeds of any bonds assumed by the hospital district, as hereby provided, shall become the funds of the hospital district, and title thereto shall vest in the hospital district; and there shall vest in the hospital district and become the funds of the hospital district the unspent portions of any funds theretofore set up or appropriated by budget or otherwise by the city or the county, or either of them, for the support and maintenance of the hospital facilities for the year within which the hospital district comes into existence, thereby providing such hospital district with funds with which to maintain and operate such facilities for the

remainder of such year. All obligations under contract legally incurred by the city or county, or either of them, for the building of, or the support and maintenance of, hospital facilities, prior to the creation of the district but outstanding at the time of the creation of the district, shall be assumed and discharged by it without prejudice to the rights of third parties. As soon as practicable after the declaration of the result of the election, the board of managers of the existing hospital system shall turn over all records, property and affairs of the hospital system to the board of managers of the hospital district and shall cease to exist as a hospital system board of managers.

(b) Any outstanding bonded indebtedness incurred by the city or county, either or both of them, in the acquisition of lands, buildings and equipment for such hospital system, or in the construction and equipping of such hospital facilities, together with any other outstanding bonds issued by either of them for hospital purposes, and the proceeds of which are in whole or in part still unspent, shall be assumed by the hospital district and become the obligation of the hospital district; and the city or county, either or both of them, that issued such bonds, shall be by the hospital district relieved of any further liability for the payment thereof, or for providing interest and sinking fund requirements thereon; provided that nothing herein contained shall limit or affect any of the rights of any of the holders of such bonds against the city or the county, as the case may be, in the event of default in the payment of the principal or interest on any of such bonds in accordance with their respective terms.

(c) As soon as the hospital district is created and authorized at the election hereinabove provided, the Commissioners Court acting for the county and the city governing board acting for the city shall execute and deliver to the board of managers of the hospital district an instrument in writing conveying to the hospital district the hospital property, including lands, buildings and equipment owned by the county or the city or jointly owned by the county and the city; and shall transfer to the hospital district the funds hereinabove provided to become vested in the hospital district, upon being furnished the certificate of the chairman of the board to the fact that a depository for the district's funds has been selected and has qualified; which funds shall, in the hands of the hospital district and of its board of managers, be used for all or any of the same purposes as, and for no other purposes than, the purposes for which the county or the city transferring such funds could lawfully have used the same had they remained the property and funds of such county or city.

Board of managers

Sec. 7. (a) The Commissioners Court is hereby designated as the board of managers of the hospital district with the county judge as chairman thereof and they shall serve in this capacity without any compensation other than that provided by law for county judges and commissioners, and whose duty shall be to manage, control and administer the hospital or hospital system of the hospital district. The board of managers shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the hospital or hospital system.

(b) The board shall appoint a general manager, to be known as the administrator of the hospital district. The administrator shall hold office for a term not exceeding two (2) years, and shall receive such compensation as may be fixed by the board. The administrator shall be subject to removal at any time by the board. The administrator shall, before entering into the discharge of his duties, execute a bond payable to the district, in the amount of not less than Ten Thousand Dollars (\$10,000), conditioned that he shall well and faithfully perform the duties required of him, and

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

containing such other conditions as the board may require. The administrator shall perform all duties which may be required of him by the board, and shall supervise all of the work and activities of the district, and have general direction of the affairs of the district, within such limitations as may be prescribed by the board. He shall be a person qualified by training and experience for the position of administrator.

(c) The board of managers shall have the authority to employ such doctors, technicians, nurses and other employees of every kind and character as may be deemed advisable for the efficient operation of the hospital or hospital system; provided that no contract of employment shall exceed the period of two years.

(d) The Commissioners Court as the board of managers of such district may include the employees of such district in any county employees' pension or retirement program now in existence or which may be created in the future for the benefit of such district's employees.

(e) The county clerk shall act as secretary to the board of managers and shall keep suitable records of all proceedings of each meeting of the board. The seal of the Commissioners Court of such county shall be the seal of the district and used in the authentication of all acts of the board.

Powers of Commissioners Court; duties of district, county officers, employees or agents

Sec. 8. The Commissioners Court shall have the power to prescribe the method and manner of making purchases and expenditures by and for the hospital district, and also shall be authorized to prescribe all accounting and control procedures. The hospital district shall pay all salaries and expenses necessarily incurred by the county or any of its officers and agents in performing any duties which may be prescribed or required under this section. It shall be the duty of any officer, employee or agent of such county to perform and carry out any function or service prescribed by the Commissioners Court hereunder.

Assistant to administrator

Sec. 9. In the event of incapacity, absence or inability of the administrator to discharge any of the duties required of him, the board may designate an assistant to the administrator to discharge any duties or functions required of the administrator. Such assistant or other persons shall give such bond and have such limitations upon his authority as may be fixed by the order of the board.

Reports of administrator; budget

Sec. 10. Once each year, as soon as practicable after the close of the fiscal year, the administrator of the hospital district shall report to the Commissioners Court, the State Board of Health and the State Comptroller a full sworn statement of all moneys and choses in action received by such administrator and how disbursed or otherwise disposed of. Such report shall show in detail the operations of the district for the term. He shall prepare an annual budget which shall be subject to approval by the Commissioners Court. In like manner all budget revisions shall be subject to approval by the Commissioners Court.

Eminent domain

Sec. 11. A hospital district organized in pursuance of this Act shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, per-

sonal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the district, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act, in the manner provided by general law with respect to condemnation; provided that the district shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph numbered 2 in Article 3268, Revised Civil Statutes, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the district, the district shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

Depository for district; selection

Sec. 12. Within thirty (30) days after the creation of any district under this Act, the board of managers shall select a depository for the district in the manner provided by law for the selection of county depositories; and such depository shall be the depository of the district for a period of two (2) years thereafter, until its successor is selected and qualified. In the alternative, the board may elect to use the depository theretofore selected by the county.

Inspection of districts

Sec. 13. All hospital districts established or maintained under the provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any other state board hereafter created or designated to exercise supervision over hospitals, and resident officers shall admit such representatives into all hospital district facilities and give them access on demand to all records, reports, books, papers, and accounts pertaining to the hospital district.

Legal representative of district

Sec. 14. It shall be the duty of the county attorney, district attorney or criminal district attorney, as the case may be, charged with the duty of representing the county in civil matters, to represent the hospital district in all legal matters; provided, however, that the board of managers shall be authorized at its discretion to employ additional legal counsel when the board deems advisable.

The hospital district shall contribute sufficient funds to the general fund of the county for the account of the budget of the county attorney, district attorney or criminal district attorney, as the case may be, to pay all additional salaries and expenses incurred by such officer in performing the duties required of him by the district.

Medical and hospital care assumed by district; delinquent taxes owed to cities and counties

Sec. 15. (a) No county that has been constituted a hospital district, and no city therein, shall thereafter levy any tax for hospital purposes; and the hospital district shall be deemed to have assumed full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in the hospital district.

(b) That portion of delinquent taxes owed cities and counties on levies for separate or joint city and county hospital systems, or for the payment

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

of bonds issued by such systems, shall continue to be paid to the hospital district by the city and county as collected, and applied by the hospital district to the purposes for which such taxes originally were levied.

Patients; inquiry as to ability to pay

Sec. 16. (a) The Commissioners Court as the board of managers for such hospital system shall by order duly entered in the record of the hospital district set forth in detail its definition of an indigent or needy person so as to determine who is qualified for admission to the facilities of the hospital district. Such order shall also state in detail under what basis any person shall be admitted on an emergency basis without regard to indigency and how long and on what basis such person shall be permitted to stay in such district facilities.

(b) The board shall have the right to set up such requirements of proof of indigency as it sees fit, including affidavits of inability to pay, and may employ such personnel as necessary for the purpose of handling admissions and determining the eligibility of admissions.

(c) Any person who makes a false statement for the purpose of obtaining admission to the hospital district facilities and who is able to pay for such hospital care shall be liable for such care and shall also be guilty of a misdemeanor and punishable by a fine not to exceed Two Hundred Dollars (\$200).

Donations, gifts and endowments for district; payments by the State

Sec. 17. (a) The board of managers of the hospital district is authorized on behalf of the district to accept donations, gifts, and endowments for the hospital district, to be held in trust and administered by the board of managers for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and objects of the hospital district.

(b) The board of managers is expressly authorized to contract with the State for the receipt of any payments or grants which may be provided by the State for the care or treatment of hospital patients, and to receive any payments or grants which may be made by the State for the care and treatment of patients in the facilities of the hospital district.

Conversion of district

Sec. 18. (a) Any hospital district heretofore or hereafter created in accordance with Chapter 266,¹ Acts of the Fifty-third Legislature, Regular Session, as amended, may be converted into a district subject to the provisions of this Act, or any district created in accordance with this Act may be converted into a district subject to the provisions of the said Chapter 266, in the following manner. Upon petition to the Commissioners Court by qualified property taxpaying voters of the district equal in number to five per cent (5%) of the property taxpayers of the county as shown by the current assessment rolls of the county, requesting the calling of an election on the question of conversion, the Commissioners Court within twenty (20) days after receipt of the petition shall order such election, to be held not less than thirty (30) days nor more than ninety (90) days from the time the election is ordered by the Commissioners Court. At the election there shall be submitted to the qualified property taxpaying voters of the district the proposition of whether or not the district is to be converted, and a majority of the qualified property taxpaying voters participating in the election shall determine the result thereof.

(b) If the election is on the question of conversion of a district created in accordance with this Act, the ballot shall have printed thereon:

“FOR conversion of the hospital district from a district operated under the Optional Hospital District Law of 1957 to a district operated under Chapter 266, Acts of the Fifty-third Legislature, Regular Session, as amended, and the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation”; and

“AGAINST conversion of the hospital district from a district operated under the Optional Hospital District Law of 1957 to a district operated under Chapter 266, Acts of the Fifty-third Legislature, Regular Session, as amended, and the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation.”

If the election is on the question of conversion of a district created in accordance with the said Chapter 266, at the time the order for holding such election is entered the Commissioners Court shall determine the amount of tax needed for the purpose of (1) paying the interest on and creating a sinking fund for bonds which may have been assumed by the district originally created (but excluding any bonds issued by the district); (2) providing for the operation and maintenance of the hospital or hospital system; and (3) making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor. If there are no outstanding bonds issued by the district, the ballot shall have printed thereon:

“FOR conversion of the hospital district from a district operated under Chapter 266, Acts of the Fifty-third Legislature, Regular Session, as amended, to a district operated under the Optional Hospital District Law of 1957, and the levy of a tax not to exceed (the amount determined by the Commissioners Court in its order calling the election) on the One Hundred Dollars (\$100) valuation”; and

“AGAINST conversion of the hospital district from a district operated under Chapter 266, Acts of the Fifty-third Legislature, Regular Session, as amended, to a district operated under the Optional Hospital District Law of 1957, and the levy of a tax not to exceed (the amount determined by the Commissioners Court in its order calling the election) on the One Hundred Dollars (\$100) valuation.”

If there are outstanding bonds issued by the district, the ballot shall have printed thereon:

“FOR conversion of the hospital district from a district operated under Chapter 266, Acts of the Fifty-third Legislature, Regular Session, as amended, to a district operated under the Optional Hospital District Law of 1957, and the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation until presently outstanding bonds issued by the district have been retired, and thereafter the levy of a tax not to exceed (the amount determined by the Commissioners Court in its order calling the election) on the One Hundred Dollars (\$100) valuation”; and

“AGAINST conversion of the hospital district from a district operated under Chapter 266, Acts of the Fifty-third Legislature, Regular Session, as amended, to a district operated under the Optional Hospital District Law of 1957, and the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation until presently outstanding bonds issued by the district have been retired, and thereafter the levy of a tax not to exceed (the amount determined by the Commissioners Court in its order calling the election) on the One Hundred Dollars (\$100) valuation.”

(c) If the proposition fails to carry at the election, no further election on the proposition shall be held for a period of two (2) years. If a ma-

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

majority of the qualified taxpaying voters participating in the election vote in favor of the proposition, the conversion shall become effective thirty (30) days after declaration of the result of the election. The identity of the district shall not be affected by the conversion, and the district shall be liable for all outstanding debts and obligations as fully as when originally assumed or incurred by it. However, any bonds voted by a district originally created under Chapter 266 which have not been issued on the date of the election for conversion shall not be issued and the authority for such bonds shall be canceled. Upon conversion of a district from one operated under Chapter 266 to one operated under this Act, the district shall not have the power to levy a tax in excess of the amount determined by the Commissioners Court in its order calling the election for any purposes other than providing a sinking fund for payment of interest on and principal of unpaid bonds issued by the district prior to the conversion.

(d) At any time after five (5) years from the date of a conversion, a further election on the question of reconversion may be held in the manner herein provided for the original conversion. Acts 1957, 55th Leg., p. 1398, ch. 482.

¹ Article 4494n.

Emergency. Effective June 10, 1957.

Section 19 of the Act of 1957 provided that partial invalidity should not affect the

remaining portions of the Act and to this end the provisions of this Act are declared to be severable.

CHAPTER SIX-A—CHIROPRACTORS

Art. 4512b. Practice of chiropractic

Committees of board; duties; rules and regulations

Sec. 4a. The Texas Board of Chiropractic 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 chiropractic, and the enforcement of this Act.

The duties of any such committees appointed from the Texas Board of Chiropractic 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 Board of Chiropractic Examiners with respect thereto. Added Acts 1957, 55th Leg., p. 360, ch. 168, § 1.

Emergency. Effective May 6, 1957.

Procedure and hearings; injunction against violations; cancellation of license

Sec. 4b. The Texas Board of Chiropractic 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 Board of Chiropractic Examiners shall not be bound by strict rules of evidence or procedure, in the conduct of its proceedings and hearings, but the determination shall be founded on sufficient legal evidence to sustain it. The Texas Board of Chiropractic 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.

Before entering any order cancelling or suspending a license to practice chiropractic, the Board shall hold a hearing in accordance with the procedure set out in Article 4512b, Section 14, Vernon's Revised Civil Statutes of Texas, as amended. Added Acts 1957, 55th Leg., p. 360, ch. 168, § 1.

Emergency. Effective May 6, 1957.

**Notice of nonpayment of annual registration fee;
suspension of license; new license**

Sec. 8a. When a licensee under this Act shall have failed to pay his annual registration fee by January 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 mail 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 chiropractic as defined in Section 1 of this Act 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 chiropractic 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. Added Acts 1957, 55th Leg., p. 360, ch. 168, § 2.

Emergency. Effective May 6, 1957.

**Application of act and registration provisions; prerequisites
to annual registration or renewal**

Sec. 8b. The provisions of this Act shall apply to all persons licensed by the Texas Board of Chiropractic Examiners and the annual registration fee shall apply to all persons licensed by the Texas Board of Chiropractic Examiners, whether or not they are practicing within the borders of this State. Provided, however, that as a prerequisite to the annual registration or renewal and before such chiropractic registration or renewal may be issued, the licensee shall present to the Board (a) satisfactory evidence that in the year preceding the application for renewal said licensee attended two (2) days of seminar, educational lectures, post-graduate course, or annual convention of any State Association or Society, or regular organized (recognized) Chiropractic College, or (b) satisfactory evidence that he was unavoidably prevented by sickness or otherwise attending such educational or postgraduate program, together with a recommendation of two (2) reputable licensed Texas Chiropractors who personally know the licensee and vouch for his good standing in the profession; provided that new licensees during twelve (12) months immediately preceding said January 1st, by examination, shall be granted renewal without attending said educational programs. Added Acts 1957, 55th Leg., p. 360, ch. 168, § 2.

Emergency. Effective May 6, 1957.

Examiners Fund

Sec. 11. The funds realized from the fees collected under this Act shall constitute the "Chiropractic Examiners Fund," and shall be applied to the necessary expenses of the Texas Board of Chiropractic Examiners, including the expenses authorized by said Board in enforcing the provision of this Act and to compensate members of the Board, said compensation to each member of the Board to be Twenty-five Dollars (\$25) per day for the days such members may be active on business of the Board, whether such business consists of regular meetings, committee work for the Board, grading of papers, traveling, or any other function which is a legitimate and proper function held to be necessary by the Texas Board of Chiropractic Examiners.

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 of 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.

All disbursements from said fund shall be made only upon written approval of the President and Secretary-Treasurer of the Texas Board of Chiropractic Examiners upon warrants drawn by the Comptroller to be paid out of said fund. As amended Acts 1957, 55th Leg., p. 360, ch. 168, § 3.

Emergency. Effective May 6, 1957.

**Cancellation, revocation or suspension of license;
probation; procedure; appeal**

Sec. 14. The Texas Board of Chiropractic Examiners shall have the right to cancel, revoke, or suspend the license of any practitioner of chiropractic or place licenses¹ upon probation for such length of time as may be deemed proper by the Board 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 examinations.

Proceedings under this Article shall be begun by filing charges with the Texas Board of Chiropractic Examiners in writing and under oath. Said charges may be made by any person or persons. The President of the Texas Board of Chiropractic 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 chiropractic 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 notices 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 annual renewal or license is involved, resides. Upon application, the Board may re-issue a license to practice chiropractic 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 1957, 55th Leg., p. 360, ch. 168, § 4.

¹ So in enrolled bill. Probably should be "licensee".

Emergency. Effective May 6, 1957.

Grounds for refusing, revoking or suspending license

Sec. 14a. The Texas Board of Chiropractic Examiners, may refuse to admit persons to its examinations and may cancel, revoke or suspend licenses or place licenses¹ upon probation for such length of time as may be deemed proper by the Board for any one or more of the following causes:

1. For failure to comply with, or the violation of, any of the provisions of this Act;

2. If it is found that said person or persons do not possess or no longer possesses a good moral character or is in any way guilty of deception or fraud in the practice of chiropractic;

3. The presentation to the Board, or use of any license, certificate or diploma, which was illegally or fraudulently obtained, or the presentation to the Board of any untrue statement or any document or testimony which was illegally practiced in passing the examination;

4. Conviction of a crime of the grade of a felony, or one which involves moral turpitude, or the procuring or assisting in the procuring of an abortion;

5. Grossly unprofessional conduct or dishonorable conduct of a character likely to deceive or defraud the public; habits of intemperance, or drug addiction; or other habits calculated in the opinion of the Board to endanger the lives of patients;

6. The use of any advertising statement of a character to mislead or deceive the public;

7. Employing directly or indirectly any person whose license to practice chiropractic has been suspended, or associate in the practice of chiropractic with any person or persons whose license to practice chiropractic has been suspended, or any person who has been convicted of the unlawful practice of Chiropractic in Texas or elsewhere;

8. For advertising professional superiority, or for advertising the performance of professional services in a superior manner;

9. The purchase, sale, barter, use, or any offer to purchase, sell, barter or use, any chiropractic degree, license, certificate, or diploma; or transcript of license, certificate, or diploma, in or incident to an application to the Board of Chiropractic Examiners for license to practice chiropractic;

10. Altering with fraudulent intent, any chiropractic license, certificate or diploma, or transcript of chiropractic license, certificate or diploma;

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

11. The impersonation of, or acting as proxy for, another in any examination required by this Act for a chiropractic license;

12. The impersonation of a licensed practitioner, or permitting or allowing another to use his license, or certificate to practice chiropractic as defined by statute;

13. Proof of insanity of the holder of a certificate, as adjudged by the regularly constituted authorities;

14. That the holder thereof has failed to use proper diligence in the practice of chiropractic, or has been grossly inefficient therein. Added Acts 1957, 55th Leg., p. 360, ch. 168, § 4.

¹ So in enrolled bill. Probably should be "licensee".

Emergency. Effective May 6, 1957.

Sections 5 and 6 of the amendatory Act of 1957 provided:

"Sec. 5. All laws or parts of laws in conflict herewith are hereby repealed. Provided, however, that no provision of this Act shall amend, modify or repeal any law or parts of laws regulating the practice of medicine as presently defined by law.

"Sec. 6. If any portion of this Act is held unconstitutional by any court of competent jurisdiction, the remaining portions shall nevertheless be valid the same as if the invalid portion had not been a part thereof."

CHAPTER SEVEN—NURSES

Art. 4528c. Licensed vocational nurses

Exemption

Sec. 3a. Recognized state-wide Licensed Vocational Nurses Organizations operating nonprofit registries for the enrollment of its members for the purpose of providing nursing services to the public shall not be liable for the payment of any occupation taxes and/or license fees imposed by any law unless such Licensed Vocational Nurses registries are specifically named therein. Added Acts 1957, 55th Leg., p. 1327, ch. 449, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Sec-

tion 3 provided that if any section was declared unconstitutional it should not affect the remainder.

Term of Office, Organization, Meetings of Board

Sec. 4.

(c) The Board shall employ a full-time Director of Training, who shall have had at east five (5) years experience in teaching nursing in an accredited school of nursing or an accredited training program. During the first five (5) years after the effective date of this Act, the Director of Training shall be a Registered Nurse, licensed by the State Board of Nurse Examiners. Thereafter, the Board may select either a Licensed Vocational Nurse or a Registered Nurse as the Director of Training. The duties of the Director of Training shall be to visit and inspect all schools for the training of Vocational Nurses at least once a year and to confer with superintendents of hospitals and superintendents of nursing schools as to the system of instruction given and as to accommodations and rules governing said schools in reference to its students. The Board shall prescribe such methods and rules of visiting, and such methods of reporting by the Director of Training as may in its judgment be deemed proper. As amended Acts 1957, 55th Leg., p. 95, ch. 47, § 1.

Emergency. Effective April 5, 1957.

Appointments beginning in 1957; composition of Board

Sec. 4½. Beginning in 1957, and as terms of Board members expire, Licensed Vocational Nurses shall replace one Registered Nurse, one licensed physician, and one hospital administrator, until the Board shall thereafter be composed of six (6) Licensed Vocational Nurses, registered with the Board of Vocational Nurse Examiners, who shall have been in active practice in this State as a Licensed Vocational Nurse for three (3) years immediately preceding their appointment; one (1) Registered Nurse, registered with the State Board of Nurse Examiners of Texas, who is actively engaged in a teaching, administrative or supervisory capacity in a State accredited school of vocational or professional nursing; one (1) physician, licensed by the Texas State Board of Medical Examiners, who has been actively engaged in the practice of medicine for a period of five (5) years prior to his appointment and who is not actively engaged as a hospital administrator; and one (1) hospital administrator who is not licensed either as a nurse or by the Texas State Board of Medical Examiners or by any other board which licenses persons to practice the healing arts in this State, and who has been actively engaged in hospital administration for a period of five (5) years prior to appointment in a general hospital whose staff is composed of persons licensed by the Texas State Board of Medical Examiners. Formerly section 4A, added by Acts 1951, 52nd Leg., p. 197, ch. 118. Renumbered section 4½ and amended Acts 1957, 55th Leg., p. 95, ch. 47, § 2.

Emergency. Effective April 5, 1957.

Examinations and Issuance of Licenses

Sec. 5. (a) Except as provided in Section 6 and Section 7 of this Act, every person desiring to be licensed as a Licensed Vocational Nurse or use the abbreviation L. V. N. in the State of Texas, shall be required to pass the examination given by the Board of Vocational Nurse Examiners. The applicant shall make application by presenting to the Secretary of the Board, on forms furnished by the Board, satisfactory sworn evidence that the applicant has had at least two (2) years of high school education or its equivalent; has attained the age of eighteen (18) years; is of good moral character; is in good physical and mental health (evidence of this fact shall be made by submitting an affidavit by a physician on a form prescribed by the Board); is a citizen of the United States or has made a declaration of intention of becoming a citizen; and has completed an accredited course of not less than twelve (12) months in an accredited school for training Vocational Nurses. An accredited school as used herein shall mean one accredited by the Board. Application for examination by the Board shall be made at east thirty (30) days prior to the date set for the examination.

(b) The Board in its discretion may waive the requirement in subdivision (a) of this Section for completion of a course in an accredited school for training Vocational Nurses upon presentation of satisfactory sworn evidence that the applicant is domiciled in this State and has completed at least two (2) years of training in a nursing school accredited by the State Board of Nurse Examiners of Texas or in some other school of professional nurse training accredited by a similar board or licensing agency of another State of the United States.

(c) In conducting examinations and in accrediting schools of Vocational Nurses and hospitals as provided for in this Act, it shall be mandatory upon the Board to ascertain that each Vocational Nurse shall have been taught the fundamentals of basic bedside nursing in the home and in the hospital. The course prescribed shall include cooking and prepara-

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

tion of standard simple diets for the sick; room cleaning and arrangement of the sickroom in the home or hospital; bed making; bathing and personal care of patients; cleansing and care of utensils used by the sick; the simple principles of hygiene and sanitation in the home and hospital; the methods of taking and recording temperature, pulse rate, respirations, blood pressure readings, fluid intake and output measurements, administration of foods and drugs by mouth, by rectum, by subcutaneous hypodermic injection, and such other subjects and procedures as may be regularly taught in the majority of such training programs.

(d) The Board shall issue Temporary Permits to any Vocational Nurse who furnishes proof of graduation from an accredited school of Vocational Nursing in this or any other State to practice Vocational Nursing from the time of receipt of application until the time of completion of the next regular or special examination conducted by the Board.

(e) Any nurse who is licensed under the provisions of this Act, when on duty, whether in a public hospital or private, shall be authorized to wear identifying insignia on white caps and uniforms. As amended Acts 1957, 55th Leg., p. 95, ch. 47, § 3.

Emergency. Effective April 5, 1957.

Renewal

Sec. 8. Before the first day of August of each year, the Secretary of the Board shall mail an application form for a renewal certificate to all licensees. The application shall contain such information as the Board may deem necessary for its records. On or before the first day of September of each year every Licensed Vocational Nurse in this State shall pay to the Secretary-treasurer of the Board of Vocational Nurse Examiners an annual renewal fee of Two Dollars (\$2) for the renewal of such person's license as a Licensed Vocational Nurse for the current year. On receipt of said annual renewal fee and application the Board shall issue an annual renewal certificate bearing the number of the license and the year for which renewed. When a Licensed Vocational Nurse shall have failed to pay the annual renewal fee before November 1st of each year, it shall be the duty of the Board to notify such Licensed Vocational Nurse at the licensee's address known to the Board that such annual renewal fee is due and unpaid and if payment of the fee is not received by the Secretary of the Board of Vocational Nurse Examiners within twenty (20) days after notification, said license shall be suspended and such person in order to be reinstated shall be required to pay one (1) annual renewal fee as a penalty in addition to all fees said person may be in arrears. Said annual renewal fee, as set forth above, shall be due on September 1st of each year and shall become delinquent on November 1st of each year.

Practicing as a Licensed Vocational Nurse without an annual renewal certificate for the current year as provided herein shall have the same force and effect and be subject to all penalties of practicing as a Licensed Vocational Nurse without a license. As amended Acts 1957, 55th Leg., p. 95, ch. 47, § 4.

Emergency. Effective April 5, 1957.

Fees

Sec. 9. The following shall be the fees charged by the Board under this Act: application and examination fee, Ten Dollars (\$10); fee of Ten Dollars (\$10) for licensing existing Vocational Nurses in accordance with Section 6 hereof; annual renewal fee, Two Dollars (\$2); penalty for late annual renewal fee, Two Dollars (\$2); fee for license by reciprocity, Ten Dollars (\$10); fee for accrediting training programs, Twenty-five Dollars (\$25).

All expenses under this Act shall be paid from fees collected by the Board under this Act, and no expense incurred under this Act shall ever be charged against the funds of the State of Texas. As amended Acts 1954, 53rd Leg., 1st C.S., p. 67, ch. 28, § 1; Acts 1957, 55th Leg., p. 95, ch. 47, § 5.

Emergency. Effective April 5, 1957.

Revocation

Sec. 10. The Board may revoke or suspend any license issued under the provisions of this Act for gross incompetence, dishonesty, malpractice, intemperate use of drugs or alcoholic beverages, false or deceptive representations in obtaining a license, insanity of the licensee, proof of the conviction of the licensee of a felony involving moral turpitude under the laws of this State or of any other State or of the United States, or for any other reason which shall be deemed just cause by the Board. Such revocation or suspension shall be accomplished by a majority vote of the Board after a hearing held on specific charges filed against such licensee, which charges shall be made in writing, under oath and filed by the Secretary. A certified copy of the charges and a notice of the hearing before the Board shall be served on the licensee whose license is sought to be revoked or suspended not less than thirty (30) days prior to the hearing of such charges.

If the Board shall make and enter an order revoking or suspending any license as hereinabove authorized, the person whose license shall have been revoked or suspended may, within thirty (30) days after the entering of such order, and not thereafter, take an appeal to the District Court of the county of residence of the person whose license shall have been so revoked or suspended, by filing an appropriate petition for such purpose. Said cause shall be placed on the docket of said Court in the name of the party filing same, as plaintiff, and the Board as defendant. It shall be the duty of said Board, upon the filing of a petition asking for an appeal and review of such proceedings of said Board, after citation in such cause has been issued and served as in other civil cases, to prepare and transmit to such District Court a transcript of the order hereinabove provided for, the same to be certified as true and correct by the Secretary of said Board. The District Court shall thereafter set such cause for hearing as in other civil cases. Said trial shall be de novo as that term is used in appeals from Justice of the Peace Courts to County Courts and shall not be subject to the substantial evidence rule in sustaining administrative action by the Board. In all such cases the burden of proof shall be on the Board to sustain its action by a preponderance of the evidence. Either party may demand a jury in such trial, and either party may appeal the judgment of the Court, as in other civil cases. If no appeal be taken from the order of the trial Court, the same shall become final after thirty (30) days. As amended Acts 1957, 55th Leg., p. 95, ch. 47, § 6.

Emergency. Effective April 5, 1957.

Section 4A of this article as added by Acts 1951, 52nd Leg., p. 197, ch. 118 was renumbered Section 4½ and amended by Acts 1957, 55th Leg., p. 96, ch. 47.

CHAPTER EIGHT—PHARMACY

Art.

4542b. Purpose of act [New].

Art. 4542a. State Board of Pharmacy to regulate practice of Pharmacy; exclusion of Communists, etc.

Enforcement of Laws

Sec. 7. It shall be the duty of the State Board of Pharmacy to see that all laws which pertain to the practice of pharmacy are enforced and to cooperate with other State and Federal Agencies regarding any violations of any drug laws. As amended Acts 1957, 55th Leg., p. 1324, ch. 447, § 2.

Emergency. Effective June 6, 1957.

Revocation or suspension of license; appeal

Sec. 12. The State Board of Pharmacy may in its discretion refuse to issue a license to any applicant, and may cancel, revoke or suspend the operation of any license by it granted for any of the following reasons:

- (a) That said applicant is guilty of gross immorality;
- (b) That said applicant or licensee is guilty of any fraud, deceit or misrepresentation in the practice of pharmacy or in his seeking admission to such practice;
- (c) That said applicant or licensee is unfit or incompetent by reason of negligence;
- (d) That said applicant or licensee has been convicted of a felony or a misdemeanor which involves moral turpitude;
- (e) That said applicant or licensee is an habitual drunkard or is addicted to the use of morphine, cocaine, or other drugs having similar effect, or has become insane or has been adjudged by a court of competent jurisdiction to be of unsound mind;
- (f) That said licensee, directly or indirectly aids or abets in the practice of pharmacy any person not duly licensed to practice under this Act; provided further, that the said licensee is responsible for the legal operation of the pharmacy, dispensary, prescription laboratory or apothecary shop as long as his name appears on the Permit issued for the operation of such establishments.
- (g) That said applicant or licensee has been convicted in either a State or Federal Court of the illegal use, sale or transportation of intoxicating liquor, narcotic drugs, barbiturates, amphetamines, desoxephedrine, their compounds or derivatives, or any other dangerous or habit forming drugs.

Revocation, cancellation or suspension of a license shall be only after ten (10) days notice and a full hearing. Any person whose license to practice pharmacy has been refused, revoked or suspended by the Board may, within twenty (20) days after the effective date of the order, decision or ruling of the Board, take an appeal to any of the District Courts, where said applicant resided at the time the offense was committed which resulted in the Board's action refusing, revoking or suspending said license. As amended Acts 1957, 55th Leg., p. 1324, ch. 447, § 2.

Emergency. Effective June 6, 1957.

Display of certificate in place of business

Sec. 13. All certificates and current renewal receipts for pharmacists and Permits for the operation of a Pharmacy, as herein provided shall be

at all times conspicuously displayed in the place of business where registrant is engaged as such. Any certificate to practice pharmacy in Texas which shall be found displayed in any place of business where the person to whom said certificate was originally issued is not regularly employed as a pharmacist and actually engaged in the service of filling prescriptions may be cancelled, suspended or revoked by the Board and any inspector, member or official of the Board is hereby empowered to take charge of such certificate pending final hearing before the Board as to revocation of same. As amended Acts 1957, 55th Leg., p. 1324, ch. 447, § 2.

Emergency. Effective June 6, 1957.

Permits for stores or factories

Sec. 17. Every person, firm, joint stock company, partnership or corporation desiring to operate a retail pharmacy, drug store, dispensary, or apothecary shop in this State, as the same is defined herein; and every manufacturer of drugs and medicines as defined herein, after the passage of this Act, shall procure from the State Board of Pharmacy a permit for each store or factory to be operated by making an application to the Board upon a form to be furnished by the Board, setting forth under oath ownership and location and the name and certificate number of the pharmacist registered in this State who is to be continually employed by the drug store or pharmacy, or the pharmaceutical chemist or chemist qualified by scientific training, who is to be employed by the factory or manufacturer; provided that the Board may in its discretion refuse to issue such permit to such applicant unless furnished with satisfactory proof that such applicant is engaged in the business of conducting a pharmacy, drugstore, dispensary, apothecary shop or factory for the purpose of manufacturing drugs. No pharmacist may legally dispense medication in a pharmacy, drugstore, dispensary, apothecary shop or prescription laboratory not duly licensed by the Board of Pharmacy. As amended Acts 1951, 52nd Leg., p. 824, ch. 469, § 5; Acts 1957, 55th Leg., p. 1324, ch. 447, § 2.

Emergency. Effective June 6, 1957.

Definitions

Sec. 20. A "pharmacist" as used in this Act shall mean a person licensed by the State Board of Pharmacy to practice the profession of pharmacy, and to prepare, compound, and dispense physicians' prescriptions, drugs, medicines, and poisons.

A "manufacturer," as used in this Act, shall mean one who processes, combines, mixes, compounds, prepares, labels, packages or manufactures medicines or drugs for sale or distribution, either at wholesale or retail.

The term "Board" as used in this Act shall mean the State Board of Pharmacy.

The practice of pharmacy in the State of Texas is declared a professional practice affecting the public health, safety, and welfare and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of pharmacy, as defined in this Act, merit and receive the confidence of the public and that only qualified persons be permitted to practice pharmacy in the State of Texas. This Act shall be liberally construed to carry out these objects and purposes. As amended Acts 1957, 55th Leg., p. 1324, ch. 447, § 2.

Emergency. Effective June 6, 1957.

Art. 4542b. Purpose of act

It is the purpose of this law to enable the State Board of Pharmacy to administer in the interest of public health the Texas Pharmacy Law governing the profession of pharmacy and its distribution of drugs and medicinals. Acts 1957, 55th Leg., p. 1324, ch. 447, § 1.

Emergency. Effective June 6, 1957.

CHAPTER NINE—DENTISTRY**Art. 4551. Fees and expenses**

Each member of the State Board of Dental Examiners, also known and referred to as the Texas State Board of Dental Examiners, shall receive for his services Twenty-five Dollars (\$25.00) per day for each day he is actually engaged in the duties of his office as a member of such Board, together with all legitimate expenses incurred in the performance of such duties. All per diem and expenses accruing hereunder shall be paid from monies received by said Board and from the "Dental Registration Fund" as provided by law, no money shall ever be paid to any member of the Board from the General Fund. As amended Acts 1957, 55th Leg., p. 755, ch. 312, § 8.

Effective 90 days after May 23, 1957, date of adjournment.

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; or to (7) employees of a dentist who make dental x-rays in the dental office and under the supervision of such dentist or dentists legally engaged in the practice of dentistry in this state. 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; Acts 1957, 55th Leg., p. 755, ch. 312, § 7.

¹ Article 4543 et seq.

Effective 90 days after May 23, 1957, date of adjournment.

CHAPTER NINE A.—DENTAL HYGIENISTS [NEW]

Art. 4551e. Regulation and licensing

Definitions

Section 1. The term "dental hygiene," and the practice thereof, as used in this Act, shall mean and is hereby defined as (a) the removal of accumulated matter, tartar, deposits, accretions, or stains, except mottled enamel stains, from the natural and restored surfaces of exposed human teeth, and restorations therefor, in the human mouth, and the polishing of said surfaces; (b) the making of topical application of drugs to the surface tissues of the human mouth and to the exposed surfaces of human teeth; and (c) the making of dental x-rays.

The term "dental hygienist," as used in this Act, shall mean and is hereby defined as a person who practices "dental hygiene." As amended Acts 1957, 55th Leg., p. 755, ch. 312, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Supervision

Sec. 3. All work performed by a dental hygienist in the practice of dental hygiene, as defined in this Act, shall be performed in the dental office of a dentist or dentists legally engaged in the practice of dentistry in this state, by whom he or she must be employed, except where employed by schools, hospitals, state institutions, or public health clinics approved by the Texas State Board of Dental Examiners. It shall be unlawful for more than one dental hygienist to practice dental hygiene for one dentist at any one time, and it shall be unlawful for a dentist legally engaged in the practice of dentistry in this state to employ, under any contractual relationship whatsoever, more than one dental hygienist to practice dental hygiene at any one time. No dental office, regardless of the number of dentists practicing or offering to practice dentistry in such office, shall have employed under any contractual relationship whatsoever more than two (2) dental hygienists to practice dental hygiene therein. As amended Acts 1957, 55th Leg., p. 755, ch. 312, § 2.

Effective 90 days after May 23, 1957, date of adjournment.

Revocation and Cancellation of Certificates

Sec. 10.

(g) That the holder thereof has practiced dental hygiene other than (1) as an employee of and in the dental office of a dentist or dentists legally engaged in the practice of dentistry in this state, or (2) as an employee of schools, hospitals, state institutions, or public health clinics approved by the Texas State Board of Dental Examiners. As amended Acts 1957, 55th Leg., p. 755, ch. 312, § 3.

Effective 90 days after May 23, 1957, date of adjournment.

(h) That the holder thereof has practiced or offered to practice dental hygiene in any place where the number of dental hygienists practicing or offering to practice dental hygiene exceeds the number permitted by law. As amended Acts 1957, 55th Leg., p. 755, ch. 312, § 4.

Effective 90 days after May 23, 1957, date of adjournment.

Exceptions

Sec. 15. The provisions of this Act shall not apply to: (1) dentists duly licensed and authorized to practice dentistry within this state and who are actively engaged in such practice except as provided in Sec-

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

tion 3 of this Act; (2) physicians and surgeons legally authorized to practice medicine as defined by the law of this state; or (3) employees of a dentist who make dental x-rays in the dental office and under the supervision of such dentist or dentists legally engaged in the practice of dentistry in this state. As amended Acts 1957, 55th Leg., p. 755, ch. 312, § 6.

Effective 90 days after May 23, 1957, date of adjournment.

CHAPTER TEN—OPTOMETRY

Art. 4565d. "Fitting Lenses"

(1) Prescribing or supplying, directly or indirectly, lenses or prisms, by the employment of objective or subjective means or the making of any measurements whatsoever involving the eyes or the optical requirements thereof; provided, however, that nothing in this Act shall be construed so as to prevent an ophthalmic dispenser, who does not practice optometry, from measuring interpupillary distances or from making facial measurements for the purpose of dispensing, or adapting ophthalmic prescriptions or lenses, products and accessories in accordance with the specific directions of a written prescription signed by a licensed physician or optometrist; provided, however, the fitting of contact lenses shall be done only under the direct supervision of a licensed physician or licensed optometrist as defined by the laws of this state. As amended Acts 1957, 55th Leg., p. 501, ch. 240, § 2.

Emergency. Effective May 20, 1957.

Section 3 of the amendatory Act of 1957 repealed all conflicting laws and parts of

laws. Section 4 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 4565g. Optical mechanics

Nothing in this Act shall be construed so as to prevent an ophthalmic dispenser, who does not practice medicine or optometry as defined by the laws of this State, from preparing, filling, duplicating, compounding or adapting ophthalmic prescriptions, dispensing ophthalmic lenses, products and accessories, in accordance with the specific directions of a prescription written and signed by a licensed physician or optometrist; provided, however, the fitting of contact lenses shall be done only under the direct supervision of a licensed physician or licensed optometrist as defined by the laws of this state. It shall be unlawful for any person, firm or corporation in this state to solicit patients or patronage for any indi-

TITLE 72—HOLIDAYS—LEGAL**Article 4591. 4606, 2939 Enumeration**

The first day of January, the 19th day of January, the 22nd day of February, the second day of March, the 21st day of April, the third day of June, the fourth day of July, the first Monday in September, 12th day of October, the 11th day of November, the fourth Thursday in November, and the 25th day of December, of each year, and every day on which an election is held throughout the state, are declared legal holidays, on which all the public offices of the state may be closed and shall be considered and treated as Sunday for all purposes regarding the presenting for the payment or acceptance and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes placed by the law upon the footing of bills of exchange. As amended Acts 1951, 52nd Leg., p. 280, ch. 163, § 1; Acts 1957, 55th Leg., p. 428, ch. 205, § 1.

Section 2 of the Act of 1957 amended article 4591d, § 1c, and section 3 provided that the Act take effect January 1, 1958.

Art. 4591d. Closing of banks and trust companies for general banking purposes on Saturday or other designated weekday and limited banking services on such days; legal holidays for banking purposes

Sec. 1c. Notwithstanding any existing provisions of law relative to negotiable or non-negotiable instruments, but subject to the provisions of Section 1a of this Act, only the following enumerated dates are declared to be legal holidays for banking purposes on which each bank and trust company in Texas shall remain closed. The dates referred to are Sundays, January 1 (New Year's Day), April 21 (San Jacinto Day), July 4 (Independence Day), the first Monday in September (Labor Day), the fourth Thursday in November (Thanksgiving Day) and December 25 (Christmas Day). All such days (and the weekday on which a bank or trust company may elect to close for general banking purposes as provided in Section 1a of this Act) shall be treated as Sunday for all purposes and not a business day and any act authorized, required or permitted to be performed at or by any bank or trust company on such day may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result therefrom. Any day on which an election is being held shall not be considered or construed as a bank legal holiday. Added Acts 1955, 54th Leg., p. 19, ch. 16, § 1, as amended Acts 1957, 55th Leg., p. 428, ch. 205, § 2.

Effective January 1, 1958.

TITLE 75—HUSBAND AND WIFE

CHAPTER ONE—CELEBRATION OF MARRIAGE

Art. 4602. 4608, 2954, 2838 Who authorized to celebrate

All licensed or ordained ministers of the Gospel, Jewish rabbis, or officers of religious organizations, which officers are duly authorized by the organization to perform marriage ceremonies, judges of the district and county courts, and justices of the peace are authorized to celebrate the rites of matrimony between persons legally authorized to marry. As amended Acts 1957, 55th Leg., p. 785, ch. 322, § 1.

Emergency. Effective May 31, 1957.

CHAPTER THREE—RIGHTS OF MARRIED WOMEN

Art. 4614. 4621, 2967, 2851 Wife's separate property

(a) All property of the wife, both real and personal, owned or claimed by her before marriage, and that acquired afterward, by gift, devise, or descent, as also the increase of all lands thus acquired, is the separate property of the wife.

(b) The wife shall, if she be 21 years of age or over and so elects as provided in subsection (d), have the sole management, control, and disposition of her separate property, both real and personal; and in connection therewith, she may, in her own name, contract and be contracted with, sue and be sued, without the joinder of her husband, and her coverture shall not be a defense in any suit or action based on such contracts. Such of her separate property as is not exempt under the laws of Texas in such case shall be subject to forced sale for the payment of her debts. The community property of the husband and wife, with the exception of the wife's personal earnings and the revenue from her separate property, shall never be subject to the payment of debts contracted by the wife except for those contracted for necessities furnished herself and children.

(c) If the wife shall not elect to have sole management, control, and disposition of her separate property, the joinder of the husband shall be necessary to the encumbrance or conveyance by the wife of her lands, and the joint signature of the husband and wife shall be necessary to a transfer of stocks and bonds belonging to her or of which she may be given control by this law.

(d) A married woman 21 years of age, or over, may file with the County Clerk of the county of which she is a resident, a duly acknowledged statement that she thereby elects to have sole management, control and disposition of her separate property. From and after the date of filing of such statement, which shall be recorded by the County Clerk in the Deed Records of said county, such married woman shall have the full authority to deal with her separate property as set forth in subsection (b) and the limitation upon such authority contained in subsection (c) shall not thereafter apply. As amended Acts 1957, 55th Leg., p. 1233, ch. 407, § 1.

Effective January 1, 1958.

Section 5 of the amendatory Act of 1957 provided that this Act shall apply to conveyances, contracts, and transfers made and, as to the requirement of joinder, to suits filed after the effective date of this Act. The repeal or amendment of any statute by this Act shall not affect or im-

pair any conveyance, contract, or transfer completed under such statute prior to the effective date of this Act; and such statute shall be treated as still remaining in force for the purpose of sustaining any action for the enforcement of any right or obligation or of sustaining a defense to

any action arising from any such conveyance, contract, or transfer.

Section 6 repealed all conflicting laws and

parts of laws to the extent of the conflict only. Section 7 provided that this Act shall take effect January 1, 1958.

Art. 4616. 4621, 2967, 2851 Wife's separate property protected

Neither the separate property of the wife, her personal earnings, nor the revenue from her separate property shall be subject to the payment of debts contracted by the husband nor claims arising out of the torts of the husband. As amended Acts 1957, 55th Leg., p. 1233, ch. 407, § 2.

Effective January 1, 1958.

Savings clause and repeal of conflicting laws, see note under art. 4614.

Arts. 4617, 4621, 2967, 2851. When husband or wife may convey homestead which is separate property

A husband or wife who owns the homestead as separate property and who is abandoned by his or her spouse, or whose spouse becomes insane, may encumber or convey such property by applying to the District Court of the county of his or her residence. The court, in term time or vacation, upon satisfactory proof that such encumbrance or conveyance would be advantageous to the interest of the husband or wife applying, shall make an order granting permission to make such encumbrance or conveyance of the homestead without the joinder of the other spouse, and the married person who owns the homestead as separate property may then encumber or convey such property without such joinder.

In the event the applicant is a non-resident of the state, he or she may apply to the District Court of the county where the property, or a portion thereof, is situated, and the court shall hear and determine such application and grant relief the same as if the applicant were a resident of this state. As amended Acts 1957, 55th Leg., p. 1233, ch. 407, § 4.

Effective January 1, 1958.

Savings clause and repeal of conflicting laws, see note under art. 4614.

Art. 4623. 4624, 2970, 2854 Subject to debts of wife

Neither the separate property of the husband nor the community property other than the personal earnings of the wife and the revenues from her separate property shall be subject to the payment of debts contracted by the wife except those contracted for necessities furnished her or her children. As amended Acts 1957, 55th Leg., p. 1233, ch. 407, § 3.

Effective January 1, 1958.

Savings clause and repeal of conflicting laws, see note under art. 4614.

CHAPTER FOUR—DIVORCE

Art. 4631. 4632, 2978, 2862 Residence of plaintiff

No suit for divorce shall be maintained in the Courts of this State unless the petitioner for such divorce shall at the time of exhibiting his or her petition, be an actual bona fide inhabitant of this State for a period of twelve (12) months, and shall have resided in the county where the suit is filed for six (6) months next preceding the filing of same. A citizen of this State who is or has been absent from this State for more than six (6) months in the military or naval service or other service of the United States or of this State, shall be entitled to sue for divorce in this State

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

and in the county in which such person had his or her residence before entering such service.

Any person serving in a military branch of the United States who was not previously a citizen of the State of Texas and who at the time of filing a petition for divorce has been stationed in a military installation or installations in the State of Texas for a continuous period of twelve (12) months next and in the county where the suit is filed for a continuous period of six (6) months next preceding the filing of same, shall for the purposes hereof be deemed to be an actual bona fide inhabitant and resident respectively of the State of Texas and of the county where such military installation is located. As amended Acts 1957, 55th Leg., p. 341, ch. 155, § 1.

Emergency. Effective May 6, 1957.

INSURANCE CODE

Insurance Securities Act, see art. 581—1
et seq.

CHAPTER ONE—THE BOARD, ITS POWERS AND DUTIES

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| Art. | Art. |
| 1.09—1. Represented by the Attorney General [New]. | 1.09—3. Certain Acts Shall be Unlawful [New]. |
| 1.09—2. Eligibility to Run for Public Office [New]. | |

Art. 1.02. State Board of Insurance

(a) There is hereby created the State Board of Insurance which 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 as provided in this Code. Each member of the Board shall be a person with at least ten (10) years of successful experience in business, professional or governmental activities, or a total of at least ten (10) years in any combination of two or more of such activities. Each member shall be available at all reasonable times for the discharge of the duties and functions delegated to the members of said Board by this amendatory Act, but the members shall act as a unit, and in no event shall the individual members divide or confine their activities to special fields of insurance regulation or attempt to administer the functions hereinafter assigned to the Commissioner of Insurance.

(b) All of the powers, functions, authorities, prerogatives, duties, obligations and responsibilities, heretofore vested in and devolving upon the Board of Insurance Commissioners as heretofore constituted under prior statutes; the Chairman of said Board; the Life Insurance Commissioner; the Fire Insurance Commissioner; and the Casualty Insurance Commissioner, shall hereafter be vested in the State Board of Insurance as a body, and except as provided herein, they shall be exercised, performed, carried out, and administered by the Commissioner of Insurance as the chief executive and administrative officer of the Board in accordance with the pertinent laws of this state and the rules and regulations for uniform application made by the Board and subject to supervision of the Board. The duties of the State Board of Insurance shall be primarily in a supervisory capacity and the carrying out and administering the details of the Insurance Code shall be primarily the duty and responsibility of the Commissioner of Insurance acting under the supervision of the Board.

(c) Except as otherwise provided herein, all remaining references in the Insurance Code and other statutes of this state to "Board of Insurance Commissioners," "Board," or individual Commissioners shall mean the "State Board of Insurance" or the "Commissioner of Insurance," consistent with their respective duties and responsibilities under the terms and provisions of this amendatory Act.

(d) Upon the appointment of the members of the State Board of Insurance and on February 10th of each odd-numbered year thereafter, the Governor shall appoint from among the membership a Chairman who shall be known and designated as the Chairman of the State Board of Insurance. As amended Acts 1955, 54th Leg., p. 1035, ch. 391, § 1; Acts 1957, 55th Leg., p. 1454, ch. 499, § 2.

Emergency. Effective June 12, 1957.

For Annotations and Historical Notes, see V.T.A.S.

Ins. Code

Section 1 of the amendatory Act of 1957 provided that the purpose of this Act is to reorganize the agency charged with administration of the insurance laws of this state in accordance with the provisions of this Act and to make such changes in the Insurance Code, and the construction of the terms of the Insurance Code, as are necessary to accomplish the purposes of this Act. All reference to the "Insurance Code" are to the Insurance Code enacted by Chapter 491, Acts of the 52nd Legislature, 1951, as amended.

Section 8 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 9 was a severability provision.

Section 4 of the amendatory Act of 1955 repealed all conflicting laws and parts of laws. Section 5 provided that partial invalidity should not affect the remaining portions of the Act.

Acts 1955, 54th Leg., ch. 307, p. 826, amended Articles 1.08, 1.14, 1.15, 1.16, 1.17, 1.18 and 1.19 of the Insurance Code. Section 9 of such amendatory act read as follows: "Provided, however, that all expenditures by the Board of Insurance Commissioners of Texas shall after September 1, 1955, be only as provided in the General Appropriation Act of the Legislature."

Art. 1.03. Terms of Office

(a) Upon the effective date of this Act amending the Insurance Code, the Governor shall appoint, by and with the advice and consent of the Senate of Texas, three members to the State Board of Insurance. One appointment shall be for a term expiring January 31, 1959; another, for a term expiring January 31, 1961; and a third, for a term expiring January 31, 1963. Thereafter, in each odd-numbered year, the Governor shall appoint, by and with the advice and consent of the Senate of Texas, a member for a term of six years which term shall begin on the first day of February of each such years. Each member shall serve until his successor has qualified; provided that the Governor may remove from office any member of the Board who fails for any reason to attend a meeting of the Board for three consecutive months, and he shall remove from office any member of the Board who for any reason fails to attend a meeting of the Board for six months. Such removal shall be by an instrument in writing filed with the Secretary of State and the State Board of Insurance, and the office of the member so removed shall be deemed vacant the same as if the member had died or resigned. The members of the Board of Insurance Commissioners in office immediately prior to the effective date of this Act amending the Code shall serve as interim members of the State Board of Insurance until the members of such Board provided for in this Act shall have been appointed and qualified.

(b) Vacancies occurring in any such office on the Board during any term shall, with the advice and consent of the Senate, be filled by appointment by the Governor, which appointment shall extend only to the end of the unexpired term. As amended Acts 1955, 54th Leg., p. 1035, ch. 391, § 2; Acts 1957, 55th Leg., p. 1454, ch. 499, § 2.

Provisions of Act of 1957 relating to purpose of Act, severability and repeal of conflicting laws, see note under art. 1.02.

Art. 1.04. Duties and Organization of the State Board of Insurance

(a) The State Board of Insurance shall operate and function as one body or a unit and a majority vote of the members of the Board shall be necessary to transact any of its official business. The Board shall maintain one official set of records of its proceedings and actions.

(b) The State Board of Insurance shall determine policy, rules, rates and appeals but otherwise it shall execute its duties through the Commissioner of Insurance as herein provided for, in accordance with the laws of this state and the rules and regulations for uniform application as made by the Board.

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(c) All rules and regulations for the conduct and execution of the duties and functions of the State Board of Insurance shall be rules for general and uniform application and shall be made and published by the Board on the basis of a systematic organization of such rules by their subject matter and content. The Commissioner of Insurance may make recommendations to the Board regarding such rules and regulations, including amendments, changes and additions. Such published rules shall be kept current and shall be available in a form convenient to all interested persons.

(d) Any person or organization, private or public, which is affected by any ruling or action of the Commissioner of Insurance shall have the right to have such ruling or action reviewed by the State Board of Insurance by making an application to the Board. Such application shall state the identities of the parties, the ruling or action complained of, the interests of the parties in such ruling, the grounds of such objection, the action sought of the Board and the reasons and grounds for such action by the Board. The original shall be filed with the Chief Clerk of the Board together with a certification that a true and correct copy of such application has been filed with the Commissioner of Insurance. Within thirty (30) days after the application is filed, and after ten (10) days written notice to all parties of record, the Board shall review the action complained of in a public hearing and render its decision at the earliest possible date thereafter. The Board shall make such other rules and regulations with regard to such applications and their consideration as it deems advisable, not inconsistent with this Article. Said application shall have precedence over all other business of a different nature pending before the Board.

In the public hearing, any and all evidence and matters pertinent to the appeal may be submitted to the Board, whether included in the application or not.

(e) The Board shall have regular meetings on the first and third Mondays in each month and such special meetings to be called by the Chairman as shall be required to execute its duties. The Board shall from time to time make and publish rules regarding such meetings.

(f) If any insurance company or other party at interest be dissatisfied with any decision, regulation, order, rate, rule, act or administrative ruling adopted by the State Board of Insurance, such dissatisfied company or party at interest after failing to get relief from the State Board of Insurance, may file a petition setting forth the particular objection to such decision, regulation, order, rate, rule, act or administrative ruling, or to either or all of them, in the District Court of Travis County, Texas, and not elsewhere, against the State Board of Insurance as defendant. Said action shall have precedence over all other causes on the docket of a different nature. The action shall not be limited to questions of law and the substantial evidence rule shall not apply, but such action shall be tried and determined upon a trial de novo to the same extent as now provided for in the case of an appeal from the Justice Court to the County Court. Either party to said action may appeal to the Appellate Court having jurisdiction of said cause and said appeal shall be at once returnable to said Appellate Court having jurisdiction of said cause and said action so appealed shall have precedence in said Appellate Court over all causes of a different character therein pending.

The Board shall not be required to give any appeal bond in any cause arising hereunder.

(g) In making examinations of any insurance organization as provided by law, the Board may use its own salaried examiners or may employ any holder of a permit to practice public accountancy in Texas who

is engaged as an independent public accountant in the public practice as that term is known and understood in the accounting profession. Such examination shall cover the period of time which the Board shall request. In the event the Board does not specify a longer period of time, such examination shall be from the time of the last examination theretofore made by the Board to December 31st of the year preceding the examination then being made and such public accountants shall so certify the period being examined by him. Any such public accountant shall be paid for such examination at the usual and customary rates charged by public accountants for similar services. Such payment shall be made by the insurance organization being examined and all such examination fees so paid shall be allowed as a credit on the amount of premium or other taxes to be paid by any such insurance organization for the taxable year during which examination fees are paid just as examination fees are credited when the Board uses its own salaried examiners. As amended Acts 1955, 54th Leg., p. 1035, ch. 391, § 3; Acts 1957, 55th Leg., p. 1454, ch. 499, § 2.

Provisions of Act of 1957 relating to purpose of Act, severability and repeal of conflicting laws, see note under art. 1.02.

Sections 6 and 7 of the amendatory Act of 1957 read as follows:

"Sec. 6. The Board of Insurance Commissioners shall not enter into any extension of lease, leases, or contracts with and shall make no expenditures of money for the purpose of housing or quarters for the Board to any individual, group of individuals, or groups connected directly or indirectly with any insurance company, insurance agency, insurance brokerage, or insurance adjuster.

"It is expressly provided, however, that the Commission shall comply with the provisions hereof not later than three years from the effective date hereof.

"Sec. 7. There is hereby appropriated to the State Building Commission for the period of time beginning September 1, 1957, and ending August 31, 1959, to obtain a site, plan, design, construct and equip an office building or otherwise obtain adequate housing facilities to house the State Board

of Insurance, its offices and employees, all unexpended balances on hand or in special funds credited to the State Board of Insurance Commissioners or the State Board of Insurance on August 31, 1957, and all revenues received by the State Board of Insurance from any source whatsoever, except monies from the General Revenue Fund and monies appropriated exclusively for other purposes in the General Appropriation Bill for the fiscal years ending August 31, 1958, and August 31, 1959.

"The site shall be selected and acquired by the State Building Commission after obtaining the advice of a Legislative Committee appointed by the Lieutenant Governor and the Speaker of the House. After selection of the site, the State Building Commission is authorized to proceed with the planning, designing, constructing and equipping of said building. Nothing herein shall prevent the State Building Commission from combining the quarters for said Board with other quarters for other departments of the state."

Art. 1.05. Bond and Compensation

(a) Each of the members of the State Board of Insurance shall, before entering upon the duties of this office, give a bond to the State of Texas, executed by a surety company licensed to do business in the State of Texas, in a sum of Fifty Thousand Dollars (\$50,000.00), to be approved by the Governor, conditioned upon the faithful discharge of the duties of his office.

(b) The members of the Board shall receive compensation until August 31, 1958 at the rate of Fifteen Thousand Dollars (\$15,000.00) per year and thereafter shall receive a per diem of Fifty Dollars (\$50.00) per day for each day devoted to their duties but the total amount of per diem for each Commissioner in any year shall not exceed that amount set forth in the General Appropriation Bill. In addition to the per diem the members shall be entitled to their actual expenses but in no event more than allowed in the General Appropriation Bill. As amended Acts 1957, 55th Leg., p. 1454, ch. 499, § 2.

Provisions of Act of 1957 relating to purpose of Act, severability and repeal of conflicting laws, see note under art. 1.02.

Art. 1.06. Ineligibility

No person who is a stockholder, director, officer, attorney, agent, or employee of any insurance company, insurance agent, insurance broker, or insurance adjuster, or who is in any way directly or indirectly interested in any such business, shall be a member of the State Board of Insurance, be Commissioner of Insurance, or be appointed to, or accept, any office or employment under said Board or Commissioner of Insurance; provided, however, that such ineligibility shall not extend or apply to persons who are merely insured by an insurer, or are merely beneficiaries of such insurance; or who, in their official capacity, are appointed as a receiver, liquidator, or conservator for an insurer. As amended Acts 1957, 55th Leg., p. 1454, ch. 499, § 2.

Provisions of Act of 1957 relating to purpose of Act, severability and repeal of conflicting laws, see note under art. 1.02.

Art. 1.07. Industrial Accident Board

Nothing in this Code shall be construed to in any manner affect the duties now imposed by law on the Industrial Accident Board or to take from said board the performance of the duties now imposed on said board by law. As amended Acts 1957, 55th Leg., p. 1454, ch. 499, § 2.

Provisions of Act of 1957 relating to purpose of Act, severability and repeal of conflicting laws, see note under art. 1.02.

Art. 1.08. Office of the Clerk

(a) The Board shall appoint a Chief Clerk of the State Board of Insurance. The Chief Clerk shall have the responsibility of keeping and maintaining all records and proceedings of the Board.

(b) The Board may make any appropriate provisions by rules as to method or form by which any records or proceedings are kept and maintained, such as, but not limited to, providing for the mechanical or electrical recording of hearings or meetings in a phonographic transcription form and the photographing or microphotographing of written records or other materials. As amended Acts 1955, 54th Leg., p. 413, ch. 117, § 1; Acts 1955, 54th Leg., p. 826, ch. 307, § 1; Acts 1957, 55th Leg., p. 1454, ch. 499, § 2.

Provisions of Act of 1957 relating to purpose of Act, severability and repeal of conflicting laws, see note under art. 1.02.

Art. 1.09. Commissioner of Insurance

(a) The Board shall appoint a Commissioner of Insurance, by and with the advice and consent of the Senate of Texas, who shall be its chief executive and administrative officer, who shall be charged with the primary responsibility of administering, enforcing, and carrying out the provisions of the Insurance Code under the supervision of the Board. He shall hold his position at the pleasure of the Board and may be discharged at any time.

(b) The Commissioner of Insurance shall be the State Fire Marshal and shall function as such subject to the rules and regulations of the Board.

(c) The Commissioner of Insurance shall be a resident citizen of Texas, for at least one (1) year prior to his appointment and shall be a competent and experienced administrator who shall be well informed and qualified in the field of insurance and insurance regulation. He shall

have had at least ten (10) years of administrative or professional experience, and shall have had training and experience in the field of insurance or insurance regulation. No former or present member of the Board of Insurance Commissioners shall be appointed Commissioner of Insurance.

(d) The Commissioner of Insurance shall first give a bond to the State of Texas, executed by a surety company licensed to do business in the State of Texas, in the sum of Fifty Thousand Dollars (\$50,000.00), to be approved by the Board, conditioned upon the faithful discharge of the duties of his office.

(e) Compensation to be paid the Commissioner of Insurance shall be such sum as is provided for by the appropriation Acts.

(f) The Commissioner of Insurance or his representative shall meet with the Board in an advisory capacity and without vote in the proceedings of the Board. He shall submit such reports to the Board as it may request or provide for by its rules and regulations.

(g) The Commissioner of Insurance shall appoint such deputies, assistants, and other personnel as are necessary to carry out the duties and functions devolving upon him and the State Board of Insurance under the Insurance Code of this state, subject to the authorization by the Legislature in its appropriations bills or otherwise, and to the rules of the Board. As amended Acts 1957, 55th Leg., p. 1454, ch. 499, § 2.

Provisions of Act of 1957 relating to purpose of Act, severability and repeal of conflicting laws, see note under art. 1.02.

Art. 1.09—1. Represented by the Attorney General

(a) The State Board of Insurance, and the Commissioner of Insurance, shall be represented and advised by the Attorney General in all legal matters before them or in which they shall be interested or concerned. The Board and Commissioner of Insurance shall not employ or obtain any other legal services without the written approval of the Attorney General.

(b) In all rate hearings and policy form proceedings before the Board or the Commissioner of Insurance, the Attorney General may intervene in the public interest. The Board shall have and exercise the power of subpoena and subpoena duces tecum for witnesses, documents, and other evidence to the extent of the jurisdiction of this state for such hearings and proceedings on its own motion or upon application of the Attorney General. Acts 1951, 52nd Leg., ch. 491, art. 1.09—1, added Acts 1957, 55th Leg., p. 1454, ch. 499, § 3.

Provisions of Act of 1957 relating to purpose of Act, severability and repeal of conflicting laws, see note under art. 1.02.

Art. 1.09—2. Eligibility to Run for Public Office

(a) The members of the State Board of Insurance and the Commissioner of Insurance shall be ineligible to run for any public office, or to have their names placed on the official ballot for any office in any election in this state, except and unless such Board member or Commissioner of Insurance has resigned and his resignation has been accepted by the Governor. Acts 1951, 52nd Leg., ch. 491, art. 1.09—2, added Acts 1957, 55th Leg., p. 1454, ch. 499, § 4.

Provisions of Act of 1957 relating to purpose of Act, severability and repeal of conflicting laws, see note under art. 1.02.

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Art. 1.09—3. Certain Acts Shall be Unlawful

(a) It shall be unlawful for any member of the State Board of Insurance, Commissioner of Insurance, or any employee or agent of the State Board of Insurance to accept any money, gift or anything of value or agree to accept any money, gift, or anything of value, or to sell or offer to sell anything of value, or to buy or offer to buy anything of value from or to any insurance company or agent or employee of any insurance company.

It shall be unlawful for any officer, agent or employee of any insurance company to give or offer to give money, a gift or anything of value, or to pay or offer to pay money or anything of value, to any member of the State Board of Insurance, Commissioner of Insurance or any agent or employee of the State Board of Insurance.

The provisions of this Article shall not apply to transactions between such persons as insureds of insurers provided the customary premiums are paid by the insureds.

Any person violating the provisions of this Article shall upon conviction be confined in the penitentiary for not less than one year nor more than five years. Acts 1951, 52nd Leg., ch. 491, art. 1.09—3, added Acts 1957, 55th Leg., p. 1454, ch. 499, § 5.

Provisions of Act of 1957 relating to purpose of Act, severability and repeal of conflicting laws, see note under art. 1.02.

CHAPTER TWO—INCORPORATION OF INSURANCE COMPANIES**Art. 2.07. Shares of Stock**

Sec. 1. Division. The stock of any insurance company organized under the laws of this state, if stock with a nominal or par value, shall be divided into shares of not less than One Dollar (\$1.00) each, and not more than One Hundred Dollars (\$100.00) each. As amended Acts 1957, 55th Leg., p. 87, ch. 41, § 1.

Emergency. Effective April 3, 1957.

CHAPTER THREE—LIFE, HEALTH AND ACCIDENT INSURANCE**SUBCHAPTER F. MISCELLANEOUS PROVISIONS**

Art.

3.62—1. Delay in payment of losses on policies issued by casualty and other companies; penalty [New].

SUBCHAPTER A. TERMS DEFINED; DOMESTIC COMPANIES**Art. 3.04. Application, Charter and Organization**

Sec. 1. As a condition precedent to the granting of a charter of any such company, the incorporators shall file with the Board of Insurance Commissioners the following:

1. An application for charter on such form and including therein such information as may be prescribed by the Board;
2. The articles of incorporation as provided in this Code;
3. An affidavit made by two or more of its incorporators that all of the stock has been subscribed in good faith and fully paid for, as required by law, in the amount of not less than One Hundred Thousand Dollars

(\$100,000.00) capital and that such company is possessed of at least One Hundred Thousand Dollars (\$100,000.00) surplus, as required by law, in addition to its capital; which affidavit shall state that the facts set forth in the application and the articles of incorporation are true and correct and that the capital and surplus is the bona fide property of such company. The Board of Insurance Commissioners may, in its discretion, at the expense of the incorporators, require other and additional satisfactory evidence of the matters required to be set forth in said affidavit before it shall be required to be set forth in said incorporation, application for charter or follow the procedure hereinafter set forth;

4. A charter fee of Twenty-five Dollars (\$25.00).

Sec. 2. When such application for charter, articles of incorporation, affidavit, and charter fee are filed with the Board of Insurance Commissioners, the Board may set a date for a public hearing of the same, which date shall be not less than ten (10) nor more than thirty (30) days after the date of notice thereof. The Board shall notify in writing the person or persons submitting such application of the date for such hearing and shall furnish a copy of such notice to the Attorney General of Texas and to all interested parties including any parties who have theretofore requested a copy of such notice. The Board shall, at the expense of the incorporators, publish a copy of such notice in any newspaper of general circulation in the county of the proposed home office of said company. In all such public hearings on such applications, a record shall be made of such proceedings, and no such application shall be granted except when same is adequately supported by competent evidence. Any interested party shall have the right to oppose or support the granting or denial of such application and may intervene and participate fully and in all respects in any hearing or other proceeding had on any such application. Any such intervenor shall have and enjoy all the rights and privileges of a proper or necessary party in a civil suit in the courts of this state, including the right to be represented by counsel.

Sec. 3. In considering any such application, the Board shall, within thirty (30) days after public hearing, determine whether or not:

(a) The minimum capital and surplus, as required by law, is the bona fide property of the company;

(b) The proposed officers, directors and managing executive have sufficient insurance experience, ability and standing to render success of the proposed company probable;

(c) The applicants are acting in good faith.

Sec. 4. If the Board shall determine by an affirmative finding any of the above issues adversely to the applicants, it shall reject the application in writing giving the reason therefor. Otherwise the Board shall approve the application and submit such application together with the articles of incorporation and the affidavit to the Attorney General for examination. If the application, articles of incorporation, the affidavit and the procedure and action thereon shall be found by the Attorney General to be in accordance with the law of this state, he shall attach thereto his certificate to that effect, whereupon all such documents shall be deposited with the Board. Upon receipt by the Board of such documents so certified by the Attorney General, the Board shall record the same in a book kept for that purpose; and upon receipt of a fee of One Dollar (\$1.00), it shall furnish a certified copy of the same to the incorporators, upon which they shall become a body politic and corporate and may proceed to complete the organization of the company, for which purpose they shall forthwith call a meeting of the stockholders who shall adopt by-laws for the government of the company, and elect a board of directors, not less

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than five (5), composed of stockholders; which board shall have full control and management of the affairs of the corporation, subject to the by-laws thereof as adopted or amended from time to time by the stockholders or directors, and to the laws of this state. The board of directors so elected shall serve until the second Tuesday in March thereafter, on which date, annually thereafter, there shall be held a meeting of the stockholders at the home office, and a board of directors elected for the ensuing year. If the stockholders fail to elect directors at any such annual meeting, directors may be elected at a special meeting of the stockholders called for that purpose. The directors shall choose a president from their own number, and all other officers shall be chosen in accordance with the by-laws of the company, and none of such other officers need be either a director or a stockholder except as required by the by-laws of such company. The duties and compensation of officers of such company shall be in accordance with the by-laws of the company, or, to the extent of the absence of provisions governing the same in the by-laws, then the duties and compensation of officers shall be defined and fixed by the directors. The directors shall keep a full and correct record of their transactions to be open during business hours to the inspection of stockholders. The directors shall fill any vacancy which occurs in the board or in any office of such company. A majority of the board shall be a quorum for the transaction of such business. At all meetings of the stockholders, each stockholder shall be entitled to one vote for each share of stock fully paid up appearing in his name on the books of the company, which vote may be given in person or by written proxy. The majority of the paid up capital stock at any meeting of the stockholders shall be a quorum. As amended Acts 1955, 54th Leg., p. 916, ch. 363, § 6; Acts 1957, 55th Leg., p. 261, ch. 122, § 1.

Emergency. Effective April 30, 1957. conflict herewith are to that extent hereby repealed; and this Act shall prevail over any conflicting provisions of law." Section 2 of the amendatory Act of 1957 provided: "All laws or parts of laws that

Art. 3.12. Compensation of Officers and Others; Including Pensions

(a) No "domestic" company shall pay any salary, compensation or emolument to any officer, trustee, or director thereof, nor any salary, compensation or emolument amounting in any year to more than Ten Thousand Dollars (\$10,000) to any person, firm or corporation, unless such payment be first authorized by a vote of the board of directors of such company, or by a committee of such board charged with the duty of authorizing such payments. The limitation as to time contained herein shall not be construed as preventing any "domestic" company from entering into contracts with its agents for the payment of renewal commissions.

(b) The stockholders of any such "domestic" company may authorize the inauguration of a plan or plans for the payment of pensions, retirement benefits or group insurance to its officers and employees. The stockholders may delegate to the board of directors authority and responsibility for the preparation, inauguration, putting into effect, final approval and administration of any such plan or plans or any amendments thereof.

(c) Mutual companies, acting through their policyholders, may exercise the same discretion and shall have the same authority, privileges and rights as are conferred upon "domestic" companies under subparagraph (b) next above. As amended Acts 1957, 55th Leg., p. 1330, ch. 451, § 1.

Emergency. Effective June 6, 1957.

Art. 3.15. Deposit of Securities in Amount of Capital Stock

Any "domestic" company may, at its option, deposit with the Treasurer of this State, securities in which its capital stock is invested, or securities equal in amount to its capital stock, of the class in which the law of this State permits such insurance companies to invest their capital stock, and may, at its option, withdraw the same or any part thereof, first having deposited with the Treasurer, in lieu thereof, other securities of like class and equal amount and value to those withdrawn. Any such securities, before being so originally deposited or substituted, shall be approved by the Board of Insurance Commissioners. When any such deposit is made, the Treasurer shall execute to the company making such deposit a receipt therefor, giving such description of said stock or securities as will identify the same, and stating that the same are held on deposit as the capital stock investments of such company; and such company shall have the right to advertise such fact or print a copy of the Treasurer's receipt on the policies it may issue; and the proper officer or agent of each insurance company making such deposit shall be permitted at all reasonable times to examine such securities and to detach coupons therefrom, and to collect interest thereon, under such reasonable rules and regulations as may be prescribed by the Treasurer and the Board of Insurance Commissioners. The deposit herein provided for, when made by any company, shall thereafter be maintained so long as said company shall have outstanding any liability to its policyholders in this State. For the purpose of state, county, and municipal taxation, the situs of securities deposited with the Treasurer by domestic insurance companies shall be in the city and county where the principal business office of such company is fixed by its charter. As amended Acts 1957, 55th Leg., p. 812, ch. 344, § 1.

Effective January 1, 1958.

Section 4 of the amendatory Act of 1957 provided that this Act shall take effect on January 1, 1958.

Art. 3.16. Deposits of Securities in Amount of Legal Reserve

Any life insurance company now or which may hereafter be incorporated under the laws of this State may deposit with the Board of Insurance Commissioners for the common benefit of all the holders of its policies and annuity bonds, securities of the kinds in which, by the laws of this State, it is permitted to invest or loan its capital, surplus, and/or reserves, equal to the legal reserve on all its outstanding policies in force, which securities shall be held by said Board of Insurance Commissioners in trust for the purpose and objects herein specified. The physical delivery of such securities to the Board of Insurance Commissioners shall be sufficient without being accompanied by a written transfer of any lien securing them. Any such company may deposit lawful money of the United States in lieu of the securities above referred to, or any portion thereof, and may also, for the purposes of such deposit, convey to said Board of Insurance Commissioners in trust the real estate in which any portion of its said reserve may be lawfully invested. In such case, the Board of Insurance Commissioners shall hold the title thereto in trust until other securities in lieu thereof shall be deposited with it, whereupon it shall reconvey the same to such company. Said Board of Insurance Commissioners may cause any such securities or real estate to be appraised and valued prior to their being deposited with, or conveyed to, it in trust as aforesaid, the reasonable expense of such appraisal or valuation to be paid by the company. Under the provisions of this Article, registered as well as unregistered United

States Government securities may be deposited. For the purpose of state, county, and municipal taxation, the situs of securities deposited with the Board of Insurance Commissioners shall be in the city and county where the principal business office of such company is fixed by its charter. As amended Acts 1957, 55th Leg., p. 812, ch. 344, § 2.

Effective January 1, 1958.

SUBCHAPTER D. POLICIES AND BENEFICIARIES

Art. 3.42. Policy Form Approval

(a) No policy, contract or certificate of life, term or endowment insurance, group life or term insurance, industrial life insurance, accident or health insurance, group accident or health insurance, hospitalization insurance, group hospitalization insurance, medical or surgical insurance, group medical or surgical insurance, or fraternal benefit insurance, and no annuity or pure endowment contract or group annuity contract, shall be delivered, issued or used in this state by a life, accident, health or casualty insurance company, a mutual life insurance company, mutual insurance company other than life, mutual or natural premium life insurance company, general casualty company, Lloyds, reciprocal or inter-insurance exchange, fraternal benefit society, group hospitalization service or any other insurer, unless the form of said policy, contract or certificate has been filed with the Board of Insurance Commissioners and approved by said Board as provided in Paragraph (c) of this Article. Provided, however, that this Article shall not apply to any society, company or other insurer whose activities are by statute exempt from the control of the Board of Insurance Commissioners and which is entitled by statute to an exemption certificate from said Board in evidence of its exempt status; provided, further, that this Act shall not be construed to enlarge the powers of any of the insurers subject to this Article.

(b) No application form which is required to be or is attached to the policy, contract or certificate, and no rider or endorsement to be attached to, printed upon or used in connection with any policy, contract or certificate described in Paragraph (a) of this Article shall be delivered, issued or used in this state by any insurer described in Paragraph (a) of this Article unless the form of said application, rider or endorsement has been filed with the Board of Insurance Commissioners and approved by said Board as provided in Paragraph (c) of this Article. Provided, however, that this Article shall not apply to riders or endorsements which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policies, contracts and certificates, and which are used at the request of the holder of the policy, contract or certificate.

(c) Every such filing hereby required shall be made not less than thirty days in advance of any such issuance, delivery or use. At the expiration of thirty days the form so filed shall be deemed approved by the Board of Insurance Commissioners unless prior thereto it has been affirmatively approved or disapproved by the written order of said Board. The Board of Insurance Commissioners may extend by not more than an additional thirty days the period within which it may so affirmatively approve or disapprove any such form, by giving notice of such extension before expiration of the initial fifteen day period and at the expiration of any such extended period, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The Board of Insurance Commissioners may withdraw any such approval at any time. Approval of any such form by such Board shall constitute a

waiver of any unexpired portion of the waiting period, or periods, herein provided.

(d) The order of the Board of Insurance Commissioners disapproving any such form or withdrawing a previous approval shall state the grounds for such disapproval or withdrawal.

(e) The Board of Insurance Commissioners may, by written order, exempt from the requirements of this Article for so long as it deems proper, any insurance document or form specified in such order, to which in its opinion this Article may not practicably be applied, or the filing and approval of which are, in its opinion, not desirable or necessary for the protection of the public.

(f) The Board of Insurance Commissioners shall forthwith disapprove any such form, or withdraw any previous approval thereto if, and only if,

(1) It is in any respect in violation of or does not comply with this Code.

(2) It contains provisions which encourage misrepresentation or are unjust, unfair, inequitable, misleading, deceptive or contrary to law or to the public policy of this state.

(3) It has any title, heading or other indication of its provisions which is misleading.

(g) Appeals from any order of the Board of Insurance Commissioners issued under this Article may be taken to the District Court of Travis County, Texas, in accordance with Article 21.44 of Sub-Chapter F of this Insurance Code, or any amendments thereof. As amended Acts 1957, 55th Leg., p. 1463, ch. 501, § 1.

Effective 90 days after May 23, 1957,
date of adjournment.

Section 2 of the amendatory Act of 1957
repealed art. 3.43. Section 3 repealed all
conflicting laws and parts of laws.

Art. 3.43. Repealed. Acts 1957, 55th Leg., p. 1463, ch. 501, § 2. Eff. 90 days after May 23, 1957, date of adjournment

SUBCHAPTER E. GROUP INDUSTRIAL AND CREDIT INSURANCE

Art. 3.50. Group Life Insurance

Sec. 1. Definitions.

(1).

(c) The policy must cover at least ten (10) employees at date of issue. As amended Acts 1957, 55th Leg., p. 801, ch. 336, § 1.

Emergency. Effective May 31, 1957.

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

Art. 3.62—1. Delay in Payment of Losses on Policies Issued by Casualty and Other Companies; Penalty

In all cases where a loss occurs and the general casualty company, local mutual aid associations, mutual casualty company, Lloyds organization, reciprocal exchange, liable therefor under a life, health, or accident policy issued by any such insurer shall fail to pay the same within sixty days after filing written proof of loss thereof, such insurer shall be liable to pay the holder of such policy, in addition to the amount of the loss, twelve per cent (12%) damages on the amount of such loss, together with reasonable attorney fees for the prosecution and collection

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of such loss. Such attorney fees shall be taxed as a part of the costs in the case. The court in fixing such fees shall take into consideration all benefits to the insured incident to the prosecution of the suit, accrued and to accrue on account of such policy.

Provided however, where for any reason the holder of said policy is unable to furnish the insurer a certified copy of the death certificate of the insured within the sixty day period, then the provisions of this Act relating to attorney fees shall not apply. Acts 1957, 55th Leg., p. 1161, ch. 387, § 1.

Article 3.62—1 was not enacted as part of the Insurance Code of 1951.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the Act of 1957 repealed all conflicting laws and parts of laws.

Title of Act:

An Act fixing penalties for the failure to pay losses under life, health, and accident policies issued by general casualty com-

panies, local mutual aid associations, mutual casualty companies, Lloyds organizations, reciprocal exchanges; providing for attorney fees for the prosecution and collection of such losses; repealing all laws in conflict therewith; and declaring an emergency. Acts 1957, 55th Leg., p. 1161, ch. 387.

CHAPTER FOUR—TAXES AND FEES

Art. 4.01. Tax Other Than Premium Tax

Insurance companies incorporated under the laws of this State shall hereafter be required to render for state, county and municipal taxation all of their real estate as other real estate is rendered. All personal property of such insurance companies, except fire insurance companies and casualty insurance companies, shall be valued as other property is valued for assessment in this State in the following manner: From the total valuation of its assets shall be deducted the reserve being the amount of the debts of insurance companies by reason of their outstanding policies in gross, and from the remainder shall be deducted the assessed value of all real estate owned by the company and the remainder shall be the assessed taxable value of its personal property. All real estate, furniture, fixtures, and automobiles owned by any such company shall be rendered for taxation in the city and in the county where such property is located. All other personal property owned by such company shall be rendered for taxation in the city and county where the principal business office of any such company is fixed by its charter.

All personal property of fire insurance companies and casualty insurance companies incorporated under the laws of this State shall be valued as other personal property is valued for assessment in this State, and in the following manner: From the total valuation of their assets shall be deducted the reserves, which reserves shall be computed in such manner as may be prescribed by the rules and regulations of the Board of Insurance Commissioners, for unearned premiums and for all bona fide outstanding losses, and from the remainder shall be deducted the assessed value of all real estate owned by such companies, and the remainder shall be the taxable personal property of such companies, to be assessed as other property. All real estate, furniture, fixtures, and automobiles owned by any such company shall be rendered for taxation in the city and in the county where such property is located. All other personal property owned by such company shall be rendered for taxation in the city and county where the principal business office of any such company is fixed by its charter.

Domestic insurance companies shall not be required to pay any occupation or gross receipt tax except as otherwise provided by this code. As amended Acts 1957, 55th Leg., p. 812, ch. 344, § 3.

Effective January 1, 1958.

CHAPTER FIVE—RATING AND POLICY FORMS

SUBCHAPTER C. FIRE INSURANCE AND ALLIED LINES

Art. 5.26. Maximum Rate Fixed, and Deviations Therefrom

(a) A maximum rate of premiums to be charged or collected by all companies transacting in this state the business of fire insurance, as herein defined, shall be exclusively fixed and determined and promulgated by the Board, and no such fire insurance company shall charge or collect any premium or other compensation for or on account of any policy or contract of fire insurance as herein defined in excess of the maximum rate as herein provided for; provided, however, upon the written application of the insured stating his reasons therefor, filed with and approved by the Board, a rate in excess of the maximum rate promulgated by the Board may be used on any specific risk.

(b) Any insurer desiring to write insurance at a less rate than the maximum rate provided for in paragraph (a) above shall make a written application to the Board for permission to file a uniform percentage deviation for a lesser rate than the maximum rate, on a state-wide basis or by reasonable territories as approved by the Board, from the class rates or schedules or rating plans respecting fire insurance and its allied lines of insurance or class of risk within such kind of insurance or a combination thereof promulgated by the Board. Such application shall specify the basis of the deviation, and shall be accompanied by the data upon which the applicant relies; provided, however, such application, data and all other information filed in connection with such deviation shall be public records open to inspection at any reasonable time. The provisions of this paragraph shall not be construed to prohibit the application of a uniform scale of percentage deviations from the maximum rate provided the general standards fixed in paragraph (d) hereof are met.

(c) Provided further, that any insurer desiring to write insurance at a lesser net rate than the maximum rate provided for in paragraph (a) above, either individually or as a member of a group or association, said lesser net rate being obtained by the application of a rating plan or procedure in use by it or by a group or association of which it is a member, which said rating plan or procedure shall apply only to special types or classes of risk in connection with which an inspection or engineering service and set of standards all acceptable to the Board are used, and which inspection or engineering services and set of standards have been and will continue to be maintained, shall make a written application to the Board for permission to file its said rating plan or procedure, the application of which would produce such lesser net rate. Said application shall specify the basis of the modification and shall be accompanied by the data on which applicant relies. Every insurer or group or association which avails itself of the provisions of this paragraph shall thereafter follow in the conduct of its business as to such classes or types of risks, only such rating plan or procedure ordered as permitted by the Board for its use as to said special types or classes of risks. If the Board shall issue an order permitting such deviation, such insurer or such group or association for it shall file with the Board all rates of premium or de-

posit for individual risks underwritten by it, which rates shall be considered as deviations from the rates that would have been promulgated by the Board on such risks.

(d) In considering any application provided for in (b) or (c) above, the Board shall give consideration to the factors applied by insurers or rating organizations generally used by such insurers or rating organizations in determining the bases for rates; the financial condition of the insurer; the method of operation and expenses of such insurer; the loss experience of the insurer, past and prospective, including where pertinent the conflagration and catastrophe hazards, if any, both within and without this state; to all factors reasonably related to the kind of insurance involved; to a reasonable margin for an underwriting profit for the insurer, and, in the case of participating insurers, to policyholders' dividends. The Board shall issue an order permitting the deviation for such insurer to be filed if it is found to be justified upon the applicant's showing that the resulting premiums would be adequate and not unfairly discriminatory. The Board shall issue an order denying such application if it finds that the resulting premiums would be inadequate or unfairly discriminatory. As soon as reasonably possible after such application has been made the Board shall in writing permit or deny the same; provided, that any such application shall be deemed permitted unless denied within thirty (30) days; provided, that the Board may by official order postpone action for one additional period not exceeding thirty (30) days if deemed necessary for proper consideration; except that deviations in effect at the time this Act becomes effective shall be controlled by subdivision (f) hereof. Each deviation permitted to be filed shall be effective for a period of one (1) year from the date of final granting of such permission whether by the Board in the first instance or upon direction of the court. However, a deviation may be withdrawn at any time with the approval of the Board or terminated by order of the Board, which order must specify the reasons for such termination. From and after the effective date of this Act all deviations from maximum rates shall be governed by this Article.

(e) No policy of insurance in force prior to the taking effect of any changes in rate that result from the provisions of this Act shall be affected thereby, unless there shall be a change in the hazard of the risk necessitating a change in the rate applicable to such risk, in which event such policy shall be subject to new rates developed under the provisions hereof.

(f) Any deviations from maximum rates on file with the Board and in effect until the effective time of this Act shall remain in effect for a period of thirty (30) days after such effective time, and if during such thirty (30) day period a written application to the Board is made for permission to file such deviations under this Act, same shall remain in effect until the Board has entered its order either permitting or denying the application and during the full course of any hearings on and appeal from any such order.

(g) The Board may call a public hearing on any application for permission to file a deviation or a hearing on a permitted deviation and shall call a hearing upon the request of any aggrieved policyholder of the company filing the deviation made within thirty (30) days after the granting or denying of any deviation. The Board shall give reasonable notice of such hearings and shall hear witnesses respecting such matters. Any applicant dissatisfied with any order of the Board made without a hearing under this Article may within thirty (30) days after entry of such order make written request of the Board for a hearing thereon. The

Board shall hear such applicant within twenty (20) days after receiving such request and shall give not less than ten (10) days written notice of the time and place of the hearing. Within fifteen (15) days after such hearing the Board shall affirm, reverse or modify by order its previous action, specifying in such order its reasons therefor. Any applicant who may be dissatisfied with any order of the Board respecting its application may appeal to the District Court of Travis County, Texas, and not elsewhere, by filing a petition within thirty (30) days after the rendition or entry of such order setting forth its grounds of objection thereto, in which said action the appealing applicant shall be plaintiff and the Board shall be defendant. The action shall not be limited to questions of law and the substantial evidence rule shall not apply, but such action shall be tried and determined upon a trial de novo to the same extent as now provided in the case of an appeal from the Justice Court to the County Court. The judgment of the District Court shall be appealable as in any other civil case. Such action shall have precedence over other civil cases on the dockets of the trial and appellate courts. Should the Board terminate or refuse to renew a permitted deviation or refuse permission for filing of a deviation under subdivision (f) hereof, then such deviation shall remain in effect during the course of any hearing thereon and thirty (30) days thereafter, and during the course of any appeal taken from such order and until final judgment of the courts. The Board shall not be required to give any appeal or supersedeas bond in any cause arising hereunder. All hearings before the Board and appeals to the District Courts under this Article shall be governed exclusively by this Article.

(h) This Article shall not apply to any companies now operating under Chapters 12 and 13 of Title 78 of the Revised Civil Statutes of 1925, as amended, which have heretofore been repealed, or to Farm Mutual Insurance Companies operating under Chapter 16 of this Code; County Mutual Insurance Companies operating under Chapter 17 of this Code; Underwriters at a Lloyd's operating under Chapter 18 of this Code; Reciprocal and inter-insurance exchanges operating under Chapter 19 of this Code; nor shall it apply to other purely mutual or to other purely profit-sharing fire insurance companies incorporated or unincorporated under the laws of this state, and carried on by the members thereof solely for the protection of their property and not for profit. As amended Acts 1957, 55th Leg., p. 1443, ch. 497, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws.

CHAPTER SEVEN—SURETY AND TRUST COMPANIES

Arts. 7.01–7.18. Repealed. Acts 1957, 55th Leg., p. 1162, ch. 388, § 1.
Eff. 90 days after May 23, 1957, date of adjournment

Trust companies, see Vernon's Civ.St.
Ann. arts. 1513, 1513a.

CHAPTER NINE—TITLE INSURANCE COMPANIES

Art.

9.01a Right to adopt and become subject to certain provisions of the Texas Business Corporation Act [New].

Art. 9.01a. Right to Adopt and Become Subject to Certain Provisions of the Texas Business Corporation Act

A. Corporations doing a title insurance business and created under this chapter or under subdivision 57, Article 1302, Revised Civil Statutes of 1925, or under Article 1302a, Texas Civil Statutes (Acts 1929, 41st Legislature, page 77, Chapter 40, as amended by Acts 1945, 49th Legislature, page 383, Chapter 245, Section 1), or under any other law, may voluntarily elect to adopt and become subject to all of the provisions of the Texas Business Corporation Act, Acts of the 54th Legislature, Regular Session, 1955, Chapter 64, that are not inconsistent with the provisions or any provision of Chapter 9 of the Insurance Code (Acts 52nd Legislature, Regular Session, 1951, Chapter 491, as amended by Acts of the 54th Legislature, Regular Session 1955, Chapter 489); provided, however, that such corporations may not adopt any provision of the said Texas Business Corporation Act to enlarge their corporate purposes or to have, engage in or transact any corporate purposes or business which is not specified in and authorized by Article 9.01 of Chapter 9 of said Insurance Code.

B. In order for such a corporation to adopt such provisions of the Texas Business Corporation Act it shall take the following steps:

(1) A resolution reciting that the corporation voluntarily adopts all of the provisions of the Texas Business Corporation Act to the extent same may become applicable perforce the provisions of Section A of this article shall be adopted by the board of directors and, if necessary, the shareholders by the procedure prescribed by the law then applicable to such corporation for the amendment of its charter.

(2) Upon adoption of the required resolution or resolutions an instrument shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which shall set forth:

- (a) The name of the corporation;
- (b) Each resolution adopted by the corporation;
- (c) The date of the adoption of each resolution.

(3) Duplicate originals of such documents shall be delivered to the Board of Insurance Commissioners. If the Board of Insurance Commissioners finds that such document conforms to law, it shall, when all fees and taxes have been paid as prescribed by law:

- (a) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof;
- (b) File one of such duplicate originals in his office;
- (c) Deliver the other duplicate original to the corporation or its representative.

(4) Upon the filing of such document, such provisions of the Texas Business Corporation Act shall thereafter apply to such corporation the same as though it had been organized after the effective date of the Texas Business Corporation Act, and all general corporation laws theretofore applying to such corporation and inconsistent with the provisions of the Texas Business Corporation Act thereafter applicable to such corporation perforce the provisions of this article shall not thereafter apply to such corporation.

C. Wherever the office or title of "Secretary of State" appears in any provision of said Act which is adopted by any such corporation, the office or title of 'Board of Insurance Commissioners' shall be substituted therefor in applying said adopted provisions to such corporation. Acts 1951, 52nd Leg., ch. 491, art. 9.01a added Acts 1957, 55th Leg., p. 753, ch. 311, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 3 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 9.09. Charter and Amendments

The original charter of corporations doing a title insurance business and incorporated under the provisions of this Chapter, and the amendments to charters of corporations doing a title insurance business and incorporated under the provisions of this Chapter or under subdivision 57, Article 1302, Revised Civil Statutes of 1925, or under Article 1302a Texas Civil Statutes (Acts 1929, 41st Legislature, page 77, Chapter 40, as amended Acts 1945, 49th Legislature, page 383, Chapter 245, Section 1) or under any other law regardless of the nature of such amendment, shall be certified only to and filed only with the Board, and only the Board shall collect from the said companies filing fees required under the law. All other laws or parts of laws, to the extent that the same are in conflict with the provisions of this Article, shall not hereafter apply to such corporations. As amended Acts 1957, 55th Leg., p. 753, ch. 311, § 2.

Effective 90 days after May 23, 1957, date of adjournment.

Severability clause, see note under art. 9.01a.

CHAPTER TWENTY-ONE—GENERAL PROVISIONS

SUBCH. E. MISCELLANEOUS PROVISIONS

| Art. | | Art. | |
|-------|---|-------|--|
| 21.46 | Retaliatory provisions; payment of taxes, fines, penalties, etc.; condition precedent to doing business in state; exemptions [New]. | 21.47 | Verification of reports, returns, statements, etc., perjury [New]. |
| | | 21.48 | False report, return, statement, etc.; penalty [New]. |

SUBCHAPTER B. MISREPRESENTATION AND DISCRIMINATION

Art. 21.21. Unfair competition and unfair practices

Sec. 1. Declaration of Purpose.—The purpose of this Act is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress),¹ by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

¹ 15 U.S.C.A. §§ 1011-1015.

Sec. 2. Definitions.—When used in this Act:

(a) "Person" shall mean any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers, adjusters and life insurance counselors.

(b) "Board" shall mean the Board of Insurance Commissioners of this state.

Sec. 3. Unfair Methods of Competition or Unfair and Deceptive Acts or Practices Prohibited.—No person shall engage in this state in any trade practice which is defined in this Act as, or determined pursuant to this Act to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

Sec. 4. Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined.—The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

(1) **Misrepresentations and False Advertising of Policy Contracts.** Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statements as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance;

(2) **False Information and Advertising Generally.** Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading;

(3) **Defamation.** Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of any insurer, and which is calculated to injure any person engaged in the business of insurance;

(4) **Boycott, Coercion and Intimidation.** Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance;

(5) **False Financial Statements.** (a) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive;

(b) Making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omitting to make a true entry of any material fact per-

taining to the business of such insurer in any book, report or statement of such insurer;

(6) **Stock Operations and Advisory Board Contracts.** Issuing or delivering or permitting agents, officers or employees to issue or deliver, company stock or other capital stock, or benefit certificates or shares in any corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance. Provided, however, that nothing in this subsection shall be construed as prohibiting the issuing or delivery of participating insurance policies otherwise authorized by law.

(7) **Unfair Discrimination.**

(a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract;

(b) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

(8) **Rebates.**

(a) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract;

(b) Nothing in clause 7 or paragraph (a) of clause 8 of this subsection shall be construed as including within the definition of discrimination or rebates any of the following practices:

(i) in the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance, provided that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses;

(iii) readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

Sec. 5. Power of Board.—The Board shall have power to examine and investigate into the affairs of every person engaged in the business of

insurance in this state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by Section 3 of this Act.

Sec. 6. Hearings, Witnesses, Appearances, Production of Books and Service of Process.—(a) Whenever the Board shall have reason to believe that any such person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice defined in Section 4, and that a proceeding by it in respect thereto would be to the interest of the public, it shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than five days after the date of the service thereof;

(b) At the time and place fixed for such hearing, such person shall have an opportunity to be heard and to show cause why an order should not be made by the Board requiring such person to cease and desist from the acts, methods or practices so complained of. Upon good cause shown, the Board shall permit any person to intervene, appear and be heard at such hearing by counsel or in person;

(c) Nothing contained in this Act shall require the observance at any such hearing of formal rules of pleading or evidence;

(d) The Board, upon such hearing, may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which it deems relevant to the inquiry. The Board, upon such hearing, may, and upon the request of any party, shall cause to be made a stenographic record of all the evidence and all the proceedings had at such hearing. If no stenographic record is made and if a judicial review is sought, the Board shall prepare a statement of the evidence and proceeding for use on review. In case of a refusal of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the District Court of Travis County or the county where such party resides, on application of the Board, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as a contempt thereof;

(e) Statements of charges, notices, orders, and other processes of the Board under this Act may be served by anyone duly authorized by the Board, either in the manner provided by law for service of process in civil actions, or by registering and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order, or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such statement, notice, order or other process, registered and mailed as aforesaid, shall be proof of the service of the same.

Sec. 7. Cease and Desist Orders and Modifications Thereof.—(a) If, after such hearing, the Board shall determine that the method of competition or the act or practice in question is defined in Section 4 and that the person complained of has engaged in such method of competition, act or practice in violation of this Act, it shall reduce its findings to writing and shall issue and cause to be served upon the person charged with the violation an order requiring such person to cease and desist from engaging in such method of competition, act or practice;

(b) Until a petition appealing from such order shall have been filed in the District Court of Travis County, Texas, in accordance with Subchap-

ter F of Chapter 21 of the Insurance Code of this state, or any amendment thereof, the Board may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside in whole or in part any order issued under this section.

Sec. 8. No Relief from Liability Under Other Laws.—No order of the Board under this Act or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order from any liability under any other laws of this state.

Sec. 9. Certain Words Prohibited from Appearing on Policies of Insurance.—(a) Notwithstanding any other provision of the Insurance Code (Acts 1951, 52nd Legislature, page 868, Chapter 491) to the contrary, it is hereby declared to be unlawful for any company engaged in the business of life, accident or health insurance to issue or deliver in this state a policy containing the words "Approved by the Board of Insurance Commissioners" or words of a similar import or nature.

Sec. 10. Penalty.—Any person who violates a cease and desist order of the Board under Section 7, while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the State of Texas a sum not to exceed Fifty Dollars (\$50.00), which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed Five Hundred Dollars (\$500.00).

Sec. 11. Provisions of Act Additional to Existing Law.—The powers vested in the Board by this Act shall be additional to any other powers to enforce any penalties, fines or forfeitures authorized by law with respect to the methods, acts and practices hereby declared to be unfair or deceptive.

Sec. 12. Immunity from Prosecution.—If any person shall ask to be excused from attending and testifying or from producing any books, papers, records, correspondence or other documents at any hearing on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall notwithstanding be directed to give such testimony or produce such evidence, he must nonetheless comply with such direction, but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence pursuant thereto, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding; provided, however, that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him while so testifying and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation or proceeding concerning such perjury, nor shall he be exempt from the refusal, revocation or suspension of any license, permission or authority conferred, or to be conferred, pursuant to the Insurance Code of this state. Any such individual may execute, acknowledge and file in the office of the Board a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement and thereupon the testimony of such person or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise, and if so received or produced such individual shall not be entitled to any immunity or privilege on account of any testimony he may so give or evidence so produced. As amended Acts 1957, 55th Leg., p. 401, ch. 198.

Emergency. Effective May 8, 1957.

Section 13 of the amendatory act of 1957 was a severability provision.

SUBCHAPTER E. MISCELLANEOUS PROVISIONS

Art. 21.38. Direct Insurance With Unauthorized Insurers

Sec. 2. Tax on Insurance Premiums, Policies or Insurance Contracts Placed with Unauthorized Insurers; Licensing of Agents; Affidavit of Insureds and Report of Agents

(a) The Board of Insurance Commissioners, upon payment by the applicant of an annual license fee of Twenty-five Dollars (\$25), which fee shall be placed in the separate fund that is provided pursuant to Section 21 of Article 21.14 of the Insurance Code, may issue to an agent who is regularly commissioned to represent one (1) or more fire, fire and marine, inland, casualty or surety insurance companies, licensed to do business in this State, a Certificate of Authority to place lines of direct insurance affected hereby to be evidenced by policies of insurance or certificates of insurance in insurers not licensed to do business in this State (hereinafter sometimes referred to as unauthorized insurers). Each such license shall expire on the 31st day of the succeeding December. No diminution of the license fee herein provided shall occur as to any license effective after January 1st of any year. The Board may require written application for such license.

(b) Before receiving the license provided for in the preceding Section of this law, the party applying for same shall file with the Board a bond in the sum of Five Thousand Dollars (\$5,000) payable to the Governor, for the faithful observance of the provisions of this Article. Said bond shall be approved by the Board and be for the benefit of the State of Texas.

(c) When any policy of insurance or certificate of insurance is procured under authority of such license, there shall be executed by the insured an affidavit setting forth facts showing that such insured was unable after diligent effort to procure from any licensed company or companies the full amount of insurance required to protect the property, liability or risk desired to be insured, and further showing that the amount of insurance procured from nonlicensed insurer or insurers is only the excess over the amount so procurable from licensed companies. Each such affidavit shall be filed with the Board with the tax report required in accordance with the provisions of Subdivision (d) below.

(d) The agent so licensed shall report, under oath, to the Board within thirty (30) days from the 1st day of January and July of each year the amount of gross premiums paid for such insurance placed through him in nonlicensed insurers, and shall pay to the Board a tax of five per cent (5%) thereon. The term "gross premiums" shall mean the total gross amount of premiums received on each and every such insurance, less return premiums. The agent so licensed shall keep a separate record of all transactions as herein provided, open at all times to the inspection of the Board.

(e) If any person, firm, association or corporation shall purchase from an insurer not licensed in the State of Texas a policy of insurance covering risks within this State in a manner other than through an insurance agent licensed as such under the laws of the State of Texas, such person, firm, association or corporation shall pay to the Board a tax of five per cent (5%) of the amount of the gross premiums paid by such insured for such insurance. Such tax shall be paid not later than thirty (30) days from the date on which such premium is paid to the unlicensed insurer.

(f) If any such policy purchased from an insurer not licensed in this State, either by purchase from such insurer or through an agent

licensed hereunder, shall cover risks partially within and partially without this State, the tax levied in Subdivisions (d) and (e) above is to be measured only by that portion of the premium paid for insurance covering risks within this State.

(g) Any person, firm, association or corporation, or any receiver of such, failing to pay any tax for a period of thirty (30) days from the date when said tax is required by the foregoing Subdivision (d) or Subdivision (e) (whichever is applicable), shall forfeit and pay to the State of Texas a penalty of twenty-five per cent (25%) upon the amount of such tax and in which event the Board of Insurance Commissioners shall report the default to the Attorney General of Texas who shall prosecute a suit for and be entitled to recovery of the amount of such tax and the amount of such additional penalty, which amount both tax and penalty shall draw interest at the rate of six per cent (6%) per annum from the date such penalty accrues until fully paid.

(h) The provisions of this Act shall not apply to contracts of re-insurance made between insurance companies. As amended Acts 1957, 55th Leg., p. 1180, ch. 395, § 1.

Sec. 5. Application of Preceding and Succeeding Sections.—As to any policy or contract issued pursuant to and in compliance with all the applicable requirements of the preceding Sections of this Article, and as to any claim for loss or damage arising under any such policy or contract, the foregoing Sections of this Article shall apply, and the succeeding Sections of this Article shall not apply except to the extent provided in Section 7 of this Article. As to any such policy or contract issued by an unauthorized insurer in a manner not in compliance with all the applicable requirements of the preceding Sections of this Article, the following Sections of this Article shall apply. As amended Acts 1957, 55th Leg., p. 1180, ch. 395, § 2.

Sec. 6. Service of Process Upon Unauthorized Insurer

(a) As to any policy or contract issued by an unauthorized insurer in a manner not in compliance with all the applicable requirements of the foregoing provisions of this Article, any of the following Acts in this State, effected by mail or otherwise, by an unauthorized foreign or alien insurer, (1) the issuance or delivery of contracts of insurance to residents of this State or to corporations authorized to do business therein, (2) the solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments or other considerations for such contracts, or (4) any other transaction of business, is equivalent to and shall constitute an appointment by such insurer of the Chairman of the Board of Insurance Commissioners and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance, and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this State upon such insurer.

(b) Such service of process shall be made by delivering to and leaving with the Chairman of the Board of Insurance Commissioners, or some person in apparent charge of his office, two (2) copies thereof and the payment to him of such fees as may be prescribed by law. The Chairman of the Board of Insurance Commissioners shall forthwith mail by registered mail one (1) of the copies of such process to the defendant at its last known principal place of business, and shall keep a record of all process so served upon him. Such service of process is sufficient, provided notice of such service and a copy of the process are

sent within ten (10) days thereafter by registered mail by plaintiff or plaintiff's attorney to the defendant at its last known principal place of business, and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(c) Service of process in any such action, suit or proceeding shall in addition to the manner provided in Subsection (b) of this Section be valid if served upon any person within this State who, in this State on behalf of such insurer, is

- (1) soliciting insurance, or
- (2) making, issuing or delivering any contract of insurance, or
- (3) collecting or receiving any premium, membership fee, assessment or other consideration for insurance; and a copy of such process is sent within ten (10) days thereafter by registered mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(d) No plaintiff or complainant shall be entitled to a judgment by default under this Section until the expiration of thirty (30) days from date of the filing of the affidavit of compliance.

(e) Nothing in this Section contained shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law. As amended Acts 1957, 55th Leg., p. 1180, ch. 395, § 3.

Sec. 7. Defense of Action by Unauthorized Insurer.

(a) As to any policy or contract issued by an unauthorized insurer in a manner not provided by Sections 1, 2, 3(a), 3(b), 3(c) and 3(d) of this Article, and as to any claim arising thereon or thereunder, before any unauthorized foreign or alien insurer shall file or cause to be filed any pleading in any action, suit or proceeding instituted against it, such unauthorized insurer shall either (1) deposit with the clerk of the court in which such action, suit or proceeding is pending, cash or securities, or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action; or (2) procure a certificate of authority to transact the business of insurance in this State.

(b) The court in any action, suit or proceeding, in which service is made in the manner provided in Subsections (b) or (c) of Section 6, may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of Subsection (a) of this Section and to defend such action.

(c) Nothing in Subsection (a) of this Section is to be construed to prevent an unauthorized foreign or alien insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in Subsections (b) or (c) of Section 6 hereof on the ground either

(1) that such unauthorized insurer has not done any of the acts enumerated in Subsection (a) of Section 6, or (2) that the person on whom service was made pursuant to Subsection (c) of Section 6 was not doing any of the acts therein enumerated. As amended Acts 1957, 55th Leg., p. 1180, ch. 395, § 4.

Emergency. Effective June 6, 1957.

Section 5 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws. Section 6 provided that partial in-

validity should not affect the remaining portions of the Act.

Art. 21.46. Retaliatory provisions; payment of taxes, fines, penalties, etc.; condition precedent to doing business in state; exemptions

Whenever by the laws of any other state or territory of the United States any taxes, licenses, fees, fines, penalties, deposit requirements or other obligations, prohibitions or restrictions are imposed upon any insurance company organized in this State and licensed and actually doing business in such other state or territory which, in the aggregate are in excess of the aggregate of taxes, licenses, fees, fines, penalties, deposit requirements or other obligations, prohibitions or restrictions directly imposed upon a similar insurance company of such other state or territory doing business in this State, the Board of Insurance Commissioners of this State shall impose upon any similar company of such state or territory in the same manner and for the same purpose, the same taxes, licenses, fees, fines, penalties, deposit requirements or other obligations, prohibitions or restrictions; provided, however, the aggregate of taxes, licenses, fees, fines, penalties or other obligations imposed by this State pursuant to this Article 21.46 on an insurance company of another state or territory shall not exceed the aggregate of such charges imposed by such other state or territory on a similar insurance company of this State actually licensed and doing business therein; provided, further, that wherever under any law of this State the basic rate of taxation of any insurance company of another state or territory is reduced if any such insurance company has made investments in Texas securities then in computing the aggregate Texas premium tax burdens of any such insurance company of any other state or territory each shall for purposes of comparison with the premium tax laws of their home states be considered to have assumed and paid an aggregate premium tax burden equal to the basic rate; provided, further, that for the purpose of this Section, an alien insurer shall be deemed a company of the State designated by it wherein it has (a) established its principal office or agency in the United States, or (b) maintains the largest amount of its assets held in trust or on deposit for the security of its policyholders or policyholders and creditors in the United States, or (c) in which it was admitted to do business in the United States.

The provisions of this Section shall not apply to ad valorem taxes on real or personal property or to personal income taxes.

The provisions of this Act shall not apply to a company of any other state doing business in this State if fifteen per cent (15%) or more of the voting stock of said company is owned by a corporation organized under the laws of this State, and domiciled in this State; however, the prior provisions of this Act shall apply without exception to any and all person or persons, company or companies, firm or firms, association or associations, group or groups, corporation or corporations, or any insurance organization or organizations of any kind, which did not qualify as a matter of fact, under the exception of this paragraph, on or before

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January 29, 1957. Acts 1951, 52nd Leg., ch. 491, art. 21.46 added Acts 1957, 55th Leg., p. 1184, ch. 396, § 1.

Effective January 1, 1958.

Section 2 of the Act provided that the provisions of this Act shall take effect the first day of January, 1958.

Art. 21.47. Verification of reports, returns, statements, etc.; perjury

Every report, annual report, return, declaration, statement, or other document required to be made by any person, firm, association, company, corporation or other insurance organization under any provision of the Insurance Code (Acts 1951, 52nd Legislature, Chapter 491, page 868, as amended) shall contain and be verified by a written declaration that it is made under the penalties of perjury. Such written declaration and verification shall state and provide as follows: "I declare under the penalties of perjury that I prepared this (report, annual report, return, declaration, statement, or document, as the case may be) for the person, firm, association, company, corporation or other insurance organization named herein; and that this (report, annual report, return, declaration, statement, or document, as the case may be), including the accompanying schedules, statements and exhibits is a true, correct, and completed (report, annual report, return, declaration, statement, or document, as the case may be) based on all the information relating to this matter as required under the provisions of the Insurance Code, as amended, of which I have knowledge.

_____ (Signature); _____ (Address)
 _____ (Date). Acts 1957, 55th Leg., p. 1425, ch. 493,

§ 1.

Emergency. Effective June 11, 1957.

Section 3 of the Act of 1957 provided that if any section was declared unconstitutional it should not affect the remainder.

Article 21.47 was not enacted as part of the Insurance Code of 1951.

Art. 21.48. False report, return, statement, etc.; penalty

Any person who wilfully makes and subscribes any report, annual report, return, declaration, statement, or document required under any provision of the Insurance Code, as amended, which contains or is verified by a written declaration that it is made under the penalties of perjury, as provided in Section 1 hereof,¹ and which he does not believe to be true and correct as to every material matter; or wilfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any report, annual report, return, declaration, statement, or document required to be made under the provisions of the Insurance Code, as amended, which is fraudulent, false or incorrect as to any material matter, whether or not such falsity, fraud, or incorrectness is with the knowledge or consent of the person, firm, association, company, corporation or other insurance organization authorized or required to make such report, annual report, return, declaration, statement or document; or simulates or falsely or fraudulently executes or signs any report, annual report, return, declaration, statement, or document required to be made under the provisions of the Insurance Code, as amended, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof shall be guilty

For Annotations and Historical Notes, see V.T.A.S.

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of a felony and, upon conviction thereof, shall be fined the sum of Five Thousand Dollars (\$5,000.00), and imprisoned in the State Penitentiary for not less than two years nor more than five years. Acts 1957, 55th Leg., p. 1425, ch. 493, § 2.

¹ Article 21.47.

Article 21.48 was not enacted as part of the Insurance Code of 1951.

Severability clause, see note under art. 21.47.

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TITLE 81—JAILS

Art. 5115. 5108-5111 Jails provided

The Commissioners Court shall provide safe and suitable jails for their respective counties, and shall cause the same to be maintained in good sanitary condition at all times, properly ventilated, heated and lighted; structurally sound, fire resistant and kept in good repair. Furthermore, they shall cause the jails in their respective counties to be kept in a clean and healthy condition, provided with water of safe quality and ample quantity and sewer disposal facilities in accordance with good sanitary standards, and provided with clean, comfortable mattresses and blankets, sufficient for the comfort of the prisoners, and that food is prepared and served in a palatable and sanitary manner and according to good dietary practices and of a quality to maintain good health.

SUITABLE SEGREGATION

The term "safe and suitable jails," as used in this Act, shall be construed to mean jails which provide adequate segregation facilities by having separate enclosures, formed by solid masonry or solid metal walls, or solid walls of other comparable material, separating witnesses from all classifications of prisoners; and males from females; and juveniles from adults; and first offenders, awaiting trial, from all classifications of convicted prisoners; and prisoners with communicable or contagious diseases from all other classifications of prisoners. Furthermore, the term "safe and suitable" jails shall be construed to mean jails either now or hereafter constructed, except that, in lieu of maintaining its own jail, any county whose population is not large enough to justify building a new jail or remodeling its old jail shall be exempt from the provisions of this Act by contracting with the nearest available county whose jail meets the requirements set forth in this Act for the incarceration of its prisoners at a daily per capita rate equal to the cost of maintaining prisoners in said jail, or at a daily rate mutually agreed to by the contracting counties.

No person suspected of insanity, or who has been legally adjudged insane, shall be housed or held in a jail, except that such a person who demonstrates homicidal tendencies, and who must be restrained from committing acts of violence against other persons, may be held in a jail for a period of time not to exceed a total of seven (7) days. Furthermore, for such temporary holding of each person suspected of insanity, or who has been legally adjudged insane, there shall be provided a special enclosure or room, not less than forty (40) square feet and having a ceiling height of not less than eight (8) feet above the floor. Furthermore, the floor and the walls of such enclosure shall be provided with a soft covering designed to protect a violent person, temporarily held therein, from self-injury or destruction. One hammock, not less than two (2) feet, three (3) inches wide and six (6) feet, three (3) inches long, made of elastic or fibrous material shall be provided in each such special enclosure.

SUITABLE SECURITY AND SAFETY

For the purpose of this Act, the term "safe and suitable jails" is further defined to mean jails which provide adequate security and safety facilities by having separate cells or compartments, dormitories, and day rooms, of varying dimensions and capacities for prisoners confined therein, except that, if practicable, no one such cell or compartment shall be designed for confining two (2) prisoners only. Cells or compartments shall

be designed to accommodate from one (1) to eight (8) prisoners each, and furthermore, such dormitories and day rooms shall be designed to accommodate not more than twenty-four (24) prisoners each. Furthermore, in each such jail there shall be provided individual one-man or one-woman cells to accommodate not less than thirty per cent (30%) of the total designated prisoner capacity of the jail and dormitory-type space may be provided to accommodate not more than forty per cent (40%) of the total designated prisoner capacity of the jail. All cells, compartments and dormitories for sleeping purposes, where each such cell, compartment or dormitory is designed to accommodate three (3) or more prisoners, shall be accessible to a day room to which prisoners may be given access during the day. Cells for one (1) prisoner only shall have a minimum floor area of forty (40) square feet and all other cells, compartments, dormitories and day rooms (including safety vestibule area) shall have a minimum floor area equal to eighteen (18) square feet for each prisoner to be confined therein. The ceiling height above finished floor shall be not less than eight (8) feet for any cell, compartment, dormitory or day room where prisoners are confined.

The term "safe and suitable jails," as used in this Act, is further defined to mean that, for reasons of safety to officers and security, the entrance and/or exit to each group of enclosures forming a cell block or group of cells and/or compartments used for the confinement of three (3) or more prisoners shall be through a safety vestibule having one (1) or more interior doors in addition to the main outside entrance door to such cell block, all arranged to be locked, unlocked, opened or closed by control means located outside of any such enclosure or cell block. Furthermore, that all such enclosures or cell blocks, for the confinement of prisoners, shall be separated from the building wall on at least one (1) side, by a corridor not less than three (3) feet wide and so designed that no prisoners in confinement areas shall have direct access to windows in the walls of the building.

SUITABLE SANITATION AND HEALTH

The term "safe and suitable jails" is further defined to mean jails which provide adequate facilities for maintaining proper standards in sanitation and health. Each cell designed for one (1) prisoner only shall be provided with a water closet and a combination lavatory and drinking fountain, table and seat. Each cell, compartment or dormitory designed for three (3) or more prisoners, shall be provided with one (1) water closet and one (1) combination lavatory and drinking fountain for each twelve (12) prisoners or fraction thereof to be confined therein. Furthermore, all such cells, compartments and dormitories shall be provided with one (1) bunk, not less in size than two (2) feet, three (3) inches wide and six (6) feet, three (3) inches long, for each prisoner to be confined therein. Furthermore, each day room for the confinement of three (3) or more prisoners shall be provided with one (1) water closet, one (1) combination lavatory and drinking fountain and one (1) shower bath for each twelve (12) prisoners, or fraction thereof, to be confined therein. Furthermore, each day room shall be otherwise suitably furnished.

The provision of this Act shall become applicable to all jails hereafter constructed, upon its effective date, and to existing jails within four (4) years from its effective date.

The Texas State Department of Health shall have general charge and supervision of the enforcement of the provisions of this Act, and it is hereby made the duty of the Texas State Department of Health or any Inspector or Agent of the Texas State Department of Health to make periodic

inspection of the aforesaid jails and issue an advisory manual setting forth the principles of safe and healthful provisions, which shall be distributed to Commissioners Courts and/or custodians of jails and, furthermore, to officially notify County Commissioners Courts, in writing to comply fully with the provisions of this Act. As amended Acts 1957, 55th Leg., p. 637, ch. 277, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

TITLE 82—JUVENILES

Art.

- 5139H—3. Second 38th Judicial District, juvenile bonds in counties comprising; additional compensation [New].
- 5139P. Jefferson county juvenile board [New].
- 5139Q. Midland county juvenile board [New].
- 5139R. Panola county juvenile board [New].
- 5139S. Hamilton county juvenile board [New].

Art.

- 5139T. Juvenile boards in Angelina, Cherokee and Nacogdoches counties [New].
- 5139U. Waller county juvenile board [New].
- 5139V. Juvenile boards in Hardin and Tyler counties [New].
- 5139W. Lamar county juvenile board [New].
- 5139X. Winkler county juvenile board [New].
- 5142a—2. Probation department for Wichita county [New].
- 5143d. Texas Youth Council [New].

Art. 5139A. Juvenile board in certain counties

In all counties having a population of less than forty-five thousand (45,000) inhabitants according to the last preceding Federal Census which are included in and form a judicial district of five (5) or more counties having a combined total population of not less than sixty-eight thousand (68,000) inhabitants according to the last preceding Federal Census, the judge of the judicial district and the county judge of each county are hereby constituted as a juvenile board for each county within the judicial district. The members composing each county juvenile board within the judicial district may each be allowed additional compensation of not more than Twelve Hundred Dollars (\$1200) per annum which shall be paid in twelve (12) equal installments out of the general funds of each county, such additional compensation to each member of the board to be fixed by the Commissioners Court of each county. Added Acts 1951, 52nd Leg., p. 283, ch. 165, § 1, as amended Acts 1957, 55th Leg., p. 701, ch. 296, § 1.

Emergency. Effective May 27, 1957.

Art. 5139F. Juvenile board in counties of 110,000 to 125,500 population

Section 1. In any county having a population of more than one hundred and ten thousand (110,000) inhabitants and less than one hundred and twenty-five thousand, five hundred (125,500) 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 may each be allowed additional compensation of not less than Six Hundred Dollars (\$600) per annum nor more than Forty-eight Hundred Dollars (\$4800) per annum, which shall be paid in twelve (12) equal installments out of the general fund of such county, such additional compensation to be fixed by the Commissioners Court of such county. As amended Acts 1955, 54th Leg., p. 1162, ch. 445, § 1; Acts 1957, 55th Leg., p. 851, ch. 369, § 1.

Emergency. Effective May 31, 1957.

Art. 5139H—3. Second 38th Judicial District, juvenile bonds in counties comprising; additional compensation

Section 1. In each county comprising the Second 38th Judicial District, the Judge of the District Court, together with the County Judge of the county, shall constitute the Juvenile Board of such county. The members of such Board in each county shall each be allowed additional compensation of not less than Six Hundred Dollars (\$600) per annum and not more than Twelve Hundred Dollars (\$1200) per annum, to be fixed by the Commissioners Court and paid monthly in twelve (12) equal installments out of the general fund of the County; and provided that the compensation allowed County Judges hereunder shall not be counted as fees of office.

Sec. 2. This Act shall be cumulative of existing laws relating to compensation of Judges of the District Courts and County Judges. Acts 1957, 55th Leg., p. 169, ch. 76.

Emergency. Effective April 19, 1957.

Section 3 of the Act of 1957 was a severability provision.

Art. 5139P. Jefferson county juvenile board

Section 1. There is hereby established a County Juvenile Board in the County of Jefferson, which shall be composed of the County Judge and the judges of the several District Courts and the Criminal District Court within such county. The judge of the court which is designated as the Juvenile Court for Jefferson County shall be chairman of the Board and its chief administrative officer.

Sec. 2. As compensation for the added duties imposed upon the members of such Juvenile Board, each member thereof may receive annually, payable in monthly installments, an amount not to exceed Five Thousand Dollars (\$5,000.00), such compensation to be fixed by the Commissioners Court of such county, and to be paid by said county out of the general fund. Such compensation shall be for all judicial and administrative services now rendered by them and any additional judicial and administrative services hereafter to be assigned to them, in addition to all salary paid or hereafter to be paid to them by the State of Texas out of state revenues; and provided further, that no District Judge who shall be a member of such Juvenile Board shall receive from any county funds, as supplemental pay to his salary from the state, a sum in excess of Five Thousand Dollars (\$5,000.00), per annum, from the county, for judicial and administrative duties assigned to them.

Sec. 3. The Juvenile Board established by this Act shall have all the powers conferred on Juvenile Boards created under Article 5142-C of the Revised Civil Statutes of Texas, and any amendments thereto. Acts 1957, 55th Leg., p. 144, ch. 63.

Emergency. Effective April 15, 1957.

Section 4 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 5 was a severability clause.

Art. 5139Q. Midland county juvenile board

Section 1. There is hereby established a county juvenile board in and for Midland County, which shall be composed of the county judge and the judge of each judicial district which includes Midland County. The official title of the board shall be the Midland County Juvenile Board. The judge of the court which is designated as the juvenile court of the county shall be the chairman of the board and its chief administrative officer.

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

Sec. 2. As compensation for the added duties hereby imposed upon the members of the board, the Commissioners Court of the county may allow the chairman of the board additional compensation in an amount not to exceed Three Thousand Dollars (\$3000) per year, and may allow each other member of the board additional compensation in an amount not to exceed One Thousand, Two Hundred Dollars (\$1200) per year, to be paid monthly in twelve equal installments out of the general fund or other available fund of the county. Such compensation shall be in addition to all other compensation now provided or allowed by law for county judges and district judges.

Sec. 3. The juvenile board established by this Act shall have all the powers conferred on juvenile boards created under Article 5139 of the Revised Civil Statutes of 1925 and any amendments thereto. The board may appoint a juvenile officer, whose salary shall be fixed by the Commissioners Court of the county in an amount not to exceed Six Thousand Dollars (\$6000) per year. The juvenile officer may be allowed his reasonable and necessary expenses, subject to such maximum amount as may be fixed by the Commissioners Court. The juvenile officer shall have the powers and duties prescribed by Article 5142 of the Revised Civil Statutes of 1925 and any amendments thereto. All claims for expenses of the juvenile officer shall be certified by the chairman of the juvenile board as being necessary in the performance of the duties of the juvenile officer. The Commissioners Court shall provide the necessary funds for payment of the salary and expenses of the juvenile officer. Acts 1957, 55th Leg., p. 199, ch. 87.

Emergency. Effective April 19, 1957.

Section 4 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 5 provided that partial invalidity should not affect the remaining portions of the Act.

Title of Act:

An Act establishing a juvenile board in Midland County; prescribing the member-

ship and powers of the board and providing for compensation of its members; authorizing the board to appoint a juvenile officer; prescribing the powers and duties of the juvenile officer and providing for his compensation and expenses; repealing conflicting laws; providing for severability; and declaring an emergency. Acts 1957, 55th Leg., p. 199, ch. 87.

Art. 5139R. Panola county juvenile board

Section 1. There is hereby established a county juvenile board in Panola County, which shall be composed of the county judge and the judge of each judicial district which includes Panola County. The official title of the board shall be the Panola County Juvenile Board. The judge of the court which is designated as the juvenile court of the county shall be the chairman of the board and its chief administrative officer.

Sec. 2. As compensation for the added duties imposed upon members of the juvenile board, each member thereof may be allowed additional compensation not to exceed One Thousand, Eight Hundred Dollars (\$1,800) per year, to be fixed by the Commissioners Court of the county and paid monthly in twelve (12) equal installments out of the general fund of the county. Such compensation shall be in addition to all other compensation now provided or allowed by law for county judges and district judges.

Sec. 3. The juvenile board established by this Act shall have all the powers conferred on juvenile boards created under Article 5139 of the Revised Civil Statutes of 1925 and any amendments thereto. The board may appoint a juvenile officer, whose salary shall be fixed by the Commissioners Court of the county in an amount not to exceed Three Thou-

sand, Six Hundred Dollars (\$3,600) per year, and whose allowance for expenses shall not exceed Five Hundred Dollars (\$500) per year. The juvenile officer shall have the powers and duties prescribed by Article 5142 of the Revised Civil Statutes of 1925 and any amendments thereto. All claims for expenses of the juvenile officer shall be certified by the chairman of the juvenile board as being necessary in the performance of the duties of the juvenile officer. The Commissioners Court shall provide the necessary funds for payment of the salary and expenses of the juvenile officer. Acts 1957, 55th Leg., p. 368, ch. 173.

Emergency. Effective May 6, 1957.

Section 4 of the Act of 1957 repealed all conflicting laws and parts of laws to extent of such conflict. Section 5 provided that partial invalidity should not affect the remaining portions of the Act.

Title of Act:

An Act establishing a juvenile board in Panola County; prescribing the member-

ship and powers of the board and providing for compensation of its members; authorizing the board to appoint a juvenile officer; prescribing the powers and duties of the juvenile officer and providing for his compensation and expenses; repealing conflicting laws; providing for severability; and declaring an emergency. Acts 1957, 55th Leg., p. 368, ch. 173.

Art. 5139S. Hamilton county juvenile board

Section 1. The County Judge of Hamilton County and the Judge of the Judicial District which includes Hamilton County shall constitute the Juvenile Board of that county. The Judge of the court which is designated as the Juvenile Court of Hamilton County shall be Chairman of the Board and its chief administrative officer.

Sec. 2. As compensation for the added duties hereby imposed upon them, the County and District Judges who are members of such Board may be allowed additional compensation not to exceed Six Hundred Dollars (\$600.00) 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 1957, 55th Leg., p. 432, ch. 207.

Effective 90 days after May 23, 1957, date of adjournment.

an emergency. Acts 1957, 55th Leg., p. 432, ch. 207.

Title of Act:

An Act creating a Juvenile Court for Hamilton County, Texas; and declaring

Art. 5139T. Juvenile boards in Angelina, Cherokee and Nacogdoches counties

Section 1. The County Commissioners Courts of Angelina, Cherokee, and Nacogdoches are hereby authorized to establish County Juvenile Boards in their respective counties. The County Juvenile Board shall be composed of the county judge and the judges of each of the judicial districts which includes the county. The official title of the Board in each county shall be the name of the county, followed by the words "County Juvenile Board". The judge of the court which is designated as the juvenile court of the county shall be chairman of the Board and its chief administrative officer.

Sec. 2. As compensation for the added duties imposed upon the members of each Juvenile Board, each member thereof may be allowed additional compensation not to exceed Fifteen Hundred Dollars (\$1500.00) per year, to be fixed by the Commissioners Court of the county, and paid monthly in twelve (12) equal installments out of the general fund or any available fund of the county. Such compensation shall be in addition to all other compensation now provided or allowed by law for county judges and district judges and shall not be counted as fees of office.

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

Sec. 3. This Act shall be cumulative of existing laws relating to compensation for judges of district courts and county judges. Acts 1957, 55th Leg., p. 529, ch. 246.

Emergency. Effective May 20, 1957.

Section 4 of the Act provided that partial invalidity should not affect the remaining portions of the Act.

Title of Act:

An Act providing for County Juvenile Boards in each of the Counties of Angelina, Cherokee and Nacogdoches; prescribing

the membership and powers of each Board and providing for compensation for the members of the Boards; providing that this Act shall be cumulative of existing laws relating to compensation for judges of district courts and county judges; providing a savings clause; and declaring an emergency. Acts 1957, 55th Leg., p. 529, ch. 246.

Art. 5139U. Waller county juvenile board

Section 1. The Juvenile Board of Waller County shall be composed of the Judge of the 9th Judicial District, the Judge of the County Court of Waller County and a citizen of Waller County, which citizen shall be appointed by the County Commissioners Court of Waller County for a period of two (2) years.

Sec. 2. Each member of the Juvenile Board of Waller County shall receive as compensation for his service a sum not to exceed Twelve Hundred Dollars (\$1200) per year, to be fixed by Commissioners Court and paid in twelve (12) equal installments, out of the general fund of the County.

Sec. 3. Except for provisions on membership and compensation, the Juvenile Board of Waller County shall be governed by the general laws of Texas. Acts 1957, 55th Leg., p. 568, ch. 267.

Emergency. Effective May 20, 1957.

Title of Act:

An Act fixing the membership of the Juvenile Board of Waller County and pro-

viding compensation for such members; and declaring an emergency. Acts 1957, 55th Leg., p. 568, ch. 267.

Art. 5139V. Juvenile boards in Hardin and Tyler counties

Section 1. There is hereby established a county juvenile board in each of the Counties of Hardin and Tyler, which shall be composed of the county judge and the judge of each judicial district which includes the county. The official title of the board in each county shall be the name of the county followed by the words "County Juvenile Board." The judge of the court which is designated as the juvenile court of the county shall be chairman of the board and its chief administrative officer.

Sec. 2. As compensation for the added duties imposed upon members of each juvenile board, each member thereof may be allowed additional compensation of not less than Six Hundred Dollars (\$600) nor more than One Thousand, Eight Hundred Dollars (\$1,800) per year, to be fixed by the Commissioners Court of the county and paid monthly in twelve (12) equal installments out of the general fund of the county. Such compensation shall be in addition to all other compensation now provided or allowed by law for county judges and district judges.

Sec. 3. Each juvenile board established by this Act shall have all the powers conferred on juvenile boards created under Article 5139 of the Revised Civil Statutes of 1925 and any amendments thereto. The board may appoint a juvenile officer, whose salary shall be fixed by the Commissioners Court of the county in an amount not to exceed One Thousand, Two Hundred Dollars (\$1,200) per year, and whose allowance for expenses shall not exceed Three Hundred Dollars (\$300) per year. The juvenile officer shall have the powers and duties prescribed by Article 5142 of the Revised Civil Statutes of 1925 and any amendments thereto. All claims for expenses of the juvenile officer shall be certified by the

chairman of the juvenile board as being necessary in the performance of the duties of the juvenile officer. The Commissioners Court shall provide the necessary funds for payment of the salary and expenses of the juvenile officer. Acts 1957, 55th Leg., p. 817, ch. 347.

Emergency. Effective May 31, 1957.

Section 4 of the Act of 1957 repealed all conflicting laws and parts of laws. Section 5 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 5139W. Lamar county juvenile board

Section 1. There is hereby established a Juvenile Board for Lamar County, which shall be known as the Lamar County Juvenile Board. It shall be composed of the county judge of Lamar County and the judge of each judicial district which includes Lamar County. The judge of the court which is designated as the juvenile court of Lamar County shall be chairman of the board and its chief administrative officer. The board shall have all the powers conferred on juvenile boards created under Article 5139 of the Revised Civil Statutes of 1925 and any amendments thereto.

Sec. 2. As compensation for the added duties hereby imposed upon him, the chairman of such board may be allowed additional compensation in the amount of Twelve Hundred Dollars (\$1200) per annum, which shall be paid in twelve (12) equal installments out of the general fund or any other available fund of Lamar County. The Commissioners Court of Lamar County may allow each other member of the board additional compensation in an amount not to exceed Twelve Hundred Dollars (\$1200) per annum, to be paid in twelve (12) equal installments out of the general fund or any other available fund of Lamar County. Such compensation shall be in addition to all other compensation now provided or allowed by law for county judges and district judges. Acts 1957, 55th Leg., p. 831, ch. 359.

Emergency. Effective May 31, 1957.

Section 3 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 4 was a severability provision.

Title of Act:

An Act establishing the Lamar County Juvenile Board; prescribing its member-

ship and powers and providing for compensation of its members; repealing conflicting laws; providing for severability; and declaring an emergency. Acts 1957, 55th Leg., p. 831, ch. 359.

Art. 5139X. Winkler county juvenile board

Section 1. There is hereby established a Juvenile Board for Winkler County, which shall be known as the Winkler County Juvenile Board. It shall be composed of the county judge of Winkler County and the judge of each judicial district which includes Winkler County. The judge of the court which is designated as the juvenile court for Winkler County shall be chairman of the board and its chief administrative officer. The board shall have all the powers conferred on juvenile boards created under Article 5139 of the Revised Civil Statutes of 1925 and any amendments thereto.

Sec. 2. As compensation for the added duties hereby imposed upon him, the chairman of such board may be allowed additional compensation in the amount of Twelve Hundred Dollars (\$1,200) per annum, which shall be paid in twelve (12) equal installments out of the general fund or any other available fund of Winkler County. The Commissioners Court of Winkler County may allow each other member of the board additional compensation in an amount not to exceed Twelve Hundred Dollars (\$1,200) per annum, to be paid in twelve (12) equal installments

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out of the general fund or any other available fund of Winkler County. Such compensation shall be in addition to all other compensation now provided or allowed by law for county judges and district judges.

Sec. 3. This Act shall be cumulative of existing laws relating to compensation of judges of the district courts and county judges. Acts 1957, 55th Leg., p. 866, ch. 382.

Emergency. Effective May 31, 1957.

Section 4 of the Act of 1957 was a severability provision.

Title of Act:

An Act establishing the Winkler County Juvenile Board; prescribing its member-

ship and powers and providing for compensation of its members; repealing conflicting laws; providing for severability; and declaring an emergency. Acts 1957, 55th Leg., p. 866, ch. 382.

Art. 5142a. Probation Officers—Counties of 350,000 population

Investigation and report in divorce suits between parties having children under 18; supervising head of county institutions as probation officer

Sec. 6. In all suits for divorce in counties having a population in excess of three hundred and fifty thousand (350,000) inhabitants according to the last preceding or any future Federal Census where it appears from the petition or otherwise that the parties to such suit have a child or children under eighteen (18) years of age it shall be the duty of the Probation Department subject to the direction of the Court to make a complete and thorough examination into the merits of the claim for divorce and to report its findings to the Court in connection therewith and to make a thorough and complete investigation as to the necessities of the child or children and the disposition that should be made of such child or children and to make report thereof to the Court prior to the trial of said case, and if desired by the Court, produce such evidence as may have been developed in connection with such matters on the trial of such case. The County Juvenile Board in counties having a population of over three hundred and fifty thousand (350,000) inhabitants according to the last preceding or any future Federal Census is hereby authorized to appoint a supervising head of county institutions having to do with juveniles, delinquents and dependents of such county which said supervising head of county institutions may be the county probation officer of said county who, if appointed, may receive a salary of not less than Twelve Hundred Dollars (\$1200) nor more than Twenty-four Hundred Dollars (\$2400) per annum, as such officer to be determined by the Juvenile Board, in addition to the salary paid him as county probation officer; or in the discretion of the County Juvenile Board, any person may be selected by such Board as the supervising head of county institutions, who shall be paid a salary not in excess of Five Thousand Dollars (\$5,000) a year to be agreed upon by said Juvenile Board and the County Commissioners Court, and said County Juvenile Board is hereby authorized and required to appoint the heads of all county institutions having to do with juveniles, juvenile delinquents and juvenile dependents. Said supervising head of the county institutions is hereby authorized and required to direct the policies and conduct of such institutions under the supervision and direction of the County Juvenile Board. The heads of various institutions shall be authorized to select such other employees for their institutions as may be determined or needed by the County Juvenile Board, at such salary as may be fixed by said County Juvenile Board, and such salaries are to be subject to the approval of the County Commissioners Court. As amended Acts 1957, 55th Leg., p. 1396, ch. 481, § 1.

Emergency. Effective June 10, 1957.

Section 2 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 5142a—2. Probation department for Wichita county

Section 1. There is hereby established the Wichita County Probation Department.

Sec. 2. The Wichita County Juvenile Board, as heretofore established and composed of the County Judge of Wichita County and the Judge of each Judicial District which includes Wichita County, shall have all powers conferred upon the Juvenile Board created under Article 5139 of Revised Civil Statutes of 1925 and any amendments thereto. The Wichita County Juvenile Board shall have authority to appoint a Chief Probation Officer and such assistants as may be necessary, and to determine the duties to be assigned such Chief Probation Officer and his assistants, and the rate of pay which shall be paid all the personnel comprising the Wichita County Probation Department.

Sec. 3. The Wichita County Chief Probation Officer shall have the powers and duties prescribed by Article 5142 of the Revised Civil Statutes of 1925 and any amendments thereto. Said Chief Probation Officer shall appoint assistant probation officers subject to confirmation by the Juvenile Board. The number of assistants shall be determined by the Juvenile Board. The term of office of the Chief Probation Officer and assistant probation officers shall be for a period of two (2) years; provided, however, that the Juvenile Board may at any time, for good cause, suspend or remove any probation officer, whether chief or assistant.

Sec. 4. All claims for expenses of the Chief Probation Officer, the Assistant Probation Officers, and administrative expenses for operation of the Probation Department, including all necessary equipment and supplies, shall, before payment thereof, be approved by the Juvenile Board.

Sec. 5. The Commissioners Court of Wichita County shall provide the funds declared necessary by the Juvenile Board for the operation of the Department, payment of salaries and expenses of the Probation Officer and Assistants, provided that such funds shall not exceed Twenty-three Thousand Dollars (\$23,000) per year, and further, that such funds shall be in addition to funds received by the said Wichita County Probation Department from any other source.

Sec. 6. The Wichita County Juvenile Board shall have authority to require and approve a good and sufficient surety or personal bond for the faithful performance of duty of any probation officer or employee of any institution, under the jurisdiction of the Juvenile Board, in such sum as may be determined by said Board, and paid as an expense of the Probation Department.

Sec. 7. All homes, schools, farms and any and all other institutions or places of housing maintained and used chiefly by the county for the training, education, detention and support or correction of juveniles shall be under the control and supervision of the Juvenile Board, and the superintendent of each such institution shall be appointed by the Wichita County Chief Probation Officer and each such appointment shall be confirmed by the Juvenile Board. The salaries of such superintendents and assistants shall be fixed by the Wichita County Juvenile Board and such superintendent or assistant may at any time, for good cause, be suspended or removed by the appointing authority.

Sec. 8. When, in the opinion of the Wichita County Juvenile Board, the best welfare of any child or children coming within the purview of Article 2330 or Article 2338 of the Revised Civil Statutes of 1925 and any amendments thereto will be served by placement of said child or children in a foster home, said Juvenile Board may authorize the use of such foster home or homes for the temporary care of said child or children. The rate of pay for such foster care shall be determined by said Juvenile Board and

payment of the cost of such foster care shall, when authorized by said Juvenile Board, be considered to be a necessary operating expense of the Probation Department.

Sec. 9. The Wichita County Juvenile Board shall have power and authority to accept and hold in trust for the operation of the Wichita County Probation Department or any duties or functions of the Wichita County Probation Department, any grant or devise of land or any gift or bequest, or any donation to be applied for the benefit of the Probation Department and to apply same in accordance with the terms of such gift.

Sec. 10. For the purpose of maintaining the Child Support Office, there shall be taxed, collected, and paid as other costs the sum of Five Dollars (\$5) in each divorce case hereafter filed in any District Court in Wichita County. Such cost shall be collected by the District Clerk and taxed as other costs, and when collected shall be paid by said District Clerk to the County Probation Department to be kept in a separate fund and such fund to be known as the "Child Support Fund." This fund shall be administered by the Juvenile Board of Wichita County for the purpose of assisting in paying the costs of maintaining the Child Support Office in the Probation Department of Wichita County, including payment of salaries and other expenses of the Collector of Child Support and his assistants, the purchase of supplies and equipment, and all other necessary expenses of the Office. This Fund shall be supplemented out of the General Fund, or other available funds of the County where necessary.

Sec. 11. For the purpose of maintaining adoption investigation services, there shall be taxed, collected and paid as other costs the sum of Ten Dollars (\$10) in each adoption case hereafter filed in any District Court in Wichita County. Such cost shall be collected by the District Clerk, and when collected, shall be paid by said District Clerk to the County Probation Department to be kept by that Department in a separate fund and such fund to be known as the "Adoption Investigation Fund." This Fund shall be administered by the Juvenile Board of Wichita County for the purpose of assisting in paying the cost of maintaining adoption investigation services in the Probation Department of Wichita County, including salaries and other expenses of the Adoption Investigator and his assistants, the purchase of supplies and equipment, and all other necessary expenses of the Investigator. This Fund shall be supplemented out of the General Fund or other available funds of the County where necessary.

Sec. 12. In all suits for divorce filed in any District Court in Wichita County, where it appears from the petition or otherwise that the parties to such suit have a child or children under eighteen (18) years of age, it shall be the duty of the Chief Probation Officer, upon order of the Court, to make a complete and thorough examination into the merits of the claim of the parties for custody of the children involved and to report his findings to the Court in connection therewith, and to make a thorough and complete investigation as to the necessities of the child or children, and to make a report thereof to the Court prior to the trial of said case, and if desired by the Court, to produce such evidence as may have been developed in connection with such matters.

Sec. 13. It shall be the duty of the Chief Probation Officer to keep a record which will at all times show the names of all dependent, neglected or delinquent juveniles within Wichita County, and the names and addresses of the persons having custody of such juveniles; and visitations by such officer and his assistants shall be made at such reasonable times as seem necessary or proper or as may be directed by the Juvenile Board, and a written report shall be made to the Judge of the Juvenile Court showing such facts relating to the environment, treatment, education, welfare and other information which may assist the Court in determining the

proper disposition to be made of any juvenile. Acts 1957, 55th Leg., p. 1229, ch. 405.

Emergency. Effective June 6, 1957. 15 repealed all conflicting laws and parts of laws to the extent of the conflict only.
Section 14 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act. Section

Art. 5143c. State Youth Development Council

Transfer of facilities to Texas Youth Council, see art. 5143d, § 8.

Art. 5143d. Texas Youth Council**Purpose**

Section 1. The purpose of this Act is to create a Texas Youth Council to administer the state's correctional facilities for delinquent children, to provide a program of constructive training aimed at rehabilitation and re-establishment in society of children adjudged delinquent by the courts of this state and committed to the Texas Youth Council, and to provide active parole supervision of such delinquent children until officially discharged from custody of the Texas Youth Council. It is the further purpose of this Act to delegate to the Texas Youth Council the supervision of the Corsicana State Home (State Orphan Home), the Texas Blind, Deaf and Orphan School, and the Waco State Home.

Construction of the Act

Sec. 2. This Act shall be liberally construed to accomplish the purpose herein sought.

Corsicana State Home; Change of Name

Sec. 2a. The name of the State Orphan Home, located at Corsicana, Texas, is hereby changed and shall hereafter be known and designated as the Corsicana State Home.

Definitions

Sec. 3. As used in this Act:

(a) "Texas Youth Council" or "Youth Council" means the Texas Youth Council as provided in this Act.

(b) "Chairman" means the Chairman of the Texas Youth Council.

(c) "Executive Director" means the Executive Director of the Texas Youth Council appointed and employed by said Youth Council.

(d) "Delinquent Child" means any male or female so adjudged under provisions of Sections 3 and 13 of Chapter 204 of the General Laws of the Regular Session of the 48th Legislature, 1943. (Sections 3 and 13, Article 2338-1, codified in Vernon's Civil Statutes, 1948).

(e) "Court" means the Juvenile Court.

Texas Youth Council Established

Sec. 4. (a) There is hereby created a Texas Youth Council to consist of three (3) members to be appointed by the Governor with the consent of the Senate. Members of the Texas Youth Council shall be influential citizens in their respective communities who are recognized for their interest in youth. Citizens of Texas now serving as members of the State Youth Development Council may be eligible for appointment to the Texas Youth Council.

(b) The term of office of members of the Texas Youth Council shall be six (6) years, except that initially one (1) member shall be appointed for

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a six (6) year term; one (1) member for a four (4) year term; and one (1) member for a two (2) year term. Members shall be eligible for reappointment. A vacancy for an unexpired term shall be filled by the Governor with the consent of the Senate. Members of the Youth Council shall each receive a per diem of Ten Dollars (\$10.00) for not exceeding sixty (60) days for any fiscal year.

(c) All members of the Texas Youth Council and the Executive Director appointed by them shall receive as expenses the actual expense incurred while on state business for the Texas Youth Council.

(d) The Texas Youth Council shall hold meetings at the call of its Chairman, selected or elected by it, or at the request of any two (2) members at such times and places as its Chairman may determine, but it shall not hold less than four (4) meetings annually.

(e) The Texas Youth Council shall have its office wherever the Youth Council chooses, in such building as shall be designated and approved by the State Board of Control.

(f) The Texas Youth Council shall assume the administrative control, supervision, direction and operation of all facilities, institutions, training of state wards and parole supervision of state wards now under the control of the State Youth Development Council and shall further assume the administrative control and supervision of the Corsicana State Home, the Texas Blind, Deaf and Orphan School; and the Waco State Home.

(g) An Executive Director shall be employed by the Texas Youth Council to serve at the pleasure of said Texas Youth Council and shall perform such duties as shall be designated by the Texas Youth Council. Said Executive Director shall devote full time to the work of the Texas Youth Council.

Organization, Powers and Responsibilities of the Texas Youth Council

Sec. 5. (a) A member of the Texas Youth Council shall be appointed or elected as Chairman and he shall preside over all meetings of said Youth Council.

(b) The Texas Youth Council shall be responsible for the adoption of all policies and shall make all rules appropriate to the proper accomplishment of its functions.

(c) The powers and duties formerly held by the State Youth Development Council in respect to the custody, training, treatment, parole, transfer, release under supervision and discharge of delinquent children committed to the state shall be exercised and performed by the Texas Youth Council and may be delegated to the Executive Director. The Executive Director may delegate the powers and duties vested in him in this subsection to any employee of the Texas Youth Council or employee designated by the Texas Youth Council to assume such duties or powers.

(d) All powers, duties and functions other than those specified in subsection (c), granted or imposed on the Texas Youth Council by any provision of law, may be exercised and performed by the Executive Director or any member or employee designated or assigned by the Texas Youth Council or by the Executive Director.

(e) For the exercise of other functions than those specified in subsection (c), two (2) members of the Texas Youth Council shall constitute a quorum.

Major Duties and Functions of the Texas Youth Council

Sec. 6. The Texas Youth Council shall:

(a) Carry on a continuing study of the problem of juvenile delinquency in this state and seek to focus public attention on special solutions to this problem;

(b) Cooperate with all existing agencies and encourage the establishment of new agencies, both local and statewide, if their object is services to delinquent and pre-delinquent youth of this state;

(c) Assist local authorities of any county or municipality when requested by the governing body thereof in the developing, strengthening and coordination of educational, welfare, health, recreational or law enforcement programs which have as their object the prevention of juvenile delinquency and crime;

(d) Administer the diagnostic treatment and training and supervisory facilities and services of the state for delinquent children committed to the state. Manage and direct state training school facilities and provide for the coordination and combination of such facilities, as deemed advisable by the Texas Youth Council, and for the creation of new facilities within the total appropriation provided by the Legislature; exercise administrative control and supervision over all other institutions and facilities under its jurisdiction;

(e) Before each convening date of the Regular Session of the Legislature, make a report to the Governor and Legislature of its activities and accomplishments and of its findings as to its major needs relative to the handling of the children committed to it by courts of the state. The report shall include specific recommendations for legislation, planned and drafted as part of an integrated, unified and consistent program to serve the best interest of the state and the youth committed to the Texas Youth Council; and recommendations for the repeal of any conflicting, obsolete or otherwise undesirable legislation affecting youth.

Cooperation by Other Departments

Sec. 7. To effectuate the purpose of this Act and to make maximum use of existing facilities and personnel, it shall be the duty of all departments and agencies of the state government and of all officers and employees of the state, when requested by the Texas Youth Council, to cooperate with it in all activities consistent with their proper function.

Transfer of Facilities

Sec. 8. The Texas Youth Council shall succeed to and be vested with all rights, powers, duties, facilities, personnel, records and appropriations, relating to the care, custody, and control of children, now held by (a) the State Youth Development Council, including the Gatesville State School for Boys, the Gainesville State School for Girls, and the Crockett State School for Negro Girls; (b) the Board for Texas State Hospitals and Special Schools in respect to the Corsicana State Home and Texas Blind, Deaf and Orphan Home; and (c) the Department of Public Welfare with respect to the Waco State Home.

Employees

Sec. 9. In addition to those employees transferred to the Texas Youth Council by Section 8 of this Act, the Youth Council may employ at compensation provided by the Legislature and within the limits of the amounts appropriated therefor, such medical, psychiatric, and other expert personnel, parole officers, supervisory, institutional, clerical and other employees as are necessary to discharge its duties. The Youth Council shall have the power to remove any employee for cause, and the decision of the Youth Council in such removals shall be final. The superintendents of the schools under the jurisdiction of the Texas Youth Council shall have the

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

right to dismiss school employees with the approval of the Executive Director.

Admission of Children

Sec. 9a. Subject to such policies as the Texas Youth Council may adopt, the Corsicana State Home and the Waco State Home may accept for admission any child between the ages of three (3) years and sixteen (16) years who is a full orphan, a half-orphan, or a dependent and neglected child, and may offer, if needed, care, treatment, education, and training to such children as are admitted thereto until they have reached the age of twenty-one (21) years.

Power to Accept Gifts

Sec. 10. The Youth Council may accept gifts, grants, or donations of money or of property from private sources to effectuate the purpose of this Act. Any and all funds so donated shall be placed in the State Treasury in a special fund called the Texas Youth Council Fund and expended in the same manner as other state moneys are expended, upon warrants drawn by the Comptroller upon the order of the Youth Council. Any of said moneys are hereby appropriated for the purpose of carrying out this Act, and any moneys in the Youth Development Fund are hereby transferred to the Texas Youth Council Fund.

Referrals from Federal Court

Sec. 11. The Texas Youth Council shall have the power to enter into agreements with the federal government to accept children from the Federal Court for compensation upon which they agree.

Commitments by Juvenile Courts

Sec. 12. When any child is adjudged delinquent under provisions of Section 13 of Chapter 204 of the General Laws of the Regular Session of the 48th Legislature, 1943, (Section 13, Article 2338-1, Vernon's Texas Civil Statutes, 1948) and the court does not release such child unconditionally, or place him on probation or in a suitable public or private institution or agency other than a state training school, the court shall commit him to the Texas Youth Council, but may suspend the execution of the order of such commitment.

Preliminary Disposition by Court

Sec. 13. (a) When the court commits a delinquent child to the Youth Council, it may order him conveyed forthwith to some place of detention approved, or established, or designated by the Youth Council, or may direct that he be left at liberty until otherwise ordered by the Youth Council under such conditions as will insure his submission to any orders of the Youth Council.

(b) The court shall assign an officer or other suitable person to convey such a child to any facility designated by the Youth Council, provided that the person assigned to convey a girl must be a woman. The cost of conveying any such child committed to the Youth Council shall be paid by the county from which said child is committed, provided that no compensation shall be allowed beyond the actual and necessary expenses of the party conveying and the child conveyed.

Effect of Appeal from Adjudication or Commitment

Sec. 14. The right of a child who has been adjudged delinquent to appeal from the adjudication or from the order of commitment shall not be affected by anything in this Act.

Notification and Duty to Furnish Information

Sec. 15. When a court commits a child to the Youth Council as a delinquent child, such court shall at once forward to the Youth Council a certified copy of the order of commitment, and the court, the probation officer, the prosecuting and police authorities, the school authorities, and other public officials shall make available to the Youth Council all pertinent information in their possession in respect to the case. The reports required by this section shall, if the Youth Council so requests, be made upon forms furnished by the Youth Council or according to an outline furnished by it.

Diagnosis of Committed Children

Sec. 16. (a) When a delinquent child has been committed to the Youth Council, it shall, under rules established by it, forthwith examine and study him and investigate all pertinent circumstances of his life and behavior.

(b) The Youth Council shall make periodic re-examination of all such children within its control, except those on release under supervision or in foster homes. These examinations may be made as frequently as the Youth Council considers desirable, and shall be made with respect to every child at intervals not exceeding one (1) year.

(c) The Youth Council shall keep written records of all examinations and of the conclusions based thereon, and of all orders concerning the disposition or treatment of every delinquent child subject to its control. All records maintained by such Youth Council shall not be public records, but shall only be available upon the order of a District Court.

(d) Failure of the Youth Council to examine a delinquent child committed to it, or to re-examine him within one (1) year of a previous examination, shall not of itself entitle the child to discharge from the control of the Youth Council, but shall entitle him to petition the committing court for an order of discharge, and the court shall discharge him unless the Youth Council upon due notice satisfies the court of the necessity for further control.

Determination of Treatment

Sec. 17. When a child has been committed to the Youth Council as a delinquent child, the Council may:

(a) Permit him his liberty under supervision and upon such conditions it believes conducive to acceptable behavior; or

(b) Order his confinement under such conditions as it believes best designed for his welfare and the interests of the public; or

(c) Order reconfinement or renewed release as often as conditions indicate to be desirable; or

(d) Revoke or modify any order of the Council affecting a child, except an order of final discharge, as often as conditions indicate to be desirable; or

(e) Discharge him from control when it is satisfied that such discharge will best serve his welfare and the protection of the public.

Type of Treatment Permitted

Sec. 18. As a means of correcting the socially harmful tendencies of a delinquent child committed to it, the Youth Council may:

- (a) Require participation by him in moral, academic, vocational, physical and correctional training and activities;
- (b) Require such modes of life and conduct as may seem best adapted to fit him for return to full liberty without danger to the public;
- (c) Provide such medical or psychiatric treatment as is necessary;
- (d) Place boys who are physically fit in parks-maintenance camps or forestry camps or boys' ranches owned by the state or by the United States and require boys so housed to perform suitable conservation and maintenance work; provided that the boys shall not be exploited and that the dominant purpose of such activities shall be to benefit and rehabilitate the boys rather than to make the camps self-sustaining.

State Schools and Other Facilities

Sec. 19. The Youth Council shall have the management, government and care of the Gatesville State School for Boys, the Gainesville State School for Girls, the Crockett State School for Negro Girls, and of all other facilities hereafter established by the state for the custody, diagnosis, care, training and parole supervision of delinquent children committed to the state.

Appointment of Superintendents and Employees

Sec. 20. The Youth Council shall, from time to time, appoint a superintendent for each of said schools and institutions, and upon the recommendation of the superintendent shall appoint all other officials, chaplains, teachers, and employees required at said schools and institutions and shall prescribe their duties. The superintendent of any school or other facility for the care of girls exclusively shall be a woman. The superintendent, with the consent of the Executive Director, may discharge any employee for cause.

The salaries, compensation, and emoluments of the superintendents and subordinate officials, teachers, and employees shall be fixed as provided by the Legislature.

Rules and Purposes of Schools and Other Facilities

Sec. 21. The Youth Council shall establish rules and regulations for the government of each of such schools and other facilities and shall see that its affairs are conducted according to law and to such rules and regulations; but the purpose thereof and of all education, work, training, discipline, recreation, and other activities carried on in the schools and other facilities shall be to restore and build up the self-respect and self-reliance of the children and youth lodged therein and to qualify them for good citizenship and honorable employment.

The Superintendent

Sec. 22. The superintendent shall be a person of high moral character, education and training, and shall have the ability to develop and recommend an aggressive program for youth rehabilitation. He shall take the official oath and shall give bond in the sum of Ten Thousand Dollars (\$10,000.00) payable to the Governor or his successors in office, conditioned for the faithful performance of the duties of his office. Such bond shall be approved by the Attorney General.

Powers and Duties of the Superintendents

Sec. 23. The superintendent of each school or other facility shall:

(a) Have general charge of and be responsible for the welfare and custody of the children lodged therein, and for carrying out the rehabilitation program prescribed by the Council. Under the direction of the Youth Council, he shall seek to establish relationships and to organize a way of life that will meet the spiritual, moral, physical, emotional, intellectual and social needs of the children under his care as those needs would be met in an adequate home;

(b) See that the buildings and premises are kept in good sanitary order;

(c) Cause to be kept the books of the school or facility fully exhibiting all moneys received and disbursed, the source from which received and purposes for which same is expended. All supplies for the school or facility shall be purchased in the same manner as for other similar institutions. Said books shall give a full record of all products produced, whether sold or consumed, and shall at all times be open for the inspection of the Youth Council, State Auditor, or the Governor.

Religious Training

Sec. 24. The Youth Council shall make provision for the religious and spiritual training of children in its custody and shall require all children in its diagnostic treatment or training facilities who are physically able to attend at least one (1) religious service of his own choice on each Sunday.

Power to Make Use of Existing Institutions and Agencies

Sec. 25. (a) For the purpose of carrying out its duties, the Youth Council is authorized to make use of law enforcement, detention, supervisory, medical, educational, correctional, segregative, and other facilities, institutions and agencies within the state. When funds are available for the purpose, the Youth Council may enter into agreements with the appropriate private or public official for separate care and special treatment in existing institutions of persons subject to the control of the Youth Council.

(b) Nothing herein shall be construed as giving the Youth Council control over existing facilities, institutions or agencies other than those listed in Section 8, or as requiring such facilities, institutions or agencies to serve the Youth Council inconsistently with their functions, or with the authority of their offices, or with the laws and regulations governing their activities; or as giving the Youth Council power to make use of any private institution or agency without its consent; or to pay a private institution or agency for services which a public institution or agency is willing and able to perform.

(c) The Youth Council is hereby given the right and shall be required periodically to inspect all public and all private institutions and agencies whose facilities it is using. Every institution and agency, whether public or private, is required to afford the Youth Council reasonable opportunity to examine or consult with children committed to the Youth Council who are for the time being in the custody of the institution or agency.

(d) Placement of a child by the Youth Council in any institution or agency not operated by the Youth Council, or the release of such child from such an institution or agency, shall not terminate the control of the Youth Council over such child. No child placed in such institution or under such an agency may be released by the institution or agency without the approval of the Youth Council.

Power to Establish Additional Facilities

Sec. 26. When funds are available for the purpose, the Youth Council may:

(a) Establish and operate places for detention and diagnosis of all delinquent children committed to it;

(b) Establish and operate additional treatment and training facilities, including forestry or parks-maintenance camps and boys' ranches, necessary to classify and segregate and handle juvenile delinquents of different ages, habits and mental and physical condition according to their needs;

(c) Establish active parole supervision to aid children given conditional release to find homes and employment and otherwise to assist them to become re-established in the community and to lead socially acceptable lives.

Release Under Supervision

Sec. 27. The Youth Council may release under supervision at any time, and may place delinquent children in its custody in their usual homes or in any situation or family that it has approved. The Youth Council may, subject to appropriation, employ parole officers for investigating, placing, supervising and otherwise directing the activities of a parolee so as to insure his/her adjustment to society in accordance with rules and regulations established by the Texas Youth Council, and work with local organizations, clubs, and agencies in formulating plans and procedures for the prevention of juvenile delinquency. The Youth Council may, at any time, until finally discharged by the Youth Council, resume the care and custody of any child released under parole supervision.

Clothing, Money and Transportation Furnished on Release

Sec. 28. (a) The Youth Council shall insure that each delinquent child it releases under supervision has suitable clothing, transportation to his home, or to the county in which a suitable home or employment has been found for him, and such an amount of money as the rules of the Youth Council authorize.

(b) The expenditure for clothing and for transportation and the payment of money may be made from funds for support and maintenance appropriated to the Youth Council or to the institution from which such child was released, or from local funds, or from any appropriation specifically made for such purposes by the Legislature of the State of Texas.

Escape and Apprehension

Sec. 29. A boy or girl committed to the Youth Council as a delinquent child and placed by it in any institution or facility, who has escaped therefrom, or who has been released under supervision and broken the conditions thereof, may be arrested without a warrant by a sheriff, deputy sheriff, constable, police officer, or parole officer employed or designated by the Youth Council, and may be kept in custody in a suitable place and there detained until such boy or girl may be returned to the custody of the Youth Council.

Transfer of Mentally Ill, Feeble-Minded and Epileptics

Sec. 30. Whenever the Youth Council finds that any delinquent child committed to it is mentally ill, feeble-minded or an epileptic, the Youth Council shall have the power to return such child to the court of original jurisdiction for appropriate disposition or shall have the power to request

the court in the county in which the training school is located to take such action as the condition of the child requires. In no case will the Youth Council upon the determination of such a finding related to any such child committed to its custody delay returning the child to the committing county or make application to the proper court for appropriate handling of the case beyond the minimum time necessary for the removal of the child from its facilities in accordance with law.

Termination of Control

Sec. 31. Every child committed to the Youth Council as a delinquent, if not already discharged, shall be discharged from custody of the Youth Council when he reaches his twenty-first birthday.

Civil Rights

Sec. 32. Commitment of a delinquent child to the custody of the Youth Council shall not operate to disqualify such child in any future examination, appointment or application for public service under the government either of the state or of any political subdivision thereof.

Use of Records

Sec. 33. The records of commitment of a delinquent child to the Youth Council shall be withheld from public inspection except with the consent of the Youth Council, but such records concerning any child shall be open at all reasonable times to the inspection of the child, his or her parents or parent, guardian, or attorney, or any of them. A commitment to the Youth Council shall not be received in evidence or used in any way in any proceedings in any court except in subsequent proceedings for delinquency against the same child, and except in imposing sentence in any criminal proceedings against the same person.

Records and Information

Sec. 34. The Youth Council shall conduct continuing inquiry into the effectiveness of the treatment methods it employs in seeking the reformation of delinquent children. To this end the Youth Council shall maintain a record of arrests and commitments of its wards subsequent to their discharge from the jurisdiction of the Youth Council and shall tabulate, analyze, and publish biennially these data so that they may be used to evaluate the relative merits of methods of treatment. The Youth Council shall cooperate with courts, private and public agencies in the collection of statistics and information regarding juvenile delinquency, arrests made, complaints, informations, and petitions filed, and the disposition made thereof, and other information useful in determining the amount and causes of juvenile delinquency in this state.

Assisting Escape

Sec. 35. Whoever shall knowingly aid or assist any delinquent child in the custody of the Youth Council to escape or to attempt to escape shall be subject to the penalties provided in Article 334 of the Penal Code.

Biennial Budget

Sec. 36. The Executive Director shall prepare and submit to the Youth Council, for its approval, a biennial budget of all funds necessary to be appropriated by the Legislature for the Youth Council for the purposes of

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

this Act. The budget so prepared shall be submitted and filed by the Youth Council in the form and manner and within the time prescribed by law.

Transfer of Appropriations

Sec. 37. There is hereby transferred to the Texas Youth Council all moneys appropriated for the two-year period ending August 31, 1959, for the Central Office of the Youth Development Council; the Corsicana State Home (State Orphan Home); the Blind, Deaf and Orphan School; the Waco State Home; the Gatesville School for Boys; the Gainesville School for Girls; and the Colored Girls Training School. The appropriations for the specific institutions, hereby transferred, shall be expended in accordance with the provisions of House Bill 133, Acts of the Regular Session, 55th Legislature,¹ and this Act. The appropriations for the Central Office of the Youth Development Council shall be used for the payment of per diem and expenses of Texas Youth Council members, salaries of the Director and of other personnel employed in the Central Office of the Youth Council, and all other expenses incidental to the maintenance and operation of the Central Office. Salaries paid to all personnel in the Central Office during the biennium shall be fixed by the Youth Council in keeping with standards fixed in the biennial appropriation Act for similar positions. Travel expenses shall be subject to the provisions of the biennial appropriation Act. Acts 1957, 55th Leg., p. 660, ch. 281.

¹ Vernon's Texas Session Laws, ch. 385, p. 870.

Effective May 23, 1957, except as limited by section 40 of the Act.

Section 38 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act. Section 39 repealed all conflicting laws and parts of laws to the extent of such conflict only.

Section 40 provided that, for the purpose of the appointment of and for the purpose of control and management of the Gatesville State School, the Gainesville State School, and the Crockett State School, the members of the Youth Council and of the organization of the Youth Council, this Act shall take effect on September 1, 1957; for the purpose of the transfer of the

control and management of the Corsicana State Home, the Texas Blind, Deaf and Orphan School, and the Waco State Home, this Act shall take effect on September 1, 1957.

Title of Act:

An Act creating a Texas Youth Council for the protection, care, training, and supervision of certain classes of children and youth of the state, and, among other things, defining its powers, duties and functions; providing for the transfer of certain appropriations to the Council; providing a severability clause; fixing an effective date; and declaring an emergency. Acts 1957, 55th Leg., p. 660, ch. 281.

TITLE 83—LABOR

CHAPTER THREE—PAYMENT OF WAGES

Art. 5155. Pay days

Every person, each manufacturing, mercantile, mining, quarrying, railroad, street railway, canal, oil, steamboat, telegraph, telephone and express company, employing one (1) or more persons, and each and every water company not operated by a municipal corporation, and each and every wharf company, and every other corporation engaged in any business within this State, or any person, firm or corporation engaged in or upon any public work for the State or for any county or any municipal corporation thereof, either as a contractor or a subcontractor, therewith, shall pay each of its employees the wages earned by him or her as often as semimonthly, and pay to a day not more than sixteen (16) days prior to the day of payment. As amended Acts 1957, 55th Leg., p. 1344, ch. 455, § 1.

Emergency. Effective June 6, 1957.

CHAPTER TEN—INDUSTRIAL COMMISSION

Art.

5190½. Additional duties of Commission
[New].

Art. 5190½. Additional duties of Commission

In addition to its other duties, the State Industrial Commission is hereby authorized to plan, organize and operate a program for attracting and locating new industries in the State of Texas; provided, however, that no state funds shall be used for this purpose. The Commission may accept contributions for such purpose, all of which shall be deposited in the State Treasury in a special fund to be known as the "State Industrial Commission Fund," and such sums are hereby appropriated to the Commission for the purposes of this article. Added Acts 1957, 55th Leg., p. 782, ch. 319, § 1.

Emergency. Effective May 31, 1957.

CHAPTER FOURTEEN—UNEMPLOYMENT COMPENSATION

Art.

5221b—22aa. Use of fund for payment of
legislative expenses [New].

Article 5221b—1. Benefits

(a) Payment of Benefits: On and after January 1, 1938, benefits shall become payable from the fund. All benefits shall be paid through the Texas Employment Commission, in accordance with such regulations as the Commission may prescribe. As amended Acts 1949, 51st Leg., p. 282, ch. 148, § 1.

(b) Benefit amount for total unemployment: Each eligible individual who is totally unemployed in any benefit period shall be paid with respect to such benefit period, benefits at the rate of one twenty-sixth ($\frac{1}{26}$) of his wages received from employment by employers during that quarter in his base period in which such wages were highest, provided that:

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(1) If such rate is not an even multiple of One Dollar (\$1), it shall be adjusted to the next higher multiple of One Dollar (\$1); and

(2) Such rate shall not be more than Twenty-eight Dollars (\$28) per benefit period nor less than Seven Dollars (\$7) per benefit period. As amended Acts 1955, 54th Leg., p. 1310, ch. 517, § 1.

Effective Oct. 1, 1955.

(c) Benefit for partial unemployment: Each eligible individual who is partially unemployed in any benefit period shall be paid with respect to such benefit period a partial benefit, provided that such individual shall meet the requirements of subsection 4(a) of this Act.¹ Such partial benefit shall be the benefit amount plus (i) Five Dollars (\$5), or (ii) twenty-five per cent (25%) of the benefit amount, whichever of (i) or (ii) is greater, less the wages earned during such benefit period, provided that if the result of such computation is not an even multiple of One Dollar (\$1), it shall be adjusted to the next higher multiple of One Dollar (\$1). As amended Acts 1949, 51st Leg., p. 282, ch. 148, § 1; Acts 1957, 55th Leg., p. 1350, ch. 460, § 1.

(d) Duration of Benefits: The Commission shall establish wage credits for each individual by crediting him with the wages for employment received by him during his base period from employers. The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed whichever is the lesser of:

(1) Twenty-four (24) times his benefit amount, or

(2) One-fourth (1/4) of such wage credits;

provided that if such is not an even multiple of One Dollar (\$1), it shall be adjusted to the next higher multiple of One Dollar (\$1). As amended Acts 1949, 51st Leg., p. 282, ch. 148, § 1; Acts 1955, 54th Leg., p. 399, ch. 116, § 1; Acts 1957, 55th Leg., p. 1350, ch. 460, § 1.

¹ Article 5221b—2.

Effective 90 days after May 23, 1957, date of adjournment.

Section 12 of amendatory Act of 1957 repealed article 5221b—8, subsec. (f). Section 13 repealed article 5221b—18.

Section 14 provided that all laws or parts of laws in conflict herewith, in so far as they do conflict herewith, are hereby repealed but such repeal shall in no way be construed as forfeiting or waiving any rights of the State of Texas or of the Texas Employment Commission which have accrued thereunder, including, without limiting or without being limited thereto, the right to collect contributions, interest or

penalties that have accrued, and the right of prosecution for violation of any provision thereof; nor shall such repeal in any way be construed as forfeiting or waiving the rights of any individual to benefits which accrued thereunder; provided that the Commission's determination of the benefit year, the benefit amount for total unemployment, and the duration of benefits made with respect to an initial claim filed prior to July 1, 1957, shall be effective for the remainder of such benefit year.

Section 15 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 5221b—3. Disqualification for benefits

An individual shall be disqualified for benefits:

(a) If the Commission finds that he has left his last work voluntarily without good cause connected with his work. Such disqualification shall be for not less than one (1) nor more than twenty-four (24) benefit periods following the filing of a valid claim, as determined by the Commission according to the circumstances in each case. As amended Acts 1955, 54th Leg., p. 399, ch. 116, § 3; Acts 1957, 55th Leg., p. 1350, ch. 460, § 2.

(b) If the Commission finds he has been discharged for misconduct connected with his last work. Such disqualification shall be for not less than one (1) nor more than twenty-four (24) benefit periods following the filing of a valid claim, as determined by the Commission according

to the seriousness of the misconduct. As amended Acts 1955, 54th Leg., p. 399, ch. 116, § 3; Acts 1957, 55th Leg., p. 1350, ch. 460, § 2.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 5221b—4. Claims for benefits

(b) An unemployed individual who has no current benefit year may file an initial claim in accordance with regulations prescribed by the Commission. The Commission shall mail a notice of the filing of such initial claim to the employing unit for which the claimant last worked prior to filing the initial claim. If the employing unit to which such notice is mailed has knowledge of any facts that may adversely affect such claimant's right to benefits, or that may affect a charge to its account, it shall notify the Commission of such facts promptly. If such employing unit does not mail or deliver such notification to the Commission within ten (10) days from the date such notice was mailed to it by the Commission, such employing unit shall be deemed to have waived all rights in connection with such claim, including any rights it may have under subsection 7(c) (2) of this Act, except with respect to a clerical or machine error as to the amount of wages it may have paid the claimant and which were used to determine benefit wages in connection with such claim.

The Commission shall determine whether such initial claim is valid. If such initial claim is valid, the Commission shall determine the benefit year, the benefit amount for total unemployment and the duration of benefits. A notice of the determination of the initial claim shall be mailed to the claimant at his last known address as reflected by Commission records. The claimant may within twelve (12) calendar days from the date such notice was mailed request a redetermination or appeal in the manner provided in this Section.

If such employing unit has filed a notification with the Commission in accordance with this Section, an examiner shall make a determination as to whether the claimant is disqualified from receipt of benefits under Section 5 of this Act,¹ as to any other issue affecting the claimant's right to receive benefits which may have arisen under any other provisions of this Act,² and as to whether such employing unit's benefit wages shall include benefit wages of the claimant, and shall mail a copy of the determination to the claimant and to such employing unit. In the absence of such notification from such employing unit, if, from information on the claim or other information secured, an issue is raised affecting the claimant's rights to benefits under any provision of this Act, an examiner shall prepare a determination reflecting his decision and mail a copy of it to the claimant at his last known address.

Unless the claimant or the employing unit to which the copy of the determination was mailed files an appeal from such determination within twelve (12) calendar days after such copy of the determination was mailed to his or its last known address as reflected by Commission records, such determination shall be final for all purposes and benefits shall be paid or denied in accordance therewith; provided, that within the same period of time, an examiner may file an appeal from such determination, or may, if he discovers error in connection therewith or additional information not previously available, reconsider and redetermine any such determination, and such redetermination shall replace such determination and shall become final unless an appeal therefrom is filed by such claimant or such employing unit within twelve (12) calendar days after a copy of such redetermination was mailed to his or its last

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known address as reflected by Commission records. If an appeal is duly filed, benefits with respect to the period of time prior to the final determination of the Commission shall be paid only after such determination; provided, that if an appeal tribunal affirms a determination of an examiner, or the Commission affirms a decision of an appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no benefit wages shall be charged to any employer's account by reason of such payment. As amended Acts 1957, 55th Leg., p. 1350, ch. 460, § 3.

Effective 90 days after May 23, 1957, date of adjournment.

(h) Appeal to Courts: Any decision of the Commission shall become final ten (10) days after the date of mailing thereof, unless, within such ten (10) days, the appeal is reopened by Commission order or a party to the appeal files a written motion for rehearing, and judicial review of any final decision of the Commission shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies (not including a motion for rehearing) before the Commission as provided by this Act. The Commission shall be deemed to be a party to any judicial action involving any such decision and may be represented in any such judicial action by any qualified attorney who is a regular salaried employee of the Commission and has been designated and appointed for that purpose by the Attorney General of Texas. As amended Acts 1957, 55th Leg., p. 1350, ch. 460, § 3.

Effective 90 days after May 23, 1957, date of adjournment.

¹ Article 5221b—3.

² Article 5221b—1 et seq.

Art. 5221b—5. Contributions

(c) Experience Rating:

(2) (A) When, with respect to any benefit year, an individual is first paid benefits, his wages received during his base period shall be termed "benefit wages," and shall be treated for the purposes of this subsection 7(c) as though they had been paid in the calendar quarter in which such benefits are paid. This process may be designated as charging benefit wages to an employer's account, and benefit wages thus charged may be designated as chargebacks. Benefit wages shall include only the wages from employers available for wage credits in a base period and shall not exceed Two Thousand, Six Hundred and Eighty-eight Dollars (\$2,688) for any one employee or former employee. If an employer fails to report wages which were paid to a claimant during a base period when requested by the Commission, the Commission may establish wage credits for such claimant for such base period on the basis of information which has been furnished by the claimant or on the basis of the best information which has been obtained by the Commission, and wage credits so established shall be used as benefit wages for such employer for the purposes of this Section 7.¹ The benefit wages of each employer for a given calendar quarter shall be the total of the benefit wages received from such employer by all of his employees or former employees with respect to such quarter; provided, that the benefit wages of an employer shall not include wages received during any given base period from such employer by an employee or former employee, whose last separation from such employer's employment, prior to the benefit year in conjunction with which such base period was established, was (i) a separation required by a Federal or a Texas statute or a Texas

municipal ordinance; or (ii) a separation for which a disqualification under subsection 5(a) or 5(b) of this Act would have been imposed if such employer's employment of the employee or former employee had been the employee's last work; or (iii) a separation with respect to which a disqualification was imposed under subsection 5(a) or 5(b) of this Act; and provided further that for the purpose of this paragraph the term 'last separation' shall, with respect to an employee whose initial determination disqualified him from benefits under subsection 5(d) of this Act, mean his next later separation from such employer's employment.

(2) (B) To each employer to whom notice of an initial claim has not already been mailed under subsection 6(b) of this Act, and whose account is chargeable with benefit wages as the result of such initial claim for benefits, a notice shall be mailed and an opportunity afforded for protest of his chargebacks. If any such employer desires to protest his chargebacks, he shall, within ten (10) days after such notice was mailed to him, mail his protest, including a statement of the facts upon which his protest is based, to the Commission at Austin, Texas. The examiner shall promptly decide the issues involved in such protest and shall mail a notice of his decision thereon to the protesting employer. Such decision shall become final twelve (12) days from the date of mailing thereof, unless such employer mails to the Commission at Austin, Texas, a written appeal therefrom within such twelve (12) days. Administrative review hereunder shall be in accordance with Commission regulations, and appeals to the Courts shall be permitted only after such employer has exhausted his administrative remedies (not including a motion for rehearing) before the Commission, and within the time prescribed by subsection 6(h) and subsection 6(i) of this Act with respect to Commission decisions on benefits. Venue and jurisdiction of appeals to the Courts with respect to benefit wages shall be the same as venue and jurisdiction of suits to collect contributions and penalties under this Act.

If notice of the claim has been sent previously to the employer under the provisions of Section 6 of this Act, the employer shall be mailed a notice of the amount of his chargeback resulting from the claim, and may, within ten (10) days from the date such notice was mailed, protest any clerical or machine error as to the amount of wages he may have paid the claimant and which were used to determine benefit wages in connection with such claim. Such employer may receive a decision on such protest and may appeal within twelve (12) days from the date notice of such decision was mailed to him. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 5; Acts 1955, 54th Leg., p. 399, ch. 116, § 5; Acts 1957, 55th Leg., p. 1350, ch. 460, § 4.

¹ This article.

Effective 90 days after May 23, 1957, date of adjournment.

(5) For the purpose of computing experience tax rates for any calendar year, the total amount of benefits paid from the Unemployment Compensation Fund during the one-year period ending September 30 of the preceding calendar year, less (i) the total amount of refunds of benefits credited to such Fund during such period and (ii) the total amount of benefit warrants cancelled during such period, shall be termed the 'amount required from employers.' The amount required from employers, divided by the State-wide total of the benefit wages of all employers for said period, after adjustment to the nearest multiple of one per cent (1%), shall be termed the 'State experience factor.' The State experience factor for any year shall be determined prior to the due date of the first contribution payment on wages for employment in that year and such determination shall be made upon the basis of figures for the

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

one-year period ending September 30 of the preceding calendar year; such State experience factor shall not be affected by any subsequent adjustment of any benefit wages of any employer. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 5B; Acts 1955, 54th Leg., p. 399, ch. 116, § 5; Acts 1957, 55th Leg., p. 1350, ch. 460, § 4.

Effective 90 days after May 23, 1957, date of adjournment.

(7) If an employing unit acquires all or 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; Acts 1957, 55th Leg., p. 1350, ch. 460, § 4.

Effective 90 days after May 23, 1957, date of adjournment.

(d) The computation date for all experience tax rates shall be as of October 1 of the year preceding the calendar year for which such rates are to be effective, and such rates shall be effective on January 1 of the calendar year immediately following such computation date for the en-

tire year; provided that the experience tax rate for each employer who, for the first time, and at the close of any calendar quarter, has completed four (4) full consecutive calendar quarters throughout each month of which he was chargeable with benefit wages, shall be computed and determined as of the first day of the calendar quarter next following such close, and such rate shall be effective on the date as of which it was computed, and for the remainder of the calendar year in which such computation date occurs. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 5E; Acts 1955, 54th Leg., p. 399, ch. 116, § 5; Acts 1957, 55th Leg., p. 1350, ch. 460, § 4.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 5221b—6. Duration of coverage

(c) (1) Except as provided in paragraph (2) immediately below, no employing unit shall cease to be an employer subject to this Act except as of the first day of January of any calendar year, and only then if it files with the Commission, within the period from January 1 through March 31 of such year, a written application for termination of coverage, and the Commission finds that there were no twenty (20) different days within the preceding calendar year, each day being in a different calendar week, during each of which days such employing unit employed four (4) or more individuals in employment subject to this Act. As amended Acts 1957, 55th Leg., p. 1350, ch. 460, § 5.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 5221b—7. Unemployment Compensation Fund

(c) Withdrawals: Moneys requisitioned from this State's account in the Unemployment Trust Fund shall be used exclusively for the payment of benefits and for refunds pursuant to Section 14¹ and this Section, except that money credited to this State's account pursuant to Section 903 of the Social Security Act,² as amended, may be requisitioned and used by the Commission only to the extent and under the conditions prescribed by said Section 903, as amended. The Commission shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to its account therein, as it deems necessary for the payment of benefits and refunds for a reasonable future period. Upon receipt thereof, the Treasurer shall deposit such moneys in the benefit account, and the Comptroller shall issue his warrants for payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account, and refunds from the clearing account, shall not be subject to any provision of law which may require itemization or other formal release by State officers of money in their custody. All warrants issued for the payment of benefits and refunds shall bear the signature of the Treasurer and the countersignature of a member of the Commission, or its duly authorized agent, for that purpose. Any balance of moneys requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned, shall either be deducted from estimates for, and may be utilized for the payment of benefits and refunds during succeeding periods, or, in the discretion of the Commission, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this State's account in the

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Unemployment Trust Fund as provided in subsection (b) of this Section. As amended Acts 1957, 55th Leg., p. 1350, ch. 460, § 6.

¹ Article 5221b—12.

² 42 U.S.C.A. § 1103.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 5221b—8. Texas Employment Commission

(f) Repealed. Acts 1957, 55th Leg., p. 1350, ch. 460, § 12.

Art. 5221b—9. Administration

(g) Subpoenas: In case of contumacy by, or refusal to obey a subpoena issued by a member of the Commission or any duly authorized representative thereof to any person, any County or District Court of this State within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission or its duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before a commissioner, the Commission, or its duly authorized representative, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power so to do, in obedience to a subpoena of the Commission, shall be punished by a fine of not less than Two Hundred Dollars (\$200), or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense. As amended Acts 1957, 55th Leg., p. 1350, ch. 460, § 7.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 5221b—12. Collection of contributions

(e) When an action is filed under the terms of subsection (b) of this Section 14 and is supported by a statement, report or audit, and the affidavit of a member of the Commission, a representative of the Commission, or the attorney representing the Commission, taken before some officer authorized to administer oaths, to the effect that the contributions, penalties or interest shown to be due by said statement, report, or audit are, within the knowledge of affiant, past due and unpaid and that all just and lawful offsets, payments, and credits have been allowed, the same shall be taken as prima facie evidence thereof, unless the defendant in said action shall, before an announcement of ready for trial, file a written denial, under oath, stating that such contributions, penalties or interest are not due, in whole or in part, stating the particulars as to any part of said contributions, penalties or interest claimed to be not due; provided that when such counter-affidavit shall be filed on the day of the trial, the plaintiff shall have the right to postpone such cause for a reasonable time. When the defendant fails to file such affidavit, he shall not be permitted to deny the claim for contributions, penalties or interest, or any item thereof. As amended Acts 1957, 55th Leg., p. 1350, ch. 460, § 8.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 5221b—14. Penalties

(a) Whoever makes a false statement or representation, knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this Act¹ or under the unemployment compensation law of any other State, either for himself or for any other person, shall be punished by a fine of not less than Twenty Dollars (\$20), nor more than Fifty Dollars (\$50) or by imprisonment for not longer than thirty (30) days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense. In any proceeding under this Section, the original records of the Commission or of the agency which administers the unemployment compensation law of any other State, as well as certified copies thereof, may be received in evidence, and the Commission is authorized to furnish copies of its records to such other State agencies. As amended Acts 1955, 54th Leg., p. 399, ch. 116, § 12; Acts 1957, 55th Leg., p. 1350, ch. 460, § 9.

Effective 90 days after May 23, 1957, date of adjournment.

¹ Articles 5221b—1 to 5221b—22b.

Art. 5221b—15. Representation in Court

(b) All criminal actions for violations of any provisions of this Act,¹ or of any rules or regulations issued pursuant thereto, shall be prosecuted by the prosecuting attorney in the county in which the offense is alleged to have occurred. As amended Acts 1957, 55th Leg., p. 1350, ch. 460, § 10.

¹ Article 5221b—1 et seq.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 5221b—17. Definitions

As used in this Act, unless the context clearly requires otherwise:

(b) (1) "Benefits" means the money payments payable to an individual, as provided in this Act,¹ with respect to his unemployment.

(2) "Benefit amount" means the amount of benefits an individual would be entitled to receive for one benefit period of total unemployment.

(3) "Benefit period" means such period of seven (7) consecutive calendar days as the Commission may by regulation prescribe.

(4) "Benefit Year," with respect to any individual means the period of one (1) year beginning with the day with respect to which his first valid initial claim is filed and, thereafter, the period of one (1) year beginning with the day with respect to which his next valid initial claim is filed after the termination of his last preceding benefit year. As amended Acts 1955, 54th Leg., p. 399, ch. 116, § 13; Acts 1957, 55th Leg., p. 1350, ch. 460, § 11.

(e) "Employing unit" means any individual or type of organization, including but not limited to any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or, subsequent to January 1, 1936, had in its employ one (1) or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two (2) or more separate establishments within this State shall be deemed to be employed by a single employing unit for all purposes of this Act. Each individual employed to perform or to assist in performing the work of any

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agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this Act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 8; Acts 1957, 55th Leg., p. 1350, ch. 460, § 11.

(f) "Employer" means:

(1) Any employing unit which for some portion of each of twenty (20) different days within the current or preceding calendar year, each day being in a different calendar week, whether or not such weeks are or were consecutive, has or had in employment four (4) or more individuals, but not necessarily simultaneously, (irrespective of whether the same individuals are or were employed in each such day);

(2) Any individual or employing unit which acquired the organization, trade, or business, or substantially all of the assets thereof, of another which at the time of such acquisition was an employer subject to this Act;

(3) Any employing unit which, having become an employer, has not, under Section 8,² ceased to be an employer subject to this Act;¹

(4) Any employing unit which has elected to become fully subject to this Act under Section 8;

(5) Any employing unit which is liable for the payment of taxes under the Federal Unemployment Tax Act³ for the current calendar year. As amended Acts 1955, 54th Leg., p. 399, ch. 116, § 13; Acts 1957, 55th Leg., p. 1350, ch. 460, § 11.

(j) "Partial unemployment": An individual shall be deemed "partially unemployed" in any benefit period of less than full-time work if his wages payable for such benefit period are less than the benefit amount he would be entitled to receive if he had performed no services during such period and if with respect to such benefit period no wages were payable to him, plus (i) Five Dollars (\$5), or plus (ii) twenty-five per cent (25%) of such benefit amount, whichever of (i) or (ii) is greater. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 8; Acts 1957, 55th Leg., p. 1350, ch. 460, § 11.

Effective 90 days after May 23, 1957, date of adjournment.

(l) "Total unemployment": An individual shall be deemed "totally unemployed" in any benefit period during which he performs no services and with respect to which no wages are payable to him. An individual's benefit period of total unemployment shall be deemed to commence only after his registration pursuant to subsection 4(a) of this Act.¹⁰ As used in this subsection (l), the term "wages" shall include only that part of remuneration for work which is in excess of (i) Five Dollars (\$5), or (ii) twenty-five per cent (25%) of the benefit amount, whichever of (i) or (ii) is greater, in any one benefit period, and the term "services" shall not include work for which remuneration does not exceed (i) Five Dollars (\$5), or (ii) twenty-five per cent (25%) of the benefit amount, whichever of (i) or (ii) is greater. As amended Acts 1949, 51st Leg., p. 283, ch. 148, § 8; Acts 1957, 55th Leg., p. 1350, ch. 460, § 11.

Effective 90 days after May 23, 1957, date of adjournment.

(m) "Valid claim" means either an initial claim filed by an unemployed individual who has received the wages necessary to qualify for benefits under the terms of subsection 4(e) of this Act,¹⁰ or a claim for benefits filed by an unemployed individual who has received the wages necessary to qualify for benefits under the terms of subsection 4(e) of this Act and "initial claim" means the notice filed by an individual who does not have

a current benefit year that he is unemployed and may, if such unemployment continues, file a claim for benefits. As amended Acts 1955, 54th Leg., p. 399, ch. 116, § 13; Acts 1957, 55th Leg., p. 1350, ch. 460, § 11.

Effective 90 days after May 23, 1957, date of adjournment.

1 Article 5221b—1 et seq.

2 Article 5221b—6.

3 26 U.S.C.A. (I.R.C.1939) §§ 1600-1611.

10 Article 5221b—2.

Art. 5221b—18. Repealed. Acts 1957, 55th Leg., p. 1350, ch. 460, § 13.

Eff. 90 days after May 23, 1957, date of adjournment

Art. 5221b—22aa. Use of fund for payment of legislative expenses

In addition to all other purposes, as set out in Section 26 of this Act, for which the Unemployment Compensation Special Administration Fund may be used, moneys in this Fund in an amount not to exceed Sixty Thousand Dollars (\$60,000) may be used for the purpose of paying for the expenses of the Fifty-fifth Legislature as described in Chapter 1, Acts of the Fifty-fifth Legislature, Regular Session, 1957, as amended, and shall be available for appropriation or transfer by the Legislature to be used for such purpose during the biennium ending August 31, 1959. Acts 1936, 44th Leg., 3rd C. S., p. 1993, ch. 482, § 26A, added Acts 1957, 55th Leg., 2nd C. S., p. 181, ch. 21, § 4.

Emergency. Effective Dec. 10, 1957.

CHAPTER FIFTEEN—INSPECTION OF STEAM BOILERS

Article 5221c. Inspection and inspectors

Insurance companies to file inspection reports; boilers inspected by insurance companies exempt from other inspections; certificate of operation

Sec. 5. Every insurance company insuring boilers in this State shall, within thirty (30) days after inspecting any steam boiler, file a duplicate report of such inspection with the Commissioner showing the date of such inspection together with the name of the person making such inspection, and such report shall show fully the condition and location of such boiler at the time such inspection was made. Such report shall also state when the policy of insurance was issued by the insurance company on said boiler and the date of expiration of such policy of insurance.

The owner or user of every boiler inspected by an inspector for an insurance company authorized to do business in this State on which such insurance company has issued a policy of insurance after inspection thereof, shall be exempt from other inspections and inspection fees under the provisions of this Act; provided nothing in this Section shall prevent the Commissioner from authorizing the inspection of any insured boiler at any reasonable time when, in the opinion of the Commissioner, such insured boiler may be in an unsafe condition, provided the Commissioner shall contact the insurance company carrying insurance on said boiler and that the inspector for the insurance company carrying such insurance and the inspector or deputy inspector shall jointly and together inspect the boiler, within twenty (20) days, for which inspection no additional charge shall be made as set forth in Section 12 of this Act. The Commissioner is authorized and has authority to issue a Certificate of Operation to the owner or user of all boilers subject to inspection under this Act, and the owner or user of an insured boiler shall pay the sum of Three Dollars (\$3) for each Certificate of Operation issued, and the owner or user of a State in-

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

spected boiler shall pay a like sum of Three Dollars (\$3) for each Certificate of Operation issued, which said fee shall be and is absorbed by the internal and external inspection fee authorized in Section 12 of this Act. Every insurance company shall notify the Commissioner in writing of the cancellation or expiration of every policy of insurance issued by it with reference to boilers in this State, within twenty (20) days after the expiration or cancellation of said policy, giving the cause or reason for such cancellation or expiration. Such notice of cancellation or expiration shall show the date of the policy and the date when the cancellation or expiration has or will become effective. As amended Acts 1951, 52nd Leg., p. 273, ch. 158, § 1; Acts 1957, 55th Leg., p. 1331, ch. 452, § 1.

Emergency. Effective June 6, 1957.

Fees for inspections

Sec. 12. The Commissioner shall fix and collect fees for the inspection of steam boilers covered by this Act, which exceeds thirty (30) inches in diameter, external and internal inspection not to exceed Fifteen Dollars (\$15) in each twelve (12) months period; and for boilers exceeding twenty-four (24) inches in diameter and not exceeding thirty (30) inches in diameter, Ten Dollars (\$10) for each complete inspection in each twelve (12) months period; and boilers not exceeding twenty-four (24) inches in diameter, Five Dollars (\$5) for each complete inspection in each twelve (12) months period. Provided that, when a boiler is found unfit for further use no Certificate of Inspection shall be issued and the use of such condemned boiler may be prohibited. Provided further that the Commissioner or any of his employees shall not have authority to prescribe the make, brand or kind of boilers to buy or purchase. And provided that when any inspector or employee of the Commissioner tears down a boiler in a cleaning and pressing establishment said inspector or employee shall assist the owner to repair and assemble said boiler as it was before it was dismantled, and if he fails to assist said owner said fee shall not be paid. Such fees must be paid by the owner or user before the issuance of a Certificate of Operation for the boiler inspected. No fees shall be charged the owner or user by the Commissioner when the inspection herein provided for has been made by an inspector holding a commission as inspector from said Commissioner if the holder of such commission as inspector is employed by any county, or city and county, or city, or insurance company except the charge fixed for Certificate of Operation in Section 5 hereof. All fees collected by the Commissioner under this Act shall be paid into the State Treasury to the credit of the 'State Boiler Inspection Fund' together with a detailed report of same, and said moneys so deposited in said special fund are hereby appropriated for the purpose of paying the expenses of the administration of this Act. As amended Acts 1939, 46th Leg., p. 433, § 3; Acts 1951, 52nd Leg., p. 273, ch. 158, § 1; Acts 1957, 55th Leg., p. 1331, ch. 452, § 1.

Emergency. Effective June 6, 1957.

Section 2 of the amendatory Act of 1957 laws to the extent of the conflict. Section repealed all conflicting laws and parts of 3 was a severability provision.

CHAPTER 16. MISCELLANEOUS PROVISIONS

Art.
5221e. Texas Council of Migrant Labor
[New].

Art. 5221e. Texas Council of Migrant Labor

Section 1. There is hereby created a Texas Council on Migrant Labor, to consist of the chairman of the Texas Employment Commission,

the executive director of the State Department of Public Welfare, the executive director of the Good Neighbor Commission, the Commissioner of Education, the director of the Texas Department of Public Safety, the Commissioner of Health, and the Commissioner of Labor Statistics, ex officio, or such deputy or representative as any of them may respectively designate.

Sec. 2. The Council shall elect its own chairman and shall in all cases act by a majority vote of its membership. Members of the Texas Council on Migrant Labor shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

Sec. 3. The Council shall coordinate the work of the agencies represented toward the improvement of travel and living conditions of migrant laborers in Texas. In furtherance of this purpose, the Council shall:

(1) Promote the formulation of specific rules and regulations to achieve the betterment of migrants' travel and living conditions in the areas of authority of the respective agencies, such rules and regulations to be promulgated and enforced by the agency or agencies concerned;

(2) Analyze federal and state rules and regulations affecting migrant labor to determine their effect on Texas citizens, both migrant laborers and employers of migrant labor, and, when opportunity arises, consult and advise with representatives of federal and state agencies in the promulgation and formulation of rules and regulations;

(3) Survey conditions and study problems related to migrant labor in Texas;

(4) Hold public hearings on matters pertaining to migrant labor;

(5) Advise and consult with state departments and agencies, whether or not represented on the Council, with local governmental units, and with interested groups and organizations concerning matters affecting migrant labor;

(6) Facilitate and endorse interdepartmental agreements and arrangements to effectuate the purposes of this Act;

(7) Report annually, and at such other times as it may deem appropriate, to the Governor and the Legislature;

(8) Perform any other functions which may be necessary in furtherance of the purpose of this Act.

Sec. 4. The Council shall establish and maintain an office and shall appoint an executive director and such other professional, technical, and clerical employees as may be necessary. The Council shall prescribe the duties and fix the compensation of such employees. Acts 1957, 55th Leg., p. 1255, ch. 417.

Effective 90 days after May 23, 1957, date of adjournment.

Section 5 of the Act of 1957 provided that there is hereby appropriated for each of the fiscal years beginning September 1, 1957 and September 1, 1958, the following sum to be used by the Texas Council on Migrant Labor in furtherance of the general purposes of this Act:

For traveling expenses of members of the Council and staff; salaries of members of the office staff; stamps; stationery, tele-

phone and telegraph; printing; office supplies; etc. \$10,000.00 for each fiscal year.

Title of Act:

An Act creating a Texas Council on Migrant Labor; providing for its operation; setting out its duties and powers; providing for the establishment of an office and the appointment of an executive director and other employees; making an appropriation; and declaring an emergency. Acts 1957, 55th Leg., p. 1255, ch. 417.

TITLE 86—LANDS—PUBLIC

CHAPTER ONE—ADMINISTRATION

Art. 5254a. Revision and compilation of abstracts of patented, titled and surveyed land

Section 1. The Commissioner of the General Land Office shall prepare a revision and compilation of the various volumes of the abstracts of patented, titled, and surveyed land, which have heretofore been made by this Office. The various counties of the State shall be apportioned into appropriate districts not to exceed eight (8) in number for the purpose of revising and compiling said abstracts, and all of the abstracts of each particular district shall be compiled into a separate volume. The Commissioner of the General Land Office shall retain as many complete sets of said abstract volumes as are necessary for the use of his Office, and deliver the balance of said printed volumes to the Comptroller of Public Accounts, who shall distribute to those offices of the State requiring its use, one complete set of said abstract volumes, and shall deliver to the Tax Assessor-Collector of each county a copy of the volume containing the abstracts of his county. The surplus volumes may be sold by the Comptroller to persons applying for them at a price not less than their cost to the State. The Comptroller shall pay all moneys so received into the General Revenue Fund of the State.

Sec. 2. The Commissioner may cause to be printed a sufficient number of volumes to meet the demand. All such printing and binding is to be done within the State of Texas. As amended Acts 1957, 55th Leg., p. 828, ch. 356, § 1.

Emergency. Effective May 31, 1957.

CHAPTER THREE—SURFACE AND TIMBER RIGHTS

4. EASEMENTS

Art.

5337—1. Execution in favor of conservation and reclamation districts in connection with soil conservation and flood prevention projects [New].

4. EASEMENTS

Art. 5337—1. Execution in favor of conservation and reclamation districts in connection with soil conservation and flood prevention projects

Section 1. The Commissioner of the General Land Office is hereby authorized to execute easements on all unsold public free school lands to conservation and reclamation districts in connection with soil conservation and flood prevention projects authorized by the Watershed Protection and Flood Prevention Act (Public Law 566, 83rd Congress; 68th Statute 666 as amended by Public Law 1018, 84th Congress; 7th Statute 1088).¹

Sec. 2. Such easements may be perpetual or for a term of years, and the form of easement may contain such provisions as the Commissioner may deem necessary to protect the interests of the state. The consider-

ation payable to the state for such easements shall be as fixed by the Commissioner to compensate the state for any damage to the land or to the use thereof caused by such easements, but if the Commissioner shall determine that the benefits resulting from the grant of such easements exceed the damage the Commissioner may waive consideration for such easements.

Sec. 3. All mineral rights, together with the right to explore for, produce and market the same, shall be reserved to the state and shall be subject to lease for minerals as are other unsold public free school lands. Acts 1957, 55th Leg., 1st C. S., p. 32, ch. 14.

¹ 16 U.S.C.A. §§ 1001-1007.
Emergency. Effective Dec. 2, 1957.

CHAPTER FIVE—MINERALS

Art. 5400a. Renumbered as Art. 5421p

The provisions of Acts 1937, 45th Leg., p. 568, ch. 279, formerly set out under this article number, are now set out as article 5421p.

CHAPTER SEVEN—GENERAL PROVISIONS

| Art. | Art. |
|---|---|
| 5415c. Survey of Gulf Coast line; determination of low water contour; agreements with federal agencies [New]. | 5421j—1. Lease of filled in land by city of Corpus Christi [New]. |
| 5421c—8. School Land Board; authority to charge appraisal fee; disposition; refund of unused fees [New]. | 5421k—2. Submerged right-of-way across Cayo del Oso in Nueces county, conveyance to State Highway Commission [New]. |
| | 5421p. Lease of lands of political subdivisions. |

Art. 5415c. Survey of Gulf Coast line; determination of low water contour; agreements with federal agencies

Commissioner of General Land Office; agreements with federal agencies

Section 1. The Commissioner of the General Land Office is hereby authorized and directed to negotiate and consummate an agreement, or agreements, with the appropriate agency of the Federal Government of the United States, whereby the General Land Office and such appropriate agency of the Federal Government may enter into contracts or agreements with the United States Coast and Geodetic Survey, or other appropriate governmental agency, for a survey of the Texas Gulf Coast line, by projection, protraction, ground surveying or other recognized surveying methods, for the purpose of determining the low water contour along said Gulf Coast line from which the three marine league boundary line may be accurately fixed by metes and bounds, demarking the boundary of Texas as defined in the Submerged Lands Act (Public Law 31, 83d Congress, Ch. 65, 1st Sess., H.R. 4198, 67 Stat. 29).¹

¹ 43 U.S.C.A. § 1301 et seq.

Aerial mosaic survey; official records and archives

Sec. 2. The survey of the low water contour as herein authorized may be developed by using a basic traverse line delineated from controlled aerial mosaic survey sheets and contact prints depicting the Texas coast, as made and compiled by Jack Ammann Photogrammetric Engineers, Inc.,

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

of an aerial survey made from December 31, 1953, to May 17, 1954, and filed in the General Land Office of the State of Texas on October 19, 1954. The controlled aerial mosaic sheets and contact prints herein described are hereby declared to be official records and archives of the General Land Office of the State of Texas.

Cooperation with federal agencies

Sec. 3. The Commissioner of the General Land Office is hereby authorized and directed to furnish without cost to any governmental agency, copies of papers, maps, records, documents and all other data on file in, or compiled by, the General Land Office pertaining to or affecting the determination of boundaries by and between the State of Texas and the United States of America on the Continental Shelf, and to furnish other facilities of his office in co-operation with the appropriate agency or agencies of the Federal Government in the matter of boundary determination and/or the exploration and development of the minerals in submerged areas under the jurisdiction of the State of Texas.

Field notes, maps, etc.; filing as permanent records; admissibility in evidence

Sec. 4. The field notes, maps or other documents compiled as a result of the survey accomplished pursuant to this Act shall be filed in the General Land Office as permanent records and archives and the same, or certified copies thereof, shall be admissible in evidence as are other papers, documents and records and certified copies thereof of such office.

Reports of results of survey

Sec. 5. The Commissioner of the General Land Office shall report the results of the survey herein authorized to the Governor, Lieutenant Governor, Speaker of the House and Members of the Fifty-sixth Legislature so that the necessary Legislative action can be taken to approve the location and demarkation of the three marine league boundary of Texas. Acts 1957, 55th Leg., p. 1388, ch. 477.

Emergency. Effective June 10, 1957.

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 surveyed public free school land 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 oil, gas, coal, lignite, sulphur, salt and potash 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; 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 42nd Legislature, Second Called Session, 1931¹; provided further, that at the discretion of the School Land Board the minerals herein enumerated, other than oil and gas, may be leased together or separately, but oil and gas shall only be leased together, and separately from other minerals; provided further, that the royalty reserved to the state shall be not less than one-eighth ($\frac{1}{8}$) of the gross production or value of oil, gas and

sulphur and one-sixteenth ($\frac{1}{16}$) of the gross production or value of other minerals. As amended Acts 1953, 53rd Leg., p. 77, ch. 57, § 1; Acts 1957, 55th Leg., p. 434, ch. 209, § 1.

1 Article 5421c, § 8—A.

Emergency. Effective May 10, 1957.

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws.

Art. 5421c—7. Prospecting state lands for minerals, including fissionable materials

Lands and minerals to which applicable; application for permit; rental payments

Section 1. Any tract of land belonging to the state, including all islands, salt and fresh water lakes, bays, inlets, marshes and reefs owned by the state within tidewater limits, and that part of the Gulf of Mexico within the jurisdiction of Texas; and all unsold surveyed public free school land and all rivers and channels belonging to the state shall be subject to prospect for uranium, thorium and other fissionable materials, and all other minerals, except oil, gas, coal, lignite, sulphur, salt and potash, shell, sand and gravel, by any person, firm or corporation desiring to prospect same by the filing of an application with the Commissioner of the General Land Office designating the area to be prospected. Such application must be accompanied by a rental payment of Ten Cents (10¢) per acre. As amended Acts 1957, 55th Leg., p. 435, ch. 210, § 1.

Emergency. Effective May 10, 1957.

Permits to prospect; issuance; annual rental

Sec. 2. Permits shall be issued by the Commissioner of the General Land Office giving to the first applicant a period of one (1) year from the date of filing his application within which to prospect the area designated. Within the period of said year the permittee may file an application to lease the area covered by the permit, or a designated portion thereof, for the purpose of mining or producing the minerals covered thereby, which application shall be accompanied by the first rental payment of Two Dollars (\$2.00) per acre. The annual rental payments thereafter during the primary term shall be One Dollar (\$1.00) per acre, which shall be payable unless production in paying quantities is being obtained and royalty being paid the state thereon. If the designated area is less than that covered by the permit, the applicant shall forward with his application field notes prepared by the county surveyor or a licensed state land surveyor, describing the area so designated. As amended Acts 1957, 55th Leg., p. 435, ch. 210, § 1.

Leases; issuance; royalty

Sec. 3. The leases shall be issued by the Commissioner of the General Land Office in accordance with the provisions of this Act and shall be for a primary term of five (5) years and as long thereafter as the minerals covered thereby are produced in paying quantities. The royalty shall be $\frac{1}{6}$ of the value of uranium, thorium or other fissionable materials and $\frac{1}{16}$ of all other minerals. The Commissioner may include in such leases such other provisions as he may deem necessary for the protection of the interests of the state. As amended Acts 1957, 55th Leg., p. 435, ch. 210, § 1.

Forfeiture of lease; grounds

Sec. 7. If the owner of a lease shall fail or refuse to make payment of any sum due, either as rental on the lease or royalty on production or if such owner or his authorized agent should knowingly make any false return or false report concerning the lease, or if such owner or his agent should refuse the Commissioner or his authorized representative access to the records or other data pertaining to operations under the lease, or if any of the material terms of the lease should be violated, such lease shall be subject to forfeiture by the Commissioner, and when forfeited the area covered thereby shall again be subject to application for a prospect permit under the same conditions controlling the original application. Added Acts 1957, 55th Leg., p. 435, ch. 210, § 2.

Emergency. Effective May 10, 1957.

Amendment of valid existing permits and leases

Sec. 8. The owners of valid existing permits and leases on the effective date of this Act may, upon written application to the Commissioner of the General Land Office, have such permits and leases amended by instrument in writing, executed by the Commissioner, to include the minerals covered by this Act. Applications for amendments to existing permits shall be accompanied by a payment of Ten Cents (10¢) per acre, and applications for amendments to existing leases shall be accompanied by a payment of One Dollar (\$1.00) per acre, such payments being in addition to those already made. If such owners do not make application for amendments within sixty (60) days after date of letter giving written notification by the Commissioner of the General Land Office, forwarded to the last known address of such owner as shown in the files of the General Land Office, the minerals not covered by such existing permits and leases shall become subject to other applications for permits and leases. Acts 1957, 55th Leg., p. 435, ch. 210, § 3.

Section 4 of the amendatory Act of 1957 was a severability clause.

Art. 5421c—8. School Land Board; authority to charge appraisal fee; disposition; refund of unused fees

Section 1. The School Land Board of the State of Texas, as created by Subdivision 3 of Section 5 of Chapter 3, Acts of the Forty-sixth Legislature, Regular Session 1939,¹ is hereby authorized and directed to charge applicants for the purchase of excess acreage and unsurveyed public free school lands, an appraisal fee for appraising such excess acreage and unsurveyed public free school lands for the purpose of determining the prices at which such lands are to be sold by the State.

Sec. 2. Such fees shall be in such amounts as may be fixed by the School Land Board and shall be paid to the Commissioner of the General Land Office. Any such fees which, in the opinion of the Board, are unused shall be refunded to the applicants paying same. The Commissioner shall deposit fees which are not refunded in the State Treasury in the Special Fund created by Chapter 415, Acts of the Fifty-fourth Legislature, Regular Session, 1955.² The moneys so deposited, or so much thereof as may be necessary, are hereby appropriated to the General Land Office for the payment of salaries, travel expenses and other expenses of personnel necessary to accomplish such appraisals or other work for the School Land Board.

Sec. 3. The provisions of this Act shall be cumulative of all other laws not in conflict herewith, but where a conflict exists, this Act shall be controlling. Acts 1957, 55th Leg., p. 827, ch. 355.

1 Article 5421c—31.

2 Article 7880—43.

Emergency. Effective May 31, 1957.

Section 4 of the Act of 1957 was a severability provision.

Art. 5421j—1. Lease of filled in land by city of Corpus Christi

Section 1. All property transferred by the State of Texas to the City of Corpus Christi by the provisions of Chapter 253, Acts of the 49th Legislature, Regular Session, 1945,¹ may be leased by the governing body of the City of Corpus Christi for such time and under such terms and conditions and for such purposes as determined by the governing body of the City of Corpus Christi to be to the best interest of the city. The governing body of the City of Corpus Christi shall lease such property in accordance with the procedure prescribed by the charter of the City of Corpus Christi for leasing lands owned by the city. Acts 1957, 55th Leg., p. 488, ch. 235.

1 Article 5421j.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 5421k—2. Submerged right-of-way across Cayo del Oso in Nueces county, conveyance to State Highway Commission

Section 1. In order that the State Highway Commission may have title to and control of the more or less submerged right of way necessary for the construction, reconstruction and maintenance of the Causeway and its Approaches across Cayo del Oso in Nueces County, as described in Section 2 of this Act, and as shown on the right-of-way map on file in the State Highway Department at Austin, Texas, and entitled Project ARMR 5A(1) Control 617-1-1, State Highway No. 358, Nueces County, from U. S. Naval Air Base on Encinal Peninsula to Junction with State Highway No. 286, the State hereby conveys to the State Highway Commission title to and control of the submerged right of way described in Section 2 of this Act, and as shown on the right-of-way map above stated, but no part of this Act is to be construed so as to interfere nor conflict with the rights and authority of the State Game and Fish Commission, except that the State Highway Commission shall have the full right and authority to take and use, at any time and in any quantity desired, any and all materials within the limits of this tract, and is exempted from the payment of any and all materials taken therefrom; provided, however, that all mineral rights, together with the right to explore for and develop same by directional drilling are reserved to the State of Texas.

Sec. 2. The conveyance hereby made shall consist of a tract of more or less submerged land and tidewater flats, situated under the waters of Cayo del Oso between Engineers centerline Station 130 + 32.8 and Station 169 + 54.0 of State Highway No. 358, said tract being a strip of land 1000 feet wide, 500 feet on each side of the centerline of this right-of-way survey which extends from the Flour Bluff Naval Station to Junction with State Highway No. 286, 3.65 miles south of Corpus Christi, said tract extending for a distance of 3921.2 feet, the centerline being more particularly described as follows:

* * * * *

Acts 1957, 55th Leg., p. 16, ch. 12.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 5421m. Veterans' Land Board**State agency; chairman and administrator; performance of duties and functions of board**

Sec. 2. The Veterans' Land Board is hereby declared to be a State Agency for performing the governmental functions authorized in Section 49-b of Article III, as amended, of the Constitution of the State. The Commissioner of the General Land Office shall be Chairman of the Board and Administrator of the Veterans' Land Program, as provided by said Section 49-b of Article III as amended, and shall perform all duties and functions of the Board prescribed by law, except those prescribed in section 2(A) hereof, which shall be performed by the Veterans' Land Board as constituted. As amended Acts 1957, 55th Leg., p. 12, ch. 10, § 1.

Emergency. Effective Feb. 28, 1957.

Powers and duties of board

Sec. 2(A). The duties of the Veterans' Land Board as created by Article III, Section 49-b of the constitution as amended, shall be to authorize and execute negotiable bonds as provided by law; to provide by resolution for the use of the Veterans' Land Fund in such manner as to effectuate the intent of the constitution and of the law; to fix the interest rates as prescribed by law; to provide for the forfeiture of contracts of sale and purchase and the resale of forfeited land; to conduct such investigations as it may deem necessary; and to formulate such policies, rules and regulations as may be necessary, not in conflict with the provisions of the law, to insure the proper administration of the law and to carry out the intent and purposes thereof. Added Acts 1957, 55th Leg., p. 12, ch. 10, § 2.

Citizen board members; bond

Sec. 2(B). Each citizen Board member shall execute a bond payable to the state in the sum of Fifty Thousand Dollars (\$50,000.00) to be approved by the Governor and conditioned upon the faithful performance of his duties. The premiums on such bonds shall be paid out of the funds appropriated by the Legislature for the operation of the General Land Office. Added Acts 1957, 55th Leg., p. 12, ch. 10, § 2.

Citizen board members; compensation; travel expenses

Sec. 2(C). The compensation of each of the two citizen Board members shall be a salary at the rate of Three Thousand Six Hundred Dollars (\$3,600.00) per annum, plus travel expenses, effective when said citizen members have qualified under the bond prescribed in Section 2(B). Added Acts 1957, 55th Leg., p. 12, ch. 10, § 2.

Bond issue

Sec. 3. The Board, by appropriate action, is hereby authorized at one time, or from time to time, to provide by resolution for the issuance of negotiable bonds, which in no event shall exceed the aggregate sum of Two Hundred Million Dollars (\$200,000,000). The proceeds from the sale of any bond, or bonds, shall be used for the purpose of creating the Veterans' Land Fund provided for in the Constitution. At the option of the Board, said bonds may be issued in one (1) or several installments. The bonds of each issue shall be dated, and shall bear interest at a rate not exceeding three per cent (3%) per annum, which interest may, at the op-

tion of the Board, be payable annually or semiannually; shall mature serially or otherwise and not later than forty (40) years from their date; provided, however, that any bonds previously issued shall mature in accordance with their provisions; shall be payable in such medium of payment as to both principal and interest as may be determined by the Board; and may be made redeemable before maturity, at the option of the Board, at such price or prices, and under such terms and conditions, as may be fixed by the Board in the resolution providing for the issuance of the bonds. The Board shall determine the form of the bonds, including the forms of any interest coupon to be attached thereto, and shall fix the denomination or denominations of said bonds and the place or places of the payment of principal and interest thereon. Said bonds shall be executed by and on behalf of the Veterans' Land Board as obligations of the State of Texas in the following manner: They shall be signed by the Chairman and Secretary respectively of the Board, and the seal of the Board shall be impressed thereon, and they shall be signed by the Governor of the State of Texas, and attested by the Secretary of State of the State of Texas with the seal of the State of Texas impressed thereon. The resolution authorizing the issuance of any installment or series of bonds may prescribe the extent to which facsimile signatures and facsimile seals in lieu of manual signatures and manually impressed seals may be used in executing such bonds and appurtenant coupons. Interest coupons may be signed by the facsimile signatures of the Chairman and Secretary of the Board. In the event any officer whose manual or facsimile signature appears on any bond, or whose facsimile signature shall appear on any coupon, shall cease to be such officer before the delivery of bonds, the signature shall, nevertheless, be valid and sufficient for all purposes, the same as if he had remained in office until such delivery had been made. Before any such bonds so issued are delivered to the purchasers, the record pertaining thereto shall have been examined by the Attorney General of Texas and said record and bonds shall be approved by him. After such approval, the bonds shall be registered in the office of the State Comptroller of Public Accounts of Texas. Such bonds having been approved by the Attorney General and registered in the Comptroller's office shall be held, in every action, suit or proceeding in which their validity is or may be brought into question, valid and binding obligations. In every action brought to enforce collection of such bonds or any rights incident thereto, the certificate of approval by the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of their validity. The only defense which can be offered against the validity of such bonds shall be forgery or fraud. All bonds issued under the provisions of this Act shall have, and are hereby declared to have, all of the qualities and incidents of negotiable instruments under the laws of this State. The Board is fully authorized to provide for the replacement of any bond which becomes mutilated, lost or destroyed. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 1; Acts 1957, 55th Leg., p. 491, ch. 238, § 1.

Emergency. Effective May 16, 1957.

Call for bids; bids accompanied by exchange or check

Sec. 6. When the Board shall have authorized the issuance of a series of said bonds and shall have determined to call for bids therefor, it shall be the duty of the Board to publish at least one (1) time not less than ten (10) days before the date of said sale an appropriate notice thereof. Such publication shall be made in a daily newspaper of general state-wide circulation which is published not less than seven (7) times weekly. Said notice shall also be published for such number of times as

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

the Board may determine in one or more popularly recognized financial journals of general circulation.

The Board may at its option demand of bidders, other than the administrators of the state funds herein mentioned, that their bids be accompanied by exchange or bank cashier's check for such sum as it may consider adequate to be a forfeit guaranteeing the acceptance and payment for all bonds covered by such bids, and accepted by the Board. As amended Acts 1957, 55th Leg., 2nd C. S., p. 159, ch. 5, § 1.

Emergency. Effective Dec. 4, 1957.

Payment of principal and interest; legal investments

Sec. 9(a). Each year until December 1, 1965, there shall be set aside and paid from the Veterans' Land Fund sufficient moneys to pay interest and principal due on all bonds theretofore issued and outstanding. After December 1, 1965, all moneys received by the Veterans' Land Board under the terms of this Act, or so much thereof as may be necessary, shall be set aside and used to pay principal and interest on bonds then outstanding as they shall mature. When there is in the Veterans' Land Fund an amount fully sufficient to pay all interest on, and principal of, the outstanding bonds due and to become due thereafter, any moneys in excess of such amount shall be deposited to the credit of the General Fund of the State of Texas to be appropriated to such purposes as may be prescribed by law. The moneys so set aside and not deposited to the credit of the General Revenue Fund may be invested by the Board in bonds or other obligations of the United States, or the State of Texas, or of the several counties or municipalities, or other political subdivisions of the State of Texas, and such Board may sell such securities, or any of them, at the governing market rate. As amended Acts 1957, 55th Leg., p. 491, ch. 238, § 2.

Emergency. Effective May 16, 1957.

Use of fund to purchase lands

Sec. 10. Until December 1, 1965, the Veterans' Land Fund, except a sufficient amount to pay the interest and principal due on outstanding bonds, shall be used by the Board for the purpose of purchasing land situated in this State, and (a) owned by the United States, or any governmental agency thereof; (b) owned by the State Prison System, or any other governmental agency of the State of Texas; (c) owned by any person, firm, or corporation. The said land so purchased to be sold, as hereinafter provided, to Texas veterans, as hereinafter defined. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 3; Acts 1957, 55th Leg., p. 491, ch. 238, § 3.

Emergency. Effective May 16, 1957.

Subdivision of land; notice of sale; preference of disabled veterans

Sec. 12. Land acquired by the Board may be subdivided for the purpose of sale into tracts of such size as the Board may deem advisable; but prior to the sale thereof in bulk or in subdivided lots, notice of sale must be given once a week for four (4) consecutive weeks in one or more newspapers of general circulation in this state, one of which shall be in the county where the land is located; or if no paper is located in the county, then in the same area. The Board is authorized to determine the form and substance of such notices, and to formulate such other rules and regulations covering the sale of lands as it may require in carrying out the purposes of this Act; provided that all "veterans" as that term is hereinafter defined, who are disabled by reason of a service-connected disability sustained in combat, shall have a preference right over all other

veterans for ninety (90) days to purchase any of said land after same is placed on the market by the Board. The Board may not offer for sale, and no veteran will be permitted to buy, land under this Section which costs the Board more than Seven Thousand, Five Hundred Dollars (\$7,500). As amended Acts 1957, 55th Leg., p. 491, ch. 238, § 4.

Emergency. Effective May 16, 1957.

Selling price; amount which veteran may purchase

Sec. 13. Land shall not be sold at less than its actual cost to the Board, except that forfeited lands may be resold under the provisions of Section 19(A) hereof at less than its actual cost to the Board. No veteran shall be permitted to purchase more than one (1) tract of land under this Act. As amended Acts 1957, 55th Leg., p. 491, ch. 238, § 5.

Emergency. Effective May 16, 1957.

Contract of sale; payments; transfer; deed

Sec. 17. The sale of all lands hereunder by the Board may be properly initiated by Contract of Sale and Purchase, and said contract shall be recorded in the deed records in the County where the land is located. The purchaser shall make an initial payment of at least five per cent (5%) of the selling price of the property. The balance of said selling price shall be amortized over a period to be fixed by the Board, but not exceeding forty (40) years, together with interest thereon at a rate to be fixed by the Board, not to exceed four per cent (4%) per annum; provided, however, that the purchaser shall have the right on any installment date to pay any or all installments still remaining unpaid; provided further that in any individual case, the Board may, for good cause, postpone from time to time, upon such terms as the Board may deem proper, the payment of the whole or any part of any installment of the selling price or interest thereon. The Board is empowered in each individual case to specify the terms of the contract entered into with the purchaser, not contrary to the provisions of this Act, but no property sold under the provisions of this Act shall be transferred, sold, or conveyed in whole or in part, until the original veteran purchaser has enjoyed possession for a period of three (3) years from the date of purchase of said property, and complied with all the terms and conditions of this Act and the rules and regulations of the Board; provided, however, that should the veteran purchaser die or become financially incapacitated by reason of illness or accident, the property may be conveyed before the expiration of said three (3) years by said purchaser or his heirs, administrators, or executors. After said three (3) year period, a purchaser may at any time, transfer, sell or convey land purchased under the provisions of this Act, provided all mature interest, principal and taxes have been paid and the terms and conditions of this Act and the rules and regulations of the Board have been met; provided, however, if the sale is to other than a qualified Texas veteran, the assignee and all subsequent assignees shall assume an interest rate on the indebtedness to the Board to be fixed by the Board at not less than five per cent (5%) per annum; provided further that property sold under the provisions of this Act may be transferred, sold or conveyed at any time after the entire indebtedness due the Board has been paid. Any land purchased under the provisions of this Act may not be leased by the purchaser for any term exceeding ten (10) years except for oil, gas or other minerals and so long thereafter as any minerals may be produced therefrom in commercial quantities, and no such lease shall contain any provision for option or renewal of such lease or re-lease of such property for any term. The taking of any option, renewal or re-lease agreement in a separate instru-

ment to take effect in the future is prohibited; and any such lease or instrument containing such an option, renewal or re-lease agreement executed after the effective date of this Act in violation hereof is expressly declared to be void. When the entire indebtedness due the State under the contract of sale is paid, the Board shall execute a deed under its seal to the original purchaser of the land or to the last assignee whose assignment has been approved by the Board. If a deed should be executed to other than the legal owner, such deed and the rights conveyed therein shall inure to the benefit of the legal owner. As amended Acts 1951, 52nd Leg., p. 550, ch. 324, § 7; Acts 1955, 54th Leg., p. 1597, ch. 520, § 6; Acts 1957, 55th Leg., p. 491, ch. 238, § 6.

Emergency. Effective May 16, 1957.

Forfeiture of contracts

Sec. 19. If any portion of the interest or principal on any sale shall not be paid when due, or if any other provisions of this Act, the contract, and Board rules and regulations are not complied with, the contract of sale and purchase shall be subject to forfeiture by the Board upon thirty (30) days written notice to the original purchaser and his vendees. Such notice shall give the reason or reasons why the contract of sale and purchase is subject to forfeiture and shall be sufficient when given by registered mail to the last known address of the original purchaser and his vendees. If such reason or reasons for forfeiture are cured or corrected within said thirty-day period, the Board shall not enter an order of forfeiture. Such forfeiture shall be effective when the Board shall have met and adopted a resolution directing the Chairman of the Board to endorse upon the wrapper containing the papers of said sale, or upon the purchase contract filed in the Land Office, the word "forfeited," or words of similar import, with the date of such action, and to sign officially; thereupon the lands and all payments theretofore made shall become forfeited. Upon forfeiture full title to the land, including both the surface and mineral estates, shall revert in the Board, and the Board shall recognize and continue in force and effect any outstanding valid oil, gas or mineral lease and collect all rentals, royalties, or other amounts payable thereunder. A notice of the action of the Board in forfeiting the original contract shall be mailed to the County Clerk of the county wherein the land is located, and the said Clerk shall enter on the margin of the page or pages containing the record of the original contract a notation of such forfeiture. Land included in such forfeited contract shall be subject to resale under the terms as set forth in Section 19(A) hereof. In any case where the sale has been forfeited and the title to the lands reverted in the Veterans' Land Fund, the original purchaser or his vendee shall have the right to reinstate his purchase contract at any time prior to the date on which the Board shall have met and ordered the said lands to be advertised for resale, or for lease for mineral development, but not thereafter. Any person exercising a right of reinstatement shall pay all delinquent installments, penalties and costs incident to the reinstatement, as shall be prescribed by the said Board. All interest and principal which shall become delinquent shall bear interest at the rate of five per cent (5%) per annum from the date the same becomes delinquent, until paid.

The Board, acting by and through the Attorney General, is hereby directed to institute such legal proceedings as may be necessary to enforce such forfeiture or to recover the full amount of the delinquent installments, interest, and other penalties as may be due the Board at the time such forfeiture occurred, or to protect any other right to such

land. The liability of the original veteran purchaser and any subsequent assignee or assignees of such veteran shall be joint and several, but the original veteran purchaser shall be primarily liable for payment of any and all moneys under the original contract of sale and purchase.

In any action brought in the courts against the State, after obtaining permission of the Legislature, involving the title to any tract of land to which the State has a warranty deed, the State shall have the right to plead all statutes of limitations in the General Laws of this State. This shall not be considered as a limitation to any other defense the State might have. As amended Acts 1955, 54th Leg., p. 1597, ch. 520, § 8; Acts 1957, 55th Leg., p. 491, ch. 238, § 7.

Emergency. Effective May 16, 1957.

Resale of forfeited land; forfeiture of successful bidder's deposit

Sec. 19(A). The resale of land which has been forfeited under the provisions of this Act may be made to the highest bidder; provided, however, that sales shall be made to qualified veterans only and under the same terms and conditions as provided elsewhere in this Act for original sales. Such sales shall be held at such times and in such manner as the Board may prescribe, and the Board shall have the right to reject any and all bids. If the successful bidder refuses to execute a contract of sale and purchase, all moneys submitted with his bid shall be forfeited and deposited in the State Treasury and credited to the Veterans' Land Board Special Fund. Added Acts 1955, 54th Leg., p. 1597, ch. 520, § 9, as amended Acts 1957, 55th Leg., p. 491, ch. 238, § 8.

Emergency. Effective May 16, 1957.

Rules and regulations; forms; forfeitures; fees for processing and servicing applications

Sec. 21. The Board is hereby authorized and empowered to make and promulgate such rules and regulations under this Act, and not inconsistent herewith, as it shall deem to be necessary or advisable. Such rules and regulations shall be considered a part of this Act and any violation thereof shall subject the offender to prosecution under the provisions of Section 32 hereof. The Board shall likewise have the power to prescribe the form and contents of all notices, bids, applications, awards, contracts, deeds or instruments whatsoever in any manner used by it in so carrying out such project and plan when the same shall not be in conflict with law. The Board is hereby made the sole judge of forfeiture of any purchase contract under this Act, and anyone availing himself of the provisions of this Act shall by so doing agree to abide by the same; and should the Board declare a forfeiture under said purchase contract, then the purchaser shall vacate the premises within forty-five (45) days after the date of letter giving notice of such declaration, such letter to be forwarded by registered mail to the last known address of such purchaser.

The Board is hereby authorized and required to collect a fee of Fifty Dollars (\$50) from each applicant under Section 16 of this Act and a fee of Twenty-five Dollars (\$25) from each successful bidder under Section 19(A) of this Act, which fees shall be held in a trust fund to be used for the purpose of payment for examination of title, recording fees and/or other expenses; and any unused balance remaining after payment for such items shall be refunded except as provided in Section 19(A) of this Act.

The Board is further authorized and required to charge and collect for the use of the State the following fees for the processing and servic-

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

ing of purchase applications and Contracts of Sale and Purchase and matters incidental thereto. Any such fees, or a portion thereof, which in the opinion of the Board are unused shall be refunded.

1. Fee for each appraisal for each application under Section 16 of this Act\$25.00
2. Contract of Sale and Purchase transfer fee for each transfer 25.00
3. Mineral lease service fee for each lease executed by purchasers 7.50
4. Reappraisal fee when required by the Board 25.00
5. Fee for each loan of abstract 5.00
6. Fee for servicing and filing each easement 5.00
7. Service fee for each Contract of Sale and Purchase..... 25.00

All moneys received by payment of the above fees and not refunded shall be deposited in the State Treasury and credited to the Veterans' Land Board Special Fund, and said Fund is hereby appropriated to the Veterans' Land Board to be used as it deems necessary to pay any expenses of the Veterans' Land Board, including salaries, increasing of salaries, or travel expenses, of the employees of the Veterans' Land Board, or employees of the General Land Office doing work with the Veterans' Land Program, provided, however, that such salaries, or expenses, shall be in line with the salaries or expenses paid to similar employees of other State departments performing similar duties. As amended Acts 1955, 54th Leg., p. 1597, ch. 520, § 10; Acts 1957, 55th Leg., p. 491, ch. 238, § 9.

Emergency. Effective May 16, 1957.

Section 10 of the amendatory Act of 1957 provided that the provisions of this Act shall be cumulative of all other laws not in conflict herewith, but where a conflict exists, this Act shall be controlling. Section 11 was a severability provision.

Art. 5421p. Lease of lands of political subdivisions

Political subdivisions authorized to lease land for mineral development

Section 1. Political subdivisions which are bodies corporate with recognized and defined areas, are hereby authorized to lease for mineral development purposes any and all lands which may be owned by any such political subdivision.

Boards or bodies authorized to exercise right; procedure

Sec. 2. The right to lease such lands shall be exercised by the governing boards, the commission or commissioners of such political subdivision which are by law constituted with the management, control, and supervision of such subdivision, and when in the discretion of such governing body they shall determine that it is advisable to make a lease of any such lands belonging to such district or subdivision, such governing body shall give notice of its intention to lease such lands, describing same, by publication of such notice in some newspaper published in the county, having a general circulation therein, once a week for a period of three (3) consecutive weeks, designating the time and place after such publication where such governing body will receive and consider bids for such mineral leases as such governing body may determine to make. On the date specified in said notice, such governing board or body shall receive and consider any and all bids submitted for the leasing of said lands or any portions thereof which are advertised for leasing, and in the discretion of such governing body shall award the lease to the highest and best bidder submitting a bid therefor, provided that if in the judgment of such governing

body the bids submitted do not represent the fair value of such leases, such governing body in their discretion may reject same and again give notice and call for additional bids, but no leases shall in any event be made except upon public hearing and consideration of said bids and after the notice as herein provided.

Public auction; amount of royalty; term of lease

Sec. 2a. Provided that all such leases may be granted by public auction and that no leases shall be executed in any case except and unless the lessor shall retain at least one-eighth royalty, provided further that in no case shall the primary term of said lease be for more than a period of ten (10) years from the date of execution and approval thereof. Acts 1937, 45th Leg., p. 568, ch. 279.

The provisions of this article, derived from Acts 1937, 45th Leg., p. 568, ch. 279, formerly appeared as article 5400a.

Title of Act:

An act authorizing political subdivisions of the State of Texas to lease lands owned

by such subdivisions for mineral development purposes and prescribing the method and manner of making such leases, and declaring an emergency. Acts 1937, 45th Leg., p. 568, ch. 279.

TITLE 90—LIENS

CHAPTER THREE—OIL AND MINERAL PROPERTY

Art.

- 5476c. Notice to owner that lien claimed.
 5476d. Forfeiture of leasehold estate;
 failure of equitable or other interest to ripen into legal title;
 effect on lien.

Art. 5473. Contractor's lien

Any person, corporation, firm, association, partnership, artisan, materialman, laborer or mechanic who shall, under contract, expressed or implied, with the owner of any land, mine or quarry, or the owner of any gas, oil or mineral leasehold interest in land, or the owner of any gas pipeline or oil pipeline, or the owner of any oil or gas pipeline right-of-way, or with the trustee, agent or receiver of any such owner, perform labor, furnish or haul materials, machinery or supplies used in digging, drilling, torpedoing, operating, completing, maintaining or repairing any such oil or gas well, water well, mine or quarry, or oil or gas pipeline, shall have a lien on the whole of such land or leasehold interest therein, or oil pipeline, or gas pipeline, including the right-of-way for same, or lease for oil and gas purposes, the buildings and appurtenances, and upon the materials, machinery and supplies so furnished or hauled, and upon all other materials, machinery and supplies owned by such owner and used in digging, drilling, torpedoing, operating, completing, maintaining or repairing any such oil or gas well, water well, mine or quarry or oil or gas pipeline, and upon said oil well, gas well, water well, oil or gas pipeline, mine or quarry for which the same are furnished or hauled, and upon all of the other oil wells, gas wells, buildings and appurtenances, including pipeline, leasehold interest, and land used in operating for oil, gas and other minerals, upon such leasehold or land or pipeline and right-of-way therefor, for which said materials, machinery or supplies were furnished or hauled or labor performed. Provided, that if labor, supplies, machinery or materials are furnished to or hauled for a leaseholder, the lien hereby created shall not attach to the underlying fee title to the land. As amended Acts 1957, 55th Leg., p. 482, ch. 231, § 1.

Emergency. Effective May 16, 1957.

Section 6 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 5476. Proceedings to enforce lien

Liens herein created 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 1957, 55th Leg., p. 482, ch. 231, § 2.

Emergency. Effective May 16, 1957.

Section 6 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 5476a. Securing lien; contents of affidavit

Every original contractor, journeyman, day laborer, or other person, within six (6) 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 by Article 5476c. As amended Acts 1957, 55th Leg., p. 482, ch. 231, § 3.

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 and 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 shall have elapsed between the date of furnishing of such material and services and the date on which materials or services are next furnished. As amended Acts 1957, 55th Leg., p. 482, ch. 231, § 4.

Art. 5476c. Notice to owner that lien claimed

Any person claiming a lien under Article 5474 shall, at least ten (10) days prior to the filing of his statement of lien as provided for in Article 5476a, furnish the owner with written notice that a lien is claimed, the amount thereof, the name of the person from whom the same is due and 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 thereafter said owner shall be authorized to retain in his hands the amount claimed until the same is settled or determined not to be owing. No owner shall be liable to any such claimant for any amount in excess of the amount still owing to the original contractor at the time of receipt of such notice. Added Acts 1957, 55th Leg., p. 482, ch. 231, § 5.

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

Art. 5476d. Forfeiture of leasehold estate; failure of equitable or other interest to ripen into legal title; effect on lien

If a lien provided for in this Chapter attaches to a leasehold estate, forfeiture of such estate shall not impair any such lien as to material, machinery, supplies and the specific improvement located thereon and to which said lien attached prior to forfeiture; provided same are not permanently attached to the land and any damages to the land caused by the removal of such property therefrom is paid to the owner of the land. If a lien provided for in this Chapter attaches to an equitable interest or to a legal interest contingent upon the happening of a condition subsequent, failure of such interest to ripen into legal title or such condition subsequent to be fulfilled shall not impair any such lien as to material, machinery, supplies and the specific improvement located thereon and to which said lien attached prior to such failure. Added Acts 1957, 55th Leg., p. 482, ch. 231, § 5.

TITLE 92—MENTAL HEALTH

I. MENTAL HEALTH CODE

| Chap. | Arts. |
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| I. General Provisions | 5547—1 |
| II. Voluntary Hospitalization | 5547—22 |
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| Part | |
| 1. Emergency Admission Procedure | 5547—27 |
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II. MISCELLANEOUS PROVISIONS

I. MENTAL HEALTH CODE

CHAPTER I—GENERAL PROVISIONS

| | |
|---|---|
| <p>Art. 5547—1. Short title. 5547—2. Purpose. 5547—3. Applicability of standard rules of construction and definitions. 5547—4. Definitions. 5547—5. Admission not affected by certain conditions. 5547—6. Notice. 5547—7. Section headings. 5547—8. Certificate of medical examination for mental illness. 5547—9. Additional powers of the board. 5547—10. Delegation of powers and duties. 5547—11. County court—probate court—open at all times.</p> | <p>Art. 5547—12. Papers to be filed with clerk. 5547—13. County attorney to represent state. 5547—14. Costs. 5547—15. Fees allowed court-appointed attorneys and physicians. 5547—16. Return of committed patient to state of residence. 5547—17. Reciprocal agreements. 5547—18. Liability. 5547—19. Penalties for unwarranted commitment. 5547—20. Penalties for violation of this Code. 5547—21. Enforcement officers.</p> |
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TABLE

Showing where repealed articles relating to mental health have been incorporated in the new Mental Health Code.

| Former Article | Present Article | Former Article | Present Article |
|------------------|---|----------------|---|
| 3174a | 5547—4(h) | 3196 | 5547—72 |
| 3174b—1 | 5547—80(c) | 3196d | 5547—16, 5547—17 |
| 3193 | 5547—68 | 3196d, § 2 | 5547—4(n) |
| 3193c | 5547—67 | 3232, § 5 | 5547—5 |
| 3193d | 5547—61, 5547—62, 5547—64, 5547—65 | 5550 | 5547—13, 5547—14(a, b), 5547—15, 5547—43 |
| 3193g | 5547—27, 5547—28, 5547—30, 5547—66 | 5551 | 5547—48 |
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| 3193k | 5547—71 | 5554 | 5547—52, 5547—58, 5547—60 |
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| 3193m | 5547—71 | 5558 | 5547—61, 5547—64 |
| 3193n | 5547—84 | 5559 | 5547—63 |
| 3193o—1 | 5547—4(k), 5547—31, 5547—58, 5547—62, 5547—81 | 5561 | 5547—14(a, b) |
| 3193o—1, § 1 | 5547—32, 5547—33, 5547—36(a, e), 5547—38 | 5561a | 5547—43, 5547—49(a, b), 5547—80(a), 5547—81 to 5547—84 |
| 3193o—1, § 1b | 5547—60 | 5561a, § 2 | 5547—47, 5547—66 |
| 3193o—1, § 2 | 5547—79, 5547—80 | 5561a, § 3 | 5547—48 |
| 3193o—1, §§ 3, 4 | 5547—14(a, b) | 5561b | 5547—80(a, b), 5547—81 to 5547—83 |
| 3193o—1, § 6 | 5547—16 | P.C. 427a | 5547—20 |
| 3193—1 | 5547—40, 5547—68, 5547—78, 5547—80(d) | | |
| 3194 | 5547—14(a, b) | | |
| 3195 | 5547—14(c) | | |

Art. 5547—1. Short title

This Act shall be known and may be cited as the Texas Mental Health Code. Acts 1957, 55th Leg., p. 505, ch. 243, § 1.

Effective date provisions, see art. 5547—104 and note.

Title of Act:

An Act concerning the hospitalization, commitment, care, observation and treatment of the mentally ill, including persons of unsound mind, and their status; imposing certain responsibilities upon the Board for Texas State Hospitals and Special Schools and Texas State Department of Health; licensing mental hospitals op-

erated by private persons and political subdivisions; providing penalties for violations; providing the Act shall take effect on January 1, 1958; saving certain rights, obligations and procedures; repealing certain statutes and laws; and declaring an emergency. Acts 1957, 55th Leg., p. 505, ch. 243.

Art. 5547—2. Purpose

It is the purpose of this Code to provide humane care and treatment for the mentally ill and to facilitate their hospitalization, enabling them to obtain needed care, treatment and rehabilitation with the least possible

trouble, expense and embarrassment to themselves and their families and to eliminate so far as possible the traumatic effect on the patient's mental health of public trial and criminal-like procedures, and at the same time to protect the rights and liberty of every one. In providing care and treatment for the mentally ill, the State acts to protect the community from harm and to serve the public interest by removing the social and economic burden of the mentally ill on society and the burden and disturbing effect of the mentally ill person on the family, and by care and treatment in a mental hospital to restore him to a useful life and place in society. It is also the legislative purpose that Texas contribute its share to the nationwide effort through care, treatment and research to reduce the prevalence of mental illness. Acts 1957, 55th Leg., p. 505, ch. 243, § 2.

Art. 5547—3. Applicability of standard rules of construction and definitions

Unless specifically supplanted by this Code or unless the context otherwise requires, the provisions of Articles 10, 11, 12, 14, 22 and 23, Revised Civil Statutes of Texas, 1925, and of Acts, Fiftieth Legislature, 1947, Chapter 359, (compiled as Texas Civil Statutes, Article 23a (Vernon's 1948)) apply to this Code. Acts 1957, 55th Leg., p. 505, ch. 243, § 3.

Art. 5547—4. Definitions

As used in this Code, unless the context otherwise requires:

(a) "Board" means the Board for Texas State Hospitals and Special Schools.

(b) "person" includes firm, partnership, joint stock company, joint venture, association and corporation.

(c) "political subdivision" includes a county, city, town, village or hospital district in this State but does not include the Board or any other department, board or agency of the State having state-wide authority and responsibility.

(d) "physician" means a person licensed to practice medicine in the State of Texas or a person employed by a state mental hospital or by an agency of the United States, having a license to practice medicine in any state of the United States.

(e) "head of hospital" means the individual in charge of a hospital.

(f) "general hospital" means a hospital operated primarily for the diagnosis, care and treatment of the physically ill.

(g) "mental hospital" means a hospital operated for the primary purpose of providing in-patient care and treatment for the mentally ill. A hospital operated by an agency of the United States and equipped to provide in-patient care and treatment for the mentally ill shall be considered a mental hospital.

(h) "State mental hospital" means a mental hospital operated by the Board.

(i) "private mental hospital" means a mental hospital operated by any person or political subdivision.

(j) "patient" means any person admitted or committed to any mental hospital or any person under observation, care or treatment in a mental hospital.

(k) "mentally ill person" means a person whose mental health is substantially impaired. For purposes of this Code the term "mentally ill person" includes a person who is suffering from the mental conditions referred to in Article 1, Section 15a of the Constitution of the State of Texas.

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

(l) "mentally incompetent person" means a mentally ill person whose mental illness renders him incapable of caring for himself and managing his property and financial affairs.

(m) "next of kin" means spouse or nearest known relative who is legally of age.

(n) "resident of this State" means a person who has lived continuously in this State for a period of one (1) year or more and who has not acquired a residence in another state by living continuously therein for at least one (1) year subsequent to his residence in this State. Time spent in a public institution or on furlough therefrom is not included in determining residence in this or another state.

(o) "Department" means the Texas State Department of Health. Acts 1957, 55th Leg., p. 505, ch. 243, § 4.

Art. 5547—5. Admission not affected by certain conditions

"Mental illness" as used in this Code does not include epilepsy, senility, alcoholism or mental deficiency. However, no person who is mentally ill shall be barred from admission or commitment to a State mental hospital because he is also suffering from epilepsy, senility, alcoholism or mental deficiency. Acts 1957, 55th Leg., p. 505, ch. 243, § 5.

Art. 5547—6. Notice

Except as specifically provided herein, notice required by this Code may be given in any manner reasonably calculated to give actual knowledge to the person to be notified. Acts 1957, 55th Leg., p. 505, ch. 243, § 6.

Art. 5547—7. Section headings

Section headings are not a part of this Code. The section headings are mere catch-words designed to give some indication of the contents of the sections to which they are attached. Acts 1957, 55th Leg., p. 505, ch. 243, § 7.

Art. 5547—8. Certificate of medical examination for mental illness

A Certificate of Medical Examination for Mental Illness shall be dated and signed by the examining physician, and shall state:

- (a) The name and address of the examining physician;
- (b) The name and address of the person examined;
- (c) The date and place of the examination;
- (d) A brief diagnosis of the physical and mental condition of the person examined;
- (e) The period of time, if any, that the person examined has been under the care of the examining physician; and
- (f) The opinion of the examining physician as to whether the person examined is mentally ill, and if so—
 - (1) whether he requires observation and treatment in a mental hospital; or
 - (2) whether he requires hospitalization in a mental hospital; and
 - (3) whether, because of his mental illness, he is likely to cause injury to himself or to others if not immediately restrained.
- (g) An accurate description of the type or kind of treatment, if any, given or administered by or under the direction of the examining physician or the head of the hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 8.

Art. 5547—9. Additional powers of the board

In addition to the specific authority granted by other provisions of law, the Board is authorized to prescribe the form of applications, certificates, records and reports provided for under this Code and the information required to be contained therein; to require reports from the head of any mental hospital relating to the admission, examination, diagnosis, release or discharge of any patient; to visit each hospital regularly to review the commitment procedures of all new patients admitted between visits; to investigate by personal visit complaints made by any patient or by any person on behalf of a patient; and to adopt such rules and regulations not inconsistent with the provisions of this Code as may be necessary for proper and efficient hospitalization of the mentally ill. Acts 1957, 55th Leg., p. 505, ch. 243, § 9.

Art. 5547—10. Delegation of powers and duties

(a) Unless otherwise expressly provided in this Code, a power granted to, or a duty imposed upon the Board may be exercised or performed by an authorized employee, but the delegation of a duty does not relieve the Board from its responsibility.

(b) Unless otherwise expressly provided in this Code, a power granted to, or a duty imposed upon the head of a hospital may be exercised or performed by an authorized employee, but the delegation of a duty does not relieve the head of a hospital from his responsibility. Acts 1957, 55th Leg., p. 505, ch. 243, § 10.

Art. 5547—11. County court—probate court—open at all times

The term "county court" is used in this Code to mean the "probate court" or the court having probate jurisdiction, and the term "county judge" means the judge of such court. The county court shall be open at all times for proceedings under this Code. Acts 1957, 55th Leg., p. 505, ch. 243, § 11.

Art. 5547—12. Papers to be filed with clerk

All applications, petitions, certificates and all other papers permitted or required to be filed in the county court by this Code shall be filed with the county clerk of the proper county who shall file the same and endorse on each paper the date filed and the docket number and his official signature. Acts 1957, 55th Leg., p. 505, ch. 243, § 12.

Art. 5547—13. County attorney to represent state

Upon the request of the county judge, the county attorney or the district attorney in counties having no county attorney shall represent the State in commitment hearings under this Code. Acts 1957, 55th Leg., p. 505, ch. 243, § 13.

Art. 5547—14. Costs

(a) The county of legal residence of the patient shall pay the costs of Temporary Hospitalization, Indefinite Commitment and Re-examination and Hearing proceedings, including attorneys' fees and physicians' examination fees, and expenses of transportation to a State mental hospital or to an agency of the United States.

(b) For the amounts of these costs actually paid, the county is entitled to reimbursement by the patient or any person or estate liable for his support in a State hospital.

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

(c) Unless the patient or someone responsible for him is able to do so, the State shall pay the cost of transportation home of a discharged patient and the return of a patient absent without authority.

(d) Neither the county nor the State shall pay any costs for a patient committed to a private hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 14.

Art. 5547—15. Fees allowed court-appointed attorneys and physicians

The county judge may allow reasonable compensation to attorneys and physicians appointed by him under this Code. The compensation paid shall be taxed as costs in the case. Acts 1957, 55th Leg., p. 505, ch. 243, § 15.

Art. 5547—16. Return of committed patient to state of residence

(a) The Board may return a nonresident patient committed to a mental hospital in this State to the proper agency of the state of his residence.

(b) The Board may permit the return of any resident of this State who is committed to a mental hospital in another state.

(c) The head of a State mental hospital may detain a patient returned to this State from the state of his commitment for a period not to exceed ninety-six (96) hours pending order of the court in commitment proceedings in this State.

(d) All expenses incurred in returning committed patients to other states shall be paid by this State. The expense of returning residents of this State shall be borne by the states making the return. Acts 1957, 55th Leg., p. 505, ch. 243, § 16.

Art. 5547—17. Reciprocal agreements

The Board is authorized to enter into reciprocal agreements with the proper agencies of other states to facilitate the return to the states of their residence of patients committed to mental hospitals in this or other states. Acts 1957, 55th Leg., p. 243, ch. 505, § 17.

Art. 5547—18. Liability

All persons acting in good faith, reasonably and without negligence in connection with examination, certification, apprehension, custody, transportation, detention, treatment or discharge of any person, or in the performance of any other act required or authorized by this Code, shall be free from all liability, civil or criminal, by reason of such action. Acts 1957, 55th Leg., p. 505, ch. 243, § 18.

Art. 5547—19. Penalties for unwarranted commitment

Any person who wilfully causes or conspires with or assists another to cause the unwarranted commitment or hospitalization of any individual to a mental hospital is guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Five Thousand Dollars (\$5,000) or by imprisonment in the county jail not exceeding two (2) years or by both. Acts 1957, 55th Leg., p. 505, ch. 243, § 19.

Art. 5547—20. Penalties for violation of this Code

Any person who knowingly violates any provision of this Code is guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Five Thousand Dollars (\$5,000) or by imprisonment in the county jail not exceeding one (1) year or by both. Acts 1957, 55th Leg., p. 505, ch. 243, § 20.

Art. 5547—21. Enforcement officers

The Attorney General and the district attorneys and county attorneys, within their respective jurisdictions, shall prosecute violations of this Code. Acts 1957, 55th Leg., p. 505, ch. 243, § 21.

CHAPTER II—VOLUNTARY HOSPITALIZATION

| | |
|---|--|
| Art. 5547—22. Voluntary admission. | Art. 5547—25. Right to release. |
| 5547—23. Application for voluntary admission. | 5547—26. No commitment of voluntary patient. |
| 5547—24. Advising of patient's rights. | |

Art. 5547—22. Voluntary admission

The head of a mental hospital may admit as a voluntary patient any person for whom a proper application is filed, if he determines upon the basis of preliminary examination that the person has symptoms of mental illness and will benefit from hospitalization. Acts 1957, 55th Leg., p. 505, ch. 243, § 22.

Art. 5547—23. Application for voluntary admission

The application for admission of a person to a mental hospital as a voluntary patient:

(a) Shall be in writing and signed by the voluntary patient if he is legally of age or by his parent, legal guardian, or the county judge, with his consent, if he is not legally of age;

(b) Shall be filed with the head of the mental hospital to which admission is sought; and

(c) Shall state that the patient agrees to submit himself to the custody of the mental hospital for diagnosis, observation, care and treatment for an initial period of no less than ten (10) days unless sooner discharged, and thereafter to remain in the mental hospital until he is discharged or until the expiration of ninety-six (96) hours after written request for his release is filed with the head of the hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 23.

Art. 5547—24. Advising of patient's rights

Upon admission of a voluntary patient to a mental hospital, the head of the hospital shall inform the patient and any relative or friend who accompanies him to the hospital, in simple, non-technical language concerning:

(a) The right of a patient to leave the hospital ninety-six (96) hours after filing with the head of the hospital a written request for his release, signed by the patient or someone on his behalf and with his consent;

(b) The right of habeas corpus, which is not affected by his admission to a mental hospital as a voluntary patient;

(c) The fact that his civil rights and legal capacity are not affected by his admission to a mental hospital as a voluntary patient; and

(d) The "Rights of Patients" set forth in this Code. Acts 1957, 55th Leg., p. 505, ch. 243, § 24.

Art. 5547—25. Right to release

A voluntary patient shall be released within ninety-six (96) hours after written request for his release is filed with the head of the hospital

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signed by the patient or by someone on his behalf and with his consent, unless prior to the expiration of the ninety-six (96) hour period:

- (a) Written withdrawal of the request for release is filed, or
- (b) Application for Temporary Hospitalization or Petition for Indefinite Commitment is filed and the patient is detained in accordance with the provisions of this Code. Acts 1957, 55th Leg., p. 505, ch. 243, § 25.

Art. 5547—26. No commitment of voluntary patient

No Application for Temporary Hospitalization or Petition for Indefinite Commitment may be filed for the commitment of a voluntary patient to a mental hospital unless a request for his release has been filed with the head of the hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 26.

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PART 1. EMERGENCY ADMISSION PROCEDURE

Art. 5547—27. Authority of health or peace officer

Any health or peace officer who has reason to believe and does believe upon the basis of the conduct of a person or the circumstances under which he is found that the person is mentally ill and because of his mental illness is likely to cause injury to himself or others if not immediately restrained may, without warrant, take such person into protective custody and, without taking him before a judge, immediately transport him to a hospital and make written application for his admission for emergency observation and treatment. Provided, an order of the court shall be obtained from the county court within twenty-four (24) hours of the time a person is taken into protective custody. Such order of the court shall be served on the nearest of kin, if any, or upon a district judge of the

county. Provided that no person shall be taken into protective custody without an order of the court when there is no immediate danger of injury to himself or to others. Acts 1957, 55th Leg., p. 505, ch. 243, § 27.

Art. 5547—28. Emergency admission

The head of a mental hospital or a general hospital may admit and detain any person for emergency observation and treatment for a period not to exceed ninety-six (96) hours upon:

(a) Written application by a health or peace officer who has the person in his custody stating the circumstances under which the person was taken into custody and the officer's belief and the reasons therefor that the person is mentally ill and that because of his mental illness is likely to cause injury to himself or others if not immediately restrained; and

(b) The written and certified opinion of the medical officer on duty at the hospital after preliminary examination that the person has symptoms of mental illness and is likely to cause injury to himself or others if not immediately restrained. Acts 1957, 55th Leg., p. 505, ch. 243, § 28.

Art. 5547—29. Notification of admission

The head of the hospital admitting a person for emergency observation and treatment shall immediately give notice thereof by registered mail to the person's guardian or responsible relative, and shall report the admission to the Board. Acts 1957, 55th Leg., p. 505, ch. 243, § 29.

Art. 5547—30. Examination and certification

The head of the hospital shall have a physician examine every person within forty-eight (48) hours after his admission to a hospital for emergency observation and treatment and prepare a Certificate of Medical Examination for Mental Illness. A copy of the Certificate shall be sent forthwith to the person's guardian or responsible relative. Acts 1957, 55th Leg., p. 505, ch. 243, § 30.

**PART 2. TEMPORARY HOSPITALIZATION FOR
OBSERVATION AND/OR TREATMENT****Art. 5547—31. Application for temporary hospitalization**

A sworn Application for Temporary Hospitalization of a proposed patient may be filed with the county court of the county in which the proposed patient resides or is found. The Application may be made by any adult person, or by the county judge, and shall state upon information and belief that the proposed patient is not charged with a criminal offense, that he is mentally ill, and that for his own welfare and protection or the protection of others he requires observation and/or treatment in a mental hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 31.

Art. 5547—32. Examination by two physicians required

(a) Before a hearing may be had on an Application for Temporary Hospitalization there must be filed with the county court Certificates of Medical Examination for Mental Illness by two (2) physicians who have examined the proposed patient within five (5) days of the filing of the Certificate, each stating that the proposed patient is mentally ill and requires observation and/or treatment in a mental hospital.

(b) If the Certificates of two (2) physicians are not filed with the Application, the county judge shall appoint the necessary physicians, at

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

least one of whom shall be a psychiatrist if one is available in the county, to examine the proposed patient and file Certificates with the county court. The judge may order the proposed patient to submit to the examination. Acts 1957, 55th Leg., p. 505, ch. 243, § 32.

Art. 5547—33. Notice required

When an Application for Temporary Hospitalization is filed, the county judge shall set a date for a hearing to be held within fourteen (14) days of the filing of the Application. The proposed patient shall be personally served with a copy of the Application and written notice of the time and place of hearing thereon and of the order, if any, to submit to an examination for mental illness. A copy of the Application and notice shall be sent by registered mail to the guardian or a responsible relative of the proposed patient. When such application is filed, the county judge shall simultaneously appoint an attorney ad litem, if there is no attorney representing the proposed patient. Such attorney shall be furnished with all records and papers in said cause together with access to all the hospital and doctors' records in said cause. Acts 1957, 55th Leg., p. 505, ch. 243, § 33.

Art. 5547—34. Dismissal of application

Unless at the time set for hearing on the Application there are on file with the county court two (2) Certificates of Medical Examination for Mental Illness stating that the proposed patient is mentally ill and requires observation and/or treatment in a mental hospital, the county judge shall dismiss the Application and order the immediate release of the proposed patient if he is not at liberty. Acts 1957, 55th Leg., p. 505, ch. 243, § 34.

Art. 5547—35. Liberty pending hearing

Pending the hearing on the Application, the proposed patient may remain at liberty unless he is already a patient in a mental hospital or is placed under protective custody. Acts 1957, 55th Leg., p. 505, ch. 243, § 35.

Art. 5547—36. Hearing on the application

(a) The judge may hold the hearing on an Application for Temporary Hospitalization at any suitable place within the county. The hearing should be held in a physical setting not likely to have a harmful effect on the mental condition of the proposed patient in the event he is present.

(b) The proposed patient is not required to be present at the hearing, but he shall not be denied the right to be present.

(c) The court may exclude all persons not having a legitimate interest in the proceedings.

(d) The hearing shall be conducted in as informal a manner as is consistent with orderly procedure.

(e) The hearing shall be before the court without a jury, unless a jury is demanded by a person authorized to make such demand or by the proposed patient or by the court. Acts 1957, 55th Leg., p. 505, ch. 243, § 36.

Art. 5547—37. Findings on certificates

If at the hearing no one opposes temporary hospitalization of the proposed patient, the court may make its findings upon the basis of the Certificates of Medical Examination for Mental Illness on file with the court. Acts 1957, 55th Leg., p. 505, ch. 243, § 37.

Art. 5547—38. Order upon hearing

(a) If upon the hearing the court finds that the proposed patient is not mentally ill or does not require observation and/or treatment in a mental hospital, the court shall enter its order denying the Application and shall order the immediate release of the proposed patient if he is not at liberty.

(b) If upon the hearing the court finds that the proposed patient is mentally ill and requires observation and/or treatment in a mental hospital for his own welfare and protection or the protection of others, the court shall order that the mentally ill person be committed as a patient for observation and/or treatment in a mental hospital for a period not exceeding ninety (90) days. Acts 1957, 55th Leg., p. 505, ch. 243, § 38.

Art. 5547—39. Stay of order of temporary hospitalization

For good cause shown, the county judge may set aside an Order of Temporary Hospitalization and grant a motion for rehearing. Acts 1957, 55th Leg., p. 505, ch. 243, § 39.

PART 3. INDEFINITE COMMITMENT**Art. 5547—40. Prerequisite to commitment**

No Petition for the indefinite commitment of a person to a mental hospital may be filed unless he has been under observation and/or treatment in a mental hospital for at least sixty (60) days pursuant to an Order of Temporary Hospitalization entered within the twelve (12) months immediately preceding the filing of the Petition. Acts 1957, 55th Leg., p. 505, ch. 243, § 40.

Art. 5547—41. Petition

A sworn Petition for the indefinite commitment of a person to a mental hospital may be filed with the county court of the county in which the proposed patient is hospitalized, or if he is not hospitalized, the county in which he resides or is found. The Petition may be filed by any adult person, or by the county judge, and shall be styled "THE STATE OF TEXAS, FOR THE BEST INTEREST AND PROTECTION OF _____, AS A MENTALLY ILL PERSON." The Petition shall contain the following statements upon information and belief:

- (1) Name and address of the proposed patient.
- (2) Name and address of the proposed patient's spouse, parents, children, brothers, sisters, and legal guardian.
- (3) Name and address of petitioner and a statement of his interest in the proceeding, including his relationship, if any, to the proposed patient.
- (4) Name and address of the mental hospital, if any, in which the proposed patient is a patient.
- (5) That the proposed patient is not charged with a crime.
- (6) That the proposed patient has been under observation and/or treatment in a mental hospital for at least sixty (60) days pursuant to an Order of Temporary Hospitalization entered within the twelve (12) months immediately preceding the filing of the Petition.
- (7) That the proposed patient is mentally ill and requires hospitalization in a mental hospital for his own welfare and protection or the protection of others. Acts 1957, 55th Leg., p. 505, ch. 243, § 41.

tice of Hearing upon the proposed patient. The waiver of trial by jury shall be signed and sworn to by the proposed patient, or his next of kin, and by the attorney ad litem appointed to represent the proposed patient. Acts 1957, 55th Leg., p. 505, ch. 243, § 45.

Art. 5547—46. Form of waiver

The waiver of trial by jury shall be substantially as follows:
THE STATE OF TEXAS NO. _____ IN THE COUNTY
FOR THE BEST INTEREST COURT OF
AND PROTECTION OF _____ COUNTY, TEXAS

As a Mentally Ill Person

WAIVER OF TRIAL BY JURY

THE STATE OF TEXAS }
COUNTY OF _____ }

I, the proposed patient in the above entitled and numbered cause, hereby waive trial by jury and request that the county judge determine on the basis of competent medical or psychiatric testimony whether I shall be indefinitely committed to a mental hospital.

Subscribed and sworn to before me this _____ day of _____, 19____. Proposed Patient

Notary Public in and for _____ County, Texas.

THE STATE OF TEXAS }
COUNTY OF _____ }

I, the _____ of the proposed patient in the above entitled (relationship) and numbered cause, in his interest and for his protection and on his behalf, hereby waive trial by jury and request that the county judge determine on the basis of competent medical or psychiatric testimony whether the proposed patient shall be committed indefinitely to a mental hospital.

Subscribed and sworn to before me this _____ day of _____, 19____. Next of Kin

Notary Public in and for _____ County, Texas.

THE STATE OF TEXAS }
COUNTY OF _____ }

I, the attorney ad litem for the proposed patient in the above entitled and numbered cause, in his interest and for his protection and on his behalf, hereby waive trial by jury and request that the county judge determine on the basis of competent medical or psychiatric testimony whether the proposed patient shall be committed indefinitely to a mental hospital.

Subscribed and sworn to before me this _____ day of _____, 19____. Attorney Ad Litem

Notary Public in and for _____ County, Texas.

Art. 5547—47. Liberty pending hearing

Pending the hearing on the Petition the proposed patient may remain at liberty unless he is already a patient in a mental hospital or is placed under protective custody. Acts 1957, 55th Leg., p. 505, ch. 243, § 47.

Art. 5547—48. Trial by jury

The proposed patient shall not be denied the right to trial by jury. A jury shall determine the issues in the case if no waiver of jury trial is filed, or if jury trial is demanded by the proposed patient or his attorney at any time prior to the termination of the hearing, whether or not a waiver has been filed. The jury shall be summoned and impaneled in the same manner as in other civil cases in the county court. Acts 1957, 55th Leg., p. 505, ch. 243, § 48.

Art. 5547—49. Hearing on the petition

(a) The county judge may hold the hearing on the Petition at any suitable place within the county. The hearing should be held in a physical setting not likely to have a harmful effect on the mental condition of the proposed patient in the event he is present.

(b) The proposed patient is not required to be present at the hearing, but he shall not be denied the right to be present.

(c) The court may exclude all persons not having a legitimate interest in the proceedings.

(d) At least two (2) physicians who have examined the proposed patient within the fifteen (15) days immediately preceding the hearing shall testify at the hearing.

(e) If a waiver of trial by jury is filed and no jury is demanded, the hearing shall be before the court without a jury; otherwise the hearing shall be before a jury. Acts 1957, 55th Leg., p. 505, ch. 243, § 49.

Art. 5547—50. Medical testimony required

No person shall be indefinitely committed to a mental hospital except upon the basis of competent medical or psychiatric testimony. Acts 1957, 55th Leg., p. 505, ch. 243, § 50.

Art. 5547—51. Issues—findings

(a) The court or the jury, as the case may be, shall determine

(1) whether the proposed patient is mentally ill, and if so

(2) whether he requires hospitalization in a mental hospital for his own welfare and protection or the protection of others, and if so

(3) whether he is mentally incompetent.

(b) The court shall enter on its docket the findings of the court or jury on these issues. Acts 1957, 55th Leg., p. 505, ch. 243, § 51.

Art. 5547—52. Order upon hearing

(a) If the court or the jury, as the case may be, finds that the proposed patient is not mentally ill or that he does not require hospitalization in a mental hospital for his own welfare and protection or the protection of others, the court shall enter an order denying the Petition and discharging the proposed patient.

(b) If the court or the jury, as the case may be, finds that the proposed patient is mentally ill and requires hospitalization in a mental hospital for his own welfare and protection or the protection of others, the court shall order that the mentally ill person be committed as a patient to

a mental hospital for an indefinite period. Acts 1957, 55th Leg., p. 505, ch. 243, § 52.

Art. 5547—53. New trial

For good cause shown, the county judge within two (2) days after entering his Order of Indefinite Commitment, may set aside his order and grant a new trial to the person ordered committed. A motion for new trial is not prerequisite to appeal from the order of the county court. Acts 1957, 55th Leg., p. 505, ch. 243, § 53.

Art. 5547—54. Notice of appeal

The person ordered committed may appeal the Order of Indefinite Commitment by filing written notice thereof with the county court within thirty (30) days after the Order of Indefinite Commitment is entered. Acts 1957, 55th Leg., p. 505, ch. 243, § 54.

Art. 5547—55. Transcript on appeal

When notice of appeal is filed, the clerk shall immediately send a certified transcript of the proceedings to the district court of the county. Acts 1957, 55th Leg., p. 505, ch. 243, § 55.

Art. 5547—56. Stay order

For good cause shown, the county judge may stay the Order of Indefinite Commitment pending the appeal. Acts 1957, 55th Leg., p. 505, ch. 243, § 56.

Art. 5547—57. Trial of appeals

The appeal from the county court shall be by trial de novo in the district court in the same manner as cases appealed from the justice court to the county court. The substantial evidence rule shall not apply. Upon demand by the proposed patient, the trial shall be before a jury, otherwise the trial shall be before the court without a jury. Such cases shall be advanced on the docket and shall be given a preference setting over all other cases. Acts 1957, 55th Leg., p. 505, ch. 243, § 57.

**PART 4. ORDERS, TRANSPORTATION,
PROTECTIVE CUSTODY****Art. 5547—58. Designation of hospital**

In the Order of Temporary Hospitalization or Indefinite Commitment, the court shall commit the patient to a designated

- (a) State mental hospital;
- (b) private mental hospital; or
- (c) agency of the United States operating a mental hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 58.

Art. 5547—59. Commitment to a private mental hospital

The court may order a patient committed to a private mental hospital at no expense to the State upon:

- (a) Application signed by the patient or by his guardian or friend requesting that the patient be placed in a designated private mental hospital at the expense of the patient or the applicant, and
- (b) Agreement in writing by the head of the private mental hospital to admit the patient and to accept responsibility for him in accordance

with the provisions of this Code. Acts 1957, 55th Leg., p. 505, ch. 243, § 59.

Art. 5547—60. Commitment to an agency of the United States

(a) Upon receiving written notice from an agency of the United States operating a mental hospital stating that facilities are available and that the patient is eligible for care or treatment therein, the court may order a patient committed to the agency and may place the patient in the custody of the agency for transportation to the mental hospital.

(b) Any patient admitted pursuant to order of a court to any hospital operated by an agency of the United States within or without the State shall be subject to the rules and regulations of the agency.

(c) The head of the hospital operated by such agency shall have the same authority and responsibility with respect to the patient as the head of a State mental hospital.

(d) The appropriate courts of this State retain jurisdiction at any time to inquire into the mental condition of the patient so committed and the necessity of his continued hospitalization. Acts 1957, 55th Leg., p. 505, ch. 243, § 60.

Art. 5547—61. Person authorized to transport patient

(a) The court may authorize a relative or other responsible person having a proper interest in the welfare of the patient to transport him to the designated mental hospital.

(b) If the head of the designated hospital advises the court that hospital personnel are available for the purpose, the court may authorize the head of the hospital to transport the patient to the designated mental hospital.

(c) Otherwise, the court may authorize the sheriff to transport the patient to the designated mental hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 61.

Art. 5547—62. Writ of commitment

The court shall direct the clerk of the court to issue a writ of commitment in duplicate directed to the person authorized to transport the patient, commanding him to take charge of the patient and to transport the patient to the designated mental hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 62.

Art. 5547—63. Transcript

The clerk of the county court shall prepare two (2) certified transcripts of the proceedings in the Temporary Hospitalization or Indefinite Commitment Hearing, and shall send one (1) to the Board and one (1) to the head of the hospital to which the patient is committed. The clerk shall send with the transcript any available information concerning the medical, social and economic status and history of the patient and his family. Acts 1957, 55th Leg., p. 505, ch. 243, § 63.

Art. 5547—64. Transportation of patients

(a) Friends and relatives of the patient at their own expense may accompany him to the mental hospital.

(b) Every female patient shall be accompanied by a female attendant unless accompanied by her father, husband or adult brother or son during conveyance to the mental hospital.

(c) The patient shall not be transported in a marked police or sheriff's car or accompanied by officers in uniform if other means are available. Acts 1957, 55th Leg., p. 505, ch. 243, § 64.

Art. 5547—65. Acceptance of patient acknowledged

The head of the mental hospital, upon receiving a copy of the writ of commitment and admitting a patient, shall give the person transporting the patient a written statement acknowledging acceptance of the patient and of any personal property belonging to him and shall file a copy of the statement with the clerk of the committing court. Acts 1957, 55th Leg., p. 505, ch. 243, § 65.

Art. 5547—66. Order of protective custody

If in the county court in which an Application for Temporary Hospitalization or a Petition for Indefinite Commitment is pending, a Certificate of Medical Examination for Mental Illness is filed showing that the proposed patient has been examined within five (5) days of the filing of the Certificate and stating the opinion of the examining physician that the proposed patient is mentally ill and because of his mental illness is likely to cause injury to himself or others if not immediately restrained, the judge may order any health or peace officer to take the proposed patient into protective custody and immediately transport him to a designated mental hospital or other suitable place and detain him pending order of the court. Acts 1957, 55th Leg., p. 505, ch. 243, § 66.

Art. 5547—67. Detention in protective custody

(a) Persons detained in protective custody shall be detained in a mental hospital or other facility deemed suitable by the county health officer.

(b) No person shall be detained in protective custody in a nonmedical facility used for the detention of persons charged with or convicted of a crime except because of and during an extreme emergency and in no case for a period of more than seven (7) days.

(c) The county health officer shall see that persons held in protective custody receive proper care and medical attention pending removal to a mental hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 67.

CHAPTER IV—GENERAL HOSPITALIZATION PROVISIONS

Art.

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Art. 5547—68. Admission and detention

(a) The head of a mental hospital is authorized to admit and detain any patient in accordance with the following procedures provided in this Code:

- (1) Voluntary Hospitalization
- (2) Emergency Admission
- (3) Temporary Hospitalization
- (4) Indefinite Commitment

(b) Nothing in this Code prohibits the admission of voluntary patients to private mental hospitals in any lawful manner.

(c) This Code does not affect the admission to a State mental hospital of an alcoholic admitted in accordance with Acts, 1951, Fifty-second Legislature, Chapter 398 (compiled as Texas Civil Statutes, Article 3196c (Vernon's 1952 Supplement)) nor the admission of a person charged with a criminal offense admitted in accordance with Acts, Forty-fifth Legislature, Regular Session, 1937, Chapter 466 (compiled as Article 932a, Code of Criminal Procedure (Vernon's 1948)). Acts 1957, 55th Leg., p. 500, ch. 243, § 68.

Art. 5547—69. Persons charged with criminal offense

The sections of this Code concerning the discharge, furlough and transfer of a patient are not applicable to a person charged with a criminal offense who is admitted in accordance with Acts, Forty-fifth Legislature, Regular Session, 1937, Chapter 466 (compiled as Article 932a, Code of Criminal Procedure (Vernon's 1948)). Acts 1957, 55th Leg., p. 505, ch. 243, § 69.

Art. 5547—70. Care and treatment of patients

The head of a mental hospital shall provide adequate medical and psychiatric care and treatment for every patient in accordance with the highest standards accepted in medical practice. The head of a mental hospital may give the patient accepted psychiatric treatment and therapy. Acts 1957, 55th Leg., p. 505, ch. 243, § 70.

Art. 5547—71. Physical restraints

No physical restraint shall be applied to the person of a patient unless prescribed by a physician, and if applied the restraint shall be removed as soon as possible. Every use of physical restraint and the reasons therefor shall be made a part of the clinical record of the patient under the signature of the physician who prescribed the restraint. Acts 1957, 55th Leg., p. 505, ch. 243, § 71.

Art. 5547—72. Patients absent without authority

(a) The head of a mental hospital shall initiate action to regain custody of any patient who is absent without authority.

(b) It is the duty of any health or peace officer to take into protective custody and detain any such patient and to report the same to the head of the mental hospital or to the county judge and upon the order of either to transport the patient back to the mental hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 72.

Art. 5547—73. Transfer to state mental hospital

(a) The Board may transfer a patient from one State mental hospital to another whenever such transfer is deemed advisable, except that a voluntary patient may not be transferred without his consent.

(b) The head of a private mental hospital, upon notice to the committing court and to the Board, may for any reason transfer an involuntary patient to a State mental hospital designated by the Board. Acts 1957, 55th Leg., p. 505, ch. 243, § 73.

Art. 5547—74. Transfer to private mental hospital

The Board may transfer an involuntary patient to a private mental hospital, or the head of a private mental hospital may transfer an involuntary patient to another private mental hospital, at no expense to the State, upon:

(a) Application signed by the patient or by his guardian or friend requesting such transfer to a private mental hospital at the expense of the patient or applicant; and

(b) Agreement in writing by the head of the private mental hospital to admit the patient and to accept responsibility for him in accordance with the provisions of this Code; and

(c) Notice in writing of the transfer to the committing court. Acts 1957, 55th Leg., p. 505, ch. 243, § 74.

Art. 5547—75. Transfer to an agency of the United States

The Board or the head of a private mental hospital may transfer an involuntary patient to an agency of the United States upon notice to the committing court and notification by the agency that facilities are available and that the patient is eligible for care or treatment therein; provided however that the transfer of any involuntary patient to an agency of the United States shall be made only after an order approving the same has been entered by the county judge of the county of residence of the patient. Acts 1957, 55th Leg., p. 505, ch. 243, § 75.

Art. 5547—76. Transfer of records

The head of the mental hospital from which a patient is transferred shall send the patient's appropriate hospital records or copy thereof to the head of the mental hospital to which the patient is transferred. Acts 1957, 55th Leg., p. 505, ch. 243, § 76.

Art. 5547—77. Periodic examination required

The head of a mental hospital shall cause every patient to be examined as frequently as practicable, but not less often than each six (6) months. Acts 1957, 55th Leg., p. 505, ch. 243, § 77.

Art. 5547—78. Examination prior to release

Prior to the date upon which the head of the hospital is required to release a patient, a staff physician shall examine the patient and prepare a Certificate of Medical Examination for Mental Illness, a copy of which shall be sent to the committing court, if any.

(a) If the head of the hospital determines that the patient requires further hospitalization as a mentally ill person, and because of his mental illness is likely to cause injury to himself or others if not immediately restrained, the head of the hospital shall, prior to the date on which he is required to release the patient, cause to be filed in the county court of

the proper county a Certificate of Medical Examination for Mental Illness and an Application for Temporary Hospitalization or Petition for Indefinite Commitment, and thereupon may detain the patient pending order of the court.

(b) If the head of the hospital determines that the patient requires further hospitalization as a mentally ill person he shall so inform a responsible relative of the patient, and may cause an Application for Temporary Hospitalization or Petition for Indefinite Commitment to be filed in the county court of the proper county. Acts 1957, 55th Leg., p. 505, ch. 243, § 78.

Art. 5547—79. Furlough of patient

The head of a mental hospital may, after examination, furlough an improved patient and may at any time, by order, re-hospitalize a furloughed patient, provided, that the patient's mental condition warrants re-hospitalization. A patient on furlough remains subject to the orders of the head of the hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 79.

Art. 5547—80. Discharge of patients

(a) The head of a mental hospital may at any time discharge a patient if he determines after examination that the patient no longer requires hospitalization.

(b) The head of a mental hospital may at any time discharge a patient on furlough, and shall discharge a patient who has been on furlough status for a continuous period of eighteen (18) months.

(c) The head of a mental hospital may discharge a non-resident patient who has been absent without authority for a continuous period of thirty (30) days.

(d) Upon the discharge of a patient, the head of the mental hospital shall prepare a Certificate of Discharge stating the basis therefor. The Certificate of Discharge shall be filed with the committing court, if any, and a copy thereof delivered or mailed to the patient. Acts 1957, 55th Leg., p. 505, ch. 243, § 80.

Art. 5547—81. Effect of discharge

(a) The discharge of a patient terminates the period of commitment; and a discharged patient shall not be again hospitalized other than in accordance with the provisions of this Code.

(b) The discharge of a patient who has been found to be mentally incompetent terminates the presumption that he is mentally incompetent. Acts 1957, 55th Leg., p. 505, ch. 243, § 81.

Art. 5547—82. Re-examination—hearing—discharge

(a) Any patient, or his next friend on his behalf and with his consent, may petition the county judge of the county in which the patient is hospitalized for re-examination and hearing to determine whether the patient requires continued hospitalization as a mentally ill person.

(b) Upon the filing of the Petition the county judge shall immediately notify the head of the mental hospital in which the patient is hospitalized.

(c) Upon receipt of notice, the head of the hospital shall cause the patient to be examined. If he determines that the patient no longer requires hospitalization as a mentally ill person, the head of the hospital shall immediately discharge the patient. If he determines that the patient requires hospitalization as a mentally ill person, he shall file a Certificate of

Medical Examination for Mental Illness with the county court within ten (10) days after the filing of the Petition for Re-examination and Hearing.

(d) At the expiration of the ten-day period, if the head of the hospital has filed a Certificate of Medical Examination for Mental Illness stating that the patient requires hospitalization as a mentally ill person, or if the head of the hospital has failed to file a Certificate of Medical Examination for Mental Illness and has not discharged the patient, the county judge shall set a date and place for hearing on the petition and give notice thereof to the patient and the head of the hospital, and shall appoint a physician not on the staff of a mental hospital to examine the patient and file a Certificate of Medical Examination for Mental Illness with the court. The court shall enter the necessary orders to insure that the patient may, if he desires, be examined by a physician of his own choosing at his own expense.

(e) The hearing shall be before the court without a jury.

(f) If the court finds that the patient does not require continued hospitalization as a mentally ill person, the court shall order the head of the hospital to discharge the patient. Otherwise, he shall dismiss the Petition.

(g) When the Petition for Re-examination and Hearing is filed before the expiration of one (1) year after the Order of Indefinite Commitment or before the expiration of two (2) years after the filing of a similar Petition, the county judge is not required to order such re-examination and hearing. Acts 1957, 55th Leg., p. 505, ch. 243, § 82.

Art. 5547—83. Legal competency

(a) The judicial determination under this Code that a person is mentally incompetent creates a presumption that the person continues to be mentally incompetent until he is discharged from the mental hospital or until his mental competency is redetermined by a court.

(b) The judicial determination that a person is mentally ill or the admission or commitment of a person to a mental hospital, without a finding that he is mentally incompetent, does not constitute a determination or adjudication of the mental competency of the person and does not abridge his rights as a citizen or affect his property rights or legal capacity. Acts 1957, 55th Leg., p. 505, ch. 243, § 83.

Art. 5547—84. No effect on guardianship

No action taken or determination made under this Code and no provision of this Code shall affect any guardianship established in accordance with law. Acts 1957, 55th Leg., p. 505, ch. 243, § 84.

Art. 5547—85. Writ of habeas corpus

Nothing herein shall be construed to abridge the right of any person to a Writ of Habeas Corpus. Acts 1957, 55th Leg., p. 505, ch. 243, § 85.

Art. 5547—86. Rights of patients

(a) Subject to the general rules and regulations of the hospital and except to the extent that the head of the hospital determines that it is necessary for the welfare of the patient to impose restrictions, every patient in a mental hospital has the following rights:

- (1) to receive visitors;
- (2) to religious freedom in accordance with the principles, tenets, or teachings of any well-established church, if requested by the patient or if requested by his next of kin or guardian;

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

(3) to communicate with persons outside the hospital; and
 (4) to communicate by uncensored and sealed mail with legal counsel, the Board, the courts and the Attorney General of the State.

(b) Any restriction imposed by the head of the hospital on the exercise of these rights for the welfare of a particular patient and the reasons for the restriction shall be made a part of the clinical record of the patient. Acts 1957, 55th Leg., p. 505, ch. 243, § 86.

Art. 5547—87. Disclosure of information

(a) Hospital records which directly or indirectly identify a patient, former patient, or proposed patient shall be kept confidential except where

(1) consent is given by the individual identified, his legal guardian, or his parent if he is a minor;

(2) disclosure may be necessary to carry out the provisions of this Code;

(3) a court directs upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make such disclosure would be contrary to the public interest, or

(4) the Board or the head of the hospital determines that disclosure will be in the best interest of the patient.

(b) Nothing in this section shall preclude disclosure of information as to the patient's current condition to members of his family or to his relatives or friends. Acts 1957, 55th Leg., p. 505, ch. 243, § 87.

CHAPTER V—PRIVATE MENTAL HOSPITALS

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| Art. | Art. |
| 5547—88. License required. | 5547—95. Rules, regulations and standards. |
| 5547—89. Physician in charge. | 5547—96. Records and reports. |
| 5547—90. Application for license. | 5547—97. Powers of investigation. |
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Art. 5547—88. License required

Ninety (90) days after the effective date of this Code, no person or political subdivision may operate a mental hospital unless licensed to do so by the Department. Acts 1957, 55th Leg., p. 505, ch. 243, § 88.

Art. 5547—89. Physician in charge

Every licensed private mental hospital shall be in the charge of a physician who is certified by the American Board of Psychiatry and Neurology or by the American Osteopathic Board of Psychiatry and Neurology or who has had at least three (3) years experience as a physician in psychiatry in a mental hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 89.

Art. 5547—90. Application for license

(a) Application for license to operate a private mental hospital shall be made on forms prescribed by the Department. The Department shall prepare the application forms and make them available upon request. The application shall be sworn to and shall set forth:

(1) The name and location of the mental hospital;

(2) The name and address of the physician to be in charge of hospital care and treatment of mental patients;

(3) The name and addresses of the owners of the hospital, including the officers, directors and principal stockholders if the owner is a corporation or other association;

(4) The bed capacity to be authorized by the license;

(5) The number, duties and qualifications of the professional staff;

(6) A description of the equipment and facilities of the hospital;

(7) Such other information as the Department may require, which may include affirmative evidence of ability to comply with such standards, rules and regulations as the Department may prescribe.

(b) The applicant shall submit a plan of the premises to be occupied as a mental hospital, describing the buildings and grounds and the uses intended to be made of the various portions of the premises. Acts 1957, 55th Leg., p. 505, ch. 243, § 90.

Art. 5547—91. License issuance

(a) After receipt of proper application for license and the required fees, the Department shall make such investigation as it deems desirable. If the Department finds that the premises are suitable and that the applicant is qualified to operate a mental hospital in accordance with the requirements and standards established by law and by the Department, the Department shall issue a license authorizing the designated licensee to operate a mental hospital on the premises described and for the bed capacity specified in the license.

(b) The authorized bed capacity may be increased at any time upon the approval of the Department and may be reduced at any time by notifying the Department.

(c) A license issued by the Department is not transferable or assignable.

(d) A license remains in effect until suspended or revoked by the Department, or surrendered by the licensee. Acts 1957, 55th Leg., p. 505, ch. 243, § 91.

Art. 5547—92. Application and license fees

(a) An application fee and a license fee shall accompany the application for a license. If the Department denies the license, only the license fee shall be returned. The application fee is Twenty-five Dollars (\$25). The annual license fee payable on August 31, of each year is Fifty Dollars (\$50).

(b) All fees collected under this chapter shall be deposited with the State Treasurer to the credit of the Department. Acts 1957, 55th Leg., p. 505, ch. 243, § 92.

Art. 5547—93. Denial, suspension or revocation of license

(a) After giving an applicant or licensee opportunity to demonstrate or achieve compliance and after notice and opportunity for hearing, the Department may deny, suspend, or revoke a license, if it finds substantial failure by the applicant or licensee to comply with the rules or regulations established by the Department or the provisions of this Code.

(b) If, after investigation, the Department finds that there is immediate threat to health or safety of patients or employees of a private mental hospital, the Department may temporarily suspend a license for ten (10) days pending a hearing on the suspension order, and may issue orders necessary for the welfare of the patients.

(c) The Department shall prescribe the procedure for hearings under this chapter.

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

(d) The legal staff of the Department may participate in the hearings.

(e) The proceedings of the hearing shall be recorded in such form that the record can be transcribed if notice of appeal is filed.

(f) The Department shall send a copy of the decision by registered mail to the applicant or licensee notifying him of the action taken by the Department. A decision denying, suspending or revoking a license shall contain findings and conclusions upon which the decision is based. Acts 1957, 55th Leg., p. 505, ch. 243, § 93.

Art. 5547—94. Judicial review

(a) Any applicant or licensee may appeal from the decision of the Department by filing notice of appeal in the District Court of Travis County and with the Department within thirty (30) days after receiving a copy of the decision of the Department.

(b) Upon receiving notice of appeal, the Department shall certify and file with the court a transcript of the proceedings in the case. By stipulation the transcript may be limited.

(c) The court shall hear the case upon the record and may consider such other evidence as in its discretion may be necessary to properly determine the issues involved. The substantial evidence rule shall not apply.

(d) The court may affirm or set aside the decision of the Department or may remand the case for further proceedings before the Department.

(e) If the court affirms the decision of the Department, the applicant or licensee shall pay the cost of the appeal; otherwise the Department shall pay the cost of the appeal. Acts 1957, 55th Leg., p. 505, ch. 243, § 94.

Art. 5547—95. Rules, regulations and standards

(a) The Department may prescribe such rules, regulations and standards, not inconsistent with the Constitution and the laws of this State, as it considers necessary and appropriate to insure proper care and treatment of patients in private mental hospitals.

(b) Before any rule, regulation or standard is adopted the Department shall give notice and opportunity to interested persons to participate in the rule making.

(c) The rules, regulations and standards adopted by the Department under this Chapter shall be filed with the Secretary of State and shall be published and available on request from the Secretary of State.

(d) A copy of these rules shall be sent to each licensed private mental hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 95.

Art. 5547—96. Records and reports

The Department may require every licensee to make annual, periodical and special reports, and to keep such records as it considers necessary to insure compliance with the provisions of this Code and the rules, regulations and standards of the Department. Acts 1957, 55th Leg., p. 505, ch. 243, § 96.

Art. 5547—97. Powers of investigation

(a) The Department may make such investigations as it deems necessary and proper to obtain compliance with the provisions of this Code and such rules, regulations and standards as the Department prescribes.

(b) Any duly authorized agent of the Department may at any reasonable time enter upon the premises of any private mental hospital to in-

spect the facilities and conditions, to observe the program for care and treatment, to question employees of the hospital, and may have access for the purpose of examination and transcription to such records and documents as are relevant to the investigation. Acts 1957, 55th Leg., p. 505, ch. 243, § 97.

Art. 5547—98. Administration of oaths—examination of witnesses—subpoenas

(a) For the purpose of any investigation or other proceedings under this Chapter, the Department, or its duly authorized agent, is empowered to administer oaths and affirmations, examine witnesses, receive evidence and to issue subpoenas to require the attendance and testimony of witnesses and the production of all documents or records relating to any matter under inquiry. The attendance of witnesses and the production of any such records may be required from any place within the State of Texas.

(b) In case of refusal to obey a subpoena, the Department may apply to the District Court of Travis County for an order requiring obedience to the subpoena. Acts 1957, 55th Leg., p. 505, ch. 243, § 98.

Art. 5547—99. Injunction

(a) For cause shown, the District Court of Travis County shall have jurisdiction to restrain violation of this Chapter.

(b) The Department may maintain an action in the name of the State of Texas for injunction or other process against any person or political subdivision to restrain the unlicensed operation of a mental hospital. Acts 1957, 55th Leg., p. 505, ch. 243, § 99.

CHAPTER VI—FORMAL PROVISIONS

Art.

5547—100. Applicability of this Code.

5547—101. Saving clause.

5547—102. Severability.

Art.

5547—103. Repealer.

5547—104. Emergency clause.

Art. 5547—100. Applicability of this Code

This Code applies to any conduct, transaction or proceeding within its terms which occurs after the effective date of this Code, whether the patient concerned in the conduct, transaction or proceeding was admitted or committed before or after the effective date of this Code. In particular, the discharge under this Code of any patient committed to a mental hospital under the prior law terminates any presumption that he is mentally incompetent. However, a proceeding for the commitment of a person to a State mental hospital begun before the effective date of this Code is governed by the law existing at the time the proceeding was begun and for this purpose the law shall be treated as still remaining in force. Unless these proceedings are completed within nine (9) months after the effective date of this Code they shall be governed by the provisions of this Code. Acts 1957, 55th Leg., p. 505, ch. 243, § 100.

Art. 5547—101. Saving clause

The repeal of any law by this Code shall not affect or impair any act done or right, obligation or penalty existing or accrued under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any

such act, right, obligation or penalty. Acts 1957, 55th Leg., p. 505, ch. 243, § 101.

Art. 5547—102. Severability

If any provision of this Code or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of the Code which can be given effect without the invalid provision or application, and to this end the provisions of this Code are declared severable. Acts 1957, 55th Leg., p. 505, ch. 243, § 102.

Art. 5547—103. Repealer

The following Statutes and Acts, together with all laws or parts of laws in conflict herewith, are hereby repealed:

Revised Civil Statutes of Texas, 1925, Articles 5551, 5552, 5553, 5558, 5560, 3193, 3193a, 3193b, 3193c, 3193d, 3193e, 3193f, 3193g, 3193j, 3193k, 3193l, 3193m, 3193n, 3194, 3195, 3196.

Revised Civil Statutes of Texas, 1925, Article 5550, as amended, Acts, 1937, Forty-fifth Legislature, Chapter 445, Section 1; Article 5557, as amended, Acts, 1925, Thirty-ninth Legislature, Chapter 76, Section 2; Article 5559, as amended, Acts, 1925, Thirty-ninth Legislature, Chapter 76, Section 3, Acts, 1937, Forty-fifth Legislature, Second Called Session, Chapter 57, Section 1; Article 5561, as amended, Acts, 1929, Forty-first Legislature, First Called Session, Chapter 101, Acts, 1933, Forty-third Legislature, Chapter 200; Article 3193h, as amended, Acts, 1943, Forty-eighth Legislature, Chapter 152, Section 1; Article 3193i, as amended, Forty-eighth Legislature, Chapter 266, Section 1; Article 3193o, as amended, Acts, 1925, Thirty-ninth Legislature, Chapter 174, Section 25.

Acts, 1925, Thirty-ninth Legislature, Chapter 76, Section 1 (compiled as Texas Civil Statutes, Article 5554 (Vernon's 1948)); Sections 1 through 5 of Acts, 1937, Forty-fifth Legislature, Chapter 446 (compiled as Texas Civil Statutes 5561a (Vernon's 1948)); Acts, 1949, Fifty-first Legislature, Chapter 435, as amended by Acts, 1951, Fifty-second Legislature, Chapter 480, Section 1 (compiled as Texas Civil Statutes 5561b (Vernon's 1952 Supplement)); Acts, 1955, Fifty-fourth Legislature, Chapter 183, Section 1 (compiled as Texas Civil Statutes 5561b—1 (Vernon's 1956 Supplement)); Acts, 1937, Forty-fifth Legislature, Chapter 268 (compiled as Texas Civil Statutes, Article 3193o—1 (Vernon's 1948)); Acts, 1943, Forty-eighth Legislature, Chapter 226 (compiled as Texas Civil Statutes, Article 3193o—2 (Vernon's 1948)); Acts, 1955, Fifty-fourth Legislature, Chapter 411 (compiled as Texas Civil Statutes Article 3193—1 (Vernon's 1956 Supplement)); Acts, 1951, Fifty-second Legislature, Chapter 481 (compiled as Texas Civil Statutes, Article 3196d (Vernon's 1952 Supplement)); Acts, 1925, Thirty-ninth Legislature, Chapter 174, Section 22 (compiled as Texas Penal Code, Article 427a (Vernon's 1948)); Section 5 of Acts, 1949, Fifty-first Legislature, Chapter 406 (compiled as Texas Civil Statutes, Article 3232a (Vernon's 1950 Supplement)); Acts, 1955, Fifty-fourth Legislature, Chapter 38 (compiled as Texas Civil Statutes, Article 3174b—1 (Vernon's 1956 Supplement)). Acts 1957, 55th Leg., p. 505, ch. 243, § 103.

Art. 5547—104. Emergency clause

The facts stated in the Purpose Section of this Code create an emergency and a case of imperative public necessity; therefore, the Constitutional Rule requiring bills to be read on three several days in each House is suspended, and this Code shall take effect on January 1, 1958. Acts 1957, 55th Leg., p. 505, § 104.

II. MISCELLANEOUS PROVISIONS

Art.
5547-5561b-1. Repealed.

Arts. 5550-5554. Repealed. Acts 1957, 55th Leg., p. 505, ch. 243, § 103

Arts. 5557 to 5561b-1. Repealed. Acts 1957, 55th Leg., p. 505, ch. 243, § 103

Art. 5561c. Alcoholism

Financing of operations

Sec. 18. 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 and such other funds as the Legislature may from time to time appropriate for this purpose. Funds for the operation of local councils on alcoholism shall be expended during this biennium only if matched locally, and it is the intent of this Legislature that hereafter such activities shall be financed locally. As amended Acts 1957, 55th Leg., p. 794, ch. 329, § 1.

TITLE 94—MILITIA—SOLDIERS, SAILORS AND MARINES

CHAPTER ONE—GENERAL PROVISIONS

Art. 5766. 5765. Who are subject

All able-bodied citizens, male and female, and able-bodied males and females of foreign birth who have declared their intention to become citizens, who are residents of this State and males between eighteen and forty-five years of age and females between twenty-one and forty-five years of age, and who are not exempted by the laws of the United States or of this State, shall constitute the militia and be subject to military duty. As amended Acts 1957, 55th Leg., p. 443, ch. 215, § 1.

Emergency. Effective May 10, 1957.

CHAPTER THREE—NATIONAL GUARD

Art.

5845a. Construction as compensation for services; disabled men [New].

Art. 5845. 5846. Disabled men

(a) Every member of the military forces of this State who shall be wounded, disabled or injured, or who shall contract any disease or illness, in line of duty while in the service of this State in case of riot, tumult, breach of the peace, resistance to process, invasion, insurrection, or imminent danger thereof, or whenever called upon in aid of the civil authorities, or when participating in any training formation or activity under order of the commanding officer of his unit, or while traveling to or from his place of duty in such instances, shall be entitled to and shall receive, or be reimbursed for, hospitalization, rehospitization, and medical and surgical care in a hospital and at his home appropriate for the treatment of such wounding, disability, injury, disease or illness, and necessary transportation incident thereto until the resulting disability cannot be materially improved by further hospitalization or treatment, and shall receive the same pay and allowance whether in money or in kind, to which he was entitled at the time when the injury was incurred or the disease or illness contracted, during the period of his disability but not for more than a total of six (6) months after the end of his tour of duty, and in the event of his death in such cases, his estate shall be entitled to any reimbursement for which the deceased would have been entitled and to his accrued pay and allowances and compensation or reimbursement for actual funeral expenses not to exceed the sum of Five Hundred Dollars (\$500), such compensation or reimbursement, as well as the cost of carrying out the other provisions of this Article, shall be paid out of any funds in the State Treasury available to or appropriated for the use of the military forces of this State in the same manner provided for other expenditure of State funds; provided, however, that no compensation or reimbursement shall be paid in any case where the same is payable under the provisions of any Federal law or regulation.

(b) The Adjutant General shall administer the provisions of this Act and may prescribe such rules and regulations not inconsistent with law as may be necessary to carry out the provisions of this Act and the decision as to whether any wounding, disability, injury, disease, illness or death is in line of duty or as a result thereof, shall be made by the Adju-

tant General after proper investigation and hearing pursuant to such regulations as he may prescribe. As amended Acts 1957, 55th Leg., p. 1360, ch. 461, § 1.

Section 3 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act. Section 4 repealed all conflicting laws and parts of laws to the extent of such conflict.

Section 5, which was an emergency clause, provided that Acts 1957, 55th Leg., p. 1360, ch. 461, should be in full force and effect September 1, 1957. The Act was passed by the House on May 6, 1957, by a vote of 139 Yeas to 3 Nays and was passed by the Senate on May 22, 1957 by a viva-voce vote.

Art. 5845a. Construction as compensation for services; disabled men

The provisions of this Act shall in no wise be construed to be a gratuity but shall be construed to be compensation for services for which each member of the military forces of this State shall be deemed to have bargained for and considered as a condition of his enlistment and employment. Acts 1957, 55th Leg., p. 1360, ch. 461, § 2.

Art. 5890b. National Guard Armory Board

Section 1. There is hereby created the Texas National Guard Armory Board to be composed of the Commanding General of the 36th Infantry Division; the Commanding General of the 49th Armored Division; the Commanding General of the XLI Corps Artillery; the Chief of Staff of the Texas Air National Guard and the Commanding Officer of the 112th Armored Cavalry Regiment; provided, however, that the persons now serving as members of the Texas National Guard Armory Board as specified in Section 1, Chapter 184, Acts of the Forty-fourth Legislature, Regular Session, 1935, as amended, shall each serve out his term of office, and upon the position of each of them becoming vacant, the position of each becoming vacant for the first time, respectively, shall be filled by one (1) of the officers named in this Act and in the order in which such officers are named in this Act. Each person who may thereafter hold one (1) of the offices in the Texas National Guard named in this Act shall follow his predecessor in such office, respectively, as a member of the Texas National Guard Armory Board also.

The senior and junior, in length of service, of the members of said Board shall be, respectively, chairman and treasurer thereof, and the persons holding such offices shall change as length of service may determine when changes in the membership of said Board occur.

The Board shall act by resolution adopted at a meeting thereof and held in accordance with its bylaws and rules and regulations. Any three (3) of the above named members of the Board shall constitute a quorum for the transaction of business at all meetings, and any action taken by the majority of the members of the Board present at any meeting thereof shall be deemed to be the action of the Board for all purposes.

"It shall be the duty of the Board to select a place for the headquarters of said Board and such place of headquarters may be changed, from time to time, as the majority of said Board may determine, provided, however, that such headquarters shall be in Travis County. As amended Acts 1957, 55th Leg., p. 281, ch. 130, § 1.

Emergency. Effective April 30, 1957.

Section 2 of the amendatory Act of 1957 was a severability provision.

TITLE 96A—MINORS—LIABILITY OF PARENTS FOR ACTS OF MINORS [NEW]

Art.

5923—1. Malicious and wilful damage to or destruction of property—civil liability of parents.

Art. 5923—1. Malicious and wilful damage to or destruction of property—civil liability of parents

Section 1. Any property owner, including any municipal corporation, county, school district, or other political subdivision of the State of Texas, or any department or agency of the State of Texas, or any person, partnership, corporation or association, or any religious organization whether incorporated or unincorporated, shall be entitled to recover damages in an amount not to exceed Three Hundred Dollars (\$300) from the parents of any minor under the age of eighteen (18) years and over the age of ten (10), who maliciously and wilfully damages or destroys property, real, personal or mixed, belonging to such owner. However, this Act shall not apply to parents whose parental custody and control of such child has been removed by court order, decree, or judgment.

Sec. 2. The suit may be brought in any court of competent jurisdiction, and venue thereof shall be governed by the statutes regulating venue in actions based upon trespass. The recovery shall be limited to the actual damages in an amount not to exceed Three Hundred Dollars (\$300), in addition to taxable court costs.

Sec. 3. The action authorized in this Act shall be in addition to all other actions which the owner is entitled to maintain and nothing in this Act shall preclude recovery in a greater amount from the minor or from any other person, including the parents, for damages to which such minor or other person would otherwise be liable, it being the purpose of this Act to authorize recovery from parents, and to limit the amount of the recovery, in situations where they would not otherwise be liable. Acts 1957, 55th Leg., p. 783, ch. 320.

Effective 90 days after May 23, 1957, date of adjournment.

Title of Act:

An Act to authorize the recovery of civil damages due to the malicious and wilful damage to or destruction of property by minors; limiting the amount of recovery

to Three Hundred Dollars (\$300); making the Act cumulative of other laws on the subject; and declaring an emergency. Acts 1957, 55th Leg., p. 783, ch. 320.

TITLE 96B—GIFTS TO MINORS [NEW]

Art.
5923—101. Texas Uniform Gifts to Minors
Act.

Art. 5923—101. Texas Uniform Gifts to Minors Act

Definitions

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

(a) An "adult" is a person who has attained the age of twenty-one (21) years.

(b) A "bank" is a state bank, a national bank, a state building and loan association, or a federal savings and loan association.

(c) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(d) "Court" means the county court, a probate court, or other court exercising original probate jurisdiction.

(e) "The custodial property" includes:

(1) all securities and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this Act;

(2) the income from the custodial property; and

(3) the proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment or other disposition of such securities, money and income.

(f) A "custodian" is a person so designated in a manner prescribed in this Act.

(g) A "guardian" of a minor includes the general guardian, guardian, tutor or curator of his property, estate or person.

(h) An "issuer" is a person, firm or corporation who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(i) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

(j) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(k) A "minor" is a person under twenty-one years of age who has never been married, except persons under that age whose disabilities of minority have been removed generally in accordance with the laws of this State.

(l) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, collateral trust certificate, transferable share, voting trust certificate, investment contract, or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of

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which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(m) A "transfer agent" is a person, firm or corporation who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(n) A "trust company" is a bank authorized to exercise trust powers in this State.

Manner of Making Gift

Sec. 2. (a) An adult person may, during his lifetime, make a gift of a security or money to a person who is a minor on the date of the gift:

(1) if the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person or a trust company, followed, in substance, by the words: "as custodian for _____ under the Texas Uniform Gifts to Minors Act";

(name of minor)

(2) if the subject of the gift is a security not in registered form, by delivering it to an adult person other than the donor or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

"GIFT UNDER THE TEXAS UNIFORM GIFTS TO MINORS ACT

I, _____, hereby deliver to _____ as
(name of donor) (name of custodian)
custodian for _____ under the Texas Uniform Gifts
(name of minor)

to Minors Act, the following security(ies): (insert an appropriate description of the security or securities delivered sufficient to identify it or them)

(signature of donor)

_____ hereby acknowledges receipt of the above de-
(name of custodian)
scribed security(ies) as custodian for the above minor under the Texas
Uniform Gifts to Minors Act.

Dated: _____

(signature of custodian)"

(3) if the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of the donor, another adult person or a bank with trust powers, followed, in substance, by the words: "as custodian for _____ under the Texas Uni-
(name of minor)

form Gifts to Minors Act."

(b) Any gift made in a manner prescribed in Subsection (a) may be made to only one minor and only one person may be the custodian.

(c) A donor who makes a gift to a minor in a manner prescribed in Subsection (a) shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this Subsection, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

Effect of Gift

Sec. 3. (a) A gift made in a manner prescribed in this Act is irrevocable and conveys to the minor indefeasibly vested legal title to the security or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this Act.

(b) By making a gift in a manner prescribed in this Act, the donor incorporates in his gift all the provisions of this Act and grants to the custodian, and to any issuer, transfer agent, bank, broker or third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this Act.

Duties and Powers of Custodian

Sec. 4. (a) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

(b) The custodian shall pay over to the minor for expenditure by him, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

(c) The court, on the petition of a parent or guardian of the minor, or of the minor if he has attained the age of fourteen (14) years, may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of twenty-one (21) years or ceasing to be a minor by marriage or general removal of disabilities of minority, or, if the minor dies before attaining the age of twenty-one (21) years, he shall thereupon deliver or pay it over to the estate of the minor.

(e) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this Act.

(f) The custodian may sell, exchange, convert or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable, provided that a custodian may not acquire as custodial property any property other than securities or money. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer of a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

(g) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in sub-

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stance, by the words: "as custodian for _____ under
(name of minor)

the Texas Uniform Gifts to Minors Act." The custodian shall hold all money which is custodial property in an account with a broker or in a bank in the name of the custodian, followed, in substance, by the words: "as custodian for _____ under the Texas Uniform Gifts

(name of minor)
to Minors Act." The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

(h) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of fourteen (14) years.

(i) A custodian has and holds as powers in trust, with respect to the custodial property, in addition to the rights and powers provided in this Act, all the rights and powers which a guardian has with respect to property not held as custodial property.

Custodian's Expenses, Compensation, Bond and Liabilities

Sec. 5. (a) A custodian is entitled to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties.

(b) A custodian may act without compensation for his services.

(c) Unless he is a donor, a custodian may receive from the custodial property reasonable compensation for his services determined by one of the following standards in the order stated:

- (1) A direction by the donor when the gift is made;
- (2) The statute of this State applicable to guardians;
- (3) An order of the court.

(d) Except as otherwise provided in this Act a custodian shall not be required to give a bond for the performance of his duties.

(e) A custodian not compensated for his services is not liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing or gross negligence or from his failure to maintain the standard of prudence in investing the custodial property provided in this Act.

Exemption of Third Persons From Liability

Sec. 6. No issuer, transfer agent, bank, broker or other person acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated by the purported donor or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this Act, or is obliged to inquire into the validity or propriety under this Act of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him.

Resignation, Death or Removal of Custodian; Bond; Appointment of Successor Custodian

Sec. 7. (a) Only an adult member of the minor's family, a guardian of the minor or a trust company is eligible to become successor custodian.

A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this Act.

(b) A custodian, other than the donor, may resign and designate his successor by:

(1) executing an instrument of resignation designating the successor custodian; and

(2) causing each security which is custodial property and in registered form to be registered in the name of the successor custodian followed, in substance, by the words: "as custodian for _____

(name of minor)

under the Texas Uniform Gifts to Minors Act"; and

(3) delivering to the successor custodian the instrument of resignation, each security registered in the name of the successor custodian and all other custodial property, together with any additional instruments required for the transfer thereof.

(c) A custodian, whether or not a donor, may petition the court for permission to resign and for the designation of a successor custodian.

(d) If the person designated as custodian is not eligible, renounces or dies before the minor attains the age of twenty-one (21) years or otherwise ceases to be a minor, the guardian of the minor shall be successor custodian. If the minor has no guardian, a donor, his legal representative, the legal representative of the custodian, an adult member of the minor's family, or the minor, if he has attained the age of fourteen (14) years, may petition the court for the designation of a successor custodian.

(e) A donor, the legal representative of a donor, an adult member of the minor's family, a guardian of the minor, or the minor if he has attained the age of fourteen (14) years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties.

(f) Upon the filing of a petition as provided in this Section, the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor.

Accounting by Custodian

Sec. 8. (a) The minor, if he has attained the age of fourteen (14) years, or the legal representative of the minor, an adult member of the minor's family, or a donor or his legal representative may petition the court for an accounting by the custodian or his legal representative.

(b) The court, in a proceeding under this Act or otherwise, may require or permit the custodian or his legal representative to account and, if the custodian is removed, shall so require and order delivery of all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof.

Construction

Sec. 9. (a) This Act shall be so construed as to effectuate its general purpose to make uniform the law of those States which enact it.

(b) This Act shall not be construed as providing an exclusive method for making gifts to minors.

Short Title

Sec. 10. This Act may be cited as the "Texas Uniform Gifts to Minors Act." Acts 1957, 55th Leg., p. 1312, ch. 442.

Emergency. Effective June 6, 1957.

Section 11 of the Act of 1957 was a severability provision.

Title of Act:

An Act relating to gifts of securities and money to minors and to make uniform the

law with reference thereto; citing the Act as the "Texas Uniform Gifts to Minors Act"; providing a saving clause; and declaring an emergency. Acts 1957, 55th Leg., p. 1312, ch. 442.

TITLE 102—OIL AND GAS

GENERAL PROVISIONS

Art. 6008—1. Interstate Compact to Conserve Oil and Gas; Extension of Compact

Complementary Legislation:

Ala.—Acts 1945, No. 91.

Ariz.—A.R.S. §§ 27-601 to 27-603.

Ark.—Ark.Stats. §§ 53-801 to 53-804.

Colo.—Laws 1935, p. 1174, Joint Res.No. 18.

Fla.—F.S.A. §§ 377.01-377.05.

Ill.—S.H.A. ch. 104, §§ 19-24.

Ind.—Burns' Ann.St. § 46:1728.

Kan.—G.S.1955, §§ 55-837 to 55-841.

Ky.—Acts 1942, ch. 267.

La.—Acts 1940, No. 411.

Mich.—Acts 1947, Act No. 138.

Miss.—Laws 1948, c. 526.

Mont.—R.C.M. §§ 60-601 to 60-606.

Neb.—R.S.Supp.1953, Appendix pp. 1419-1422.

Nev.—Acts 1955, ch. 42.

N.M.—1953 Comp. § 65-3-2.

N.Y.—L.1941, c. 501.

N.D.—Laws 1953, p. 620.

Ohio—Laws 1943, p. 203.

Okl.—52 Okl.St.Ann. §§ 201-211.

Pa.—58 P.S. §§ 191-196.

S.D.—Laws 1955, c. 266.

Tenn.—T.C.A. § 60-301.

Utah—Acts 1957, c. 131.

W.Va.—Acts 1945, p. 638.

Wyo.—Laws 1955, c. 116.

U.S.—Res. July 28, 1955, c. 420, 69 Stat. 385.

TITLE 103—PARKS

40. MISSION STATE FOREST
[NEW].

Art.
6077q. Transfer of title of Agricultural and Mechanical College lands for park purposes.

4P. HUECO TANKS STATE PARK

Art.
6077r. Hueco Tanks State Park [New].
6079e. Counties of 350,000 or more [New].

40. MISSION STATE FOREST

Art. 6077q. Transfer of title of Agricultural and Mechanical College lands for park purposes

Section 1. In order that the improvement program of the Texas State Parks Board may be carried forward in an orderly and expeditious manner, the title to and control of those certain tracts of land aggregating 118 acres, more or less, owned by the State of Texas for the use and benefit of the Agricultural and Mechanical College of Texas and now under the jurisdiction and control of the Texas Forest Service, including buildings, structures, improvements and appurtenances, and being the area surrounding and adjoining the Mission San Francisco de los Tejas and known as Mission State Forest near the town of Weches in Houston County, Texas, are hereby transferred and conveyed to the Texas State Parks Board to be known as the Mission San Francisco de los Tejas State Park, said tracts being portions of Hardy Ware Survey, Abstract 1240, situated on the N side of Highway No. 21, about 21 miles NE from the City of Crockett, and being the same tracts of land conveyed to the State of Texas for the use and benefit of the Agricultural and Mechanical College of Texas, more particularly described by the following deeds, to-wit:

Deed from Mrs. Kittie A. Cook, surviving widow of T. S. Cook, deceased, dated October 16, 1939, recorded in Book 200, page 533, Deed Records of Houston County, Texas;

Deed from Southern Pine Lumber Company, dated September 20, 1935, recorded in Book 170, page 367, Deed Records of Houston County, Texas;

Deed from Mrs. Kittie A. Cook, surviving widow of T. S. Cook, deceased, dated February 1, 1935, recorded in Book 166, page 141, Deed Records of Houston County, Texas;

Deed from C. H. Callaway, Trustee, dated January 3, 1935, recorded in Volume 164, page 543, Deed Records of Houston County, Texas.

It is the intention to transfer and convey from the State of Texas for the use and benefit of the Agricultural and Mechanical College of Texas to the Texas State Parks Board all of the various tracts of land embraced in the herein described deeds.

Sec. 2. The Texas State Parks Board is hereby authorized to repair, build or construct facilities, to be used for recreational and other appropriate purposes at Mission San Francisco de los Tejas State Park. The Texas State Parks Board is hereby authorized to sell the timber or any part thereof from the lands comprising said Mission San Francisco de los Tejas State Park and to use whatever amount of said timber is necessary to repair, build or construct the improvements herein authorized; provided, however, that timber shall be cut only for salvage purposes or under good forestry practices with the advice of the Texas Forest Service.

Sec. 3. The timber herein authorized to be sold shall be sold on competitive bids, the contract to be awarded to the party or parties who, in the judgment of the Texas Forest Service, have submitted the highest and

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best bid. Such contract, however, shall not be let until the same has been approved by the Texas State Parks Board. The Texas Forest Service shall advertise for a period of two (2) weeks in at least one weekly newspaper, published and circulated in Houston County, for the sale of such timber or any part thereof, giving the necessary information pertaining thereto, and the time and place for receiving such bids. The first publication shall be at least ten (10) days before the date of receiving the bids. All such competitive bids shall be kept on file by the Texas Forest Service as part of their records and shall be subject to inspection by anyone desiring to see them. Copies of such bids shall be furnished to the Texas State Parks Board. The Texas Forest Service shall have the right to reject any and all of said bids and re-advertise for new bids.

Sec. 4. There is hereby created a special fund to be known as the "Mission San Francisco de los Tejas State Park Building Fund". The moneys derived from the sale of timber cut from the lands of said park shall be placed in the State Treasury to the credit of the above designated fund and shall be expended by the Texas State Parks Board in accordance with the provision of this Act. Acts 1957, 55th Leg., p. 1376, ch. 470.

Emergency. Effective June 10, 1957.

Section 5 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 6 provid-

ed that if any section was declared unconstitutional it should not affect the remainder.

4P. HUECO TANKS STATE PARK

Art. 6077r. Hueco Tanks State Park

Section 1. The State of Texas is hereby authorized to accept title to the lands described as the Hueco Tanks in El Paso County, subject, however, to whatever reservations, conditions or exceptions that the legal owner or owners may make and with the approval thereof by the State Parks Board.

Sec. 2. The land and grounds known as the Hueco Tanks shall be known and styled "Hueco Tanks State Park," and shall be under the care and direction of the State Parks Board, which shall endeavor to improve, preserve, restore and protect the lands and property within the Hueco Tanks State Park.

Sec. 3. After acceptance of title to Hueco Tanks as hereinbefore provided, the State Parks Board is hereby authorized to accept gifts of any nature or kind for constructing, building, advertising or in any manner creating the Hueco Tanks State Park, including the placing of game and fish therein and accepting gifts for public exhibition which deal with Texas history and the history of the Hueco Tanks. Acts 1957, 55th Leg., 1st C. S., p. 2, ch. 2.

Effective 90 days after Nov. 12, 1957, date of adjournment.

This Act contained the following preamble:

"WHEREAS, It has been the policy of the State of Texas to acquire title to, and to beautify and preserve certain historical places in the State of Texas where memorable events have occurred; and

"WHEREAS, One of the most notable of such places is the historical watering spot in the Hueco Mountains known as the Hueco Tanks which until about 1910 furnished virtually the only water between the Pecos River and El Paso; and

"WHEREAS, The Hueco Tanks were at one time such a valuable water source, be-

ing able to hold a year's supply of water around 1860, that the semiweekly Butterfield Overland Mail Route from St. Louis to San Francisco established an important stage stop there in 1858; and

"WHEREAS, This site of large natural cisterns formed by depressions in limestone was used as a camp by early Indians, some of whom covered the nearby caves with colored drawings; and

"WHEREAS, These early Indian drawings are being rapidly defaced, through human carelessness and deliberate intent; so, therefore"

Title of Act:

An Act authorizing the State to accept title to certain lands, known as the Hueco

Tanks, in El Paso County; designating it as the "Hueco Tanks State Park"; providing for managing, controlling, beautifying, restoring and preserving same; and declaring an emergency. Acts 1957, 55th Leg., 1st C.S., p. 2, ch. 2.

5. COUNTY PARKS

Art. 6079b. County parks in counties of under 80,000 population

In counties owning and maintaining county parks, and having a population of less than 80,000 inhabitants according to the last preceding Federal Census, the Commissioners Court is authorized to maintain and operate said parks; provided that the Commissioners Court shall not expend more than Five Thousand Dollars (\$5,000.00) in any one year for the maintenance and operation of said parks. It is provided, however, that in any county which has voted and issued bonds for park purposes, the Commissioners Court may expend such amount in addition thereto as it finds necessary to properly maintain and operate its park or parks. As amended Acts 1955, 54th Leg., p. 369, ch. 88, § 1; Acts 1957, 55th Leg., 1st C.S., p. 98, ch. 33, § 1.

Emergency. Effective Dec. 2, 1957.

Section 2 of the amendatory Act of 1957, 1st C.S., was a severability provision.

Art. 6079c. Parks in counties on Gulf having suitable island, islands, or part of island

Personnel of board; compensation; expenses

Sec. 3. The Board of Park Commissioners shall be composed of seven (7) members. When the Commissioners Court of any such county adopts a resolution as aforesaid then the County Judge of such county shall appoint, subject to the approval of the Commissioners Court, seven (7) persons as members comprising the Board of Park Commissioners for such county. Such Commissioners shall serve for a term of two (2) years from the date of their appointment; in the event of any vacancy the County Judge shall fill said vacancy by appointment for the unexpired term. No Park Commissioner may be an officer or employee of the county for which the Board of Park Commissioners is created, or an officer or employee of any incorporated city located in said county. A Park Commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any such Commissioner, executed by the County Judge and attested by the County Clerk and ex officio Clerk of the Commissioners Court of such county, shall be filed with the County Clerk and such certificate shall be conclusive evidence of the due and proper appointment of such Commissioner. Each Commissioner of said Board of Park Commissioners shall annually receive as compensation Fifteen Dollars (\$15) for each meeting attended for the first fifty-two (52) meetings held during a calendar year, but shall receive no compensation for any additional meetings held during such calendar year. Each Commissioner shall be compensated for all necessary expenses, including traveling, incurred in performing their duties as Park Commissioners; when an account shall have been thus approved it will be paid in due time by the Board's check or warrant. As amended Acts 1957, 55th Leg., p. 219, ch. 104, § 1.

Emergency. Effective April 24, 1957.

**Revenue and refunding bonds; covenants as to by
Commissioner's court order**

Sec. 12a. Notwithstanding any of the provisions of this law the Revenue Bonds permitted by Section 12 hereof to be issued, or the refunding bonds permitted by Section 13 hereof to be issued, shall be authorized by an order passed by the Commissioners Court of the county, on its own motion, and by such order said Court may make such covenants on behalf of the county as it may deem necessary and advisable, and said Court shall perform or cause to be performed any covenants thus made. The provisions of this section shall take precedence over any other provisions of this law that may be in conflict herewith or contrary thereto. Added Acts 1957, 55th Leg., p. 219, ch. 104, § 2.

Emergency. Effective April 24, 1957.

Art. 6079e. Counties of 350,000 or more

Applicability of law

Section 1. The provisions of this Act are applicable to any county in this state having a population of three hundred fifty thousand (350,000) or more according to the last preceding Federal Census.

Creation of board; powers

Sec. 2. Any such county, for the purpose of acquiring, improving, equipping, maintaining, financing, and operating any public parks or park, owned or to be acquired by such county, may by order passed by the Commissioners Court create a Board to be designated "Board of Park Commissioners," hereinafter sometimes in this Act referred to as the "Board" and by resolution transfer to said Board jurisdiction and control over any park or parks within the county. Any such Board shall have the powers authorized in and shall perform the duties specified in this Act.

Personnel of board; compensation; expenses

Sec. 3. The Board of Park Commissioners shall be composed of seven (7) members. When the Commissioners Court of any such county adopts a resolution as aforesaid then the County Judge of such county shall appoint, subject to the approval of the Commissioners Court, seven (7) persons as members comprising the Board of Park Commissioners for such county. Three (3) of the Park Commissioners who are first so appointed shall be designated to serve for terms of six (6) years. Two (2) of the Park Commissioners who are first so appointed shall be designated to serve for terms of four (4) years, and the remaining Park Commissioners who are first so appointed shall be designated to serve for terms of two (2) years, respectively, from the date of their appointments, but thereafter Park Commissioners shall be appointed as aforesaid for a term of office of six (6) years; in the event of any vacancy the County Judge shall fill said vacancy by appointment for the unexpired term. No Park Commissioner may be an officer or employee of the county for which the Board of Park Commissioners is created, or an officer or employee of any incorporated city located in said county. A Park Commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any such Park Commissioner, executed by the County Judge and attested by the County Clerk and ex officio clerk of the Commissioners Court of such county, shall be filed with the County Clerk and such cer-

tificate shall be conclusive evidence of the due and proper appointment of such Park Commissioner. Each Commissioner of said Board of Park Commissioners shall annually receive as compensation a sum to be fixed by the Commissioners Court not to exceed Fifteen Dollars (\$15.00) for each meeting attended for the first fifty-two (52) meetings held during a calendar year, but shall receive no compensation for any additional meetings held during such calendar year. Each Park Commissioner shall be compensated for all necessary expenses, including traveling, incurred in performing their duties as Park Commissioners; when an account shall have been thus approved it will be paid in due time by the Board's check or warrant.

Oath and bond

Sec. 4. Each Park Commissioner so appointed shall within fifteen (15) days after his appointment qualify by taking the official oath and by filing a good and sufficient bond with the County Clerk of such county, payable to the order of the County Judge of such county, and approved by the Commissioners Court. Such bond shall be in the sum prescribed theretofore by the Commissioners Court of such county, but not less than Five Thousand Dollars (\$5,000.00). Said bond shall be conditioned upon the faithful performance of the duties of such Park Commissioner, including the proper handling of all moneys that may come into his hands in his capacity as a Park Commissioner; the cost of said bonds shall be paid by the Board.

Powers vested in commissioners; quorum; necessary vote; officers; meetings; funds

Sec. 5. The powers under this Act shall be vested in the Board of Park Commissioners as constituted from time to time. Four (4) Park Commissioners shall constitute a quorum of the Board for the purposes of conducting its business and exercising its powers, and for all other purposes. The action of the Board may be taken by a majority vote of the Park Commissioners present. At the time of the appointment of the first Park Commissioners in any such county, the appointing power shall designate one (1) of the Park Commissioners as Chairman of the Board, who shall serve in that capacity until the expiration of the term for which he was appointed (or within such period until he may have vacated his office as a Park Commissioner), thereafter the Board shall elect a Chairman from among its Park Commissioners. The Board shall elect from among its own members a Vice-chairman, a Secretary, and a Treasurer. The office of Secretary and Treasurer may be held by the same person, and in the absence or unavailability of either the Secretary or the Treasurer in the event two (2) persons are holding said positions the other such officer may act for and perform all of the duties of such absent or unavailable officer during such period of absence or unavailability. The Board shall hold regular meetings at times to be fixed by the Board and may hold special meetings at such other times as the business or necessity may require. The money belonging to or under control of the Board shall be deposited and shall be secured substantially in the manner prescribed by law for county funds.

Depositories; warrants or checks; employees and agents; legal services; seal

Sec. 6. The depository or depositories for such funds shall be selected by the Board with the approval of the County Commissioners Court. Warrants or checks for the withdrawal of money may be signed by any officer of the Board and one (1) other Park Commissioner or, when duly

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designated by resolution entered in the minutes of the Board, by two (2) bonded employees of the Board. The Board may employ secretaries, stenographers, bookkeepers, accountants, technical experts, and such other agents and employees, permanent or temporary, as it may require and shall determine their qualifications, duties, and compensation. In addition the Board may also employ and compensate a manager for any park or parks and may give him full authority in the management and operation of the park or parks subject only to the direction and orders of the Park Board. The County Attorney of any such county shall perform all the necessary legal services for such Board of Park Commissioners. The Board shall adopt a seal which shall be placed on all leases, deeds, and other instruments which are usually executed under seal, and on such other instruments as may be required by the Board.

Personal interest

Sec. 7. No Park Commissioner or employee of the Board shall acquire any pecuniary interest, direct or indirect, in any improvements, concessions, equipment or any business located within the confines of or in any way related to any public park administered by such Board, nor shall he have any interest, direct or indirect, in any contract or proposed contract for construction, materials or services in connection with or related to any park under control of the Board.

Records

Sec. 8. The Board of Park Commissioners shall keep a true and full account of all its meetings and proceedings and preserve its minutes, contracts, accounts, and all other records in a fire proof vault or safe. All such records shall be the property of the Board and shall be subject to inspection by the Commissioners Court at all reasonable times during office hours on business days.

Contracts, leases and agreements; particular purposes; disbursement of funds

Sec. 9. Such Board shall have full and complete authority to enter into any contract, lease or other agreement connected with or incident to or in any manner affecting the acquisition, financing, construction, equipping, maintaining, or operating all facilities located or to be located on or pertaining to any park or parks under its control. It shall also have authority to disburse and pay out all funds under its control for any lawful purpose for the benefit of any such park or parks.

Contracts, leases and agreements necessary and convenient

Sec. 10. Such Board shall have general power and authority to make and enter into all contracts, leases and agreements which said Board shall deem necessary and convenient to carry out any of the purposes and powers granted in this Act. Any such contract, lease or agreement may be entered into, with any person, real or artificial, any corporation, municipal, public or private, any governmental agency or bureau, including the United States Government and the State of Texas, and may make contracts, leases, and agreements, with any such persons, corporation or entities for the acquisition, financing, construction or operation of any facilities in, connected with or incident to any such park. Any and all contracts, leases and agreements herein authorized, to be effective, shall be approved by resolution of the Board and shall be executed by its Chairman or Vice-chairman and attested by its Secretary or Treasurer.

Suits

Sec. 11. Such Board shall have the right to sue and be sued in its own name.

Revenue bonds

Sec. 12. (a) For the purpose of providing funds to acquire, improve, equip and repair such park or parks, or for the acquisition by construction or otherwise of any facilities to be used in or connected with or incident to any such park or parks, or for any one or more of such purposes, the Board shall have the power from time to time and is hereby authorized by resolution (hereinafter sometimes called the "Resolution"), to procure the issuance of revenue bonds, hereinafter sometimes called the "Revenue Bonds," which shall be fully negotiable instruments under the Uniform Negotiable Instruments Law and all other laws of Texas. Included but without limiting, among the permanent improvements and facilities which may be acquired through the issuance of Revenue Bonds are the following: stadia, coliseums, auditoriums, athletic fields, pavilions, and building and grounds for assembly, together with parking facilities and other improvements incident thereto. Provided that no Revenue Bonds shall be issued under authority of such Resolution unless and until said Resolution shall have first been approved by the Commissioners Court of such county, evidenced by an order to that effect and approved by a vote of the qualified taxpaying voters in the county as hereinafter provided. Such Revenue Bonds shall be issued in the name of such county, signed by the County Judge and attested by the County Clerk and ex officio clerk of the Commissioners Court of said county. They shall have impressed thereon the seal of the Commissioners Court of said county, shall mature serially or otherwise in not to exceed forty (40) years and may be sold by the Board at a price and under terms determined by the Board to be the most advantageous reasonably obtainable, provided that the average interest cost, taking into consideration the maturity date or dates of the Revenue Bonds calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, shall not exceed six per cent (6%) per annum. The Resolution authorizing the issuance of the bonds, rendered effective by the approving order of the Commissioners Court, shall prescribe the details as to the Revenue Bonds. It may contain provisions for the calling of the Revenue Bonds for redemption prior to their respective maturity dates at such prices and at such times as may be prescribed in such Resolution, but except for such rights of redemption expressly reserved in the Resolution and in the Revenue Bonds they shall not be subject to redemption prior to their scheduled maturity date or dates. The bonds may be made payable at such times and at such places, within or without the State of Texas, as may be prescribed in the Resolution, and they may be made registerable as to principal, or as to both principal and interest.

(b) The Revenue Bonds may be issued in one or more series from time to time as required for carrying out the purposes of this Act.

(c) The bonds may be secured by a pledge of all or a part of the Net Revenues (as defined in Section 12(d) hereof) from the operation of such park or parks, or the facilities thereof and incident thereto, or by a pledge of the net revenues both from said park or parks and said facilities or any one or more thereof. The net revenues of any one or more contracts, operating contracts, leases or agreements theretofore or thereafter made or to be made may be pledged as the sole, or as additional security, for the support of the bonds. Any other revenue other than tax

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revenue may be specified in the Resolution of the Boards or may be pledged as additional security for the bonds. In any such Resolution the Board may reserve the right under conditions therein specified to issue additional bonds which will be on a parity with, or subordinate to the bonds then being issued.

(d) The term "Net Revenues" as used in this section and in this Act shall mean the gross revenues from the operation of the park or the parks, and the facilities thereof, leases, agreements and contracts, and incidents thereto, or from any one or more thereof, whose revenues shall have been thus pledged, after deduction of the necessary expenses as defined in Section 14 hereof.

(e) From the proceeds of the Revenue Bonds the Board may set aside, as shall be prescribed in the Resolution, an amount for payment of interest estimated to accrue during the construction period and in addition thereto such reserve for the interest and sinking fund as may be deemed proper. From the proceeds of the Revenue Bonds all expenses necessarily incurred in issuing and in selling the Revenue Bonds shall be paid. The remainder of such proceeds shall be used for the purposes specified in the Resolution, and comprehended by the purposes permitted under Section 12(d) of this Act.

(f) Said bonds shall never be construed to be a debt of the county or the State of Texas within the meaning of any constitutional or statutory provisions, but shall be payable solely and only from the revenues pledged to their payment as herein provided. No principal or interest on such bonds or any refunding bonds shall ever be a debt against the tax revenues of such county, but solely a charge upon the pledged revenues. Such bonds shall never be reckoned in determining the power of the county to incur obligations payable from taxation. Each Revenue Bond shall contain on its face substantially the following provisions:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

(g) So long as any of the Revenue Bonds are outstanding no additional bonds of equal dignity shall be issued against the pledged revenues except to the extent and in the manner expressly permitted in the Resolution.

(h) No such bonds shall ever be issued or sold unless authorized by a majority of the resident qualified taxpaying voters of said county who own taxable property in said county who have duly rendered the same for taxation, voting at an election called for such purpose, which election shall be held and notice thereof given as is provided in Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, except that the proposition to be submitted shall not provide for the levy of any tax whatsoever, and the ballot shall so provide, and be substantially as follows:

"FOR the issuance of \$_____ in bonds for the purpose of _____ which bonds and the interest thereon shall be payable solely from revenues from the operation of such facilities and not from tax revenues."

"AGAINST the issuance of \$_____ in bonds for the purpose of _____ which bonds and the interest thereon shall be payable solely from revenues from the operation of such facilities and not from tax revenues."

(i) Before any such bonds are delivered to the purchaser they shall be submitted to the Attorney General along with the record pertaining thereto for his examination and approval. It shall be the duty of the Attorney General to approve the Revenue Bonds when issued in accordance

with this Act. Bonds thus approved by the Attorney General and registered within the office of the Comptroller of Public Accounts shall be incontestable.

Refunding bonds

Sec. 13. Revenue Bonds which likewise will be fully negotiable, may be issued by Resolution first adopted by the Board and thereafter approved by order of the Commissioners Court of such county for the purpose of refunding bonds issued under this Act. The refunding bonds may be secured in the manner provided in this Act for securing original Revenue Bonds. No election shall be required for the issuance of any refunding bonds. Such refunding bonds may be sold and the proceeds used to retire the original bonds, or may be issued in exchange for the original bonds, as may be provided in the resolution authorizing their issuance.

Expenses; fees and tolls

Sec. 14(a). The expense of operation and maintenance of facilities whose revenues are pledged to the payment of bonds shall always be a first lien on and charge against the income thereof. So long as any of said bonds or interest thereon remain outstanding the Board shall charge or require the payment of fees and tolls for the use of such facilities which shall be equal and uniform within classes defined by the Board and which shall yield revenues at least sufficient to pay the expenses of such operation and maintenance, and to provide for the payments prescribed in the Resolution for "Debt Service" as that term may be defined in the Resolution (which without limitation may include provisions for any or all of the following: the payment of principal and interest as such principal and interest respectively mature, the establishment and maintenance of funds for extensions and improvements, and operating reserve, and an interest and sinking fund reserve).

(b) The Board is authorized to determine the rates, charges and tolls which must be charged by it for the use, operation or lease of such facilities.

Provisions applicable to bonds

Sec. 15. The following provisions shall be applicable as to Revenue Bonds issued under this Act:

(a) It shall be the duty of the Board to fix such tolls and charges for the use of the facilities whose revenues are thus pledged as will yield revenues fully sufficient to operate and maintain such facilities and to permit full compliance by the Board with the covenants contained in the Resolution for the making of payments into the Debt Service Fund, including payments into any reserve accounts or funds created in the Resolution in connection with the issuance of the Bonds. In the event that any part of the security for the Revenue Bonds consists of money to be received by the Board as consideration for facilities belonging to the Board but operated by another or others under some form of lease or operating contract, it shall be the duty of the Board to fix and authorize rates, charges and tolls to be made by such person or persons for services to be rendered by such facilities, at least sufficient to assure the receipt by the Board of money which the Board is committed to pay from such source for Debt Service under the terms of the Resolution.

(b) The proceeds of the bonds shall be used and shall be disbursed under such restrictions as may be provided in the Resolution, and there shall be and there is hereby created and granted a lien upon such moneys, until so applied, in favor of the holders of the Revenue Bonds or of any trustee provided for in respect to such bonds, but neither the depository of such funds nor the trustee shall be obligated to see to the proper ap-

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

plication of such fund except as expressly provided in the Resolution or in the indenture securing the bonds. Any surplus remaining from the bond proceeds after providing for the following: interest during construction and for such additional period as may be prescribed in the Resolution, and the creating of any reserve fund prescribed in the Resolution and the accomplishment of the bond purpose, shall be used for retiring the bonds to the extent that they can be purchased at prevailing market prices, with any remainder after such purchase to be deposited in the fund established in the Resolution for Debt Service.

(c) The Resolution may provide that such Revenue Bonds shall contain a recital that they are issued pursuant to and in strict conformity with this Act and such recital when so made shall be conclusive evidence of the validity of the Revenue Bonds and the regularity of their issuance.

(d) Any Revenue Bond issued pursuant to the provisions of this Act shall be exempt from taxation by the State of Texas or by any municipal corporation, county, or other political subdivision or taxing district of the state.

(e) If so provided in the Resolution an indenture securing the bonds may be executed by and between the county and a corporate trustee, and such Resolution may provide also for execution of the indenture by a corporate or individual co-trustee. Any such corporate trustee or corporate co-trustee shall be any trust company or bank within or without the State of Texas having the powers of a trust company.

(f) Either the Resolution or such indenture may contain such provisions for protecting or enforcing the rights or remedies of the bondholders as may be considered by the Board reasonable and proper and not in violation of law, including covenants setting forth the duties of the Board in reference to maintenance, operation or repair, and insurance (including within the discretion of the Board insurance against loss of use and occupancy) of the facility whose revenues are pledged, and the custody, safeguarding and application of all moneys received from the sale of the Revenue Bonds, and from revenues to be received from the operation of the project.

(g) It shall be lawful for any bank or trust company in this state to act as depository for the proceeds of the bonds or revenues derived from the operation of facilities whose revenues may be pledged, or for the special funds created to assure payment of principal and interest on the Revenue Bonds, including reserve funds and accounts, or for one or more of such classes of deposits, and to furnish such indemnity bonds or to pledge such securities as may be required by the Board.

(h) The Board may select such depository or depositories without the necessity of seeking competitive bids. Such deposits shall be secured in the manner required by law for the security of money belonging to counties. Provided that the Board in the Resolution or the indenture securing the Revenue Bonds may bind the Board to the use of direct obligations of the United States Government or obligations unconditionally guaranteed by the United States Government as security for such deposits. Such indenture, or ordinance, may set forth the rights and remedies of the bondholders and of the Trustee and may restrict the individual rights of action of the bondholders. The Resolution may contain all other suitable provisions such as the Board may deem reasonable and proper for the security of the bondholders, including but without limitation covenants prescribing all happenings or occurrences which constitute events of default and the terms and conditions upon which any or all of the bonds shall become, or may be declared to be due be-

fore maturity, and as to the rights, liabilities, powers and duties arising from the breach by the Board of any of its duties or obligations.

(i) That any holder or holders of the Revenue Bonds issued hereunder, including a trustee or trustees for such holders, shall have the right in addition to all other rights by mandamus or other proceedings in any court of competent jurisdiction to enforce his or their rights against the Board or its employees, the agents and employees thereof, or any lessee or any of said facilities whose revenues are pledged, including but not limited to the right to require the Board to impose and establish and enforce sufficient and effective tolls and charges to carry out the agreements contained in the Resolution and indenture, or in both the Resolution and indenture, and to perform all agreements and covenants therein contained and duties arising therefrom, and in the event of default as defined in the Resolution authorizing the Revenue bonds or in the indenture securing the Revenue Bonds to apply for and obtain the appointment of a receiver for any of the properties involved. If such receiver be appointed he shall enter and take possession of the facilities whose revenues shall have been pledged and until the Board and the county may be no longer in default, or until relieved by the court, retain possession of the properties involved and collect and receive all revenues and tolls arising therefrom in the same manner as the Board itself might do, and shall dispose of all such moneys and apply same in accordance with the obligations of the Board under the Resolution or indenture, and as the court may direct. Nothing in this Act shall authorize any bondholder to require the Board to use any funds in the payment of the principal or of interest on the bonds except from the revenues pledged for their payment.

(j) The Resolution or the indenture securing the bonds may contain provisions to the effect that so long as the revenues of such park facilities are pledged to the payment of Revenue Bonds no free service shall be rendered by any of such facilities of the park for which tolls, charges and rentals are to be effective under the Resolution.

(k) All such revenue bonds shall be and are hereby declared to be legally authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds and other funds of the State of Texas, and of all municipal corporations, counties, political subdivisions, public agencies, and taxing districts within the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of all municipal corporations, counties, political subdivisions, public agencies and taxing districts within the State of Texas, and such bonds shall be lawful and sufficient security for such deposits to the extent of their face value when accompanied by all matured coupons appurtenant thereto.

(l) The provisions contained in the Resolution and in the indenture and the applicable provisions of this Act shall constitute an irrevocable contract between the Board and the county on the one part and the holders of such bonds on the other part.

**Leases or operating agreements made prior to, or concurrently with,
authorization of bonds**

Sec. 16. At any time prior to the authorization of Revenue Bonds secured by a pledge of the revenues from any designated facility or facilities of the park or parks, the Board may with the approval of the Commissioners Court of the county and for such period of time as it may determine make a contract or lease agreement with a company, corpora-

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tion, or individual, for the operation of such facility, or facilities, the consideration for such contract or lease agreement to be specified, or the method of determining such consideration to be prescribed in such contract or lease agreement. The revenues from any such contract or agreement may be pledged in the Resolution or indenture as security or additional security for the Revenue Bonds. Any such facility or facilities may likewise be leased under such contract or lease agreement concurrently with the authorization of the issuance of said Revenue Bonds, and the revenues therefrom pledged as security or additional security for the Revenue Bonds; and in the event that issuance of said Revenue Bonds is authorized concurrently with the contract or lease agreement then the revenues from such contract or agreement shall constitute the sole or substantially all of the security for the Revenue Bonds such contract or agreement must provide that the rentals, tolls and charges to be enforced by such lessee for the use or services provided by such facility or facilities shall be sufficient at least to yield in the aggregate money necessary to pay the reasonable operation and maintenance expenses to assure proper operation and maintenance of such facility or facilities, plus an amount which will assure income to the Board to permit and assure payments into the several funds and accounts in the manner, at the times and in the amounts specified in the Resolution. Any such lease agreement or contract may provide that such rentals, tolls and charges may be sufficient to yield a reasonable profit to the other party to the lease agreement or contract, but to be realized only after payment in full of the obligation to the Board; any such operating or lease contract may provide for payment of the annual consideration or rental in monthly installments approximately equal and that failure to pay any required sum when due may be declared to be a breach of contract or agreement, entitling the Board under regulations prescribed therein to declare the contract or agreement forfeited and to take over the operation and maintenance of such facility or facilities, but such remedy shall be cumulative of all others therein provided or recognized.

Annual financial statement; budget; operation without seeking appropriation

Sec. 17. Before July 1st of each year the Board shall prepare and not later than July 1st, file with the County Judge of such county, a complete statement showing the financial status of the Board, its properties, funds and indebtedness. The statement shall be so prepared as to show separately all information concerning the Revenue Bonds, the income from pledged facilities, and expenditures of such revenues, and all information concerning moneys which may have been appropriated to the Board by the Commissioners Court for operational and maintenance expenses. Concurrently with the filing of such statement, the Board shall file with the County Judge of such county a proposed budget of its needs for the next succeeding calendar year. After approval of such budget, the County Judge shall incorporate the same in the county budget to be prepared by him during the month of July of each year. As a part of the county's tentative budget, the items thus certified by the Board shall be subject to the procedure for the county budget prescribed by Chapter 206, Acts of the Regular Session of the 42nd Legislature, Sections 10 to 13, both inclusive, carried forward in Vernon's Annotated Statutes as Articles 689-a-9 to 689-a-12. It shall be the duty of the Board to so operate said park or parks that there will be available from the gross revenues received from the operation of park facilities whose revenues are pledged to the payment of Revenue Bonds money

sufficient to pay the operation and maintenance expenses of said facilities without the appropriation of tax money for the expense of maintaining and operating such facilities.

Rules and regulations

Sec. 18. The Board shall have the power to adopt and promulgate all reasonable regulations and rules, applicable to tenants, concessionaires, residents and users of park facilities, regulating hunting, fishing, boating and camping and all recreational and business privileges in any such park or parks.

Acceptance of grants and gratuities

Sec. 19. The Board is hereby authorized to accept grants and gratuities in any form from any source approved by the Board and the Commissioners Court including the United States Government or any agency thereof, the State of Texas or any agency thereof, any private or public corporation; and any other person, for the purpose of promoting, establishing and accomplishing the objectives and purposes and powers herein set forth.

Exercise of powers by Commissioners Court

Sec. 20. In the event the County Commissioners Court of any such county, as hereinbefore defined, does not pass a Resolution authorizing the establishment of such Board of Park Commissioners, or in the event the establishment of any such Board of Park Commissioners be declared by the courts to be invalid, then, in either event, the County Commissioners Court of any such county is hereby expressly granted the right to exercise, solely if the establishment of no such Board has been attempted or by ratification of the actions of any such Board prior to the declaration of the invalidity of said Board's establishment, any and all of the powers, acts and authority by this Act conferred, authorized and delegated to said Board of Park Commissioners.

Law cumulative; conflict with other law

Sec. 21. This Act is cumulative of all other laws relating to county parks, but this Act shall take precedence in the event of conflict.

Partial invalidity

Sec. 22. In any case any one 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 not affect any other sections or provisions of this Act or the application of such sections or provisions to any other situation, circumstance, or person, and it is intended that this law shall be construed and applied as if such section or provision had not been included herein for any constitutional application. Acts 1957, 55th Leg., 1st C. S., p. 7, ch. 7.

Emergency. Effective Nov. 26, 1957.

TITLE 106—PATRIOTISM AND THE FLAG

Art.

6145. Texas State Historical Survey Committee [New].

Art.

6145—3. Texas Stonewall Jackson Memorial Board; memorial fund; scholarships [New].

Art. 6145. Texas State Historical Survey Committee.

Created as permanent committee; declared state agency

Section 1. The Texas State Historical Survey Committee created by Senate Concurrent Resolution No. 44 of the 53rd Legislature and continued by Senate Concurrent Resolution No. 28 of the 54th Legislature is hereby created as a permanent historical committee to be known as the Texas State Historical Survey Committee and is hereby declared to be a state agency for the purpose of providing leadership and coordinating services in the field of historical preservation.

Term of office of members; qualifications

Sec. 2. The term of office of the members of the Texas State Historical Survey Committee shall be six years. One-third of the members shall be appointed every two years by the Governor with the advice and consent of the Senate. Provided, however, that the present eighteen members now constituting the Texas State Historical Survey Committee, hereafter referred to as the Committee, shall continue to serve as members of the Committee for their term of office, hereafter prescribed. One-third of the membership of the Committee shall serve for a term of office to expire January 1, 1959; one-third of the membership shall serve for a term to expire January 1, 1961; one-third of the membership shall serve for a term to expire January 1, 1963. All vacancies occurring on the Committee shall be filled by the Governor with the advice and consent of the Senate for the unexpired term of office. The members of the Committee shall be citizens of Texas, who have demonstrated an interest in the preservation of our historical heritage, and in making appointments the Governor shall seek to have each geographical section of the state represented on the Committee as nearly as possible.

At the first regular meeting of the Committee the members of the Committee shall draw lots to determine whose offices shall expire on January 1, 1959, January 1, 1961 and January 1, 1963, respectively.

Meetings; officers; rules and regulations

Sec. 3. The Committee shall hold regular meetings in the City of Austin on the second Saturday in January, April, July and October of each year. On the first scheduled meeting after the effective date of this Act the Committee shall select a president, vice-president and secretary from its members, who shall serve until the January, 1959 meeting and thereafter the Committee shall select a president, vice-president and secretary from its membership at each January meeting in odd numbered years. The Committee may hold such other meetings at such other times and places as shall be scheduled by it in formal sessions and as shall be called by the president of the Committee. The Committee shall have authority to promulgate such rules and regulations as it shall deem proper for the effective administration of the provisions of this Act.

Quorum

Sec. 4. A majority of the membership of the Committee shall constitute a quorum authorized to transact business of the Committee. The Committee shall function as a whole without prior recommendations from standing committees of its own membership.

Compensation of members; expenses

Sec. 5. Members of the Committee shall serve without pay but shall be reimbursed for their actual expenses incurred in attending meetings of the Committee, subject to the approval of the president.

Executive director; professional and clerical personnel

Sec. 6. The Committee shall employ a citizen of Texas as Executive Director of the Texas State Historical Survey Committee. He shall be a person of ability in organization, administration, and coordination of organizational work, with particular qualities for carrying out the purposes of the Committee. The Executive Director may, with the consent and approval of the Committee, employ such professional and clerical personnel as may be deemed necessary. The number of employees, their compensation, and other expenditures shall be in accordance with appropriations to the Committee by the Legislature.

Functions of committee

Sec. 7. The Committee shall furnish leadership, coordination, and services for the organizations, agencies, institutions and individuals of Texas with a primary or secondary interest in the preservation of historical heritage and shall act as a clearing house and information center for such work in Texas.

Consultant services

Sec. 8. The Committee shall furnish consultant services in preservation and restoration of historical houses, sites, and landmarks, early arts and crafts, and archives, papers, and documents.

Coordination of state historical marker program; advice as to memorials and monuments

Sec. 9. The Committee shall give direction and coordination to the state historical marker program, and shall continue to assist and advise the State Building Commission with regard to proper memorials and monuments to be erected, repaired, and removed to new locations, and selection of sites therefor, and the locating and marking of graves.

Cooperation with other state agencies

Sec. 10. The Committee shall continue to work with the State Highway Department, Texas State Parks Board, and all other state agencies and institutions with interests or responsibilities in this field, in the development of mutual objectives.

Stimulation of local activities

Sec. 11. The facilities and leadership of the Committee shall be used to stimulate the development of historical resources in every locality of Texas. Emphasis shall be upon responsibility and privilege of local effort except where the project or problem is one that clearly demands a broader approach.

Purpose of program

Sec. 12. It shall not be the purpose of this program to duplicate or replace existing historical heritage organizations and activities but it is the purpose to give leadership, coordination and service where it is needed and where it is desired. The Committee shall exercise no authority over any organization, agency or institution of the state.

Cooperative studies and surveys

Sec. 13. The Committee shall continue cooperative studies and surveys of the various aspects of historical heritage.

Report to governor and legislature

Sec. 14. The Committee shall make a report of its activities to the Governor and to the Legislature by December 1st prior to the regular meeting of the Legislature. Acts 1957, 55th Leg., p. 1460, ch. 500.

Former Article 6145, relating to Texas Historical Board, enacted by Acts 2nd C.S.1923, p. 62, was repealed by Acts 1951, 52nd Leg., p. 308, ch. 185, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 15 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 16 was a severability provision.

Art. 6145—3. Texas Stonewall Jackson Memorial Board; memorial fund; scholarships

Section 1. There is hereby created the Texas Stonewall Jackson Memorial Board, which shall have as its purpose the memorializing of the great American and Confederate General, "Stonewall" Jackson, through a program of education initiated by Stonewall Jackson Memorial, Inc. The Texas Stonewall Jackson Memorial Board shall be governed by a board of trustees, who shall be composed of three (3) members: the Texas Commissioner of Education, the President of Stonewall Jackson Memorial, Inc., and an appointee of the Governor, by and with the advice and consent of the Senate.

The board of trustees shall be vested with the power to administer this Act in its entirety; to establish the Texas Stonewall Jackson Memorial Fund; to receive and accept appropriations and donations in behalf of said fund; to invest all monies in said fund in such sound securities as they may deem advisable in line with good business procedure; to use the income derived from said fund to initiate and conduct essay contests and provide prizes therefor and to grant scholarships; to prescribe the rules and regulations governing essay contests and the awarding of scholarships from the Texas Stonewall Jackson Memorial Fund.

The benefits of this fund shall accrue only to residents of the State of Texas. The board of trustees shall require, insofar as possible, the repayment of all scholarship funds by the recipients thereof, under such terms as circumstances may justify, and any money so repaid shall become part of the principal of the fund.

Sec. 2. No part of the principal of said fund shall be disbursed for any purpose, and all prizes and grants shall be taken from the interest derived from investments only. Acts 1957, 55th Leg., p. 504, ch. 242.

Emergency. Effective May 17, 1957.
Title of Act:

An Act to create the Texas Stonewall Jackson Memorial Board; to provide the

duties and powers thereof; to memorialize Stonewall Jackson; and related purposes; and declaring an emergency. Acts 1957, 55th Leg., p. 504, ch. 242.

TITLE 108—PENITENTIARIES

Art.

6166a—1. Names changed to Texas Department of Corrections, etc. [New].

1. PRISON COMMISSION

Art. 6166a. Prison system

Name changed to Texas Department of Corrections, see art. 6166a—1.

Art. 6166a—1. Names changed to Texas Department of Corrections, etc.

Section 1. The name of the Texas Prison System is hereby changed to the Texas Department of Corrections. The name of the Texas Prison Board created by Chapter 212, Acts of the 40th Legislature, Regular Session, 1927,¹ is hereby changed to the Texas Board of Corrections, and the title of General Manager of the Texas Prison System is changed to Director of Corrections.

Sec. 2. The only purpose of this Act is to change the names and titles as provided in Section 1. Wherever the terms "Texas Prison System," "Texas Prison Board," and "General Manager of the Texas Prison System," or any reference thereto, appear in the statutes of Texas, such terms and such references shall hereafter mean and apply to the Texas Department of Corrections, the Texas Board of Corrections, and the Director of Corrections, respectively, in order to conform to the new names and titles as provided in Section 1. Acts 1957, 55th Leg., p. 326, ch. 146.

¹ Article 6166a et seq.

Effective 90 days after May 23, 1957, date of adjournment.

Title of Act:

An Act changing the name of the Texas Prison System to the Texas Department of Corrections, the name of the Texas

Prison Board to the Texas Board of Corrections, and the title of General Manager of the Texas Prison System to Director of Corrections; and declaring an emergency. Acts 1957, 55th Leg., p. 326, ch. 146.

Art. 6166b. Texas prison board

Name changed to Texas Board of Corrections, see art. 6166a—1.

Art. 6166j. Manager's authority and pay

Title of manager changed to Director of Corrections, see art. 6166a—1.

TITLE 109—PENSIONS

1. STATE AND COUNTY PENSIONS

Art.

6228a—3. Resumption of employment by state after termination of membership in retirement system; re-depositing withdrawn deposits; prior service credit [New].

1. STATE AND COUNTY PENSIONS

Art. 6221. 6279 Appropriation, how alloted

On the first day of each calendar month the Comptroller shall pay to each Confederate Veteran a pension of Three Hundred Dollars (\$300) 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; Acts 1957, 55th Leg., p. 287, ch. 132, § 1; Acts 1957, 55th Leg., 2nd C. S., p. 191, ch. 29, § 1.

Emergency. Effective Dec. 10, 1957.

Art. 6228a. Retirement system for State employees

Benefits

Sec. 5.

J. Any member of the State Employees Retirement System who has accepted service retirement and is subsequently appointed by the Governor to any office requiring advice and consent of the Senate shall be eligible and qualified to resume state employment and shall not forfeit his rights as a retired state employee. During the time a retired member is so re-employed, retirement benefit payments that would otherwise have been paid to said member shall be suspended and shall be resumed when said member leaves said employment permanently. During the time that said retired state employee member is employed no retirement deductions shall be made from his salary and the retirement benefits that are paid to said retiring member after the benefits are again resumed shall be in the same amount as were paid on the original retirement; provided that if the retired member returns to state employment as above outlined, during the time of such employment, both the membership annuity payment and the prior service annuity payment to which said retired member would have been entitled if he had not so returned to state employment, shall be transferred to the State Membership Accumulation Fund; provided further, that the retired member who elected to receive an annuity in a guaranteed payment for a certain number of years after retirement returns to state employment as above specified, the time so spent in state employment by such retired member after the initial or original retirement shall count as time within said certain num-

ber of years the same as if said retired member had not returned to state employment. Added Acts 1957, 55th Leg., p. 157, ch. 68, § 1.

Emergency. Effective April 19, 1957.

Amendment by Acts 1957, 55th Leg., p. 1208, ch. 402, art. I, operative Sept. 1, 1958, see Article 6228a, post

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws to the extent of conflict.

Art. 6228a. Retirement system for State employees

Definitions

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

A. "Retirement System" shall mean the Employees Retirement System of Texas as defined in Section 2 of this Act.

B. "Department" shall mean any department, commission, institution, or agency of the State Government.

C. "Employee" shall mean any appointed officer or employee in a department of the State who is employed on a basis or in a position normally requiring not less than nine hundred (900) hours per year, but shall not include members of the State Legislature or any incumbent of an office normally filled by vote of the people; nor persons on piecework basis; nor operators of equipment or drivers of teams whose wages are included in rental rate paid the owners of said equipment or team; nor any person who is covered by the Teacher Retirement System of the State of Texas or the Judicial Retirement System of the State of Texas.

D. "Employer" shall mean the State of Texas.

E. "Member" shall mean any employee included in the membership of the System as provided in Section 3 of this Act.

F. "Beneficiary" shall mean any person in receipt of a pension, an annuity, a retirement allowance, or other benefits as provided by this Act.

G. "Service" shall mean service as an employee, as described in Subsection C of this Section.

H. "State Board of Trustees" shall mean the Board, provided for in Section 6 of this Act, to administer the Retirement System.

I. "Prior Service" shall mean service rendered prior to the date of establishment of the Retirement System, September 1, 1947, for which credit is allowable under Section 4 of this Act.

J. "Membership Service" shall mean service as an officer or employee rendered while a member of the Retirement System.

K. "Creditable Service" shall mean "Prior Service" plus "Membership Service" for which credit is allowable, as provided in Section 4 of this Act.

L. "Regular Interest" shall mean interest at the rate of three per cent (3%) per annum, compounded annually.

M. "Current Interest" shall mean interest at a rate per centum per annum ascertained each year by dividing (1) the amount in the Interest Fund on August 31st of such year before the transfer of interest to other funds, less an amount equal to three per cent (3%) of the mean amount in the Retirement Annuity Reserve Fund during such year, and less an amount as may be set annually by the Board of Trustees to cover additional cost, if any, of administering the System by (2) an amount equal to the amount in the State Accumulation Fund at the beginning of such year and plus the sum of the accumulated contributions in the Employees Sav-

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ing Fund at the beginning of such year to the credit of all members included in the membership of the System on August 31st of such year, before any transfers for Service Retirement effective August 31st of such year are made, it being provided that the above division shall be carried to only three (3) decimal places and shall never be taken as greater than three per cent (3%).

N. "Accumulated Contributions" shall mean the sum of all the amounts deducted from the compensation of a member, and credit to his individual account in the Employees Saving Fund, together with all current interest credits thereto, as provided in Section 8 of this Act.

O. "Earnable Compensation" shall mean the full rate of the compensation that would be payable to an employee if he worked the full normal working time. In cases where compensation includes maintenance, the State Board of Trustees shall fix the value of that part of the compensation not paid in money.

P. "Retirement" shall mean withdrawal from service with a retirement allowance granted under the provisions of this Act.

Q. "Retirement Annuity Reserve" shall mean the present value computed upon the basis of such annuity or mortality tables as shall be adopted by the State Board of Trustees with regular interest of all payments to be made on account of an annuity or benefit in lieu thereof, granted to a member under the provisions of this Act.

R. "Actuarial Equivalent" shall mean a benefit of equal value when computed upon a basis of such mortality tables as shall be adopted by the State Board of Trustees and regular interest.

S. "Fiscal Year" shall mean the year beginning September 1st and ending August 31st.

T. "Actuarially Reduced" shall mean the present worth value of the reserve required to pay a service retirement allowance plan, as provided and set forth in this Act, calculated at age sixty (60) under factors established by the Board of Trustees and divided by the factor of the attained age of the beneficiary and/or the retirement optional plan selection factor of the attained age of the beneficiary and nominee, and said reduced allowance shall be applicable in all instances where the beneficiary is less than age sixty (60) at time of retirement, or in the event of death where an optional plan selection has been made under the provisions as set forth in this Act.

Establishment, Name, Powers and Purpose

Sec. 2. 1. The Employees Retirement System of Texas heretofore established under the laws of this State is hereby continued in corporate existence, but rights of membership in such System, retirement privileges and benefits thereunder, and the management and operation of said System from the effective date of this Act shall be governed by the provisions of this Act.

2. Said System shall continue to be known as the Employees Retirement System of Texas, and by such name all of its business shall be transacted, all its funds invested, and all its cash, securities and other properties shall be held.

3. The Retirement System herein provided for shall be maintained and administered in accordance with the provisions of this Act, to provide for the payment of retirement annuities and other benefits to employees and to beneficiaries of employees of the several departments, commissions, institutions and agencies of the State government.

4. The Retirement System shall have the powers and privileges of a corporation and shall have also the powers, privileges and immunities hereinafter conferred.

Membership

Sec. 3. The membership of said Retirement System shall be composed as follows:

A. All persons who on August 31, 1958, are members of the Employees Retirement System of Texas shall continue to be members of this System subject to the provisions of this Act. The following persons shall, however, not be eligible for participation in the Retirement System:

1. Members of the State Legislature or any incumbent of an office normally filled by a vote of the people, nor any person who is covered by the Teachers Retirement System or the Judicial Retirement System of the State of Texas.

2. Persons employed on a piecework basis or operators of equipment or drivers of teams whose wages are included in the rental rate paid the owners of said equipment or team.

3. Employees who are employed in a position normally requiring less than nine hundred (900) hours per year.

B. Any person who becomes an employee on or after September 1, 1958, shall become a member of the Retirement System on the first day of the month following the month in which he is employed as a condition of his employment. Contributions by such an employee under this Act shall begin with the first monthly payroll period following the month in which he is employed and creditable service shall then begin to accrue.

C. Should any member in any period of six (6) consecutive years after becoming a member be absent from service more than sixty (60) consecutive months he would automatically terminate membership if he has less than fifteen (15) years creditable service or should he withdraw his accumulated contributions, or should he become a beneficiary, or upon death, he shall thereupon cease to be a member. However, during the time the United States was or is involved in organized conflict whether in a state of war or in a police action involving conflict with foreign forces, or for reason of a crisis within this country, and within a period of twelve (12) months thereafter, time spent by a member of the Employees Retirement System (1) in the Armed Forces of the United States of America and their auxiliaries and/or in the Armed Forces Reserve of the United States of America and their auxiliaries and/or in the service of the American Red Cross as a result of having volunteered or having been drafted and/or conscripted thereinto, or (2) in war work as a direct result of having been drafted and/or conscripted into said war work, shall not be construed as absent from service in so far as the provisions of this Act are concerned. The State Board of Trustees shall determine and by order define the period or periods which shall be recognized as involving organized conflict or crisis within the contemplation of this Act.

Creditable Service

Sec. 4. A. Under such rules and regulations as the State Board of Trustees shall adopt, each person who was employed, as defined in this Act, at any time prior to the establishment of the system and who becomes an employee and continues as such for a period of five (5) consecutive years, or who was a member at the beginning of the system, shall file a detailed statement of all Texas service, as an employee, rendered by him prior to the date of the establishment of the Retirement System, for which he claimed credit.

B. The State Board of Trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to

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one (1) year of service, but in no case shall more than one (1) year of service be creditable for all service in one (1) year.

C. Subject to the above restrictions and to such other rules and regulations as the State Board of Trustees may adopt, the State Board of Trustees shall verify and adjust, as soon as practicable after the filing of such statements of service, the service therein claimed.

D. Upon adjustment and verification of the statement of service, the State Board of Trustees shall issue prior service certificates certifying to each member the length of Texas service rendered prior to the date of the establishment of the Retirement System, with which he is credited on the basis of his statement of service. So long as membership continues a prior service certificate shall be final and conclusive for retirement purposes as to such service, provided, however, that any member may, within one (1) year from the date of issuance or modification of such certificate, request the State Board of Trustees to modify or correct his prior service certificate. When membership ceases, such prior service certificate shall become void. Should the employee again become a member, such person shall enter the System as a member not entitled to prior service credit except as provided elsewhere in this Act.

E. Each person who was employed as defined in this Act and who was a member of the Retirement System prior to September 1, 1958, and who had withdrawn his contributions and cancelled his accumulated creditable service for retirement purposes, may, if he has or does return to State employment and continues as such for a period of five (5) consecutive years, be entitled to refund to the Retirement System the amount withdrawn with a penalty of ten per cent (10%) and fees and have his creditable service reinstated for retirement purposes, however, it is provided that the amount withdrawn by the person and deposited with the System shall be placed in his individual account in the Employees Saving Fund and the ten per cent (10%) penalty shall be placed in the State Accumulation Fund. The amounts to be deposited shall be determined in each case by the Board of Trustees of the Employees Retirement System; and in no event shall any such person be granted retirement upon such former service credits until the amount so determined shall have been paid in full.

F. Credit for Military Service.

During the time the United States was or is involved in organized conflict whether in a state of war or a police action involving conflict with foreign forces or for reason of a crisis within this country, and within a period of twelve (12) months thereafter, time spent by a member of the Employees Retirement System (1) in the Armed Forces of the United States of America and its auxiliaries and/or in the service of the American Red Cross as a result of having volunteered or having been drafted and/or conscripted thereto, or (2) in war work as a direct result of having been drafted and/or conscripted into war work shall count towards creditable service, provided, however, that the time so credited shall be limited to two (2) years and further provided that such service shall not be credited unless the member enters into such service directly from State employment without other intervening employment and further that said employee contributes to the Employees Retirement System a sum equal to the number of months in active service as set forth herein times the rate of his last contribution prior to entering such service. The funds so contributed shall be deposited to the credit of the employee's individual account in the Employees Saving Fund, and shall be treated in the same manner as funds contributed by the member while he was employed by the State. Any employee of the State who enters military service prior to the establishment of the Retirement System either by in-

duction or by enlistment shall be entitled to prior service credit for the time prior to establishment of the System. The State Board of Trustees shall determine and by order define the period or periods which shall be recognized as organized conflict or crisis within the contemplation of this Act.

Benefits

Sec. 5. A. Service Retirement Benefits.

1. Any member may retire upon written application to the State Board of Trustees, setting forth at what time, not less than thirty (30) days or more than ninety (90) days subsequent to the execution of and filing thereof, he desires to be retired, provided that retirement will be effective only as of the last day of a calendar month, and provided that the said member at the time so specified for his retirement shall have attained the age of sixty (60) years and shall have completed ten (10) or more years of creditable service. 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 thereafter as long as he is capable of serving the State efficiently. It is provided further, however, that a member who has completed ten (10) or more years of creditable service as a commissioned peace officer engaged in criminal law enforcement activities of the Department of Public Safety, Game and Fish Commission, Liquor Control Board, or as a custodial employee of the State Prison System of the State of Texas and who has attained the age of fifty-five (55) years shall be retired forthwith, provided that with the approval of his employer he may remain in service thereafter as long as he is capable of serving the State efficiently.

2. Any member may withdraw from service prior to the attainment of the age of sixty (60) years who shall have completed at least fifteen (15) years of creditable service and shall become entitled to a service retirement allowance upon his attainment of the age of sixty (60) years, or at his option, at any date subsequent to his attainment of said age provided that such member was then living and had not withdrawn his contributions.

3. Any member may withdraw from service prior to the attainment of the age of sixty (60) years who shall have completed at least thirty (30) years of creditable service and shall become entitled to a service retirement allowance provided that such member has attained the age of fifty-five (55) and provided further that his retirement allowance shall be actuarially reduced from age sixty (60) to the earlier retirement age. It is further provided that a member who has completed twenty (20) or more years of creditable service as a commissioned peace officer engaged in criminal law enforcement activities of the Department of Public Safety, Game and Fish Commission, Liquor Control Board, or as a custodial employee of the State Prison System of the State of Texas, may withdraw from service prior to the attainment of the age of fifty-five (55) years and shall become entitled to a service retirement allowance provided such member has attained the age of fifty (50) and provided further that his retirement allowance shall be actuarially reduced from age fifty-five (55) to the earlier retirement age.

4. A custodial employee of the Texas Prison System shall be defined as an employee whose duties require supervision of or frequent contact with the inmates of the Prison System, including any employee who is subject to call at the risk of life to suppress riots.

B. Allowance for Service Retirement.

1. The allowance for service retirement shall be computed on the basis of the average annual compensation of the member for the five

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(5) highest consecutive years of compensation during the last ten (10) years of creditable service. The rate of benefits shall be based on the following schedule:

| | |
|-------------------------------|----------------|
| First ten (10) years service | 0.75% per year |
| Second ten (10) years service | 1.25% per year |
| Third ten (10) years service | 1.50% per year |
| All subsequent years | 1.75% per year |

It is provided, however, that if the retirement annuity calculated on the basis of the Rate of Benefits set forth herein is less than Thirty Dollars (\$30) per month then the benefits shall be increased to equal the sum of Thirty Dollars (\$30) per month.

It is expressly provided that any annuity or allowance payable under the provisions of this Act shall begin with the last day of the month following the effective date of retirement and shall be paid in monthly installments and shall cease with the last day of the month preceding the month in which the beneficiary or person dies who is receiving such an annuity or allowance as provided in this Act.

2. It is expressly provided that no annuity being paid to a beneficiary of the Retirement System who retired prior to September 1, 1958, shall be decreased by the provisions of this Act.

3. Optional Allowances for Service Retirement.

"With the provision that no selection shall be effective in case a beneficiary dies during the month after retirement, and that such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any service benefit becomes normally due, any member may elect to receive his annuity in an annuity payable throughout life, or he may elect to receive the actuarial equivalent at that time, or his annuity in a reduced annuity payable throughout life with the provisions that:

Option (1) Upon his death, his reduced annuity shall be continued throughout the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (2) Upon his death, one-half ($\frac{1}{2}$) of his reduced annuity shall be continued through the life of, and paid to, such person as he shall nominate by written designation duly acknowledged and filed with the State Board of Trustees at the time of his retirement; or

Option (3) In the event of his death before sixty (60) monthly payments of such annuity have been made, such payments shall be continued to such person as he may nominate in writing, or to the administrator of his estate, until the remainder of the sixty (60) payments have been made; or

Option (4) In the event of his death before one hundred and twenty (120) monthly payments of such annuity have been made, such payments shall be continued to such person as he may nominate in writing, or to the administrator of his estate, until the remainder of the one hundred and twenty (120) payments have been made; or

Option (5) Such other benefit arrangement as may be approved by the Board of Trustees and the whole of which benefit is certified by the Actuary to constitute the reduced actuarial equivalent of the retirement benefit to which the member is entitled.

4. Re-employment of Retired Employees.

Any member of the State Employees Retirement System who has accepted Service Retirement may return to State Employment on a temporary basis provided, however, that such re-employment shall not be for a longer period than nine (9) months within any one (1) year. It is

provided that in the event a retired State employee resumes temporary employment with a State department, commission, institution or agency, he shall notify the Retirement System in writing prior to resuming actual employment, and further it shall be mandatory upon the head of any State department, commission, institution or agency of the State to likewise notify the Retirement System in writing before employment of a retired State employee and shall furnish the Retirement System the name of said retired employee and the dates of employment. During the time a retired employee is so employed, retirement benefit payments that would otherwise have been paid to said member, shall be suspended and shall be resumed when said member leaves said employment, provided that the annuity payments so suspended shall be paid into the State Accumulation Fund. Part month employment shall constitute a full month and any portion of a month employed shall void a retirement benefit payment for said month of employment. It is provided further that if the retired member had elected to receive an annuity in a guaranteed payment for a certain number of years or months after retirement, that the time so spent in State employment by such retired member after the initial or original retirement shall count as time within said certain number of years or months, the same as if said retired member had not returned to State employment, provided that said retired member temporarily employed shall not contribute to the Retirement System during such reemployment, and the Retirement Plan in effect at the time of his original retirement shall remain unchanged.

C. Disability Retirement Benefits.

1. Upon the application of a member or his employer or his legal representative acting in his behalf, any member, under age sixty (60), who has had ten (10) or more years of creditable service may be retired by the State Board of Trustees, not less than thirty (30) and not more than ninety (90) days next following the date of filing such application, on a nonoccupational disability retirement allowance, provided that the Medical Board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

Upon the application of a member or his employer or his legal representative acting in his behalf, any member regardless of age and regardless of creditable service may be retired by the State Board of Trustees, not less than thirty (30) and not more than ninety (90) days next following the date of filing such application on an Occupational Disability Retirement Allowance provided that the Medical Board after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, as such incapacity is likely to be permanent and such persons should be retired.

2. Allowance on Disability Retirement—Nonoccupational.

Upon retirement for disability (nonoccupational) a member shall receive a service retirement allowance if he has attained the age of sixty (60) years, otherwise, he shall receive a disability retirement allowance computed at one and one-fourth per cent ($1\frac{1}{4}\%$) per year of service, multiplied by the average annual compensation in the five (5) highest consecutive years during his last preceding ten (10) years of creditable service, provided however, that in no event will his disability retirement allowance be less than twenty-five per cent (25%) of his average compensation so computed, nor his maximum benefit exceed fifty per cent (50%) of his average compensation so computed.

3. Allowance on Occupational Disability Retirement.

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

Upon retirement for occupational disability, a member shall receive a disability retirement allowance or benefit computed at sixty per cent (60%) of his last monthly compensation rate, provided however, that said allowance or benefit shall be reduced to the extent of any other benefit, allowance, pension, payment or compensation received from any other State and Federal agency where a portion of a cost of such other additional benefit, allowance, pension, payment or compensation is paid for by State funds.

4. Once each year during the first five (5) years following retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the State Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained the age of sixty (60) to undergo a medical examination, such examination to be made at the place of residence of said beneficiary or any other place mutually agreed upon, by a physician or physicians designated by the State Board of Trustees. Should any disability beneficiary who has not yet attained the age of sixty (60) years refuse to submit to at least one (1) medical examination in any such periods by a physician or physicians designated by the State Board of Trustees, his allowance shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his allowance shall be revoked by the State Board of Trustees.

5. Should the Medical Board report and certify to the State Board of Trustees that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, or that such disability beneficiary is engaged in or is able to engage in gainful occupation, and should the State Board of Trustees by a majority vote concur in such report, then the amount of his allowance shall be discontinued or reduced to an amount by which the amount of the last year's salary of the beneficiary, as an employee, exceeds his present earning capacity. Should his earning capacity be later changed, the amount of his allowance may be further modified; provided that the revised allowance shall not exceed the amount of the allowance originally granted, nor shall it exceed an amount which, when added to the amount earnable by the beneficiary, equals the amount of his compensation for the last year prior to retirement.

6. Should a disability beneficiary under the age of sixty (60) years be restored to active service, his retirement allowance shall cease, he shall again become a member of the Retirement System, and the balance of his retirement reserve shall be transferred to the Employees Saving Fund and to the State Accumulation Fund, respectively, in proportion to the original sum transferred to the Retirement Annuity Reserve Fund at retirement. Upon restoration to membership, any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all his membership service. Should a disability beneficiary die or be removed from the disability list for any cause other than restoration to active service, an amount equal to the amount by which such beneficiary's accumulated contributions at the time of disability retirement exceed the annuity payments received by such beneficiary under his disability allowance, if any such excess exists, shall be paid from the Retirement Annuity Reserve Fund to such beneficiary if living; otherwise, such amount shall be paid as provided by the laws of descent and distribution of Texas unless the beneficiary has directed such amount to be paid otherwise.

It is provided, however, that if the disability beneficiary has been retired for occupational disability and should such beneficiary die while

receiving such occupational disability benefits, an amount equal to the amount by which such beneficiary's accumulated contributions at the time of occupational disability retirement plus an amount equal to the annual salary of the disability beneficiary at the rate of pay at the time of the occupational disability retirement, exceeds the annuity payments received by such beneficiary under his occupational disability allowance, if any such exists, shall be paid as provided by the laws of descent and distribution of Texas unless the beneficiary has directed such amount to be paid otherwise and provided further, that this refund as set forth herein shall be made only if the cause of the death of the beneficiary is from or connected with the occupational injury or disability resulting in the occupational disability retirement, otherwise, the provisions above set forth in this paragraph shall apply.

7. It is expressly provided herein a member who applies for Occupational Disability Retirement benefits shall be required to furnish the Board of Trustees all information and data requested by the Board of Trustees and provided further that the head and all employees of the department in which the member applying for Occupational Disability Retirement is employed shall be required to furnish all information and data concerning the application for Occupational Disability Retirement of the member and further the Board of Trustees shall have the right to inquire and require any additional data concerning the application for Disability Retirement, in order that the Board may have all information necessary to act upon said application for Occupational Disability. In the event that such information is withheld or denied then the Board of Trustees may refuse to accept the application for Occupational Disability Retirement and shall consider the application only for Nonoccupational Disability Retirement benefits. It is expressly provided herein that the Board of Trustees shall act upon the facts and their decision regarding Occupational Disability Retirement herein applied for, shall be final.

D. RETURN OF ACCUMULATED CONTRIBUTIONS.

1. Should a member with less than fifteen (15) years of creditable service cease to be employed except by death or retirement under the provisions of this Act, he shall be paid in full the amount of accumulated contributions standing to the credit of his individual account in the Employees Savings Fund, provided, however, that in the event the member withdraws his account before he has accumulated a minimum of five (5) years of service, then the amount of interest previously credited to the account of the member shall be deducted and transferred to the State Accumulation Fund and only the amount contributed by the member shall be refunded.

2. Should an employee die before retirement the amount of his accumulated contributions standing to the credit of his individual account shall be paid as provided by the laws of Descent and Distribution of Texas unless he has directed the account to be paid otherwise.

3. Provided, however, in the event that the death of the member is an occupational death, there shall be refunded in addition to the accumulated contributions of the member an amount equal to the full annual salary of the member based upon his rate of pay at the time of death but such additional refund shall be paid only to the surviving spouse and/or dependent children if any, and provided that such additional death benefit shall be paid from the State Accumulation Fund. The Board of Trustees shall determine if the death is an occupational death and their decision shall be final.

4. After such cessation of service if no previous demand has been made any accumulated contributions of a contributor shall be returned

to him or to his heirs. If the contributor or his heirs cannot be found after seven (7) years, his accumulated contributions shall be forfeited to the Retirement System and credited to the State Accumulation Fund.

5. It is provided that any member who has completed thirty (30) years of creditable State service in Texas, may by written designation in such form as the Board of Trustees may prescribe, select a nominee and an optional allowance for retirement as set forth under the preceding, subsection B, paragraph 3, providing for optional allowances for service retirements, and which selection shall become effective and payable to such nominee beginning with the month following the month in which the member died, provided, however, unless such a member, having completed thirty (30) creditable years of State service in Texas shall have selected both a nominee and an optional allowance herein, then the provisions of the preceding subsection D, paragraphs 1 and 2, pertaining to death benefits shall apply upon death of the member.

6. It is provided that any member who has completed twenty (20) years of creditable State service in Texas, but less than thirty (30) years of creditable State service in Texas, may by written designation in such form as the Board of Trustees may prescribe, select a nominee and an optional allowance for retirement as set forth under the preceding subsection B, paragraph 3, providing for optional allowances for service retirements, and which shall become effective and payable to such nominee beginning with the month following the month in which the member died, provided, however, that it is required that said member shall be actively employed or on temporary sick leave or on workman's compensation at the time of his death. Unless such a member having completed twenty (20) creditable years of State service in Texas shall have selected both a nominee and an optional allowance herein, then the provisions of the preceding subsection D, paragraph 1 and 2, pertaining to the death benefits shall apply upon the death of the member.

Administration

Sec. 6. A. State Board of Trustees.

1. The General Administration and responsibility for the operation of the Retirement System and for making effective the provisions of the Act are hereby vested in a State Board of Trustees which shall consist of seven (7) members as follows:

a. Three (3) members who shall be appointed with the advice and consent of the Senate as follows:

(1) A member who shall be appointed by the Governor to hold office for the term of six (6) years beginning September 1, 1958, and ending August 31, 1964.

(2) A member who shall be appointed by the Chief Justice of the Supreme Court of Texas to hold office for a four-year term beginning September 1, 1958, and ending August 31, 1962.

(3) A member appointed by the Speaker of the House of Representatives who shall hold office for a two-year term beginning September 1, 1958, and ending August 31, 1960.

It is provided that appointments of Trustees provided for after expiration of such original term as provided herein shall be made for a term of six (6) years.

b. One (1) member shall be the Attorney General of Texas, ex officio, or an Assistant Attorney General, ex officio, designated by him.

c. Three (3) trustees shall be employee members of the Retirement System and shall be nominated and elected by the members of the Retirement System for a period of six (6) years each, according to such

rules and regulations as the State Board of Trustees shall adopt to cover such nominations and elections and provided, however, that the elected employee members of the Board of Trustees on the date of September 1, 1958, shall continue to serve until the expiration of the term for which they were elected. Thereafter elections shall be held on or before July 31, 1961, and biennially thereafter for the purpose of nominating and electing an employee who is a member of the Retirement System to serve as an ex officio member of the Board of Trustees for a period of six (6) years, and said employee after being elected shall take the oath and begin his term as an ex officio member on the first day of September next following the election. It is further provided that all elections held for the nomination and election of an ex officio employee member trustee shall be on ballots made available to the members by the Board of Trustees. It is further provided that it shall be the additive and cumulative duty of every employee who is a member of the Employees Retirement System to serve as an ex officio member of the Board of Trustees after being nominated and elected as provided in this Act.

2. Vacancies of elected ex officio employee members of the Board of Trustees shall be filled by the Board from among members of the System. Provided, however, that no employee of a department shall be eligible to serve as an elected ex officio employee member of the Board of Trustees, during the term of an elected ex officio employee member of the Board of Trustees who is also employed by the same department.

3. The Trustees shall serve without compensation, but they shall be reimbursed from the Expense Fund for all necessary expenses that they may incur through service on the Board.

4. Each Trustee shall, within ten (10) days after his appointment, in addition to the Constitutional Oath, subscribe to the following Oath of Office: "I do solemnly swear that I will, to the best of my ability, discharge the duties of a Trustee of the Employees Retirement System and will diligently and honestly administer the affairs of the Board of Trustees of said Retirement System and that I will not knowingly violate or willingly permit to be violated any of the provisions of Law applicable to said Retirement System." This oath shall be subscribed to by members making it before any officer qualified to administer Oaths in Texas, and duly filed in the office of the Secretary of State.

5. Each Trustee shall be entitled to one (1) vote in the Board. A majority of the State Board of Trustees shall constitute a quorum and a majority vote of those present shall be necessary for a decision by the Trustees at any meeting of said Board.

6. Subject to the limitations of this Act, the State Board of Trustees shall, from time to time, establish rules and regulations for eligibility of membership and for the administration of the funds created by this Act and for the transaction of its business.

7. The State Board of Trustees shall elect from its membership a Chairman and shall by a majority vote of all its members appoint an Executive Secretary who shall not be one of its members. The Executive Secretary appointed shall have been a citizen of Texas three (3) years immediately preceding his appointment, shall have executive ability and experience to carry out the duties of this office and shall hold his position until removed by the Board. He shall recommend and nominate to the State Board of Trustees such actuarial and other service as shall be required to transact the business of the Retirement System. The compensation of all persons engaged by the State Board of Trustees, and all other expenses of the Board necessary for the operation of the Retirement System, shall be paid at such rates and in such amounts as

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the State Board of Trustees shall approve, provided that in no case shall they be greater than paid for like or similar service of the State of Texas.

8. The State Board of Trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the Retirement System and for checking the expenses of the System.

9. The State Board of Trustees shall keep a record of all of its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the Retirement System for the preceding year, the amount of the accumulated cash and securities of the System, and the last balance sheet showing the financial condition of the System.

B. Legal Adviser.

The Attorney General of the State of Texas shall be the legal adviser of the State Board of Trustees, and shall represent it in all litigations.

C. Medical Board.

The State Board of Trustees shall designate a Medical Board to be composed of three (3) physicians not eligible to participate in the Retirement System. The physicians so appointed by the State Board of Trustees shall be legally qualified to practice medicine in Texas and shall be physicians of good standing in the medical profession. If required, other physicians may be employed to report on special cases. The Medical Board shall pass upon all medical examinations required under the provisions of this Act, and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the State Board of Trustees its conclusions and recommendation upon all the matters referred to it.

D. Duties of Actuary.

1. The State Board of Trustees shall designate an Actuary who shall be thoroughly qualified to act as the technical adviser of the State Board of Trustees on matters regarding the operation of the funds created by the provisions of this Act, and shall perform such other duties as are required in connection therewith.

2. Immediately after September 1, 1958, the Actuary shall make such investigation of the mortality, service, and compensation experience of the members of the System as he shall recommend and the State Board of Trustees shall authorize, and on the basis of such investigation he shall recommend for adoption by the State Board of Trustees such tables and such rates as are required. The State Board of Trustees shall adopt tables and certify rates, and as soon as practicable thereafter, the Actuary shall make a valuation based on such tables and rates, of the assets and liabilities of the funds created by this Act.

3. At least once in each five-year period following September 1, 1958, the Actuary shall make, under the direction of the Board, an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the Retirement System, and shall make a valuation of the assets and liabilities of the funds of the System, and taking into account the result of such investigation and valuation, the State Board of Trustees shall adopt for the Retirement System such mortality, service and other tables as shall be deemed necessary.

4. On the basis of such tables as the State Board of Trustees shall adopt, the Actuary shall make an annual valuation of the assets and liabilities of the funds of the System created by this Act.

Management of Funds

Sec. 7. A. The State Board of Trustees shall be the Trustees of the several funds as herein created by this Act and shall have full power to invest and reinvest such funds subject to the following limitations and restrictions:

All retirement funds as are received by the Treasury of the State of Texas as deposits from contributions of employees or employer as herein provided, may be invested only in bonds and other evidences of indebtedness of the United States, and all other bonds or evidences of indebtedness which are guaranteed as to principal and interest by the United States; in bonds and other evidences of indebtedness, both general and special obligations, of the State of Texas and any of its agencies; in bonds or other evidences of indebtedness of municipal corporations or political subdivisions of the State of Texas both general and special obligations, which have been approved as to legality by the Attorney General of the State of Texas; and in securities in which the State Permanent School Fund or the Permanent University Fund of The University of Texas may be invested under present or hereafter enacted laws. The State Board of Trustees shall have full power by proper resolution to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds credited herein shall have been invested, as well as the proceeds of said investments and any moneys belonging to said funds, provided that any money on hand shall be subject to the State Depository Laws of Texas.

B. The State Board of Trustees annually, on August 31st, shall transfer from the Interest Fund to the Expense Fund an amount as shall be determined by the Board to be necessary for the payment of expenses of the Retirement System in excess of the amount available to be paid from the Expense Fund to cover the expenses as estimated for the succeeding year. The State Board of Trustees annually, on August 31st, shall allow regular interest on the mean amount in the Retirement Annuity Reserve Fund for the year then ending and shall allow current interest on the amount in the State Accumulation Fund at the beginning of such year and on an amount in the Employees Saving Fund equal to the sum of the accumulated contributions standing to the credit at the beginning of such year of all members included in the membership of the System on August 31st of such year, before any transfers for Service Retirement effective August 31st of such year are made. The amounts so allowed shall be due and payable to said funds and shall be credited thereto by the State Board of Trustees on August 31st of each year from the moneys of the Retirement System held in the Interest Fund, provided that current interest shall not be at a rate greater than three per cent (3%) per annum and that any excess earnings over such amount required shall be paid to the State Accumulation Fund.

C. The Treasurer of the State of Texas shall be the custodian of all bonds, securities, and funds. All payments from said funds shall be made by him on warrants drawn by the State Comptroller of Public Accounts supported only upon vouchers signed by the Secretary of the Retirement System and the Chairman of the State Board of Trustees. A duly attested copy of a resolution of the State Board of Trustees designating such persons shall be filed with said Comptroller as his authority for issuing such warrants.

D. For the purpose of meeting disbursements for annuities and other payments there may be kept available cash, not exceeding ten per cent (10%) of the total amount in the several funds of the Retirement System, on deposit with the State Treasurer.

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

E. No trustee and no employee of the State Board of Trustees shall have any direct or indirect interest in the gains or profits of any investment made by the State Board of Trustees, nor as such receive any pay or emolument for his services other than his designated salary and authorized expenses, except such interest as such person or persons may have in the retirement funds as a member in the Retirement System.

Method of Financing

Sec. 8. A. The amount contributed by each member to the Retirement System shall be four and one-half per cent ($4\frac{1}{2}\%$) of the annual compensation paid to each member. The amount contributed by the State of Texas to the Retirement System shall not exceed during any one (1) year four and one-half per cent ($4\frac{1}{2}\%$) of compensation of all members provided the total amount contributed by the State during any one (1) year shall at least equal the total amount contributed during the same year by all members of the Retirement System; provided further that all contributions made by the State shall be from and charged to the respective funds appropriated, allocated, and provided to pay the salary or compensation of the employee for whose benefit the contribution is made. All of the assets of the Retirement System shall be credited according to the purpose for which they are held to one (1) of five (5) funds, namely, the Employees Saving Fund, the State Accumulation Fund, the Retirement Annuity Reserve Fund, the Interest Fund, and the Expense Fund.

1. The Employees Saving Fund.

The Employees Saving Fund shall be a fund in which shall be accumulated four and one-half per cent ($4\frac{1}{2}\%$) contributions from the compensation of members, including current interest earnings. Contributions to and payments from the Employees Saving Fund shall be made as follows:

a. Beginning on September 1, 1958, each department of the State shall cause to be deducted from the salary of each member on each and every pay roll of such department of the State for each and every pay roll period, four and one-half per cent ($4\frac{1}{2}\%$) of his earnable compensation. In determining the amount earnable by a member in a pay roll period, the State Board of Trustees may consider the rate of annual compensation payable to such member on the first day of the pay roll period as continuing throughout such pay roll period, and it may omit deductions from compensation for any period less than one-half ($\frac{1}{2}$) of a full pay roll period if an employee was not a member on the first day of the pay roll period, and to facilitate the making of deductions, it may modify the deductions required of any member by such an amount as shall not exceed one-tenth ($\frac{1}{10}$) of one per cent (1%) of the annual compensation upon the basis of which such deduction is to be made.

b. The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation less said deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this Act. The department head of the State shall certify to the State Board of Trustees on each and every pay roll, or in such other manner as said Board may prescribe, the amounts to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into said Employees Saving Fund, and shall be credited to the in-

dividual account of the member from whose compensation said deduction was made.

c. Current Interest on member's contributions shall be credited annually as of August 31st and shall be allowed on the amount of the accumulated contributions standing to the credit of the member at the beginning of the year and shall not be allowed for parts of a year. Following the termination of membership in the Retirement System for those members who have been absent from service more than sixty (60) consecutive months in any period of six (6) consecutive years, the Employees Saving Fund account of such members shall be closed and warrants covering the total accumulated contributions sent to them upon the filing of formal application. Until the time of payment of such accumulated contributions, said employees shall receive no interest on the amount due them under this subsection, and the amount shall be held in a non interest-bearing account to be set up for such purpose.

d. Upon the retirement of a member, his accumulated contributions shall be transferred from the Employees Saving Fund to the Retirement Annuity Reserve Fund.

2. State Accumulation Fund.

"The State Accumulation Fund shall be the fund in which shall be accumulated all contributions made to the Employees Retirement System by the State of Texas. Contributions to and payments from this fund shall be made as follows:

a. The State of Texas shall pay each year in equal monthly installments into the State Accumulation Fund an amount equal to the contributions of the members during such year. The State Board of Trustees shall certify annually to the Comptroller of Public Accounts and to the State Treasurer the amount so ascertained, and such an amount shall be paid each year in equal monthly installments in the manner hereinafter provided into the State Accumulation Fund by the Comptroller from the funds appropriated as contributions to the Employees Retirement System by the State of Texas.

b. It is expressly provided that the balance in the State Membership Accumulation Fund and the Permanent Retirement Fund of the Employees Retirement System on August 31, 1958, shall on September 1, 1958, be transferred to the State Accumulation Fund.

c. Upon the retirement of a member, an amount equal to the difference between the total reserve at present worth reserve value of the retirement annuity of the member and the amount standing to the credit of the individual account of the member who retires shall be transferred Fund as a part of the reserve requirements for the annuity to be paid to from the State Accumulation Fund into the Retirement Annuity Reserve the retired member.

3. Retirement Annuity Reserve Fund.

The Retirement Annuity Reserve Fund shall be the fund in which shall be held all reserves for annuities granted and in force and from which shall be paid all annuities payable as provided in this Act. This fund shall be made up of the transfers as follows:

a. At the time of service or disability retirement the accumulated contributions of a retiring employee shall be transferred from the Employees Saving Fund to the Retirement Annuity Reserve Fund as a partial reserve for the annuity purchased by his contributions.

b. An amount equal to the difference between the total reserve at present worth reserve value of the retirement annuity of the member and the amount standing to the credit of the individual account of the member who retires shall be transferred from the State Accumulation Fund into

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the Retirement Annuity Reserve Fund as a part of the reserve requirements for the annuity to be paid to the retired member.

c. Transfers and payments from the Retirement Annuity Reserve Fund shall be made as provided in Section 5, Subsection C, Paragraph 6, upon the death, restoration to active service or removal from the disability list of a beneficiary retired on account of disability.

d. It is expressly provided that the balance in the Membership Annuity Reserve Fund and the Prior Service Annuity Fund of the Employees Retirement System on August 31, 1958, shall, upon September 1, 1958 be transferred to the Retirement Annuity Reserve Fund.

4. Interest Fund.

"The Interest Fund is hereby created to facilitate the crediting of interest to the various other funds. All income, interest, and dividends derived from the deposits and investments authorized by this Act shall be paid into the Interest Fund. Once each year on August 31st, interest shall be allowed and transferred to the other funds, respectively. The State Board of Trustees shall annually transfer to the credit of the State Accumulation Fund all excess earnings after all interest-bearing funds have been duly credited with interest for the year in the manner provided in this Act.

5. Expense Fund.

The Expense Fund shall be the fund from which the expenses of administration and maintenance of the Retirement System shall be paid. Transfers to and payments from this fund shall be made as follows:

a. The Executive Secretary shall prepare annually an itemized budget showing the amount required to defray the expenses for the ensuing fiscal year and shall submit the report to the State Board of Trustees for its review and adoption.

b. Each member shall pay with the first payment to the Employees Saving Fund each year and each year thereafter he is a member of the System, and in addition thereto, a sum of Two Dollars (\$2), which amount shall be credited to the Expense Fund, said payments for the Expense Fund shall be made to the State Board of Trustees in the same way as payments to the Employees Saving Fund shall be made, as provided for in this Act; provided, however, that if said payment for the Expense Fund of any member is not made with said first payment of said member, the State Board of Trustees may deduct the amount of the payment for the Expense Fund from said first payment of said member.

c. If the amount estimated to be required to meet the expenses of the State Board of Trustees is in excess of Two Dollars (\$2) per member contributor for the year, the State Board of Trustees as evidenced by a resolution by the Board recorded in its minutes shall transfer to the Expense Fund from the Interest Fund an amount necessary to cover the expenses as estimated for the year.

B. Collection of Contributions.

1. The collection of members' contributions shall be as follows:

a. Each department of the State shall cause to be deducted on each and every payroll of a member for each and every payroll period beginning on September 1, 1958 the contributions payable by such member, as provided in this Act. Each department head of the State shall certify to the treasurer of said department on each and every payroll a statement for the amount so deducted.

b. The Treasurer or proper disbursing officer of each State department on authority from the department head shall make deductions from salaries of employees as provided in this Act, and shall transmit monthly, or at such time as the State Board of Trustees shall designate a certified copy of the payroll or report and the amount specified to be deducted shall

be paid to the Employees Saving Fund of the Employees Retirement System, after which the Executive Secretary of the Board of Trustees shall make a record of all receipts and turn payments over to the Treasurer of the State of Texas and by him be credited to the Employees Saving Fund, and such funds shall be deemed as appropriated for use according to the provisions of this Act.

c. The State Treasurer shall furnish annually to the State Board of Trustees a sworn statement of the amount of the funds in his custody belonging to the Retirement System. The records of the State Board of Trustees shall be open to public inspection and any member of the Retirement System shall be furnished with a statement of the amount to the credit of his individual account upon written request by such member, provided that the State Board of Trustees shall not be required to answer more than one (1) such request of a member in any one year.

2. The collection of the State's contributions shall be made as follows:

a. From and after September 1, 1958, there is hereby allocated and appropriated to the Employees Retirement System of Texas, in accordance with this Act, from the several funds from which the employees benefited by this Act, receive their respective salaries, a sum equal to four and one-half per cent ($4\frac{1}{2}\%$) of the total compensation paid to the said respective employees who are members of said Retirement System and whose compensation is paid from funds directly controlled by the State.

b. Thereafter, on or before the first day of November next preceding each Regular Session of the Legislature, the State Board of Trustees shall certify to the Legislative Budget Board and Budget Division of the Governor's Office for review the amount necessary to pay the contributions of the State of Texas to the Employees Retirement System for the ensuing biennial. This amount shall equal four and one-half per cent ($4\frac{1}{2}\%$) of the total compensation paid members of the Retirement System and shall be included in the budget of the State which the Governor submits to the Legislature. The State Board of Trustees shall certify on or before August 31st of each year to the State Comptroller of Public Accounts and the State Treasurer the estimated amount of contributions to be received from members during the ensuing year.

c. All moneys hereby allocated and appropriated by the State to the Employees Retirement System shall be paid to the Employees Retirement System in equal monthly installments based upon the annual estimate by the State Board of Trustees of the Employees Retirement System of the contributions to be received from the members of said System during said year, provided further in the event said estimate of the contributions of the members of the System shall vary from the actual amount of the employees' contributions during the year, then such adjustment shall be made at the close of each fiscal year as may be required. Each of said monthly installments shall be paid into the State Accumulation Fund in the amount certified by the State Board of Trustees.

Exemption from Execution

Sec. 9. The right of a person to an annuity or a retirement allowance, to the return of contributions, annuity, or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Act, and the moneys in the various funds created by this Act, are hereby exempt from any State or municipal tax, and exemption from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassigned except as in this Act specifically provided.

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

"A. That any retired State employee who has been a member of a group insurance plan prior to retirement and who wishes to continue same after retirement may have any premiums due by him to be paid any group insurance deducted from his retirement allowance by specifically authorizing such deduction and payment in writing addressed to the Executive Secretary of the Employees Retirement System, provided, however, that such retired employee may thereafter withdraw such authorization by a thirty (30) day written notice addressed to the Executive Secretary of such Retirement System.

Protection Against Conversion of Funds and Fraud

Sec. 10. Any person who shall confiscate, misappropriate, or convert moneys representing deductions from employees' salaries before such moneys are received by the Retirement System or after such moneys are received by the Retirement System shall be guilty of a felony and upon conviction be punished by confinement in the State Penitentiary for any term of years not less than one (1) nor more than five (5). Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified, any record or records of this Retirement System in any attempt to defraud such System as a result of such act shall be guilty of a felony and upon conviction be punished by confinement in the State Penitentiary for any term of years not less than one (1) or more than five (5). Should any change or error in the records result in any member or beneficiary receiving from the Retirement System more or less than he would have been entitled to receive had the records been correct, the State Board of Trustees shall correct such error, and so far as practicable shall adjust the payment in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Violation of Provisions.

Any person, including department heads, and any member of the employer and/or its treasurer or proper disbursing officer, who violates any provision of this Act other than those which the first paragraph of this Section applies shall be guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) or more than One Thousand Dollars (\$1,000). Any member of the System who knowingly receives money as a salary, which money should have been deducted from his salary under the provisions of this Act, shall be guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) and not more than Five Thousand Dollars (\$5,000).

Surety Bonds

Sec. 11. The Treasurer of the State of Texas shall, upon becoming custodian of the Employees Retirement Funds, give a bond in the sum of Fifty Thousand Dollars (\$50,000); the Executive Secretary shall give bond in the sum of Twenty-five Thousand Dollars (\$25,000), and the State Board of Trustees shall require any other employees and members of the State Board of Trustees to give bond in such amounts as the Board may deem necessary, conditioned that said bonded persons will faithfully execute the duties of the respective offices. All bonds shall be made with a good and solvent surety company, authorized to do business in the State of Texas, said bonds shall be made payable to the State Board of Trustees and shall be approved by it and the Attorney General of Texas. All expense necessary and incident to the execution of such bonds, including premiums thereon, shall be paid by the State Board of Trustees from the Expense Fund.

Amount of benefits; creditable service

Sec. 12. A. It is expressly provided that no member who is entitled to a Service Retirement on or before August 31, 1968, shall receive a Service Retirement Benefit, or its actuarial equivalent, an amount which is less than he would have been entitled to receive at the date of his retirement in an equivalent benefit calculated under the laws covering the Employees Retirement System of Texas as effective August 31, 1958.

B. Nothing in this Act shall be construed as reducing the annuities or benefit allowances heretofore approved for or awarded to any person prior to September 1, 1958, in accordance with the laws relating to the Employees Retirement System in effect August 31, 1958, provided that if the Service Retirement Benefit of any such retired beneficiary is less than the minimum prescribed under Section 5, Subsection B, Paragraph 1, as applicable then from and after September 1, 1958, such benefits shall be increased to the minimum prescribed for equivalent service as if said minimum retirement benefit was applicable on the effective date of the retirement.

C. It is further expressly provided herein that creditable service of all members of the Employees Retirement System of Texas as accumulated by each member and granted by this System as of August 31, 1958, shall not be reduced but shall be granted and shall be effective upon the effective date of this Act, September 1, 1958.

Partial invalidity; repeal

Sec. 13. If any section or part of any section of this Act is declared to be unconstitutional, the remainder of the Act shall not thereby be invalidated. All provisions of the law inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency; provided, however, that this Act shall not be construed as repealing or affecting the provisions of any Statute which may be enacted by the Fifty-fifth Legislature to make effective the provisions of Subsection (a) Section 62, Article XVI of the Constitution of Texas but such Statutes shall be construed as being definitive of the retirement rights and benefits of the persons to whom they appertain. As amended Acts 1951, 52nd Leg., p. 257, ch. 152, §§ 3, 4; Acts 1951, 52nd Leg., p. 392, ch. 250, §§ 1-3; Acts 1951, 52nd Leg., p. 465, ch. 295, § 1; Acts 1951, 52nd Leg., p. 865, ch. 488, § 1; Acts 1953, 53rd Leg., p. 882, ch. 361, § 1; Acts 1955, 54th Leg., p. 725, ch. 259, § 1; Acts 1955, 54th Leg., p. 758, ch. 276, § 1; Acts 1957, 55th Leg., p. 157, ch. 68, § 1; Acts 1957, 55th Leg., p. 1208, ch. 402, art. I.

Amendment of this article by Acts 1957, 55th Leg., p. 1208, ch. 402 became effective upon adoption of amendment of Const., art. 16, § 62, as provided by Article II of the Act, set out in note, post, and will become operative September 1, 1958.

For the presently effective and operative provisions of the article see Article 6228a, ante.

Art. 6228a—3. Resumption of employment by state after termination of membership in retirement system; redepositing withdrawn deposits; prior service credit

Section 1. Any person who heretofore became a member of the Employees Retirement System and who thereafter terminated such membership prior to the effective date of this Act and withdrew his accumulated deposits, but who has or does return to service as a State employee prior to September 1, 1957, and resumes his membership in the Employees Re-

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retirement System, and who following such resumption of membership renders service for two (2) consecutive years, shall have the privilege, within one (1) year after completing two (2) consecutive years of service following resumption of membership or within one (1) year after the effective date of this Act, if the two (2) consecutive years of service were completed before that date, of repaying the total amount withdrawn, plus ten per cent (10%) penalty, plus membership fees for the period between termination and resumption of membership and thereupon such member shall be entitled to credit for all Prior Service and Membership Service to which he was entitled prior to such termination and withdrawal. Upon repayment the amount withdrawn shall be credited to the individual account of the member in the Employees Saving Fund and the amount of the penalty shall be credited to the State Accumulation Fund. The amount to be deposited shall be determined in each case by the Board of Trustees of the Employees Retirement System; and in no event shall any such person be granted retirement upon such former service credits until the amount so determined shall have been paid in full. Acts 1957, 55th Leg., p. 236, ch. 113.

Emergency. Effective April 29, 1957.

Title of Act:

An Act granting to State employees who terminated membership in the Employees Retirement System of Texas prior to the effective date of this Act and withdrew

their accumulated deposits, the privilege of redepositing such funds and receiving credit for prior service, under certain conditions and limitations; and declaring an emergency. Acts 1957, 55th Leg., p. 236, ch. 113.

2. CITY PENSIONS

Art. 6243e. Firemen's Relief Pension Fund

Cities of 500,000 or more population; composition and duties of board of trustees

Sec. 3A. In cities having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, and only in such cities, the composition and duties of Boards of Firemen's Relief and Retirement Fund Trustees shall be subject to and controlled by the provisions of this Section 3A as well as by the provisions of Section 3 of this Act. All provisions of Section 3 of this Act which conflict with this Section are hereby declared to be inapplicable to cities having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census.

In all such cities of more than five hundred thousand (500,000) population Boards of Firemen's Relief and Retirement Fund Trustees shall be constituted as follows:

- (a) The mayor or his duly appointed and authorized representative;
- (b) The city treasurer, or if no city treasurer, then the city secretary, city clerk, or such other person or officer as by law, charter provision, or ordinance, performs the duty of city treasurer;
- (c) Five (5) members of the regularly organized active fire department of the city, to be selected by vote of the members of such fire department.
- (d) Two (2) resident citizens of such city, to be selected as hereinafter provided.

On the first Monday in the month of January after the effective date of this section of this Act said members of such fire department shall elect by a majority vote five (5) of its members to serve as members of said Board of Trustees.

Three (3) of the members so elected shall be elected from the Suppression Division of said fire department. One (1) member so elected from said Suppression Division shall have the rank of Private or Chauffeur, and the position on the Board to which such member is elected shall be designated as Position I. One (1) member so elected from said Suppression Division shall have the rank of Captain, and the position on the Board to which such member is elected shall be designated as Position II. One (1) member so elected from said Suppression Division shall have the rank of Battalion Chief or District Chief or Deputy Chief or Assistant Chief, and the position on the Board to which such member is elected shall be designated as Position III.

One (1) of the members so elected shall be elected from among those fire department members who devote full time to prevention and investigation of fire or who are permanently assigned in the Record Division or Fire Chief's Office and who are not members of the Suppression Division; and the position on the Board to which such member is elected shall be designated as Position IV.

One (1) of the members so elected shall be elected from the Fire Alarm Operators Division or the Fire Department Repair Division, and the position on the Board to which such member is elected shall be designated as Position V.

One (1) of said members so elected shall serve for one (1) year, two (2) of said members shall serve for two (2) years, and two (2) of said members shall serve for three (3) years as members of said Board of Trustees.

Two (2) legally qualified taxpaying voters of such city, residents thereof for the preceding three (3) years are to be chosen by the elected members of the Pension Board, being neither employees nor officers of said city. One (1) of these appointed members shall be appointed for a term of one (1) year and one (1) of these appointed members shall be appointed for a term of two (2) years. Annually thereafter on the third Monday in January, the elected members of the Pension Board are to fill one (1) of the appointed positions of the Pension Board for a period of two (2) years. The appointed members of the Pension Board are to take the same oath of office required of the elected members. A vacancy occurring by death, resignation or removal of a member chosen by the elected members of the Pension Board shall be filled by the elected members of the Board. A member who is selected to fill a vacancy shall hold office for the unexpired term of the appointed member who vacated his position. These two (2) appointed positions of the Pension Board are to be filled by the elected members of the Pension Board on the third Monday in January following the effective date of this Section of this Act.

Each member of the Board of Trustees shall, within ten (10) days after his election, take an oath of office that he will diligently and honestly administer the affairs of the Firemen's Relief and Retirement Fund and that he will not knowingly violate or willingly permit to be violated any provision of this Act.

Said Board of Trustees shall elect annually from among their number a Chairman and a Vice-chairman and a Secretary.

The terms of office of those persons who are members of existing Boards of Trustees in cities coming under the provisions of this section at the time this section takes effect shall automatically expire on the first Monday in the first January after such effective date of this section. Annually thereafter on the first Monday in each January vacancies on such Boards of Trustees in the positions provided for fire department

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members shall be filled by election as hereinabove provided, and such Board members shall be elected for three-year terms.

The Secretary of the Board of Trustees shall, within seven (7) days after each meeting of the Board, forward true copies of the minutes of such meeting to each fire station and to each division of the fire department. Added Acts 1957, 55th Leg., p. 617, ch. 275, § 1.

Effective May 22, 1957.

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 any rank, whether as wholly paid, part-paid or volunteer fireman, in one (1) or more regularly organized fire departments in any city or town in this State having a population of less than five hundred thousand (500,000) according to the last preceding Federal Census, which city or town is now within or may come within the provisions of this Act, 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 ($\frac{1}{2}$) 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-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 benefits of the Act, even though he shall not have been engaged in active service as a fireman after the issuance of such certificate. Provided further, that in order to participate in the benefits authorized under this Act all persons shall continue to pay into the Firemen's Relief and Retirement Fund the amounts provided for all participants thereunder up to the time of their retirement. 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; Acts 1957, 55th Leg., p. 617, ch. 275, § 2.

Emergency. Effective May 22, 1957.

Additional pension allowances for certain firemen; death of pensioner; widow's benefits; election

Sec. 6A. Any fireman who is a member of a 'full paid' fire department and who shall be entitled to be retired under the provisions of Section 6 of this Act, and who shall retire under Section 6 or Section 7 or Section 7A with additional time of service and of participation in a

Fund after the date upon which he became entitled to be retired or with more than twenty-five (25) years of service and of participation in a Fund, shall be entitled to be paid from the Firemen's Relief and Retirement Fund of the city or town in which he last served, in addition to any other benefits provided by this Act, an additional monthly pension allowance which shall be computed as follows: the sum of Four Dollars (\$4) per month shall be allowed for each full year of service and of participation in a Fund after the date upon which such fireman shall have become entitled to be retired under Section 6, or after the date upon which such fireman shall have completed twenty-five (25) years of service and of participation in a Fund, whichever date shall first occur; provided, however, that such additional pension allowance shall not exceed the sum of Fifty-six Dollars (\$56) per month.

If any person shall die from any cause whatsoever and if, at the time of death, such person shall have retired with or shall have been entitled to retire with an additional monthly pension allowance as hereinabove provided by this section, and if such deceased shall leave surviving him a widow who married the deceased prior to his retirement, then a sum equal to two-thirds ($\frac{2}{3}$) of the amount of the additional monthly pension allowance with which the deceased was retired or entitled to retire shall be paid monthly to the widow of such deceased so long as she remains his widow, and such allowance provided by this paragraph shall be paid in addition to any other benefits provided by this Act.

Provided, however, that the provisions of this section shall not be applicable to any particular relief and 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 that Relief and Retirement Fund. Added Acts 1957, 55th Leg., p. 617, ch. 275, § 3.

Emergency. Effective May 22, 1957.

Cities of 500,000 or more population; pensions and additional pension allowances; certificate of completion of service period

Sec. 6B. Any person who has been duly appointed and enrolled and who has attained the age of fifty (50) years, and who has served actively for a period of twenty (20) years in any rank in one or more regularly organized fire departments in any city in this State having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, which city is now within or may come within the provisions of this Act, 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 forty per cent (40%) of his average monthly base salary, such average monthly base salary to be based on the monthly average of his base salary over the five (5) year period preceding the date of retirement; provided, however, that such monthly pension shall not be less than One Hundred and Fifty Dollars (\$150) per month.

Any fireman who shall be entitled to be retired under the provisions of this Section or Section 7B or Section 7C, and who shall retire with more than twenty (20) years of service and of participation in a Fund shall be entitled to be paid from the Firemen's Relief and Retirement Fund of the city in which he last served, in addition to any other benefits provided by this Act, an additional monthly pension allowance which shall be computed as follows: the sum of Two Dollars (\$2) per month shall be allowed for each full year of service and of participation

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

in a Fund after the date upon which such fireman shall have completed twenty (20) years of service and of participation in a Fund; provided, however, that such additional pension allowance shall not exceed the sum of Thirty Dollars (\$30) per month.

No fireman who retires under the provisions of this Section, or Section 7B, or Section 7C shall receive any pension allowance in excess of that which an Assistant Fire Chief would receive, and no fireman in cities which come within the provisions of said Sections shall be required to pay a contribution to a fund in excess of that which an Assistant Fire Chief would pay.

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 in a city to which this Section is applicable, before reaching the age of fifty (50) 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 (50) 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 benefits of the Act, even though he shall not have been engaged in active service as a fireman after the issuance of such certificate. Provided further, that in order to participate in the benefits authorized under this Act all persons shall continue to pay into the Firemen's Relief and Retirement Fund the amounts provided for all participants thereunder up to the time of their retirement. Added Acts 1957, 55th Leg., p. 617, ch. 275, § 4.

Emergency. Effective May 22, 1957.

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 having a population of less than five hundred thousand (500,000) according to the last preceding Federal Census, which city or town is now within, or 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 shall 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 ($\frac{1}{2}$) 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 disability.

surate 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; Acts 1957, 55th Leg., p. 617, ch. 275, § 5.

Emergency. Effective May 22, 1957.

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 having a population of less than five hundred thousand (500,000) according to the last preceding Federal Census, which city or town is now within or 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 under Section 7 or Section 12 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, provided that such allowance shall not be computed on the basis of more than twenty (20) years. 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 Twelve Dollars and Fifty Cents (\$12.50) per month.

If any such fireman who is a member of a "full paid" fire department shall die from any cause not growing out of and not in consequence of his duty as a fireman and shall leave surviving him a child or children under the age of eighteen (18) years or a dependent parent, said Board of Trustees shall order paid a monthly pension allowance as follows: (a) to the guardian of each child the sum of Twenty Dollars (\$20) per month until such child reaches the age of eighteen (18) years; (b) in the event the widow dies after being entitled to her allowance as herein provided or in the event there be no widow to receive an allowance, then the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be Forty Dollars (\$40) per month for each such dependent minor child; and (c) to the dependent parent only in case no widow or child is entitled to allowance, the amount the widow would have received to be paid to but one (1) parent and such parent to be determined by the Board of Trustees; provided however, that the total allowance to be paid all beneficiaries or dependents as herein provided shall not exceed the monthly allowance to be paid the pensioner had he continued to live or be retired on allowance at the date of his death; and further provided, that if such amount be insufficient to pay the full schedule of benefits as herein provided, such benefits shall be prorated. Allowance or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries.

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.

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The provisions of this Section as amended shall be automatically applicable to any relief and retirement fund in which such Section was included by majority vote of the members prior to the effective date of this amending Act, provided however that the paragraph providing benefits for surviving beneficiaries of a member of a "full paid" fire department shall only be applicable to beneficiaries of a member of a "full paid" fire department. Provided further however, that the provisions of this Section shall not be applicable to any particular relief and retirement fund in which such Section was not included prior to the effective date of this amending Act 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, as amended Acts 1957, 55th Leg., p. 617, ch. 275, § 6.

Emergency. Effective May 22, 1957.

Retirement for disability; cities of 500,000 or more

Sec. 7B. Whenever a person serving as an active fireman duly enrolled in any regularly active fire department in any city in the State having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, which city is now within or may 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, or shall become physically or mentally disabled from any cause whatsoever after he has become entitled to a pension certificate, said Board of Trustees shall, 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 for total or partial disability as the case may warrant and shall order that he be paid a monthly pension allowance from such Fund, (a) if for total disability, an amount equal to forty per cent (40%) of the average monthly base salary of such fireman, such average monthly base salary to be based on the monthly average of his base salary for the five (5) year period, or so much thereof as he may have served, preceding the date of such retirement; provided, however, that the monthly pension allowance provided by this Section shall not be less than One Hundred and Fifty Dollars (\$150) per month; (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 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. Added Acts 1957, 55th Leg., p. 617, ch. 275, § 7.

Emergency. Effective May 22, 1957.

**Death or disability from cause not resulting from performance
of duties; cities of 500,000 or more**

Sec. 7C. Whenever a person serving as an active fireman duly enrolled in any regularly active fire department in any city in the State having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, which city is now within or 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 monthly pension allowance

shall be paid to such fireman or his beneficiaries. Such monthly pension allowance shall be computed as follows:

(a) If such fireman shall become disabled, he shall be paid a monthly pension allowance equal to twenty per cent (20%) of the average monthly base salary of such fireman plus two per cent (2%) of such average monthly base salary for each full year of service and of participation in a Fund, provided however, that such monthly pension allowance shall not exceed forty per cent (40%) of such average monthly base salary. Such average monthly base salary shall be based on the monthly average of such fireman's base salary for the five (5) year period, or so much thereof as he may have served, preceding the date of such retirement.

(b) If such fireman shall die and shall leave surviving him both a widow who married such fireman prior to his retirement and a child or children of such fireman under the age of eighteen (18) years, said Board of Trustees shall order paid to the widow, so long as she remains the widow of such fireman, a monthly pension allowance equal to one half ($\frac{1}{2}$) of the amount such fireman would have been entitled to receive, if disabled, under the provisions of paragraph (a) of this Section; and in addition thereto the Board of Trustees shall order paid to such widow or other person having the care and custody of such child or children under the age of eighteen (18) years a monthly pension allowance, for the use and benefit of such child or children, equal to the amount hereinabove provided for the widow. If such fireman shall leave no child under the age of eighteen (18) years surviving him or if at any time after the death of such fireman no child is entitled to allowance, then the monthly pension allowance to be paid such widow, so long as she remains a widow, shall equal the full amount such fireman would have been entitled to receive, if disabled, under paragraph (a) of this Section, provided however, that such allowance to a widow, as herein provided if no child is entitled to allowance, shall not exceed one half ($\frac{1}{2}$) of the base salary provided for the position of pipeman at the time of the death of such fireman.

(c) If such fireman shall die and if his widow dies after being entitled to her allowance as herein provided, or in the event there be no widow to receive an allowance, then the amount of the monthly pension allowance to be paid, for the use and benefit of the child or children under the age of eighteen (18) years, to the person having the care and custody of such child or children shall be computed as follows: an amount equal to one half ($\frac{1}{2}$) of the amount such fireman would have been entitled to receive, if disabled, under the provisions of paragraph (a) of this Section shall be paid for each of such fireman's children under the age of eighteen (18) years, provided that the total monthly pension allowance provided hereby for children shall not exceed the amount to which such fireman would have been entitled under paragraph (a), nor shall such allowance for such children exceed one half ($\frac{1}{2}$) of the base salary provided for the position of pipeman at the time of the death of such fireman.

(d) If such fireman shall die and only if no widow or child is entitled to an allowance under the provisions of this Section, a monthly pension allowance equal to one half ($\frac{1}{2}$) of the amount such fireman would have been entitled to receive, if disabled, under the provisions of paragraph (a) shall be paid to each parent of such deceased fireman upon proof to the Board of Trustees that such parent was dependent upon such fireman immediately prior to the death of such fireman, provided that the total monthly pension allowance provided hereby for

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parents shall not exceed one half ($\frac{1}{2}$) of the base salary provided for the position of fireman at the time of the death of such fireman.

Provided further, however, that in no event shall the total of the allowances paid to a fireman or to his beneficiaries under the provisions of this Section be less than Eighty Dollars (\$80) per month; provided that such minimum shall not be applicable if only one (1) child or only one (1) parent is entitled to an allowance.

Allowance or benefits payable under the provisions of this Section for any minor child shall cease when such child becomes eighteen (18) years of age or marries.

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.

Provided further that the provisions of this Section shall not be applicable to a fireman or his beneficiaries if such fireman's death or disability results from suicide or attempted suicide before such fireman shall have completed two (2) years of service with the fire department for which he was employed.

Provided further, however, that none of the provisions concerning pension allowances, as provided in this Section 7C, shall become effective until two (2) years after the effective date of this amending Act; and during such two-year period, and only during such period, a fireman, or his beneficiaries, coming within the provisions of the first sentence of this Section 7C shall be entitled to receive a pension allowance or allowances as provided under Section 7A of this Act in lieu of the pension provided by this Section 7C, notwithstanding the provision of Section 7A limiting such Section to cities having a population of less than five hundred thousand (500,000). Added Acts 1957, 55th Leg., p. 617, ch. 275, § 8.

Emergency. Effective May 22, 1957.

Certificates of disability

Sec. 9. No person shall be retired either for total or temporary disability, except as herein provided, nor receive any allowance from said Fund, unless and until there shall have been filed with the Board of Trustees, certificates of his disability or eligibility signed and sworn to by said person and/or by the city or town physician, if there be one, or if none, then by any physician selected by the Board of Trustees. Said Board of Trustees, in its discretion, may require other or additional evidence of disability before ordering such retirement or payment aforesaid.

Any fireman or beneficiary who shall be entitled to receive a pension allowance under any provision of this Act shall be entitled to receive such allowance from and after the date upon which such fireman ceases to carry out his regular duties as a fireman, notwithstanding the fact that such fireman may remain on the payroll of his fire department or receive sick leave, vacation or other pay after the termination of his regular duties as a fireman; provided that, in the event of a delay resulting from the requirements of the first paragraph of this section, such fireman or beneficiary shall, when such allowance is approved by the Board, be paid the full amount of the allowance which has accrued since the termination of such fireman's regular duties as a fireman.

If any fireman or one or more beneficiaries of a fireman shall be or become entitled to receive payments from a Fund under the provisions of more than one section of this Act, such fireman or beneficiaries shall be entitled to and shall be required to elect one section under which such

payments shall be computed and paid; provided however, that any payments provided by Section 6A or Section 8 shall be made in addition to payments provided by any other section. As amended Acts 1957, 55th Leg., p. 617, ch. 275, § 9.

Emergency. Effective May 22, 1957.

Contributions by participants deducted from salaries

Sec. 10. Each city or town in which a Firemen's Relief and Retirement Fund has been created prior to the time at which this amending section of this Act takes effect and which has a part-paid or volunteer fire department, or the governing body of such city or town, shall henceforth be authorized to deduct from the salary or compensation of each fireman who is participating in such Fund when this amending section takes effect, or to collect from each such fireman, whatever amount shall have been authorized, or agreed to, by the filing by such fireman, with the Secretary-Treasurers of the Board of Firemen's Relief and Retirement Fund Trustees of such fireman's city or town, of a statement in writing under oath that he desires to participate in the benefits from such Fund, giving the name and relationship of his then actual dependents and authorizing said city or town or the governing body thereof to deduct not less than one (1) per centum nor more than three (3) per centum, the exact amount thereof to be determined by the vote of the fire department of which such person is a member, from his salary or compensation if a part-paid fireman whose salary or compensation is more than Fifty Dollars (\$50) per month, but if a part-paid fireman whose salary is less than Fifty Dollars (\$50) per month, or if a volunteer fireman, the statement shall include a promise and an obligation to pay to said Board of Trustees not less than Three Dollars (\$3) nor more than Five Dollars (\$5) per annum to be paid semi-annually, the exact amount thereof to be likewise determined by vote of the fire department of which such person is a member. Such money so deducted from salaries or compensation or agreed to be paid to become and form a part of the Fund herein designated and established as Firemen's Relief and Retirement Fund of that city or town. Failure or refusal to make and file the statement herein provided, or failure or refusal to allow deduction from salary or to pay the amount herein specified as herein provided on the part of any member shall forfeit his right to participate in any of the benefits from said Firemen's Relief and Retirement Fund. If any such member shall elect not to participate in such Fund, he shall not be liable for any salary deduction nor to pay as herein provided. As amended Acts 1957, 55th Leg., p. 617, ch. 275, § 10.

Emergency. Effective May 22, 1957.

Contributions by cities

Sec. 10A. All cities having fully paid firemen where Firemen's Relief and Retirement Funds have been or shall be created under the provisions of this Act, and having a population of less than five hundred thousand (500,000) according to the last preceding Federal Census, shall annually contribute and appropriate to such fund an amount equal to the annual contributions made by such fully paid firemen under the provisions of this Act, which required contributions by the cities shall not exceed the sum of three per centum (3%) of the Fire Department's annual payroll. Any such city having a population of five hundred thousand (500,000) or more according to the preceding Federal Census shall contribute and appropriate monthly to such fund an amount equal to seven and one-half per centum (7½%) of the monthly payroll of the Fire

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Department of such city, and each such city shall also contribute and appropriate monthly to such fund, for each person who holds a twenty (20) year pension certificate and who is not engaged in active service as a fireman and who has not retired, an amount equal to seven and one-half per centum (7½%) of the salary which such person was receiving immediately before terminating his active service as a fireman. In addition to the amount which a city is required to contribute, the governing body of a city may authorize the city to make a further annual contribution to its Firemen's Relief and Retirement Fund in whatever amount the governing body fixes, and the governing body of a city may authorize the city to make a contribution or agree to do so within two (2) years, not to exceed seven and one-half per centum (7½%) of the amount of the salary upon which the firemen's contributions are based, on the occasion of any payments to such fund by firemen, under Section 10B, for prior service time during which such fireman did not participate in a fund. All contributions shall be deposited to the credit of the Firemen's Relief and Retirement Fund, to be used with other money in the fund for the benefits provided under this Act. As amended Acts 1955, 54th Leg., p. 461, ch. 127, § 1; Acts 1957, 55th Leg., p. 617, ch. 275, § 11. Emergency. Effective May 22, 1957.

Application for participation in fund for prior service; amount of deductions; contributions for prior service

Sec. 10B. Any fireman who is a member of a regularly organized 'full paid' fire department having a Relief and Retirement Fund and who is not participating in such fund, or who is participating but has failed to participate in such fund during some period of his service as a fireman after April 9, 1937, and who desires himself or his beneficiaries to participate in such fund or the benefits therefrom with full credit under this Act for all of such fireman's service as a fireman, shall, within sixty (60) days after this amending section of this Act takes effect, file with the Secretary-Treasurer of the Board of Firemen's Relief and Retirement Fund Trustees of such fireman's city or town a statement in writing under oath that he desires to participate in the benefits from such fund with full credit for all of his service as a fireman and giving the name and relationship of his then actual dependents, and he shall therein authorize said city or town or the governing body thereof to thenceforth deduct not less than one per centum (1%) nor more than seven and one-half per centum (7½%), the exact amount as determined or to be determined by the vote of the fire department of which such person is a member, from his salary or compensation; provided that in cities having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census the amount of the deduction to be authorized shall be not less than five per centum (5%) nor more than seven and one-half per centum (7½%) of such salary or compensation, the exact amount to be determined by the Board of Firemen's Relief and Retirement Fund Trustees; and such fireman shall, at the time of filing such statement, pay to such Fund an amount of money equal to the sum of all contributions which such fireman did not pay but would have paid into said Fund if such fireman had participated in such Fund throughout his entire service as a fully paid fireman after April 9, 1937; provided, however, that in lieu of such full payment at the time of filing such statement such fireman may include in such statement a promise and obligation to pay to said Board of Trustees within two (2) years the full amount of such contributions for the period of such fireman's service while not participating in such Fund. If any fireman should die or re-

fire for any reason after filing such statement and before paying the full amount of the contributions hereinabove provided, all benefits to which such fireman or his beneficiaries would have been entitled under the provisions of this section shall be withheld until the amount due from such fireman to the fund has been paid in full. When any such fireman, or any person acting for such fireman or for his beneficiaries, shall have paid to such Firemen's Relief and Retirement Fund the correct amount of his contributions for his entire period of service after April 9, 1937, such fireman and his beneficiaries shall be entitled to full credit, under the provisions of this Act, for all of his service as a fireman, and such fireman shall be deemed to have participated in such fund throughout his service as a fireman. Time of service on the "extra board" of a fire department by any person who is now a fully paid fireman entitled to the provisions of this section shall be deemed to be service as a fireman under the provisions of this section, and any fireman who has served on the "extra board" of his department shall be entitled to full credit under this Act for his time of service on such "extra board" if such fireman shall pay to such Fund the correct amount of his contributions for his period of service on such "extra board."

A fireman who is a member of a "full paid" fire department and who complies with the provisions of this section within sixty (60) days after this amending section of this Act takes effect shall be deemed to have participated in and contributed to the Firemen's Relief and Retirement Fund of the fire department for which he is employed, during any period of time after first becoming a fully paid fireman during which period such fireman served in the military forces of the United States in time of war or national emergency; and the correct amount of such fireman's contributions for such period shall be deemed to have been paid in full; provided that this paragraph shall not be applicable to any fireman who does not have full participation credit for all prior time of service and who fails, within sixty (60) days of the effective date of this section, to claim full participation credit for all prior time of service during which he did not participate in a fund.

Provided, however, that no person shall be eligible to begin participation in a Fund in the manner hereinabove provided who was more than thirty-five (35) years of age at the time he began his service as a fireman for the first time.

Each city or town in which a Firemen's Relief and Retirement Fund has been created prior to the time at which this amending section of this Act takes effect and which has a fully paid fire department and which has a population of less than five hundred thousand (500,000) according to the preceding Federal Census, or the governing body of such city or town, shall henceforth be authorized to deduct not less than one per centum (1%) nor more than seven and one-half per centum (7½%), the exact amount thereof to be determined by the vote of the fire department of such city or town, subject to the approval of the governing body of said city or town, from the salary or compensation of each fireman who is participating in such Fund when this amending section takes effect. Each such city which has a population of five hundred thousand (500,000) or more according to the preceding Federal Census, or the governing body of such city, shall henceforth be authorized to deduct not less than five per centum (5%) nor more than seven and one-half per centum (7½%), the exact amount to be determined by the Board of Firemen's Relief and Retirement Fund Trustees of such city from the salary or compensation of each fireman who is participating in such city's Fund when this amending section takes effect.

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Money deducted from salaries or compensation as provided by this section and the payments and contributions provided by this section shall become and form a part of the Firemen's Relief and Retirement Fund of the city or town in which the contributing fireman serves. Failure or refusal to allow deduction from salary as herein provided on the part of any fireman shall forfeit his right to participate in any of the benefits from said Firemen's Relief and Retirement Fund.

Any fireman who is a member of a department which had an existing Firemen's Relief and Retirement Fund prior to the effective date of this amending Act and who has elected and does elect not to participate in such Fund, shall not be liable for any salary deduction provided by this Act; but each person who shall hereafter join a fully paid fire department which then has a Relief and Retirement Fund shall file a statement in writing, in the manner hereinabove provided by this section, upon joining such department and shall thereafter participate in the contributions to and benefits from such Fund, as provided by this Act, unless such new fireman shall be rejected or excused therefrom by the Board of Trustees upon a determination by the Board that such person is not of sound health. Boards of Firemen's Relief and Retirement Fund Trustees are hereby authorized to require complete or partial physical examinations of any person joining a fire department and filing the statement hereinabove required. The applicant shall pay the cost of any physical examination or examinations so required. If a Board of Trustees determines that an applicant is not of sound health, such Board shall reject the filed statement of such person and shall deny such person participation in the Fund. Added Acts 1957, 55th Leg., p. 617, ch. 275, § 12.

Emergency. Effective May 22, 1957.

Allowances to beneficiaries of deceased members

Sec. 12. If any member of any department in any city or town having a population of less than five hundred thousand (500,000) according to the last preceding Federal Census, which city or town is now within or may hereafter come within the provisions of this Act, who has been retired on allowance because of length of service or disability, shall thereafter die from any cause whatsoever; or if while in service, any member shall die from any cause growing out of and/or in consequence of the performance of his duty; or shall die from any cause whatsoever after he has become entitled to an allowance or pension certificate and shall leave surviving a widow, a child or children under the age of eighteen (18) years or a dependent parent, said Board of Trustees shall order paid a monthly allowance as follows: (a) to the widow, so long as she remain a widow and provided she shall have married such member prior to his retirement, a sum equal to one-third ($\frac{1}{3}$) of the average monthly salary of the deceased at the time of his retirement on allowance or death; (b) to the guardian of each child until such child reaches the age of eighteen (18) years, the sum of Six Dollars (\$6) per month for part paid or volunteer Departments, and the sum of Twenty Dollars (\$20) per month for fully paid Departments; (c) in the event the widow dies after being entitled to her allowance as herein provided, or in the event there be no widow to receive an allowance, then the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be Twelve Dollars (\$12) per month for each such dependent minor child for part-paid or volunteer Departments, and the sum of Forty Dollars (\$40) per month for each such dependent minor child for fully paid Departments; (d) to the dependent parent only in case no widow or child is entitled to allowance,

the amount the widow would have received to be paid to but one (1) parent and such parent to be determined by the Board of Trustees; provided however, that the total allowance to be paid all beneficiaries or dependents as herein provided shall not exceed the monthly allowance to be paid the pensioner had he continued to live or be retired on allowance at the date of his death; and further provided, that if such amount be insufficient to pay the full schedule of benefits as herein provided, such benefits shall be prorated. Allowance or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries. As amended Acts 1955, 54th Leg., p. 461, ch. 127, § 2; Acts 1957, 55th Leg., p. 617, ch. 275, § 13.

Emergency. Effective May 22, 1957.

Allowances to beneficiaries of deceased members; cities of 500,000 or more

Sec. 12A. If any member of any fire department in any city having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, which city is now within or may hereafter come within the provisions of this Act, who has been retired on allowance because of length of service or disability, shall thereafter die from any cause whatsoever; or if while in service, any member shall die from any cause growing out of and/or in consequence of the performance of his duty; or shall die from any cause whatsoever after he has become entitled to an allowance or pension certificate, and if such fireman shall leave surviving a widow, a child or children under the age of eighteen (18) years or a dependent parent or parents, said Board of Trustees shall order paid a monthly allowance which shall be based, as hereinafter provided, upon the amount which such fireman would have been entitled to receive had he continued to live and be retired on allowance at the date of his death. The allowance or allowances provided hereby shall be paid as follows:

(a) If such member shall die and shall leave surviving him both a widow who married such member prior to his retirement and a child or children of such member under the age of eighteen (18) years, said Board of Trustees shall order paid to the widow, so long as she remains the widow of such member, a monthly pension allowance equal to one half ($\frac{1}{2}$) of said amount such member would have been entitled to receive; and in addition thereto the Board of Trustees shall order paid to such widow or other person having the care and custody of such child or children under the age of eighteen (18) years a monthly pension allowance, for the use and benefit of such child or children, equal to the amount hereinabove provided for the widow. If such member shall leave no child under the age of eighteen (18) years surviving him or if at any time after the death of such member no child is entitled to allowance, then the monthly pension allowance to be paid such widow, so long as she remains a widow, shall equal the full amount such member would have been entitled to receive, provided however, that such allowance to a widow, as herein provided if no child is entitled to allowance, shall not exceed one half ($\frac{1}{2}$) of the base salary provided for the position of pipeman at the time of the death of such member.

(b) If such member shall die and if his widow dies after being entitled to her allowance as herein provided, or in the event there be no widow to receive an allowance, then the amount of the monthly pension allowance to be paid, for the use and benefit of the child or children under the age of eighteen (18) years, to the person having the care and custody of such child or children shall be computed as follows: an amount equal to one half ($\frac{1}{2}$) of said amount such member would have been entitled to receive shall be paid for each of such member's children under the age of

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

eighteen (18) years, provided that the total monthly pension allowance provided hereby for children shall not exceed said amount which such member would have been entitled to receive, nor shall such allowance for such children exceed one half ($\frac{1}{2}$) of the base salary provided for the position of pipeman at the time of the death of such member.

(c) If such member shall die and only if no widow or child is entitled to an allowance under the provisions of this Section, a monthly pension allowance equal to one half ($\frac{1}{2}$) of said amount such member would have been entitled to receive shall be paid to each parent of such deceased member upon proof to the Board of Trustees that such parent was dependent upon such member immediately prior to the death of such member, provided that the total monthly pension allowance provided hereby for parents shall not exceed one half ($\frac{1}{2}$) of the base salary provided for the position of pipeman at the time of the death of such member.

Provided further, however, that in no event shall the total of the allowances paid to one (1) member's beneficiaries under the provisions of this Section be less than Eighty Dollars (\$80) per month, provided that such minimum shall not be applicable if only one (1) child or only one (1) parent is entitled to an allowance.

Allowance or benefits payable under the provisions of this Section for any minor child shall cease when such child becomes eighteen (18) years of age or marries.

Provided further however, that none of the provisions concerning pension allowances, as provided in this Section 12A, shall become effective until two (2) years after the effective date of this amending Act; and during such two (2) year period, and only during such period, beneficiaries of a fireman coming within the provisions of the first sentence of this Section 12A shall be entitled to receive a pension allowance or allowances as provided under Section 12 of this Act in lieu of the allowance or allowances provided by this Section 12A, notwithstanding the provision of Section 12 limiting such section to cities having a population of less than five hundred thousand (500,000). Added Acts 1957, 55th Leg., p. 617, ch. 275, § 14.

Emergency. Effective May 22, 1957.

Computation of length of service

Sec. 21. In computing the time or period for retirement for length of service as herein provided, less than one (1) year out of service or any time served in the armed forces of the Nation during war or National emergency shall be construed as continuous service, but if out more than one (1) year and less than five (5) years, credit shall be given for prior service, but deduction made for the length of time out of service. If out of service more than five (5) years no previous service shall be counted, provided however, that if a fireman be out of service over five (5) years through no fault of his own and subsequently returns to the department, this period of time shall not be counted against him in so far as his retirement time is concerned. Any fireman joining any regularly organized fire department coming within the provisions of this Act after the effective date hereof shall be entitled to benefits hereunder after he has filed a statement that he desires to participate in the benefits from the Firemen's Relief and Retirement Fund, as provided in Section 10 or Section 10B of this Act, but he shall not be entitled to any disability benefits on account of any sickness or injury received before the statement was filed. As amended Acts 1955, 54th Leg., p. 461, ch. 127, § 3; Acts 1957, 55th Leg., p. 617, ch. 275, § 15.

Emergency. Effective May 22, 1957.

Investment of surplus; cities of 500,000 or more

Sec. 23A. In cities having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, and only in such cities, whenever, in the opinion and judgment of said Board of Trustees, there is on hand in the said Firemen's Relief and Retirement Fund for that city, a surplus over and above a reasonably safe amount to take care of the current demands upon such Fund, such surplus or so much thereof as in the judgment of said Board is deemed proper, may be invested in Federal, State, County, or Municipal Bonds, and in shares or share accounts of building and loan associations organized under the laws of this State, or Federal Savings and Loan Associations domiciled in this State, where such shares or share accounts are insured under and by virtue of the Federal Savings and Loan Insurance Corporation, and in such securities in which the State Permanent School Fund of Texas or the Permanent University Fund of The University of Texas may be invested under present laws; and the interest or dividends therefrom and thereon shall be deposited into said Fund as a part thereof. Added Acts 1957, 55th Leg., p. 617, ch. 275, § 16.

Emergency. Effective May 22, 1957.

Investment advisory committee; cities of 500,000 or more

Sec. 23B. In cities having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, and only in such cities, the Mayor of such city shall appoint an Investment Advisory Committee consisting of not less than three (3) nor more than five (5) qualified persons to be selected from the personnel of the banks of such city. Such persons, so appointed, shall be experienced in the handling of securities and investment matters and shall serve for a two (2) year term. This Committee shall review the investments of the Fund as made by the Pension Board and shall make recommendations on the investment procedures and policies from time to time. This Committee shall also make an annual report to the Board of Pension Fund Trustees of such city within ninety (90) days after the end of each Calendar year. Added Acts 1957, 55th Leg., p. 617, ch. 275, § 17.

Emergency. Effective May 22, 1957.

Application and operation of act

Sec. 27A. This Act shall not apply to any city which has heretofore established and maintains a joint police and municipal employees pension and retirement system or a joint police, firemen's and fire alarm operator's Pension and Retirement System, provided however, that nothing in this Section 27A shall be construed so as to affect in any way any city or fire department which has a Firemen's Relief and Retirement Fund at or prior to the effective date of this amending Section; and this Section 27A shall not affect in any way any Firemen's Relief and Retirement Fund system which is in existence prior to the effective date of this amending Section. Added Acts 1957, 55th Leg., p. 617, ch. 275, § 17A.

Emergency. Effective May 22, 1957.

Section 18 of the amendatory Act of 1957 provided that "This amending Act shall not diminish the rights of any person who became entitled to a pension allowance from any Firemen's Relief and Retirement

Fund prior to the effective date of this amending Act."

Section 19 provided that partial invalidity should not affect the remaining portions of the Act.

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

Art. 6243f. Pensions for Policemen, Firemen and Fire Alarm Operators in cities having population of three hundred and fifty thousand (350,000) to four hundred and thirty thousand (430,000)

Who may share in fund

Sec. 7(a). Any person who has been duly appointed and enrolled in the Fire Department, Police Department, or Fire Alarm Operators Department of any city having the number of inhabitants provided for in Section 1, as amended, to a position or office expressly established and classified as a position or office in either of said departments by ordinance of the City Council or other governing body of such city, and who, after such due appointment and enrollment has served the probationary period in such position or office, if any, shall automatically become a member of the Pension Fund of such city upon expiration of ninety (90) days from date such city comes within the provisions of this Act, provided such person at the time of such appointment was not less than eighteen (18) years of age and not more than thirty-five (35) years of age. In all instances where a person is already a member of and contributor to such pension fund, he shall retain and be entitled to all rights and privileges due him by virtue of having been such a member and contributor.

(b) Any person not a member of the pension fund when this Act becomes effective, who thereafter is duly appointed and enrolled as a fireman, policeman, or fire-alarm operator of such city in a position or office expressly established and classified as a position or office in either of said departments by ordinance of the City Council or other governing body of such city, and who, after such due appointment and enrollment serves the probationary period in such position or office, if any, shall automatically, after six (6) months of service, become a member of the pension system as a condition of his employment, provided such person at the time of such appointment was not less than eighteen (18) years of age and not more than thirty-five (35) years of age.

(c) Members of this pension fund who are engaged in active military service shall not be required to make the monthly payments into the fund provided for in this Act, nor shall they lose any rights or benefits provided for in the Act by virtue of such military service.

(d) For the purposes of this Act, the regularity of an appointment shall not be presumed from the serving of the full probationary period, if any. And the service by an officer or employee of the probationary period in the Fire Department or Police Department or Fire-Alarm Operators Department shall not constitute the creation of a position or office to which a regular or a due appointment may be made under this Act. And the drawing of compensation by an officer or employee in the Fire Department, Police Department, or Fire-Alarm Operators Department, for his service therein shall not of itself make such person a member of said pension fund. As amended Acts 1951, 52nd Leg., p. 56, ch. 86, § 2, Acts 1957, 55th Leg., p. 14, ch. 11, § 1.

Emergency. Effective Feb. 28, 1957.

Retirement Pension

Sec. 8(a). Whenever any member of said department shall have contributed a portion of his salary as provided by this Act and shall have served for a period of twenty (20) years, twenty-five (25) years, or thirty (30) years in either of said departments, the Board of Trustees shall issue such member a Certificate of Retirement, which certificate shall state the period of contribution and the time served in the department,

and shall entitle the holder, on retirement, upon twenty (20) years of service, to two-fifths ($2/5$) of the base pay then received by him; upon twenty-five (25) years of service, to one-half ($1/2$) of the base pay then received by him; and upon thirty (30) years of service, to three-fifths ($3/5$) of the base pay then received by him. No member shall ever receive any award from this fund for retirement until he has served at least twenty (20) years in either or all of the departments. In determining the number of years of service in a department, the member shall be given full credit for such time, or periods of time, said member was actively engaged in the military service.

(b) From and after January 1, 1959, whenever any member of said departments shall have served for a period of thirty (30) years in either of said departments and shall have contributed a portion of his salary, as provided by this Act, for the same period of time, he shall be retired automatically from service upon attaining the age of sixty-five (65) years; failure of such employee to comply with this provision shall deprive the member, and his widow and children and dependent parents, of any and all pensions and benefits herein provided.

Provided, however, when a member in said departments attains the age of sixty-five (65) years without having served for a period of thirty (30) years in either of said departments and without having contributed a portion of his salary as provided by this Act for a period of thirty (30) years, he may continue his service until his period of service and period of pension fund contributions shall cover thirty (30) years. As amended Acts 1951, 52nd Leg., p. 86, ch. 56, § 3; Acts 1957, 55th Leg., p. 14, ch. 11, § 2.

Emergency. Effective Feb. 28, 1957.

Art. 6243g. Pension system in cities over 500,000

Creation of system

Section 1. There is hereby created a Municipal Pension System in all cities in this State having a population of five hundred thousand (500,000) or more according to the last preceding or any future Federal Census.

Definitions

Sec. 2. The following words and phrases when used in this Act are defined as follows, to wit:

(a) "Pension System" means the retirement, disability and pension system for employees of cities coming within the provisions of this Act.

(b) "Member" means any and all city employees included in the Pension System provided for and becoming members thereof.

(c) "Pension Board" or "Board" means the Pension Board of the Pension System created under this Act for the purpose of administering the Pension System.

(d) "Service" means the services and work performed by a person employed by such city.

(e) "Pension" means payments for life to the city employees out of the Pension Fund provided for herein to members of the Pension System upon becoming disabled or reaching retirement as provided herein and becoming eligible for such payments.

(f) "Separation from Service" means cessation of work for the city, whether caused by death, discharge or resignation.

(g) "Separation Allowance" means the accumulation of payments made by the employee to the Pension Fund and returned to him upon his separation of service with the city.

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

- (h) The use of the masculine gender includes the feminine gender.
- (i) The term "employee" shall mean and include any person whose name appears on a regular full-time payroll of any such city and who is paid a regular salary for his services. Persons who are so paid shall be considered employees, notwithstanding the fact that they are performing services for a department, agency, or other establishment which the city operates jointly with another governmental subdivision.

Persons eligible under this act

Sec. 3. (a) Any person who is now a member of any such System under the terms of the original Act.

(b) Any person who hereafter becomes an employee of 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, except as hereinafter enumerated.

(c) All elected officers of the city unless such elected officers shall, prior to his election, have been an employee of such city and a member of its Pension System, subject to a physical examination, and repayment of separation allowance with interest and provided he makes such election within ninety (90) days from the effective date of this amendatory Act. Any former employee and former member of the Pension System who shall hereafter be elected to an office of said city shall, in like manner, be entitled to reinstatement provided he elects to do so within ninety (90) days from the date he takes office. Any officer coming under the terms hereof who, thereafter, fails of election to said office or another elective office, shall be considered as separated from the service unless he is again employed by such city within five (5) years from the expiration of his term of office.

Persons not eligible under this act

Sec. 4. Employees of such city who may not become members of the Pension System shall include:

- (a) All quasi-legislative, quasi-judicial and advisory boards and commissions;
- (b) All part-time employees;
- (c) All seasonal and temporary employees, and all employees of the Police and Fire Departments;
- (d) Persons hereafter employed by the city who have reached their fifty-fifth (55th) birthday before employment.
- (e) Employees now covered by a Pension System other than a system set up under the Act of 1943 amended hereby.

Pension board

Sec. 5. (a) There is hereby created a Pension Board of the Pension System, in which Board there is hereby vested the general administration, management and responsibility for the proper and effective operation of the Pension System. The Board shall be organized immediately after its members have qualified and taken the oath of office and shall serve without compensation.

(b) The Pension Board shall be composed of seven (7) members as follows:

- (1) The Mayor of the City, or City Manager, if there be one, or his nominee.
- (2) The Treasurer of the City or person performing the duties of Treasurer.

(3) Three (3) employees of the City having membership in the Pension System and elected by the members of such System. No city department shall have more than one (1) representative. The persons now serving as employee members of the Board shall continue in office until the expiration of their terms, in cities having established systems under the original Act.

The term of office of succeeding members so elected shall likewise be two (2) years and each such member shall continue to serve until his successor is duly elected and qualified. Vacancies occurring by death, resignation or removal of such representative shall be filled by members elected by the members of the Pension System. The first election of employee members in cities hereafter coming under this Act shall be held in such city at such time and place as shall be fixed by the governing body of the city, and to be not more than seventy-five (75) days from the date such city comes under the terms of this Act.

(4) Two (2) legally qualified tax payers of such city, residents of Harris County, Texas, for the preceding three (3) years, to be chosen by the governing body of the city, being neither employees nor officers of such city. The two (2) members so chosen by the governing body of the city shall serve for two (2) years and until their successors are duly elected and qualified. Vacancies occurring by death, resignation, or removal of such representative shall be filled by the governing body of the city. Public members now on the boards of cities having established Systems shall continue in office until the expiration of their terms.

(c) Each member of the Pension Board within ten (10) days after his appointment and election shall take an oath of office that so far as it devolves upon him he will diligently and honestly administer the affairs of the Pension System and that he will not knowingly violate, or willingly permit to be violated, any of the provisions of this law.

(d) The Board shall elect from its membership annually a Chairman, Vice-Chairman and Secretary. Pursuant to the powers granted under the charter of such city, the Chief Administrative Officer of the City shall appoint one (1) or more employees whose positions and salaries shall be fixed by the governing body of the city and who, acting under direction of the Chief Administrative Officer of the City and City Treasurer, shall keep all of the records of and perform all of the clerical services for the Pension System. The salaries of such employees shall be paid by the city.

(e) Each member of the Board shall be entitled to one (1) vote in the Board. Four (4) concurring votes shall be necessary for a decision by the members at any meeting of the Board, and four (4) members shall constitute a quorum.

(f) A meeting of said Pension Board may be called at any time by the Chairman, Secretary, or by any four (4) members of such Pension Board.

(g) Notice shall be given to all members of such Pension Board unless waived in writing as to any proposed meeting by depositing of a written notice in the United States mail at least forty-eight (48) hours before such meeting, properly addressed to each such member. If a meeting is had, however, at which all of the members of the Board attend, no notice shall be necessary.

(h) No moneys shall be paid out of the Pension Fund except by warrant, check or draft signed by the Treasurer and countersigned by the Secretary, upon an order by said Pension Board duly entered in the minutes. Facsimile signatures may be authorized by the Board for monthly pension payments.

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

(i) The Pension Board shall determine the prior service to be credited to each present employee who becomes a member of the Pension System. The Board shall rely upon the personnel records of such city in determining such prior service credit or upon affidavits if the personnel records are incomplete.

Treasurer of pension fund

Sec. 6. The City Treasurer of any such city, or the person discharging the duties of the City Treasurer, is hereby designated as the Treasurer of said Pension Fund for said city and his official bond to said city shall operate to cover his position of Treasurer of said Pension Fund and his sureties shall be liable in connection with the Treasurer's actions pertaining to such Fund as fully as they are liable under the terms of said bond for the other actions and conduct of said Treasurer. All moneys of every kind and character collected or to be collected for said Fund shall be paid over to said Treasurer and shall be administered and paid out only in accordance with the provisions of this Act.

Contributions by members

Sec. 7. Commencing with the first day of the month from the date any city comes under the provisions hereof, each member of the Pension Fund shall pay into such Fund the sum of not less than Ten Dollars (\$10) per month, which payments shall be deducted by the city from the salary of each and every member at the rate of Five Dollars (\$5) for each semimonthly or biweekly pay check, and paid to the Treasurer of said Pension Fund.

Contributions by city

Sec. 8. In addition to the payments provided for in the next preceding Section, such city shall pay monthly into such Pension Fund, from the General or other appropriate Fund, of any such city, an amount equal to one and one-half ($1\frac{1}{2}$) the total sum paid into such Fund by salary deductions of members as set out in the next preceding Section.

Increase in contributions

Sec. 9. The payments and/or contributions to be paid into the Pension Fund by the members thereof and such city, may at any time, be increased by ordinance of any such city to an amount not to exceed Seven Dollars and Fifty Cents (\$7.50) for each pay period at the rate of Seven Dollars and Fifty Cents (\$7.50) for each semimonthly or biweekly payroll, payable by each member, and one and one-half ($1\frac{1}{2}$) times the amount payable by each member by the city, which payments shall be made in the same manner as provided in Sections 7 and 8 respectively, of this Act; it being the intention hereof that such city shall contribute to such Pension Fund an amount equal to one and one-half ($1\frac{1}{2}$) the amounts paid by each member thereto, but no more.

Surplus: investment

Sec. 10. Whenever, in the opinion of the said Pension Board, there is on hand in said Pension Fund a surplus over and above a reasonably safe amount to take care of current demands upon such funds, such surplus, or so much thereof as in the judgment of the said Pension Board is deemed proper, may be invested in bonds or other interest bearing obligations and securities of the United States, the State of Texas, or any county, city or other political subdivision of the State of Texas and in such securities in which the State Permanent School Fund

of Texas or the Permanent University Fund of the University of Texas may invest under present or hereinafter enacted laws.

Investment advisory committee

Sec. 11. The Mayor of such city shall appoint an Investment Advisory Committee consisting of not less than three (3) nor more than five (5) qualified persons to be selected from the personnel of the banks of such city. Such persons, so appointed, shall be experienced in the handling of securities and investment matters and shall serve for a two (2) year term. This Committee shall review the investments of the Fund as made by the Pension Board and shall make recommendations on the investment procedures and policies from time to time. This Committee shall also make an annual report to the Mayor of such city within ninety (90) days after the end of each calendar year.

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-five (25) 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-five (25) 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-five (25) years, he shall, in addition to the said sum of One Hundred Dollars (\$100) receive an additional sum of Four Dollars (\$4) per month for each additional year served in excess of twenty-five (25) years. If any member of such System is retired for any reason prior to completing twenty-five (25) years service, and such member has completed at least ten (10) years service, and attained the age of sixty (60) years, he shall receive a monthly pension of less than One Hundred Dollars (\$100) calculated on the pro rata basis that his total service bears to the full term of twenty-five (25) 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-five (25) years. It shall be compulsory for any member to retire 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, but in no event shall he remain a member of the Pension System after reaching seventy (70) years of age.

Disability pensions

Sec. 13. If any member has completed ten (10) years, but less than twenty-five (25) 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 pro rata basis that his term of service bears to the full term of twenty-five (25) years. If any member has completed twenty-five (25) 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 Forty Dollars (\$40) per month.

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. The Board's decision shall be final.

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.

If any member of the Pension System, as herein defined, who has been retired on Pension because of length of service or disability, shall die from any cause whatsoever, or if, while in the service of the city, any member shall die from any cause growing out of and/or in consequence of the performance of his duty, or shall die from any cause whatsoever after he has become entitled to Pension and shall leave a surviving widow and/or widower and/or a child or children under the age of eighteen (18) years, said Board shall order paid a monthly allowance as follows:

(a) To the widow and/or widower, so long as she/he remains a widow and/or widower and provided she/he shall have married such member prior to his/her retirement, a sum equal to one-half ($\frac{1}{2}$) of the retirement benefits that the deceased would be, or had been entitled to, at the time of his/her retirement or death.

(b) To the guardian of each child the sum of Six Dollars (\$6) per month until such child reaches the age of eighteen (18) years.

(c) In the event the widow and/or widower dies after being entitled to her/his allowance as provided, or in the event there be no widow and/or widower to receive such allowance, the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be increased to the sum of Twelve Dollars (\$12) per month for each dependent minor child; provided, however, that the total allowance would be paid all beneficiaries or dependents, as herein provided, shall not exceed the monthly pension to be paid the pensioner had he continued to live or be retired on pension at the date of his death. Allowances or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries. By the term "guardian," as used herein, shall be meant the surviving widow and/or widower, any guardian appointed by law, or the person standing in loco parentis to such dependent minor child responsible for his or her care and upbringing.

Refund of contributions

Sec. 14. If any member's employment by the City is terminated for other than total and permanent disability arising as a result of or as a consequence of the performance of his duties prior to his having completed ten (10) years of service with the city, he shall not be paid any pension whatsoever, but shall receive the amount paid by him into the Pension Fund by way of salary deduction without interest as provided in Section 17 of this Act.

Computing period of service

Sec. 15. In computing the twenty-five (25) years of service required for retirement pension, interruption of less than three (3) months out of service shall be construed as continuous service without any deduction therefor, but if out of service for more than three (3) months and less than five (5) years, credit shall be given for prior service, but deduction shall be made for the length of time out of service. If out of service more than five (5) years, no service prior to said time shall be counted.

Termination of employment; death; re-employment

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 benefits during the period of coverage 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-five (25) years, or more, of service with the city, prior to becoming fifty-five (55) years of age, and leaves the employment of the city, he may allow his prior payments to remain in 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 had earned at the time of leaving the employment of the 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 reinstated as a member of such Pension System, provided he is in good physical and mental condition as evidenced by a written certificate executed under oath by a duly licensed and practicing physician 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 of the city within five (5) years from his separation therefrom and also shall, within six (6) months after his re-employment by the city, repay to such Pension Fund all moneys withdrawn by him upon his separation from the service, plus in-

terest thereon at the rate of five per cent (5%) per annum from date of such withdrawal.

Reduction of benefits; dissolution of system

Sec. 17. In the event said Pension Fund becomes seriously depleted, in the opinion of the Pension Board said Pension Board may proportionately and temporarily reduce the benefits of all pensioners and beneficiaries, but such reductions shall thereafter be paid to such pensioners and beneficiaries, as and when said Fund is, in the opinion of the Pension Board, sufficiently re-established to do so. Should the reserve and/or surplus in the Pension Fund become exhausted and, at such time, the outgo of the Pension Fund exceeds the income thereto, then, in such event, the governing body of the city shall have the right, by ordinance duly passed, to dissolve the Pension System and require liquidation thereof without any liability to the city whatsoever.

Legal services

Sec. 18. The City Attorney of such city shall handle all legal matters for the Pension System which are referred to him by the Pension Board or city without additional compensation therefor. The Pension Board may, however, if it seems necessary, employ outside legal advice to the exclusion of, or to assist, the City Attorney, and pay reasonable compensation therefor out of said Pension Fund.

Actuary

Sec. 19. Such Pension Board may, at its discretion, from time to time, employ an actuary and pay his compensation therefor out of the Pension Fund. The governing body of the city may require that an actuarial study, survey and report be made of such Pension System not more than once every five (5) years.

Exemption from execution, attachment or other writ

Sec. 20. No portion of any such Pension Fund, either before or after its order of disbursement by said Pension Board, and no amounts due or to become due any beneficiary or pensioner, under this Act, shall ever be held, seized, taken, subjected to, detained, or levied upon by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, or any process or proceeding whatsoever, shall issue out of or by any Court of this State for the payment or satisfaction in whole or in part out of said Pension Fund, of any debt, damage, claim, demand, or judgment against any such members, pensioners, dependents, or any person whomsoever, nor shall such Pension Fund or any part thereof, or any claim thereto, be directly or indirectly assigned or transferred and any attempt to transfer or assign the same or any part thereof, or any claim thereto, shall be void. Said Fund shall be sacredly held, kept, and disbursed for the purposes provided by this Act, and for no other purpose whatsoever.

Members in military service

Sec. 21. Members of the Pension System engaged in active military service shall not be required to make the monthly payments into the Pension Fund, provided for in this Act, nor shall they lose any previous years of service with the city caused by such military service. Furthermore, the city shall not be required to make any monthly payments into the Pension Fund on such member while he is engaged in the military service. Any member who engages in active military service shall be entitled to

receive credit for his time in such service upon paying into the Fund an amount equal to all monthly contributions for the total of the number of months he spent in such service, and the city shall pay into the Fund one and one-half (1½) times such amount. Credit for military service shall be limited to twenty-four (24) months, unless such period is extended by the Pension Board.

Partial invalidity

Sec. 22. If any provision, section, part, subsection, sentence, clause, phrase, or paragraph of this Act be declared invalid or unconstitutional, the same shall not affect any other portion or provision hereof, and all other provisions shall remain valid and unaffected by any invalid portion, if any.

Employees on retirement when act enacted

Sec. 23. Any former employee of any such city now on retirement by such city shall hereafter be paid at the same rate he is now receiving and it is not the intention of this Act to change the status of any member now on Pension by such city.

Inapplicability of act

Sec. 23a. This Act shall not apply to any city which has heretofore, or may hereafter, under its charter or ordinance, established or establish and operated or operate its own Pension and Retirement System or Systems for its municipal employees. As amended Acts 1951, 52nd Leg., p. 378, ch. 242, §§ 1, 2; Acts 1953, 53rd Leg., p. 888, ch. 367, §§ 1-5; Acts 1957, 55th Leg., p. 1194, ch. 398, § 1.

Emergency. Effective May 31, 1957.

TEXAS PROBATE CODE

CHAPTER I—GENERAL PROVISIONS

§ 3. Definitions and Use of Terms

(aa) "Personal representative" or "Representative" includes executor, independent executor, administrator, temporary administrator, guardian, and temporary guardian, together with their successors. The inclusion of independent executors herein shall not be held to subject such representatives to control of the courts in probate matters with respect to settlement of estates except as expressly provided by law. As amended Acts 1957, p. 53, c. 31, § 2(a).

Effective 90 days after May 23, 1957, date of adjournment.

Section 12 of the amendatory Act of 1957 was a severability clause. Section 13 repealed V.A.T.S. Probate Code § 219.

§ 33. Issuance, Contents, Service, and Return of Citation, Notices, and Writs in Probate Matters

(a) **When Citation or Notice Necessary.** No person need be cited or otherwise given notice except in situations in which this Code expressly provides for citation or the giving of notice; provided, however, that even though this Code does not expressly provide for citation, or the issuance or return of notice in any probate matter, the court may, in its discretion, require that notice be given, and prescribe the form and manner of service and return thereof.

(b) **Issuance by the Clerk or by Personal Representative.** The county clerk shall issue necessary citations, writs, and process in probate matters, and all notices not required to be issued by personal representatives, without any order from the court, unless such order is required by a provision of this Code.

(c) **Contents of Citation, Writ, and Notice.** Citations and all other forms of notice in probate matters shall be in writing, show the court in which the proceedings are pending, the number of the proceeding, dated, and signed officially by the clerk or other person issuing them, and shall state substantially the nature of the proceedings which the party to be cited or otherwise notified is called upon to answer, and the time when and place where he is required to appear or to perform the acts required of him. All citations, writs, and notices issued by the clerk, except citations and notices which are to be served by publication or by mail, shall be directed "to any sheriff or any constable within the State of Texas"; provided, however, that no citation, writ, or notice directed to the sheriff or any constable of a specific county within this State shall be held defective if such citation, writ, or notice is properly served within such county by such officer. Notices and citations issued by the clerk which are to be served by publication or by mail, and similar notices issued by personal representatives, shall be directed to the person or persons to whom such notices or citations are required to be given.

(d) **Where No Specific Form of Notice, Service, or Return is Prescribed, or When Provisions Are Insufficient or Inadequate.** In all situations in which this Code requires that notice be given, or that a person be cited, and in which a specific method of giving such notice or of citing such person, or a specific method of service and return of such citation or notice is not given, or an insufficient or inadequate provision appears with respect to any of such matters, such notice or citation shall be issued, serv-

ed, and returned in such manner as the court, by written order, shall direct in accordance with this Code and the Texas Rules of Civil Procedure.

(e) **Service of Citation or Notice Upon Personal Representatives.** Except where another specific and adequate method of service is provided in this Code, where this Code provides for the citing of, or the giving of notice to, an executor, independent executor, administrator, temporary administrator, community administrator, administrator with will annexed or de bonis non, guardian, temporary guardian, or receiver, the clerk issuing such citation or notice shall serve the same by sending the original thereof by registered or certified mail, stamped deliver to addressee only, with return receipt requested, addressed to the person who is to be cited or to whom notice is to be given. A copy of such citation or notice, together with the return receipt pertaining thereto, shall be filed and recorded. If a citation or notice so mailed is returned undelivered, the clerk shall issue a new citation or notice, and cause the same to be served by posting, noting on the docket the failure of delivery by mail.

(f) **Methods of Serving Citations and Notices.**

(1) **Personal Service.** Where it is provided that personal service shall be had with respect to a citation or notice, any such citation or notice directed to a person within this State must be served by the sheriff or constable upon the party to be cited or notified, in person, by delivering to him a true copy of such citation or notice at least ten (10) days before the return day thereof, exclusive of the date of service. Where the person to be cited or notified is absent from the state, or is a non-resident, such citation or notice may be served by any disinterested person competent to make oath of the fact. Said citation or notice shall be returnable at least ten (10) days after the date of service, exclusive of the date of service. The return of the person serving the citation or notice shall be endorsed on or attached to same; it shall show the time and place of service, certify that a true copy of the citation or notice was delivered to the person directed to be served, be subscribed and sworn to before some officer authorized by the laws of this State to take affidavits, under the hand and official seal of such officer, and returned to the county clerk who issued same. If in either case such citation or notice is returned with the notation that the person sought to be served, whether within or without this State, cannot be found, the clerk shall issue a new citation or notice directed to the person or persons sought to be served, and service shall be by publication.

(2) **Posting.** When citation or notice is required to be posted, it shall be posted by the sheriff or constable at the courthouse door of the county in which the proceedings are pending, or at the place in or near the courthouse where public notices customarily are posted, for not less than ten (10) days before the return day thereof, exclusive of the date of posting. The clerk shall deliver the original and a copy of such citation or notice to the sheriff or any constable of the proper county, who shall post said copy as herein prescribed and return the original to the clerk, stating in a written return thereon the time when and the place where he posted such copy. The date of posting shall be the date of service. When posting of notice by a personal representative is authorized or required, the method herein prescribed shall be followed, such notices to be issued in the name of the representative, addressed and delivered to, posted and returned by, the proper officer, and filed with the clerk.

(3) **Publication.** When a person is to be cited or notified by publication, the citation or notice shall be published once in a newspaper of general circulation in the county in which the proceedings are pending, and said publication shall be not less than ten (10) days before the return day

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

thereof, exclusive of the date of publication. The date of publication which said newspaper bears shall be the date of service. Proof of publication shall be evidenced to the court by the affidavit of the publisher or that of an employee of the publisher, which affidavit shall show the date the issue of the newspaper bore, and have attached to or embodied therein a copy of the published notice or citation. If no newspaper is published, printed, or of general circulation, in the county where citation or notice is to be had, service of such citation or notice shall be by posting.

(g) **Return of Citation or Notice.** All citations and notices issued by the clerk and served by personal service, by mail, by posting, or by publication, shall be returnable to the court from which issued on the first Monday after the service is perfected.

(h) **Sufficiency of Return in Cases of Posting.** In any probate matter where citation or notice is required to be served by posting, and such citation or notice is issued in conformity with the applicable provision of this Code, the citation or notice and the service and return thereof shall be sufficient and valid if any sheriff or constable posts a copy or copies of such citation or notice at the place or places prescribed by this Code on a day which is sufficiently prior to the return day named in such citation or notice for the period of time for which such citation or notice is required to be posted to elapse before the return day of such citation or notice, and the fact that such sheriff or constable makes his return on such citation or notice and returns same into court before the period of time elapses for which such citation or notice is required to be posted, shall not affect the sufficiency or validity of such citation or notice or the service or return thereof, even though such return is made, and such citation or notice is returned into court, on the same day it is issued. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

CHAPTER IV—EXECUTION AND REVOCATION OF WILLS

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

CHAPTER V—PROBATE, GRANT OF ADMINISTRATION, AND GUARDIANSHIP

§ 78. Persons Disqualified to Serve as Executor or Administrator

(c) A convicted felon, under the laws either of the United States or of any state or territory of the United States, or of the District of Columbia, unless such person has been duly pardoned, or his civil rights restored, in accordance with law; or

As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 2a.

Effective 90 days after May 23, 1957, date of adjournment.

§ 124. Nonresidents, appointment of guardians for

(a) Appointment of Non-Resident Guardian

A non-resident or non-residents of Texas, being natural persons or corporations, resident of another state or of the District of Columbia, or of any territory, or of any other nation or country, may be appointed and qualified as guardian, or co-guardian of his or its or their non-resi-

dent ward's estate situated in Texas in the same manner and by the same procedure provided in this Code for the appointment and qualification of a resident of this State as guardian of the estates of minors, persons of unsound mind, or habitual drunkards; provided that, by proceedings in and decree or decrees of a court of competent jurisdiction in another state, the District of Columbia, a territory, or another nation or country, of his or its or their residence, such non-resident applicant or applicants shall have been previously duly appointed and are still qualified as guardian, co-guardians, tutor, curator, committee, or fiduciary legal representative by whatever name known in such foreign jurisdiction, of the property or estate of his or its or their ward situated within the jurisdiction of such foreign court, whether such ward be a minor, a person of unsound mind, or an habitual drunkard; and provided further that, with his or its or their written application for appointment in the county court of any county in this state where all or part of such ward's estate is situated in this state, such non-resident applicant or applicants file also a full and complete transcript of the proceedings from the records of the court in which he or it or they were appointed in the jurisdiction of his or its or their residence, evidencing his or its or their due appointment and qualification as such guardian, co-guardians, tutor, curator, committee, or other fiduciary legal representative, of his or its or their ward's property or estate, which transcript shall be certified to and attested by the clerk of such foreign court, if there be a clerk, and, if there be no clerk, then by the officer of said court charged by law with the custody of the records thereof, under the seal of such court, if there be a seal, to which transcript shall be attached the certificate of the judge, chief justice or presiding magistrate, as the case may be, of such foreign court to the effect that the said attestation of such transcript by the clerk or legal custodian of the court records is in due form; and provided further that, without the necessity of notice or citation of any character, an order of appointment be made and entered and that such non-resident applicant or applicants thus appointed, qualify by making and filing oath and bond, subject to the court's approval in all respects the same as required of residents thus appointed, and file with the court a power of attorney appointing a resident agent to accept service of process in all actions or proceedings with respect to the estate, whereupon the clerk shall issue the letters of guardianship to such non-resident guardian or co-guardians. Guardians so qualified shall file inventory and appraisement of the estate of the ward in this State subject to the jurisdiction of the court, as in ordinary cases, and shall be subject to and controlled by all applicable provisions of this Code with respect to the handling and settlement of estates by domestic guardians.

(b) Domestic Guardian of Non-Resident

When a non-resident minor or incompetent owns property in this State, guardianship of such estate may be granted when it is made to appear that a necessity exists therefor, in like manner as if such minor or incompetent resided in this State. The court making the grant of such guardianship shall be in the county in which the principal estate of the ward is situated, and said court shall take all such action and make all such orders with respect to the estate of the ward, for the maintenance, support and care, or the education, if necessary, of the ward, out of the proceeds of such ward's estate, in like manner as if the ward were a resident of this State, and guardianship of the person and estate of the ward had been granted by said court, and the ward had been sent abroad by the court for education or treatment. In the event there be a qualified non-resident guardian of such estate, who later desires to qualify in this State, as hereinabove set out, such non-resident guardian may do so, and it shall

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

be grounds for closing the resident guardianship. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 3.

Effective 90 days after May 23, 1957, date of adjournment.

CHAPTER VI—SPECIAL TYPES OF ADMINISTRATION AND GUARDIANSHIP

§ 137. Collection of Small Estates Upon Affidavit

(d) There is filed with the clerk of the court having jurisdiction and venue an affidavit sworn to by such distributees as have legal capacity, and, if the facts warrant, by the natural guardian or next of kin of any minor or incompetent who is also a distributee, which affidavit shall be approved by the judge of the court having jurisdiction and venue, to be recorded in 'Small Estates' records by the clerk, showing the existence of the foregoing conditions, the names and addresses of the distributees, and their right to receive the money or property of the estate, or to have such evidences of money, property or other rights of the estate as found to exist transferred to them, being heirs, devisees, or assignees, and listing all assets and known liabilities of the estates; and

As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 4.

Effective 90 days after May 23, 1957, date of adjournment.

§ 144. Payment of Small Claims Without Guardianship

(d) **Money in the Registry of a Court and Belonging to an Inmate of a State Eleemosynary Institution.** Whenever it is made to appear to the judge of a county court, district court, or other court of the State of Texas, by an affidavit executed by the superintendent, business manager or field representative of any eleemosynary institution of the State of Texas, that a certain inmate therein is a lunatic, idiot, person of unsound mind or a person whose mental illness or mental incapacity, or both, renders him incapable of caring for himself and managing his property and financial affairs, and there is no known legal guardian appointed for the estate of such inmate, and that there is on deposit in the registry of the court a certain sum of money belonging to the inmate and not exceeding the sum of One Thousand Dollars (\$1,000), the judge of the court may order the disposition of the funds as herein provided. The judge of the court, upon satisfactory proof by affidavit or otherwise, that the inmate is a lunatic, idiot, person of unsound mind, or a person whose mental illness or mental incapacity, or both, renders him incapable of caring for himself and managing his property and financial affairs, without a legally appointed guardian of his estate, may by order direct the clerk of the court to pay the money to the institution for the use and benefit of the inmate. The State institution to which the payment is made shall not be required to give bond or security for receiving the fund from the registry of the court, and the receipt from the State institution for such payment, or the cancelled check or warrant by which the payment was made, shall be sufficient evidence of the disposition thereof and the clerk of the court shall be relieved of further responsibility therefor. Upon receipt of the money the institution shall deposit all of the amount received to the trust account of the inmate, to be used by or for the personal use of the owner thereof under the regulations or custom of the institution in the expenditure of such funds by the inmate or for the use and benefit of the inmate by the responsible officer of the institution. The provisions of this sub-

division shall be cumulative of all other laws affecting the rights of lunatics, idiots, persons of unsound mind or of mental illness, and moneys belonging to such persons as inmates of a state eleemosynary institution.

Should such inmate become deceased leaving a balance in his trust account, such balance may be applied on the burial expenses of said inmate, or applied on his care, support and treatment account at said institution. After the expenditure of all funds in such trust account or after the death of such inmate the responsible officer shall furnish a statement of expenditures of such funds to nearest relative entitled to such statement; and, a copy of such statement shall be filed with the court which first granted the order to dispose of the funds in accordance with the provisions of this Act. Added Acts 1957, 55th Leg., p. 1304, ch. 437, § 1.

Emergency. Effective June 6, 1957.

§ 145. Independent Administration

Any person capable of making a will may provide in his will that no other action shall be had in the county court in relation to the settlement of his estate than the probating and recording of his will, and the return of an inventory, appraisalment, and list of claims of his estate. When such will has been probated, and the inventory, appraisalment, and list aforesaid has been filed by the executor and approved by the court, as long as the estate is represented by an independent executor, further action of any nature shall not be had in the court except where this Code specifically and explicitly provides for some action in the court. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 2(b).

Effective 90 days after May 23, 1957, date of adjournment.

§ 146. Payment of Claims and Delivery of Exemptions and Allowances

An independent executor, in his administration of an estate, although free from the control of the court, shall nevertheless, independently of and without application to, or any action in or by the court, receive presentation of and classify, allow, and pay, or reject, claims against the estate in the same order of priority, classification, and proration prescribed in this Code, and set aside and deliver to those entitled thereto exempt property and allowances for support, and in lieu of homestead, as prescribed in this Code, to the same extent and result as if his actions had been accomplished in, and under orders of, the court. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 2(c).

Effective 90 days after May 23, 1957, date of adjournment.

§ 157. When Spouse Incompetent

Whenever a husband or wife is judicially declared to be incompetent, the other spouse, in the capacity of surviving partner of the marital partnership, thereupon acquires full power to manage, control, and dispose of the entire community estate, including the part which the incompetent spouse would legally have power to manage in the absence of such incompetency, and no administration, community or otherwise, shall be necessary. Guardianship of the estate of the incompetent spouse shall not be necessary when the other spouse is competent unless the incompetent spouse owns separate property, and then as to such separate property only. The qualification of a guardian of the estate of an incompetent spouse does not deprive the competent spouse of the right to manage, control, and dis-

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pose of the entire community estate as provided in this Code. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 5.

Effective 90 days after May 23, 1957, date of adjournment.

CHAPTER VII—EXECUTORS, ADMINISTRATORS, AND GUARDIANS

§ 193. Bond of Guardian of Person

The bond of a guardian of the person shall be in an amount to be fixed by the Court granting such guardianship, not to exceed One Thousand Dollars (\$1000), shall be payable to the county or probate judge, and to his successors in office, in the county in which the proceedings are pending, and may be approved by either of such judges in his official capacity. The bond shall be conditioned that the guardian will faithfully discharge the duties of guardian of the person of his ward. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 6(a).

Effective 90 days after May 23, 1957, date of adjournment.

§ 194. Bonds of Personal Representatives of Estates

Except when bond is not required under the provisions of this Code, before the issuance of letters testamentary, or of administration or guardianship of estates, the recipient of letters shall enter into bond conditioned as required by law, payable to the county judge or probate judge of the county in which the probate proceedings are pending and to his successors in office. Such bonds shall bear the written approval of either of such judges in his official capacity, and shall be executed and approved in accordance with the following rules:

1. Court to Fix Penalty.

The penalty of the bond shall be fixed by the judge, in an amount deemed sufficient to protect the estate and its creditors, as hereinafter provided.

2. Bond to Protect Creditors Only, When.

If the person to whom letters testamentary or of administration is granted is also entitled to all of the decedent's estate, after payment of debts, the bond shall be in an amount sufficient to protect creditors only, notwithstanding the rules applicable generally to bonds of personal representatives of estates.

3. Before Fixing Penalty, Court to Hear Evidence.

In any case where a bond is, or shall be, required of a personal representative of an estate, the court shall, before fixing the penalty of the bond, hear evidence and determine:

(a) The amount of cash on hand and where deposited, and the amount of cash estimated to be needed for administrative purposes, including operation of a business, factory, farm or ranch owned by the estate, and expenses of administration for one (1) year; and

(b) The revenue anticipated to be received in the succeeding twelve (12) months from dividends, interest, rentals, or use of real or personal property belonging to the estate and the aggregate amount of any installments or periodical payments to be collected; and

(c) The estimated value of certificates of stock, bonds, notes, or securities of the estate or ward, the name of the depository, if any, in which said assets are held for safekeeping, the face value of life insurance or other policies payable to the person on whose estate administration is

sought, or to such estate, and such other personal property as is owned by the estate, or by one under disability; and

(d) The estimated amount of debts due and owing by the estate or ward.

4. Penalty of Bond.

The penalty of the bond shall be fixed by the judge in an amount equal to the estimated value of all personal property belonging to the estate, or to the person under disability, together with an additional amount to cover revenue anticipated to be derived during the succeeding twelve (12) months from interest, dividends, collectible claims, the aggregate amount of any installments or periodical payments, and rentals for use of real and personal property; provided, that the penalty of the original bond shall be reduced in proportion to the amount of cash or value of securities or other assets authorized or required to be deposited or placed in safekeeping by order of court, or voluntarily made by the representative or by his sureties as hereinafter provided in Subdivisions 6 and 7 hereof.

5. Agreement as to Deposit of Assets.

It shall be lawful, and the court may require such action when deemed in the best interest of an estate or ward, for a personal representative to agree with the surety or sureties, either corporate or personal, for the deposit of any or all cash, and safekeeping of other assets of the estate in a domestic state or national bank, trust company, savings and loan association, or other domestic corporate depository, duly incorporated and qualified to act as such under the laws of this State or of the United States, if such deposit is otherwise proper, in such manner as to prevent the withdrawal of such moneys or other assets without the written consent of the surety, or an order of the court made on such notice to the surety as the court shall direct. No such agreement shall in any manner release from or change the liability of the principal or sureties as established by the terms of the bond.

6. Deposits Authorized or Required, When.

Cash or securities or other personal assets of an estate or ward may, and if deemed by the court in the best interest of such estate or ward shall, be deposited or placed in safekeeping as the case may be, in one or more of the depositories hereinabove described upon such terms as shall be prescribed by the court. The court in which the proceedings are pending, upon its own motion, or upon written application of the representative or of any other person interested in the estate or ward may authorize or require additional assets of the estate then on hand or as they accrue during the pendency of the probate proceedings to be deposited or held in safekeeping as provided above. The amount of the bond of the personal representative shall be reduced in proportion to the cash so deposited, or the value of securities or other assets placed in safekeeping. Such cash so deposited, or securities or other assets held in safekeeping, or portions thereof, may be withdrawn from a depository only upon order of the court, and the bond of the personal representative shall be increased in proportion to the amount of cash or the value of securities or other assets so authorized to be withdrawn.

7. Representative May Deposit Cash or Securities of His Own in Lieu of Bond.

It shall be lawful for the personal representative of an estate, in lieu of giving surety or sureties on any bond which shall be required of him, or for the purpose of reducing the amount of such bond, to deposit out of his own assets cash or securities acceptable to the court, with a depository such as named above or with any other corporate depository approved by

the court, if such deposit is otherwise proper, said deposit to be equal in amount or value to the amount of the bond required, or the bond reduced by the value of assets so deposited.

8. Rules Applicable to Making and Handling Deposits in Lieu of Bond or to Reduce Penal Sum of Bond.

(a) A receipt for a deposit in lieu of surety or sureties shall be issued by the depository, showing the amount of cash or, if securities, the amount and description thereof, and agreeing not to disburse or deliver the same except upon receipt of a certified copy of an order of the court in which the proceedings are pending, and such receipt shall be attached to the representative's bond and be delivered to and filed by the county clerk after approval by the judge.

(b) The amount of cash or securities on deposit may be increased or decreased, by order of the court from time to time, as the interest of the estate shall require.

(c) Deposits in lieu of sureties on bonds, whether of cash or securities, may be withdrawn or released only on order of a court having jurisdiction.

(d) Creditors shall have the same rights against the representative and such deposits as are provided for recovery against sureties on a bond.

(e) The court may on its own motion, or upon written application by the representative or by any other person interested in the estate, require that adequate bond be given by the representative in lieu of such deposit, or authorize withdrawal of the deposit and substitution of a bond with sureties therefor. In either case, the representative shall file a sworn statement showing the condition of the estate, and unless the same be filed within twenty (20) days after being personally served with notice of the filing of an application by another, or entry of the court's motion, he shall be subject to removal as in other cases. The deposit may not be released or withdrawn until the court has been satisfied as to the condition of the estate, has determined the amount of bond, and has received and approved the bond.

9. Withdrawal of Deposits when Estate Closed.

Upon the closing of an estate, any such deposit or portion thereof remaining on hand, whether of the assets of the representative, or of the assets of the estate, or of the surety, shall be released by order of court and paid over to the person or persons entitled thereto. No writ of attachment or garnishment shall lie against the deposit, except as to claims of creditors of the estate being administered, or persons interested therein, including distributees and wards, and then only in the event distribution has been ordered by the court, and to the extent only of such distribution as shall have been ordered.

10. Who May Act as Sureties.

The surety or sureties on said bonds may be authorized corporate sureties, or personal sureties.

11. Procedure When Bond Exceeds Fifty Thousand Dollars (\$50,000).

When any such bond shall exceed Fifty Thousand Dollars (\$50,000) in penal sum, the court may require that such bond be signed by two (2) or more authorized corporate sureties, or by one such surety and two (2) or more good and sufficient personal sureties. The estate shall pay the cost of a bond with corporate sureties.

12. Qualifications of Personal Sureties.

If the sureties be natural persons, there shall not be less than two (2), each of whom shall make affidavit in the manner prescribed in this Code,

and the judge shall be satisfied that he owns property within this State, over and above that exempt by law, sufficient to qualify as a surety as required by law. Except as provided by law, only one surety is required if the surety is an authorized corporate surety; provided, a personal surety, instead of making affidavit, or creating a lien on specific real estate when such is required, may, in the same manner as a personal representative, deposit his own cash or securities, in lieu of pledging real property as security, subject, so far as applicable, to the provisions covering such deposits when made by personal representatives.

13. Bonds of Temporary Appointees.

In case of a temporary administrator or guardian, the bond shall be in such sum as the judge shall direct.

14. Only One Bond for Guardian of Person and Estate.

Where one person is appointed guardian of both the person and estate of a ward, only one bond shall be given by the guardian, in the same amount that would be required from a guardian of the estate only.

15. Increased or Additional Bonds When Property Sold, Rented, Leased for Mineral Development, or Money Borrowed or Invested.

The provisions in this Section with respect to deposit of cash and safekeeping of securities shall cover, so far as they may be applicable, the orders to be entered by the court when real or personal property of an estate has been authorized to be sold or rented, or money borrowed thereon, or when real property, or an interest therein, has been authorized to be leased for mineral development or subjected to unitization, the general bond having been found insufficient, or when money is borrowed or invested on behalf of a ward. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 6(b).

Effective 90 days after May 23, 1957, date of adjournment.

§ 201. (a) Affidavit of Personal Surety; (b) Lien on Specific Property, When Required; (c) Subordination of Lien Authorized

(a) Affidavit of Personal Surety. Before the judge may consider a bond with personal sureties, each person offered as surety shall execute an affidavit stating the amount of his assets, reachable by creditors, of a value over and above his liabilities, the total of the worth of such sureties to be equal to at least double the amount of the bond, and such affidavit shall be presented to the judge for his consideration and, if approved, shall be attached to and form part of the bond.

(b) Lien on Specific Property, When Required. If the judge finds that the estimated value of personal property of the estate which cannot be deposited or held in safekeeping as hereinabove provided is such that personal sureties cannot be accepted without the creation of a specific lien on real property of such sureties, he shall enter an order requiring that each surety designate real property owned by him within this State subject to execution, of a value over and above all liens and unpaid taxes, equal at least to the amount of the bond, giving an adequate legal description of such property, all of which shall be incorporated in an affidavit by the surety, approved by the judge, and be attached to and form part of the bond. If compliance with such order is not had, the judge may in his discretion require that the bond be signed by an authorized corporate surety, or by such corporate surety and two (2) or more personal sureties.

(c) Subordination of Lien Authorized. If a personal surety who has been required to create a lien on specific real estate desires to lease such property for mineral development, he may file his written application in the court in which the proceedings are pending, requesting subordina-

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

tion of such lien to the proposed lease, and the judge of such court may, in his discretion, enter an order granting such application. A certified copy of such order, filed and recorded in the deed records of the proper county, shall be sufficient to subordinate such lien to the rights of a lessee, in the proposed lease. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 6 (c).

Effective 90 days after May 23, 1957, date of adjournment.

§ 202. Bond as Lien on Real Property of Surety

When a personal surety has been required by the court to create a lien on specific real property as a condition of his acceptance as surety on a bond, a lien on the real property of the surety in this State which is described in the affidavit of the surety, and only upon such property, shall arise as security for the performance of the obligation of the bond. The clerk of the court shall, before letters are issued to the representative, cause to be mailed to the office of the county clerk of each county in which is located any real property as set forth in the affidavit of the surety, a statement signed by the clerk, giving a sufficient description of such real property, the name of the principal and sureties, the amount of the bond, and the name of the estate and the court in which the bond is given. The county clerk to whom such statement is sent shall record the same in the deed records of the county. All such recorded statements shall be duly indexed in such manner that the existence and character of the liens may conveniently be determined, and such recording and indexing of such statement shall constitute and be constructive notice to all persons of the existence of such lien on such real property situated in such county, effective as of date of such indexing. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 6(d).

Effective 90 days after May 23, 1957, date of adjournment.

§ 219. Repealed. Acts 1957, 55th Leg., p. 53, ch. 31, § 13. Eff. 90 days after May 23, 1957, date of adjournment

§ 228. Powers, Duties, and Obligations of Guardian of Person Entitled to Governmental Funds

(a) A guardian of the estate of a person for whom it is necessary to have a guardian appointed to receive funds from a governmental agency shall have the power to administer only the funds so received from such governmental agency, and all earnings, interest, or profits derived therefrom and all property acquired therewith, and shall not be considered as a general guardian of the estate of such ward. Such guardian shall have the power to receive and receipt for such funds, to pay out under appropriate order of the court the expenses of administering the estate and for the support, maintenance, and education of the ward and his dependents, and to invest under the order of the court the surplus funds as they accumulate in the estate, as authorized by Part 10 of Chapter 8 of this Code. The procedural, administrative, and penal provisions of this Code shall be binding upon the guardian in his original appointment and in the administration of the estate of such ward.

(b) All acts heretofore performed by guardians of the estate of a person for whom it is necessary to have a guardian appointed to receive and disburse funds due such person from a governmental source or agency, performed in conformance with orders of a county or probate court having venue with respect to the support, maintenance, and education of

the ward and his dependents, and the investment of surplus funds of the ward under the general guardianship laws of this State, which acts are not in issue as to legality in any probate proceeding or civil suit pending on the effective date of this Act, are hereby validated. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 7.

Effective 90 days after May 23, 1957, date

§ 241. Compensation of Personal Representatives

(a) **Compensation of Executors and Administrators.** Executors and administrators shall be entitled to receive, and may retain in their hands, a commission of five per cent (5%) on all sums they may actually receive in cash, and the same per cent on all sums they may actually pay out in cash, in the administration of the estate; provided, no commission shall be allowed for receiving cash belonging to the testator or intestate which was on hand or on deposit to his credit in a bank at the time of his death, nor for paying out cash to the heirs or legatees as such; provided, further, however, that in no event shall the executor or administrator be entitled in the aggregate to more than five per cent (5%) of the gross fair market value of the estate subject to administration. If the executor or administrator manages a farm, ranch, factory, or other business of the estate, or if the compensation as calculated above is unreasonably low, the court may allow him reasonable compensation for his services. For this purpose, the county court shall have jurisdiction to receive, consider, and act on applications from independent executors.

(b) **Compensation of Guardians.** A guardian of the person alone is entitled to no compensation. The guardian of the estate, or of the person and estate, shall not be entitled to, or receive, any fee or commission on the estate of the ward when it is first delivered to him; but shall be entitled to a fee of five per cent (5%) on the gross income of the ward's estate and five per cent (5%) on all money paid out. The term 'money paid out' shall not be construed to include any money loaned or invested or paid over on the settlement of the guardianship. If the guardian manages a farm, ranch, factory, or other business of his ward, or if the compensation as calculated above is unreasonably low, the court may allow him reasonable compensation for his services. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 8.

Effective 90 days after May 23, 1957, date
of adjournment.

CHAPTER VIII—PROCEEDINGS DURING ADMINISTRATION AND GUARDIANSHIP

§ 253. Fees of Appraisers

Each appraiser appointed by the court, as herein authorized, shall be entitled to receive a minimum compensation of Five Dollars (\$5) per day, payable out of the estate, for each day that he actually serves in performance of his duties as such. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 9.

Effective 90 days after March 23, 1957,
date of adjournment.

§ 367. Mineral Leases After Public Notice

(c) 7. **Term of Lease Binding.** Every such lease, when executed and delivered in compliance with the rules hereinabove set out, shall be valid and binding upon the property or interest therein owned by the es-

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

tate and covered by the lease for the full duration of the term as provided therein, subject only to its terms and conditions, even though the primary term shall extend beyond the date when the estate shall have been closed in accordance with law; provided, the authorized primary term shall not exceed five (5) years, subject to terms and provisions of the lease extending it beyond the primary term by paying production, bona fide drilling, or reworking operations, whether in or on the same or additional well or wells, with no cessation of operations of more than sixty (60) consecutive days before production has been restored or obtained. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 10(a).

Effective 90 days after May 23, 1957, date of adjournment.

§ 368. Mineral Leases or Private Sale

(b) **Action of the Court When Public Advertising Not Required.** At any time after the expiration of five (5) days and prior to the expiration of ten (10) days from the date of filing and without an order setting time and place of hearing, the court shall hear the application to lease at private sale and shall inquire into the manner in which the proposed lease has been or will be made, and shall hear evidence for or against the same; and, if satisfied that the lease has been or will be made for a fair and sufficient consideration and on fair terms, and has been or will be properly made in conformity with law, the court shall enter an order authorizing the execution of such lease without the necessity of advertising, notice, or citation, said order complying in all other respects with the requirements essential to the validity of mineral leases as hereinabove set out, as if advertising or notice were required. No order confirming a lease or leases made at private sale need be issued, but no such lease shall be valid until the increased or additional bond required by the court, if any, has been approved by the court and filed with the clerk of the court. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 10(b).

Effective 90 days after May 23, 1957, date of adjournment.

§ 370. Special Ancillary Instruments Which May be Executed Without Court Order

As to any valid mineral lease or pooling or unitization agreement, executed on behalf of the estate prior to the effective date of this Code, or pursuant to its provisions, or by a former owner of land, minerals, or royalty affected thereby, the personal representative of the estate which is being administered may, without further order of the court, and without consideration, execute division orders, transfer orders, instruments of correction, instruments designating depository banks for the reception of delay rentals or shut-in gas well royalty to accrue or become payable under the terms of any such lease or leases, and similar instruments pertaining to any such lease or agreement and the property covered thereby. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 10(c).

Effective 90 days after May 23, 1957, date of adjournment.

§ 399. Annual Accounts Required

(a) **Estates of Decedents and Wards Being Administered Under Order of Court.** The personal representative of the estate of a decedent or ward being administered under order of court shall, upon the expiration of twelve (12) months from the date of qualification and receipt of letters, return to the court an exhibit in writing under oath setting forth a list of

all claims against the estate that were presented to him within the period covered by the account, specifying which have been allowed by him, which have been paid, which have been rejected and the date when rejected, which have been sued upon, and the condition of the suit, and show:

(1) All property that has come to his knowledge or into his possession not previously listed or inventoried as property of the estate or ward, as the case may be.

(2) Any changes in the property of the estate or ward which have not been previously reported.

(3) A complete account of receipts and disbursements for the period covered by the account, and the source and nature thereof, with receipts of principal and income to be shown separately.

(4) A complete, accurate and detailed description of the property being administered, the condition of the property and the use being made thereof, and, if rented, the terms upon and the price for which rented.

(5) The cash balance on hand and the name and location of the depository wherein such balance is kept; also, any other sums of cash in savings accounts or other form, deposited subject to court order, and the name and location of the depository thereof.

(6) A detailed description of personal property of the estate, which shall, with respect to bonds, notes, and other securities, include the names of obligor and obligee, or if payable to bearer, so state; the date of issue and maturity; the rate of interest; serial or other identifying numbers; in what manner the property is secured; and other data necessary to identify the same fully, and how and where held for safekeeping.

(b) Annual Reports Continue Until Estate Closed. Each personal representative of the estate of a decedent or ward shall continue to file annual accounts conforming to the essential requirements of those in Subsection (a) hereof as to changes in the assets of the estate after rendition of the former account so that the true condition of the estate, with respect to money, securities, and other property, can be ascertained by the court or by any interested person, by adding to the balances forward the receipts, and then subtracting the disbursements. The description of property sufficiently described in an inventory or previous account may be by reference thereto.

(c) Guardians of the Person. The guardian of the person, when there is a separate guardian of the estate, shall at the expiration of twelve (12) months from the date of his qualification and receipt of letters, and annually thereafter, return to the court his sworn account showing each item of receipts and disbursements for the support and maintenance of the ward, his education when necessary, and support and maintenance of the ward's dependents, when authorized by order of court. All who are guardians of the person shall include in their reports facts concerning each ward's physical welfare, his well-being, and his progress in education, if the latter be pertinent. Unless the judge is satisfied that the facts stated are true, he shall issue such orders as are necessary for the best interest of the ward.

(d) Supporting Vouchers, etc., Attached to Accounts. Annexed to all annual accounts of representatives of estates and wards, and, so far as applicable, accounts of guardians of the persons of wards and guardians of those wards entitled to receive governmental funds, required by this Section, shall be:

(1) Proper vouchers for each item of credit claimed in the account, or, in the absence of such voucher, the item must be supported by evidence satisfactory to the court. Original vouchers may, upon application, be returned to the representative after approval of his account.

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

(2) An official letter from the bank or other depository in which the money on hand of the estate or ward is deposited, showing the amounts in general or special deposits.

(3) Proof of the existence and possession of securities owned by the estate, or shown by the accounting, as well as other assets held by a depository subject to orders of the court, the proof to be by one of the following means:

a. By an official letter from the bank or other depository wherein said securities or other assets are held for safekeeping; provided, that if such depository is the representative, the official letter shall be signed by a representative of such depository other than the one verifying the account; or

b. By a certificate of an authorized representative of the corporation which is surety on the representative's bonds; or

c. By a certificate of the clerk or a deputy clerk of a court of record in this State; or

d. By an affidavit of any other reputable person designated by the court upon request of the representative or other interested party.

Such certificate or affidavit shall be to the effect that the affiant has examined the assets exhibited to him by the representative as assets of the estate in which the accounting is made, and shall describe the assets by reference to the account or otherwise sufficiently to identify those so exhibited, and shall state the time when and the place where exhibited. In lieu of using a certificate or an affidavit, the representative may exhibit the securities to the judge of the court who shall endorse on the account, or include in his order with respect thereto, a statement that the securities shown therein as on hand were in fact exhibited to him, and that those so exhibited were the same as those shown in the account, or note any variance. If the securities are exhibited at any place other than where deposited for safekeeping, it shall be at the expense and risk of the representative. The court may require additional evidence as to the existence and custody of such securities and other personal property as in his discretion he shall deem proper; and may require the representative to exhibit them to the court, or any person designated by him, at any time at the place where held for safekeeping.

(e) **Verification of Account.** The representative filing the account shall attach thereto his affidavit that it contains a correct and complete statement of the matters to which it relates.

(f) **Annual Accounts May be Waived, When.** In cases in which the income of a ward's estate from real property becomes negligible, and the estate owns no personal property, the estate may be closed, as hereinafter provided. If the estate owns personal property which produces negligible or fixed income, the court shall have the power to waive the filing of annual accounts, and the court may permit the guardian to receive all income and apply it to the support, maintenance, and education of the ward, and account to the court for income and corpus of the estate when the same must be closed. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 11(a).

Effective 90 days after May 23, 1957,
date of adjournment.

§ 400. Penalty for Failure to File Annual Account

Should any personal representative of an estate, or guardian of the person of a ward, fail to return any annual account required by preceding sections of this Code, any person interested in said estate or ward may, upon written complaint, or the court upon its own motion may, cause the

personal representative to be cited to return such account, and show cause for such failure. If he fails to return said account after being so cited, or fails to show good cause for his failure so to do, the court, upon hearing, may revoke the letters of such representative, and may fine him in a sum not to exceed Five Hundred Dollars (\$500). He and his sureties shall be liable for any fine imposed, and for all damages and costs sustained by reason of such failure, which may be recovered in any court of competent jurisdiction. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 11(b).

Effective 90 days after May 23, 1957, date of adjournment.

§ 401. Action Upon Annual Accounts

These rules shall govern the handling of annual accounts:

(a) They shall be filed with the county clerk, and the filing thereof shall be noted forthwith upon the judge's docket.

(b) Before being considered by the judge, the account shall remain on file ten (10) days.

(c) At any time after the expiration of ten (10) days after the filing of an annual account, the judge shall consider same, and may continue the hearing thereon until fully advised as to all items of said account.

(d) No accounting shall be approved unless possession of cash, listed securities, or other assets held in safekeeping or on deposit under order of court has been proved as required by law.

(e) If the account be found incorrect, it shall be corrected. When corrected to the satisfaction of the court, it shall be approved by an order of court, and the court shall then act with respect to unpaid claims, as follows:

(1) Order for Payment of Claims in Full. If it shall appear from the exhibit, or from other evidence, that the estate is wholly solvent, and that the representative has in his hands sufficient funds for the payment of every character of claims against the estate, the court shall order immediate payment to be made of all claims allowed and approved or established by judgment.

(2) Order for Pro Rata Payment of Claims. If it shall appear from the account, or from other evidence, that the funds on hand are not sufficient for the payment of all the said claims, or if the estate is insolvent and the personal representative has any funds on hand, the court shall order such funds to be applied to the payment of all claims having a preference in the order of their priority if they, or any of them, be still unpaid, and then to the payment pro rata of the other claims allowed and approved or established by final judgment, taking into consideration also the claims that were presented within twelve (12) months after the granting of administration, and those which are in suit or on which suit may yet be instituted. As amended Acts 1957, 55th Leg., p. 53, ch. 31, § 11(c).

Effective 90 days after May 23, 1957, date of adjournment.

TITLE 110A—PUBLIC OFFICES

Art.
6252—9. Standards of conduct for officers
and employees of state agencies,
legislators, etc.; conflict of in-
terests [New].

Art. 6252—9. Standards of conduct for officers and employees of state
agencies, legislators, etc. ; conflict of interests

Declaration of policy

Section 1. It is hereby declared to be the policy of the Legislature that no officer or employee of a state agency, Member of the Legislature or legislative employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest. To implement such policy and to strengthen the faith and confidence of the people of Texas in their Government, there is herein enacted a code of ethics setting forth standards of conduct to be observed by state officers and employees in the performance of their official duties. It is the intent of the Legislature that this code shall serve not only as a guide for official conduct of the State's public servants but also as a basis for discipline of those who refuse to abide by its terms.

Definitions

Sec. 2. In this Act, unless the context otherwise requires:

(a) "State agency" means any office, department, commission or board of the executive department of government.

(b) "Regulatory agency" means the Board of Insurance Commissioners, Banking Department, Railroad Commission, and Texas Liquor Control Board.

(c) "Legislative employee" means an officer or employee of the Legislature, Legislative Budget Board, Legislative Council and the State Auditor's Office, but does not include Members of the Legislature.

Standards of Conduct

Sec. 3. (a) No officer or employee of a state agency, legislator or legislative employee shall accept any gift, favor, or service that might reasonably tend to influence him in the discharge of his official duties.

(b) If an officer or employee of a state agency, legislator or legislative employee is an officer, agent, or member of, or owns a controlling interest in any corporation, firm, partnership, or other business entity which is under the jurisdiction of any state regulatory agency he shall file a sworn statement with the Secretary of State disclosing such interest.

(c) No officer or employee of a state agency, legislator, or legislative employee shall use his official position to secure special privileges or exemptions for himself or others, except as may be otherwise provided by law.

(d) No member of the Legislature who has a personal or private interest in any measure or Bill, proposed, or pending before the Legislature shall vote thereon but shall disclose such interest to the House of which he is a Member and such statement shall be recorded in the Journal.

(e) No officer or employee of a state agency, Legislator, or legislative employee shall accept employment or engage in any business or professional activity which he might reasonably expect would require or induce him to disclose confidential information acquired by him by reason of his official position.

(f) No officer or employee of a state agency, Legislator, or legislative employee shall disclose confidential information gained by reason of his official position, nor shall he otherwise use such information for his personal gain or benefit.

(g) No officer or employee of a state agency shall transact any business in his official capacity with any business entity of which he is an officer, agent, or member, or in which he owns a controlling interest.

(h) No officer or employee of a state agency shall make personal investments in any enterprise which will create a substantial conflict between his private interests and the public interest.

(i) No officer or employee of a state agency nor any firm, association, corporation or other business entity in which he is a member, agent, or officer, or in which he owns a controlling interest, shall sell goods or services to any person, firm, association or corporation which is licensed by or regulated in any manner by the state agency in which such officer or employee serves.

(j) No officer or employee of a state agency, Legislator, or legislative employee shall accept other employment which might impair his independence of judgment in the performance of his public duties.

(k) No officer or employee of a state agency, Legislator or legislative employee shall receive any compensation for his services as an officer or employee of a state agency, Legislator or legislative employee from any source other than the State of Texas, except as may be otherwise provided by law.

Non-compliance

Sec. 4. The failure of any officer or employee of a state agency, Legislator or legislative employee to comply with one or more of the foregoing standards of conduct which apply to him shall constitute grounds for expulsion, removal from office, or discharge, whichever is applicable. Acts 1957, 55th Leg., p. 213, ch. 100.

Emergency. Effective April 24, 1957.

Title of Act:

An Act establishing standards of conduct for officers and employees of state agencies, legislators and legislative employees in the

area of possible conflict between their private interests and official duties; and declaring an emergency. Acts 1957, 55th Leg., p. 213, ch. 100.

TITLE 115—REGISTRATION

CHAPTER THREE—EFFECT OF RECORDING

Art.
6626a. Subdivision plats; recording;
counties of 100,000 or less popula-
tion; powers of commissioners'
court [New].

Art. 6626a. Subdivision plats; recording; counties of 100,000 or less population; powers of commissioners' court

Section 1. Hereafter, in all counties having a population of not more than one hundred thousand (100,000) according to the last preceding Federal Census, every owner of any tract of land situated without the corporate limits of any city in the State of Texas, who may hereafter divide the same in two (2) or more parts for the purpose of laying out any subdivision of any such tract of land, or an addition without the corporate limits of any town or city, or for laying out suburban lots or building lots, and for the purpose of laying out streets, alleys, or parks, or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall cause a plat to be made thereof, which shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part, giving the dimensions thereof of said subdivision or addition and the dimensions of all lots, streets, alleys, parks, or other portions of same, intended to be dedicated to public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, provided, however, that no plat of any subdivision of any tract of land or any addition shall be recorded unless the same shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part giving the dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

Sec. 2. That every such plat shall be duly acknowledged by owners or proprietors of the land, or by some duly authorized agent of said owners or proprietors, in the manner required for acknowledgement of deeds; and the said plat, subject to the provisions contained in this Act, shall be filed for record and be recorded in the office of the County Clerk of the County in which the land lies.

Sec. 3. The Commissioners Courts of any such counties may, by an order duly adopted and entered upon the minutes of the Court, after a notice published in a newspaper of general circulation in the county, be specifically authorized to make the following requirements:

(a) To provide for right of way on main artery streets or roads within such subdivision of a width of not less than fifty (50) feet nor more than one hundred (100) feet.

(b) To provide for right of way on all other streets or roads in such subdivision of not less than forty (40) feet nor more than fifty (50) feet.

(c) To provide that the street cut on main arteries within the right of way be not less than thirty (30) feet nor more than forty-five (45) feet.

(d) To provide for the street cut on all other streets or roads within such subdivision within the right of way to be not less than twenty-five (25) feet nor more than thirty-five (35) feet.

(e) To promulgate reasonable specifications to be followed in the construction of any such roads or streets within such subdivision, considering the amount and kind of travel over said streets.

(f) To promulgate reasonable specifications to provide adequate drainage in accordance with standard engineering practices for all roads or streets in said subdivision or addition.

(g) To require the owner or owners of any such tract of land, which may be so subdivided, to give a good and sufficient bond for the proper construction of such roads or streets affected, with such sureties as may be approved by the Court; and in the event a surety bond by a corporate surety is required, such bond shall be executed by a surety company authorized to do business in the State of Texas. Such bond shall be made payable to the County Judge or his successors in office, of the county wherein such subdivision lies, and conditioned that the owner or owners of any such tract of land to be subdivided will construct any roads or streets within such subdivision in accordance with the specifications promulgated by the Commissioners Court of such county. The bond shall be in such an amount as may be determined by the Commissioners Court, but shall not exceed a sum equal to Three Dollars (\$3) for each lineal foot of road or street within such subdivision.

Sec. 4. The Commissioners Court of any such county shall have the authority to refuse to approve and authorize any map or plat of any such subdivision, unless such map or plat meets the requirements as set forth in this Act; and there is submitted at the time of approval of such map or plat such bond as may be required by this Act. Acts 1957, 55th Leg., p. 1302, ch. 436.

Effective 90 days after May 23, 1957, date of adjournment.

Section 5 of the Act of 1957 provided that all laws or parts or laws in conflict with the provisions of this Act are hereby repealed; and, in case of such conflict the provisions of this Act shall control and be effective; provided, however, that nothing

herein shall repeal, nullify, alter or change the rights of Home Rule Charter cities to regulate, zone, and restrict subdivisions within a five (5) mile radius of their corporate limits.

Section 6 provided that if any section was declared unconstitutional, it should not affect the remainder.

TITLE 116—ROADS, BRIDGES, AND FERRIES

CHAPTER ONE—STATE HIGHWAYS

1. STATE HIGHWAY DEPARTMENT

Art.

- 6673e—1. Acquisition of rights of way in cooperation with local officials; payment to counties and cities [New].
- 6673e—2. Expenditure of additional funds [New].

1A. CONSTRUCTION AND MAINTENANCE

- 6674t—1. Right-of-way easements from State Youth Development Council [New].

1B. MODERNIZATION OF HIGHWAY FACILITIES; CONTROLLED ACCESS HIGHWAYS [NEW]

Art.

- 6674w. Purpose; definitions.
- 6674w—1. Powers of Commission.
- 6674w—2. Payment procedure.
- 6674w—3. Acquisition of property.
- 6674w—4. Relocation of utility facilities.
- 6674w—5. Additional methods and precedence of act in cases of conflict.

2. REGULATION OF VEHICLES

- 6675a—5a. Registration; passenger vehicles 35 years old; "Antique Auto"; penalty [New].

1. STATE HIGHWAY DEPARTMENT

- Art. 6673e—1. Acquisition of rights of way in cooperation with local officials; payments to counties and cities

In the acquisition of all rights of way authorized and requested by the Texas Highway Department, in cooperation with local officials, for all highways designated by the State Highway Commission as United States or State Highways, the Texas Highway Department is authorized and directed to pay to the counties and cities not less than fifty per cent (50%) of the value as determined by the Texas Highway Department of such requested right of way, or the net cost thereof, whichever is the lesser amount; provided, that if condemnation is necessary, the participation by the Texas Highway Department shall be based on the final judgment, conditioned that such Department has been notified in writing prior to the filing of such suit and prompt notice is also given as to all action taken therein. Such Department shall have the right to become a party at any time for all purposes, including the right of appeal at any stage of the proceedings.

The various counties and cities are hereby authorized and directed to acquire such right of way for such highways as are requested and authorized by the Texas Highway Department, as provided by existing laws, and in the event condemnation is necessary, the procedure shall be the same as that set out in Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes of Texas, and amendments thereto.

Upon delivery to the Texas Highway Department of acceptable instruments conveying to the State the requested right of way, the Texas Highway Department shall prepare and transmit to the Comptroller of Public Accounts vouchers covering the reimbursement to such county or city for the Department's share of the cost of providing such right of way, and the Comptroller of Public Accounts is hereby authorized and directed to issue warrants on the appropriate account covering the State's obligations as evidenced by such vouchers.

The Texas Highway Department is authorized and directed to acquire by purchase, gift or condemnation all right of way necessary for the Na-

tional System of Interstate and Defense Highways. Acts 1957, 55th Leg., p. 731, ch. 301, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 4 of the Act of 1957 was a severability provision.

Art. 6673e—2. Expenditure of additional funds

From and after the effective date of this Act, the Texas Highway Department shall expend the additional funds provided for by Section 2 of this Act, which is derived from Section 10 of Chapter 88, Acts of the Forty-first Legislature, Second Called Session, 1929, as amended,¹ for the acquisition of rights of way. Acts 1957, 55th Leg., p. 731, ch. 301, § 3.

¹ Article 6675a—10.

Effective 90 days after May 23, 1957, date of adjournment.

1A. CONSTRUCTION AND MAINTENANCE**Art. 6674t—1. Right-of-way easements from State Youth Development Council**

Section 1. In consideration of the benefits accruing to the state from the reconstruction and maintenance of a state highway extending along or across certain state property known as the Gainesville State School for Girls, the State Youth Development Council, acting by its Executive Secretary, is hereby authorized and directed to execute and deliver to the State Highway Commission of the State of Texas a proper instrument conveying thereto a right-of-way easement to the following described tracts of land in Cooke County, Texas, for the reconstruction and maintenance of a highway, the form of such conveyance to be approved by the Attorney General:

Tract 1: Being a part of and out of the A. C. C. Bailey Survey, Abstract 44, Cooke County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at the Northwest corner of a 94.87 acre tract conveyed by P. L. Dickerman and Minnie Dickerman to the State of Texas on May 1, 1915, as recorded in Volume 116, page 185, of the Cooke County Deed Records, said point being in the center of the Gainesville-Woodbine Road;

Thence North 89° 59' East 683 feet along the North line of said 94.87 acre tract to a point for corner, said point being the Southwest corner of a 33-2/3 acre tract conveyed by J. M. Lee and wife, and C. H. Lee and wife, to the State of Texas on April 14, 1915, as recorded in Volume 116, page 147, of the Cooke County Deed Records, said point being also on the centerline of Farm Highway 678 at Survey Station 130 + 30;

Thence North 50.0 feet along the West line of said 33-2/3 acre tract to a point for corner, said point being in the North right-of-way line of Farm Highway 678;

Thence North 89° 59' East 1667.0 feet along said North right-of-way line to a point in the East line of above mentioned 33-2/3 acre tract;

Thence South 100 feet, crossing the Southeast corner of said 33-2/3 acre tract and the Northeast corner of said 94.87 acre tract at 50 feet, to a point in the South right-of-way line of said Farm Highway No. 678;

Thence South 89° 59' West 2350 feet along said South right-of-way line to a point in the West line of the above mentioned 94.87 acre tract;

Thence North 50 feet to the place of beginning and containing 4.61 acres of land more or less, of which 1.39 acres is new right-of-way and the balance is in an existing road.

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

Tract II: Being a strip of land out of the A. C. C. Bailey Survey, Abstract 44, 200 feet long and 30 feet wide on the South side of the proposed location of FM Highway 678, the centerline of said strip being more particularly described as follows:

Beginning at a point in the South line of said highway 50 feet South of Survey Station 144+00;

Thence South 0° 01' East 200 feet;

Containing 0.138 acres of land, more or less. Acts 1957, 55th Leg., p. 11, ch. 9.

Emergency. Effective Feb. 28, 1957.

Title of Act:

An Act authorizing and directing the State Youth Development Council, acting by its Executive Secretary, to execute and deliver to the State Highway Commission of Texas a right-of-way easement to cer-

tain land in Cooke County, Texas, for the reconstruction and maintenance of a state highway extending along or across certain state property known as Gainesville State School for Girls; and declaring an emergency. Acts 1957, 55th Leg., p. 11, ch. 9.

1B. MODERNIZATION OF HIGHWAY FACILITIES, CONTROLLED ACCESS HIGHWAYS

Art. 6674w. Purpose; Definitions

Purposes. The Legislature finds, determines and declares that the purpose of this Act is to delegate certain additional authority to the State Highway Commission to promote the Public Safety, to facilitate the movement of traffic, to preserve the financial investment of the public in its highways and to promote the National Defense.

Definitions. Wherever used in this Act, "Controlled Access Highway" means any designated State Highway within or without the limits of any incorporated city, town or village, whether under the General Laws or by special charter, including Home Rule Charter Cities, to or from which access is denied or controlled, in whole or in part, from or to abutting land or intersecting streets, roads, highways, alleys or other public or private ways.

Wherever used in this Act, "Person" means any person, individual, individuals, corporation, association, and/or firm. Acts 1957, 55th Leg., p. 724, ch. 300, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 6 of the Act of 1957 was a severability provision.

Art. 6674w-1. Powers of Commission

1. Authorization for Modernization of Highway Facilities. To effectuate the purposes of this Act, the State Highway Commission is empowered to lay out, construct, maintain, and operate a modern State Highway System, with emphasis on the construction of controlled access facilities and to convert, wherever necessary, existing streets, roads and highways into controlled access facilities to modern standards of speed and safety; and, to plan for future highways. The State Highway Commission is further empowered to lay out, construct, maintain and operate any designated State Highway, now or hereafter constructed, with such control of access thereto as is necessary to facilitate the flow of traffic, and promote the Public Safety and Welfare, in any area of the State, whether in or outside of the limits of any incorporated city, town or village, including Home Rule Cities, and to exercise all of the powers and procedures to it granted by existing laws and this Act for the accomplishment of such purposes and the exercise of such powers and duties; provided, however, that in the case of any project involving the

bypassing of or going through any county, city, town, or village, including Home Rule Cities, the State Highway Commission shall afford the opportunity for not less than one (1) public hearing in the locality before an authorized representative of the State Highway Commission, at which persons interested in the development of the project shall have the opportunity for attendance, discussion and inspection of the design and schematic layout presented and filed with the governing body of such county, city, town or village, including Home Rule Cities, at least seven (7) days before the public hearing, by the State Highway Department. Such hearing shall be held not less than three (3) days nor not more than ten (10) days after the publication in the locality of notice of such hearing.

2. Control of Access. The State Highway Commission, by proper order entered in its minutes, is hereby authorized and empowered:

(a). To designate any existing or proposed State Highway, of the Designated State Highway System, or any part thereof, as a Controlled Access Highway;

(b). To deny access to or from any State Highway, presently or hereafter designated as such, whether existing, presently being constructed, or hereafter constructed, which may be hereafter duly designated as a Controlled Access Highway, from or to any lands, public, or private, adjacent thereto, and from or to any streets, roads, alleys, highways or any other public or private ways intersecting any such Controlled Access Highway, except at specific points designated by the State Highway Commission; and to close any such public or private way at or near its point of intersection with any such Controlled Access Highway;

(c). To designate points upon any designated Controlled Access Highway, or any part of any such highway, at which access to or from such Controlled Access Highway shall be permitted, whether such Controlled Access Highway includes any existing State Highway or one hereafter constructed and so designated;

(d). To control, restrict, and determine the type and extent of access to be permitted at any such designated point of access;

(e). To erect appropriate protective devices to preserve the utility, integrity, and use of such designated Controlled Access Highway; and,

(f). To modify or repeal any order entered pursuant to the powers herein granted.

Provided, however, that nothing in the foregoing subparagraphs (a) through (f), inclusive, shall be construed to alter the existing rights of any person to compensation for damages suffered as a result of the exercise of such powers by the State Highway Commission under the Constitution and laws of the State of Texas.

Subject to the foregoing limitations any order issued by the State Highway Commission pursuant to such powers shall supersede and be superior to any rule, regulation or ordinance of any department, agency or subdivision of the State or any county, incorporated city, town or village, including Home Rule Cities, in conflict therewith.

No injunction shall be granted to stay or prevent the denial of previously existing access to any State Highway upon the order of the Commission except at the suit of the owner or lessee of real property actually physically abutting on that part of such State Highway to which such access is to be denied pursuant to the Commission's order, and then only in the event that said abutting owner or lessee shall not have released his claim for damages resulting from such denial of access or a condemnation suit shall not have been commenced to ascertain such damages, if any.

Along new Controlled Access State Highway locations, abutting property owners shall not be entitled to access to such new Controlled Access State Highway locations as a matter of right, and any denial of such access shall not be deemed as grounds for special or exemplary damages, except where access to such new Controlled Access State Highway shall have been specifically authorized by the State Highway Commission to or from particular lands abutting upon such new Controlled Access State Highway in connection with the purchase or condemnation of lands or property rights from such abutting owners to be used in such new Controlled Access State Highway location, and the State Highway Commission thereafter denies access to or from such particular abutting lands to such State Highway at the point where such lands actually abut upon such State Highway. Added Acts 1957, 55th Leg., p. 724, ch. 300, § 2.

Art. 6674w—2. Payment procedure

In addition to all existing procedures and methods authorized for the issuance of warrants by the Comptroller of Public Accounts upon the request of the State Highway Department, the following authority is hereby granted:

Upon presentation of a properly executed deed or deeds, the Comptroller of Public Accounts is hereby authorized to issue a State Warrant on the appropriate account as payment of consideration for such land, estate or interest therein. In the event any owner fails or refuses to execute or deliver an executed deed before payment of the consideration, the Comptroller of Public Accounts is hereby authorized to issue a State Warrant on the appropriate account in payment of such consideration, which consideration shall be placed in escrow with any National or State Bank, duly authorized to do business within the State of Texas, which is located in the county of the residence of the owner, the county wherein the land is situated, or in case no such banking facility is available, then in the adjoining county or the nearest available banking facility, to be delivered to the owner upon receipt of the duly and properly executed deed or deeds. In the event the State Highway Department acquires any property through the exercise of the power of Eminent Domain, the Comptroller of Public Accounts is hereby authorized to issue such warrants as the judgment of the Court may decree, as well as such warrants necessary to be deposited into the Court to entitle the State Highway Department, in the name of the State of Texas, to take possession of such property, as the law may provide. Added Acts 1957, 55th Leg., p. 724, ch. 300, § 3.

Art. 6674w—3. Acquisition of property

In addition to other powers conferred by law, the following are added, to wit:

1. Powers of Purchase and Condemnation for Highway Purposes.
(a) Any land in fee simple or any lesser estate or interest therein; any property rights of any kind or character including, but not limited to, rights of ingress and egress and reservation rights in land which restrict or prohibit the adding of new, or addition to or modification of existing improvements on such land, or subdividing the same; and any timber, earth, stone, gravel, or other material; which the State Highway Commission may in its judgment determine to be necessary or convenient to any State Highway to be constructed, reconstructed, maintained, widened, straightened or lengthened including, but not limited to, any land, property rights or materials deemed by the State Highway Com-

mission necessary or convenient for the purpose of protecting any State Highway; draining any State Highway; diverting streams or rivers or any other watercourse from the right of way of any State Highway; storing materials and equipment used in the construction and maintenance of State Highways; constructing and operating warehouses and other buildings and facilities used in connection with the construction, maintenance, and operation of State Highways; laying out, construction, and maintenance of roadside parks; and any other purpose related to the laying out, construction, improvement, maintenance, beautification, preservation and operation of State Highways, may be purchased by the State Highway Commission in the name of the State of Texas, on such terms and conditions and in such manner as the Highway Commission may deem proper.

(b) Any land or any estate or interest therein; any property rights of any kind or character including, but not limited to, rights of ingress and egress, and reservation rights in land which restrict or prohibit for any period of time not to exceed seven (7) years the adding of new, or addition to or modification of existing improvements on such land, or subdividing or resubdividing same; and any timber, earth, stone, gravel, or other material; which the State Highway Commission may in its judgment determine to be necessary or convenient to any State Highway to be constructed, reconstructed, maintained, widened, straightened or lengthened including, but not limited to, any land, property rights or materials deemed by the State Highway Commission necessary or convenient for the purpose of protecting any State Highway; draining any State Highway; diverting streams or rivers or any other watercourse from the right of way of any State Highway; and any other purpose related to the laying out, construction, improvement, maintenance, and operation of State Highways, may be acquired by the exercise of the power of Eminent Domain by the State Highway Department in the name of the State of Texas in the manner hereinafter provided.

The purchase or power of Eminent Domain being hereby authorized is granted regardless of the location of any such land, property rights, or materials to be acquired, whether within or without the confines of any incorporated city, town or village, whether same are incorporated under general or special laws, including Home Rule Cities.

In the prosecution of any condemnation suit brought by the State Highway Commission in the name of the State of Texas for the acquisition of property pursuant to the powers granted in this Act, the Attorney General, at the request of the State Highway Commission, or, at the Attorney General's direction, the applicable County or District Attorney or Criminal District Attorney, shall bring and prosecute the suit in the name of the State of Texas and the venue of any such suit shall be in the county in which the property or a part thereof is situated.

In the exercise of the powers of Eminent Domain herein conferred, the State Highway Department shall be subject to the laws and procedures prescribed by Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes of Texas, 1925, as said Articles or said Title have been or may be from time to time amended, and shall be entitled to condemn the fee or such lesser estate or interest as it may specify in any statement or petition in any condemnation proceeding filed by it pursuant to such powers; provided however, that any statement or petition in condemnation brought by the State Highway Department pursuant hereto shall exclude from the estate sought to be condemned all the oil, gas and sulphur which can be removed from beneath the land condemned without any right whatever remaining to the owners of such oil, gas and sulphur of ingress or egress to or from the surface of the land condemned for the

purpose of exploring, developing, drilling or mining of the same; and further provided, that none of the powers granted herein shall be a grant to the State Highway Commission for the purpose of condemning property which is used and dedicated for cemetery purposes pursuant to Articles 912a—10 et seq., Vernon's Revised Civil Statutes of Texas.

2. State and Other Public Lands. The governing body of every county, city, town, village, political subdivision or public agency is hereby authorized without any form of advertisement to make conveyance of title or rights and easements, owned by any such body, to any property needed by the State Highway Commission to effect its purposes in connection with the construction or operation of the State Highway System.

Whether purchased or condemned by the State Highway Commission, the lands, property rights and materials which are purchased or condemned may also include those belonging to the public, whether under the jurisdiction of the State or any department or agency thereof, county, city, town, village, including Home Rule Cities, or other entity or subdivision thereof.

The State of Texas hereby consents to the use of all lands owned by it, including lands lying underwater, which are deemed by the State Highway Commission to be necessary for the construction or operation of any State Highway; 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 State Highway, or in tidewater limits, and to this end such leases may provide for directional drilling from such adjoining land and tidewater area. The State Highway Commission shall advise, and make arrangements with, the State Department or agency having jurisdiction over such lands to accomplish such necessary purposes. Any such State Department or agency is hereby directed to cooperate with the State Highway Department in this connection, and as to any such department or agency not expressly authorized to act through some designated representatives, express authority is hereby granted to such department or agency to do whatever acts are necessary hereunder by and through the Chairman of its Board, Department Head, or Executive Director, whether appointed or elected, whichever may be appropriate.

If the land, property rights, or material to be acquired by the State Highway Department are of such a nature that its acquisition under the provisions of this Act will deprive any such department or agency of the State of a thing of value to such department or agency in the exercise of its lawful functions, then adequate compensation therefor shall be made, based upon vouchers drawn for this purpose payable to the furnishing department or agency. Payments received by the furnishing department or agency shall be credited to that department's or agency's current appropriation items or accounts from which the expenditures of that character were originally made, or if no such items or accounts from which the expenditures of that character were originally made, or if no such item or account exists, then to an account of such department or agency determined to be appropriate thereto by the Comptroller of Public Accounts.

In the event, but only in the event, the Highway Department and such other department or agency are unable to agree upon adequate compensation, then the Board of Control shall determine the fair, equitable and realistic compensation to be paid. Acts 1957, 55th Leg., p. 724, ch. 300, § 4.

Art. 6674w—4. Relocation of utility facilities

Whenever the relocation of any utility facilities is necessitated by the improvement of any highway in this State which has been or may hereafter be established by appropriate authority according to law as a part of the National System of Interstate and Defense Highways, including extensions thereof within urban areas, such relocation shall be made by the utility at the cost and expense of the State of Texas provided that such relocation is eligible for Federal participation. Reimbursement of the cost of relocation of such facilities shall be made from the State Highway Fund to the utility owning such facilities, anything contained in any other provision of law or in any permit, or agreement or franchise issued or entered into by any department, commission or political subdivision of this State to the contrary notwithstanding. The term "utility" includes publicly, privately, and cooperatively owned utilities engaged in furnishing telephone, telegraph, communications, electric, gas, heating, water, railroad, storm sewer, sanitary sewer or pipeline service. The term "cost of relocation" includes the entire amount paid by such utility properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility, and otherwise as may be fixed by regulations for Federal cost participation. It is further provided that by agreement with the affected utility the State Highway Department may relocate such utility facility in accordance with the provisions hereof. Acts 1957, 55th Leg., p. 724, ch. 300, § 4A.

Art. 6674w—5. Additional methods and precedence of act in cases of conflict

The powers, authority, jurisdiction and procedures granted to the State Highway Department and State Highway Commission in the foregoing Sections of this Act shall be deemed to provide additional powers, authority, jurisdiction, and procedures to those now existing and conferred by the laws of the State of Texas upon the State Highway Department and State Highway Commission and shall not be regarded as in derogation of any powers, authority, jurisdiction, or procedures now existing under the laws of Texas, except that restrictions placed upon the powers, authority, jurisdiction or procedures of the State Highway Department and State Highway Commission by other laws, which are in derogation of, or inconsistent with the powers, authority, jurisdiction and procedures prescribed in the foregoing Sections of this Act or which would tend to hamper or limit the State Highway Department and State Highway Commission in the lawful execution of the powers and authority granted by this Act for the proper accomplishment of its purposes, shall be deemed to have been superseded by the provisions hereof, and, to the extent that any other law is in conflict with or inconsistent with the provisions hereof, the provisions of this Act shall take precedence and be effective.

The powers granted to the State Highway Department and State Highway Commission by this Act to perform acts and exercise powers within the limits of counties, incorporated cities, towns and villages, including Home Rule Cities, may be exercised without the consent or agreement of any such county, city, town or village, including Home Rule Cities, after complying with Subsection 1 of Section 2 hereof, and whenever the State Highway Department or the State Highway Commission performs any act or exercises any power within the limits of any county, incorporated city, town or village, including Home Rule Cities, as authorized in this Act, such act or exercise of power shall

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

qualify and render inclusive the dominion of such counties, cities, towns or villages, including Home Rule Cities, with respect to the specific streets, alleys, and other public ways affected by such act or exercises of power, but only to the specific extent to which such act or the exercise of such power affects such streets, alleys and other public ways and their use. Acts 1957, 55th Leg., p. 724, ch. 300, § 5.

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 such a motor vehicle by such owner, his agent 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 purposes of drilling water wells or construction machinery (not designed for the transportation of persons or property on the public highways) operated or moved temporarily upon the highways shall not be required to register such farm tractors, farm trailers, farm semi-trailers, implements of husbandry, well-drilling and construction 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 provided further, that the exemptions in this Section shall not apply to any farm trailer or farm semi-trailer when the gross weight exceeds four thousand (4,000) pounds; provided, that no farm trailer or farm semi-trailer with metal tires shall be permitted to operate at a speed in excess of fifteen (15) miles per hour; and further provided, that the exemption in this Section shall not apply to any farm trailer or farm semi-trailer with steel tires of a width less than three (3) inches operating in excess of fifteen (15) miles per hour; and providing further, that the exemption in this Section shall not apply to any farm trailer or farm semi-trailer when the same is used for hire; provided, however, it shall be unlawful to operate any trailer or semi-trailer at night without a rear red light or red reflectors. As amended Acts 1953, 53rd Leg., p. 798, ch. 324, § 1; Acts 1957, 55th Leg., p. 233, ch. 111, § 1.

Emergency. Effective April 29, 1957.

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws. Section 3 provided: "If any word, phrase, 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."

Art. 6675a—5. Fees; motorcycles and passenger vehicles

The annual license fee for the registration of a motorcycle shall be Five Dollars and Fifty Cents (\$5.50). The annual license fee for the registration of a passenger car and a street or suburban bus shall be based upon the weight of a vehicle as follows:

| Weight in Pounds | Fee per 100 Pounds or Fraction Thereof |
|------------------|---|
| 1—2,000 | \$.308 |
| 2,001—3,500 | .396 |
| 3,501—4,500 | .528 |
| 4,501—and up | .55 |

The weight of any passenger car or of any street or suburban bus, for purpose of registration, shall be the weight generally accepted as its correct shipping weight plus one hundred (100) pounds. As amended Acts 1951, 52nd Leg., p. 303, ch. 180, § 1; Acts 1957, 55th Leg., p. 731, ch. 301, § 2(a).

Effective 90 days after May 23, 1957, date of adjournment.

Art. 6675a—5a. Registration; passenger vehicles 35 years old; “Antique Auto”; penalty

Passenger cars that were manufactured in 1925 or before, or which become thirty-five (35) or more years old, shall be excepted from the preceding Section 5 upon written, sworn application by the owner thereof on a form furnished by the Department. Such application shall show the make, body style, motor number, age of such passenger car, and any other information required by the Department, and shall also state that the passenger car is a collector's item and will be used solely for exhibitions, club activities, parades, and other functions of public interest, and in no case for regular transportation, and will carry no advertising. Provided that this Act shall become effective April 1, 1958, and the Department shall issue license plates which shall contain the words “Antique Auto” and which are to be renewed every five (5) years thereafter. The registration fee for the five (5) year period for passenger cars qualifying under this Act which were manufactured in 1921 and subsequent years shall be Twenty-five Dollars (\$25.00) and shall be reduced Five Dollars (\$5.00) for each year of the period that has fully expired at the time of the application, and the fee for the registration of cars manufactured in 1920 and prior years shall be Fifteen Dollars (\$15.00) for the five year period and shall be reduced Three Dollars (\$3.00) for each year of the five year period that has fully expired at the time of the application. Provided further, that upon such application and upon payment of the proper fee to the County Tax Assessor-Collector of the county in which the owner resides, the Department shall furnish such license plates and receipts which shall be issued to the owner and such plates shall be valid without renewal until the expiration date shown upon the plates, provided such vehicle continues to be owned by the same owner. It is further provided that in the event the vehicle is transferred to another owner, or is junked, destroyed, or otherwise ceases to exist, the registration receipt and plates shall become null and void and shall be sent immediately to the Department. It is further provided that the Tax Assessor-Collector shall not renew the registration of any such vehicle until the registered owner surrenders to him the license plates and receipt that were issued for such vehicle for the previous period. In the

event the license plates become lost, stolen, or mutilated, the owner may secure replacement plates by executing an affidavit and application on a form furnished by the Department and by the payment of the fee prescribed in this section. Any owner of a passenger car registered under the provisions of this section who violates any of the provisions herein shall be guilty of a misdemeanor, and upon conviction shall be fined not less than Five Dollars (\$5.00) and not more than Two Hundred Dollars (\$200.00). Acts 1929, 41st Leg., 2nd C.S., p. 172, ch. 88, § 5a, added Acts 1957, 55th Leg., p. 702, ch. 297, § 1.

Emergency. Effective April 1, 1958.

Section 2 of the Act of 1957 repealed all

conflicting laws and parts of laws to the extent of such conflict.

Art. 6675a—6. Fees; commercial motor vehicles or truck-tractors

The annual license fee for the registration of a commercial motor vehicle or truck tractor shall be based upon the gross weight and tire equipment of the vehicle as follows:

| Gross Weight in Pounds | Fee per 100 Pounds or Fraction Thereof | |
|------------------------|--|---------------------------|
| | Equipped with Pneumatic Tires | Equipped with Solid Tires |
| 1- 6,000 | \$.44 | \$.55 |
| 6,001- 8,000 | .495 | .66 |
| 8,001-10,000 | .605 | .77 |
| 10,001-17,000 | .715 | .88 |
| 17,001-24,000 | .77 | .99 |
| 24,001-31,000 | .88 | 1.10 |
| 31,001—and up | .99 | 1.32 |

The term "gross weight" as used in this Section shall mean the actual weight of the vehicle fully equipped with body, and other equipment, as certified by any official Public Weigher or any License and Weight Inspector of the State Highway Department, plus its net carrying capacity. "Net carrying capacity" of any vehicle except a bus, as used in this Section, shall be the weight of the heaviest net load to be carried on the vehicle being registered; provided said net carrying capacity shall in no case be less than the manufacturer's rated carrying capacity. The "net carrying capacity" of a bus as defined in this Act shall be computed by multiplying its seating capacity by one hundred and fifty (150) pounds. The seating capacity of any such vehicle shall be the manufacturer's rated seating capacity exclusive of the driver's or operator's seat. The seating capacity of any such vehicle not rated by the manufacturer shall be determined by allowing one (1) passenger for each sixteen (16) inches that such vehicle will seat, exclusive of the driver's or operator's seat. As amended Acts 1957, 55th Leg., p. 731, ch. 301, § 2(b).

Effective 90 days after May 23, 1957, date of adjournment.

Art. 6675a—6a. Registration fee; commercial motor vehicles used principally for farm purposes

When a commercial motor vehicle is to be used for commercial purposes by the owner thereof only in the transportation of his own poultry, dairy, livestock, livestock products, timber in its natural state, and farm products to market, or to other points for sale or processing, or the transportation by the owner thereof of laborers from their place of residence, and materials, tools, equipment and supplies, without charge, from the place of purchase or storage, to his own farm or ranch exclusively for his own use, or use on such farm or ranch, the registration license fee

shall be fifty per cent (50%) of the registration fee prescribed for weight classifications in Section 6 of this Act; ¹ provided, however, that the additional use of the vehicle as a means of passenger transportation, without charge, of members of the family to attend church or school, to visit doctors for medical treatment or supplies, and for other necessities of the home or family shall not prevent its registration as a farm vehicle. Nothing in the foregoing shall be interpreted as permitting the use of a farm licensed vehicle in connection with other gainful employment. It shall be the duty of the Highway Commission to provide license plates for vehicles registered under this Section distinguishable from license plates used for other commercial vehicles using the highways. If the owner of any commercial motor vehicle registered under this Section shall use or permit to be used any such vehicle for any other purpose than those provided for in this Section, he shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200), and each use of such vehicle and each permission for such use of such vehicle shall constitute a separate offense. All commercial motor vehicles, truck tractors, road tractors, trailers and semi-trailers as defined in Section 1 of Chapter 23 of the General Laws of the Fifth Called Session of the Forty-first Legislature, ² not coming within the provisions of this Section, shall be required to pay all registration and license fees prescribed by other provisions of this Act. ³ As amended Acts 1957, 55th Leg., p. 216, ch. 102, § 1.

¹ Article 6675a—6.

² Article 6675a—1.

³ Articles 6675a—1 to 6675a—14, and Vernon's Ann.P.C., art. 807a.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957 repealed or modified all conflicting laws and parts of laws to extent of such conflict only.

Art. 6675a—7. Fees; road tractors

The annual license fee for the registration of a road tractor shall be based upon the weight of the tractors, as certified by any Official Public Weigher or any License and Weight Inspector of the State Highway Department, as follows:

| Gross Weight in Pounds | Fee per 100 Pounds or Fraction Thereof |
|---------------------------|---|
| 1—4,000 | \$.275 |
| 4,001—6,000 | .55 |
| 6,001—8,000 | .66 |
| 8,001—10,000 | .825 |
| 10,001—and up | 1.10 |

As amended Acts 1957, 55th Leg., p. 731, ch. 301, § 2(c).

Effective 90 days after May 23, 1957, date of adjournment.

Art. 6675a—8. Fees; trailers or semi-trailers

The annual license fee for the registration of trailer or semi-trailer shall be based upon the gross weight and tire equipage of the trailer or semi-trailer as follows:

| Gross Weight in Pounds | Fee per 100 Pounds or Fraction Thereof | |
|------------------------|--|---------------------------|
| | Equipped With Pneumatic Tires | Equipped With Solid Tires |
| 1-6,000 | \$.33 | \$.44 |
| 6,001-8,000 | .44 | .55 |
| 8,001-10,000 | .55 | .66 |
| 10,001-17,000 | .66 | .88 |
| 17,001-and up | .715 | .99 |

The term "gross weight" as used in this Section means the actual weight of the trailer or semi-trailer, as officially certified by any Public Weigher or any License and Weight Inspector of the State Highway Department, plus its net carrying capacity. "Net carrying capacity" as used in this Section shall be the weight of the heaviest net load to be carried on the vehicle being registered; provided said net carrying capacity shall in no case be less than the manufacturer's rated carrying capacity. As amended Acts 1957, 55th Leg., p. 731, ch. 301, § 2(d).

Effective 90 days after May 23, 1957, date of adjournment.

Art. 6675a—8a. Fees; motor buses

Annual license fees for the registration of motor buses shall be based upon the "gross weight" of the vehicle as follows:

| Gross Weight in Pounds | Fee per 100 Pounds or Fraction Thereof |
|------------------------|--|
| 1-6,000 | \$ 0.74¼ |
| 6,001-8,000 | 0.77 |
| 8,001-10,000 | 0.92½ |
| 10,001-17,000 | 1.10 |
| 17,001-24,000 | 1.10 |
| 24,001-31,000 | 1.37½ |
| 31,001-and up | 2.20 |

As amended Acts 1955, 54th Leg., p. 381, ch. 102, § 1; Acts 1957, 55th Leg., p. 731, ch. 301, § 2(e).

Effective 90 days after May 23, 1957, date of adjournment.

Art. 6675a—8c. Diesel motors, vehicles propelled by; fee; license receipts to show type of motor

It is expressly provided that the license fees for all vehicles using or being propelled by diesel motors or engines shall be the fees provided in other sections of this Act plus an additional eleven per cent (11%). It is further provided that the County Tax Collector, in issuing the license receipts for motor vehicles provided for in this Act, shall clearly indicate on the license receipt the type of motor by which the vehicle is propelled when such motor is powered by diesel fuel, butane gas, or any distillate other than gasoline. As amended Acts 1957, 55th Leg., p. 731, ch. 301, § 2(f).

Effective 90 days after May 23, 1957, date of adjournment.

Art. 6675a—10. Apportionment of funds

On Monday of each week each County Tax Collector shall deposit in the County Depository of his County to the credit of the County Road and Bridge Fund an amount equal to one hundred per cent (100%) of net collections made hereunder during the preceding week until the amount so deposited for the current calendar year shall have reached a total sum of Fifty Thousand Dollars (\$50,000).

Thereafter, and until the amount so deposited for the year shall have reached a total of One Hundred and Seventy-five Thousand Dollars (\$175,000) he shall deposit to the credit of said Fund on Monday of each week an amount equal to fifty per cent (50%) of collections made hereunder during the preceding week.

Thereafter he shall make no further deposits to the credit of said Fund during that calendar year. All collections made during any week under the provisions of this Act in excess of the amounts required to be deposited to the credit of the Road and Bridge Fund of his County shall be remitted by each County Tax Collector on each Monday of the succeeding week to the State Highway Department together with carbon copies of each license receipt issued hereunder during the preceding week. He shall also on Monday of each week remit to the Department, as now provided by law, all transfer fees and chauffeurs' license fees collected by him during the preceding week, together with carbon copies of all receipts issued for said fees during the week.

He shall also accompany all remittances to the Highway Department with a complete report of such collections made and disposition made thereof, the form and contents of said report to be prescribed by the State Highway Department. None of the moneys so placed to the credit of the Road and Bridge Fund of a county shall be used to pay the salary or compensation of any County Judge or County Commissioner, but all said moneys shall be used for the construction and maintenance of lateral roads in such county under the supervision of the County Engineer, if there be one, and if there is no such engineer, then the County Commissioners Court shall have authority to command the services of the District Engineer or Resident Engineer of the State Highway Department for the purposes of supervising the construction and surveying of lateral roads in their respective counties. All funds allocated to the counties by the provisions of this Act may be used by the counties in the payment of obligations, if any, issued and incurred in the construction or the improvement of all roads, including State Highways of such counties and districts therein; or the improvement of the roads comprising the county road system; or for the purpose of constructing new roads, or in aid thereof. As amended Acts 1957, 55th Leg., p. 731, ch. 301, § 2(g).

Effective 90 days after May 23, 1957, date of adjournment.

Art. 6687b. Drivers', chauffeurs', and commercial operators' licenses; accident reports**Sec. 4. Who May Not Be Licensed.**

The Department shall not issue any license hereunder:

1. To any person, as an operator, who is under the age of sixteen years, except that the Department may issue a license to such person if fourteen years of age or older where, in the opinion of the Department, (1) there appears an emergency sufficient to justify the issuance of such license, and such license shall be issued only for the period of time as such emergency exists; (2) it appears that the failure or refusal to issue such

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

license to any such person will work an unusual economic hardship on the family or the applicant for the license; (3) it appears that a license should be granted to the applicant because of the sickness or ill health of members of the family of the applicant; (4) the failure to issue such license would be detrimental to the general welfare of the applicant or his or her family; or (5) it appears that the applicant has completed and passed the State Department of Education approved standard driver training course, which course must also be approved by the Department of Public Safety; and the application for such license under clause (5) shall include a certificate by the superintendent of the school that said standard driver training course is part of the regular curriculum, and that the applicant has passed this course. A license shall not be issued to any applicant who has not passed the examination required in Section 10 of this Act. The Department shall carry out the duties required of it by the provisions of this Act in any manner that will expedite the performance of such duties, and in a manner that will provide the greatest convenience for the public. In no event shall an operator's license of any class be issued to any person less than fourteen years of age. Any person who has been refused a driver's license under the terms of this paragraph may appeal to the County Court in the county in which he is a resident, where the matter shall be tried before a jury. As amended Acts 1957, 55th Leg., p. 527, ch. 244, § 1.

Emergency. Effective May 20, 1957.

1a. Provided, however, that a special combination operator and commercial operator restricted license may be issued to any person between the ages 14 and 16 years to operate only a motor cycle, motor scooter or motorized bicycle whose horsepower does not exceed five (5) brake horsepower. This special restricted license shall be issued by the Drivers License Division of the Department on application to the Department in accordance with Section 7 of this Act; shall be subject to the requirements of Section 10 of this Act and to all other provisions of this Act in the same manner as operator's licenses, except that the applicant need not comply with the requirements of Subsection 1 of this Section; and shall be in the form as may be prescribed by the Department. Added Acts 1957, 55th Leg., p. 670, ch. 282, § 1.

Emergency. Effective May 23, 1957.

Section 2 of the Act of 1957 provided that

partial invalidity should not affect the remaining portions of the Act.

Sec. 4a. Application of 1957 amendment

The provisions of this Act shall have no application to any person who has been issued an operator's license prior to the effective date of this Act. Acts 1957, 55th Leg., p. 527, ch. 244, § 2.

Emergency. Effective May 20, 1957.

Sec. 15. Disposition of fees

All fees and charges required by this Act and collected by any officer or agent of the Department shall be remitted without deduction on Monday of each week to the Department at Austin, Texas, and all such fees so collected shall be deposited in the State Treasury in a fund to be known as the Operator's and Chauffeur's License Fund.

Fees and charges deposited in the Operator's and Chauffeur's License Fund under the provisions of this Act may, upon appropriation by the Legislature, be used by the Texas Department of Public Safety for the payment of salaries, purchase of equipment and supplies, maintenance, and any and all other necessary expenses incident to the operation of the Texas Department of Public Safety in carrying out the duties as are by law required of such Department; except that the Legislature may also appropriate from said Fund for the purpose of paying the ex-

penses of the Fifty-fifth Legislature, as described in Chapter 1, Acts of the Fifty-fifth Legislature, Regular Session, as amended. Any remaining balance in the Operator's and Chauffeur's License Fund on September 1 of each and every year shall remain in such Fund and shall be available for appropriation by the Legislature for the maintenance and support of the Texas Department of Public Safety as set forth hereinabove. As amended Acts 1951, 52nd Leg., p. 209, ch. 124, § 1; Acts 1955, 54th Leg., p. 388, ch. 108, § 1; Acts 1957, 55th Leg., 2nd C. S., p. 181, ch. 21, § 3.

Emergency. Effective Dec. 10, 1957.

CHAPTER ONE A—TRAFFIC REGULATIONS

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|--|--|
| <p>Art. 6701i. Brake fluids; marketing regulated; penalties [New].</p> <p>6701j. Texas Traffic Safety Act of 1957 [New].</p> | <p>Art. 6701½. Mobile homes; movement of over-length and overwidth on highways; permits; fees [New].</p> |
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Art. 6701d. Uniform Act Regulating Traffic on Highways

Overtaking and passing school bus

Sec. 104.

(d) The State Highway Commission, through and by its authorized agents or representatives, shall post signs at such locations on state highways as it deems appropriate to acquaint motorists with the provisions of this Section. Added Acts 1957, 55th Leg., p. 784, ch. 321, § 1.

Emergency. Effective May 31, 1957.

Art. 6701i. Brake Fluids; Marketing Regulated; Penalties

Definitions

Section 1. (a) The term "brake fluid" as used herein shall mean the liquid medium through which force is transmitted in the hydraulic brake system of any motor vehicle operated upon the highways of this state.

(b) The term "package" as used herein means the immediate container in which the brake fluid is packed for sale but does not include a carton or wrapping containing several packages, nor a tank car or truck.

Prohibition

Sec. 2. After January 1, 1958, no person shall sell, hold for sale, offer for sale, distribute or add to the hydraulic brake system of a motor vehicle in this state, any brake fluid which is misbranded or which has not first been approved for sale in Texas by the Department of Public Safety of the State of Texas in accordance with this Act.

Misbranding

Sec. 3. A brake fluid shall be deemed to be misbranded:

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

(b) Unless the package in which it is packed for sale bears a label or imprint containing in clear and legible type:

(1) The name and address of the manufacturer, packer, seller or distributor;

(2) The words "brake fluid" and the designation "heavy duty";

(3) An accurate statement of the net contents in terms of liquid measure.

Standards and specifications

Sec. 4. The Department of Public Safety of the State of Texas, hereinafter called the Department, is hereby directed, after public hearing held not more than thirty (30) nor less than fifteen (15) days after the publication in a newspaper of general circulation in this state of notice of the time, place and purpose of such hearing, to adopt rules and regulations establishing such minimum standards and specifications for brake fluids as will promote the public safety in the operation of motor vehicles in this state. Any rules and regulations adopted hereunder may be amended after notice and hearing as herein provided.

Approval

Sec. 5. Any manufacturer, packer or distributor, or their agents or representatives, desiring to market any brake fluid in the State of Texas shall first furnish to the Department such sample of the fluid as it may require for testing purposes, and contemporaneously, pay a filing fee of Fifty Dollars (\$50.00) and present in writing to the Department an application for approval of said fluid for marketing in Texas, and within thirty (30) days from the date such sample is furnished the Department shall cause such tests to be made as may be necessary to determine whether or not such fluid conforms to the Standards and Specifications provided for in Section 4 hereof, and may submit any such sample to the University of Texas which is hereby designated as an official testing agency, with a request that it be tested as to conformity with the requirements of the law and the regulations of the Department. If such fluid is found to conform with such Standards and Specifications, the Department, within such thirty (30) days, shall issue to Applicant written evidence of its approval of such fluid. If such fluid is found not to conform with such Standards and Specifications, the Department, within such thirty (30) days, shall issue to the applicant written evidence of its disapproval of such fluid, and, within thirty (30) days of the date of such disapproval, said applicant may appeal to any District Court of Travis County from the decision of the Department. Such 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.

All filing fees collected hereunder shall be paid by the Department to the State Treasury to be deposited into the Motor Vehicle Inspection Fund, to be used, or so much thereof as may be necessary, for the administration of this Act, and for such use they are hereby appropriated, and the balance thereof, if any, shall remain in the Motor Vehicle Inspection Fund and may be used for the purposes otherwise established by law for the use of such fund.

Enforcement

Sec. 6. (a) Any misbranded or unapproved brake fluid which is sold, held for sale or offered for sale within this state shall be liable to be proceeded against in any county or district court in any county of the state where it may be found, by the county or district attorney for such county, and seized for confiscation by process of libel for condemnation. If, following seizure, the article is condemned it shall, after entry of decree, be disposed of by destruction or sale as the court may direct, and the proceeds, if such article is sold, less legal costs, shall be paid to the State Treasury; provided, that the article shall not be sold contrary to the provisions of this Act; and provided further, that upon payment of costs and execution and delivery of a good and sufficient bond, to be approved by

the court, conditioned that the article shall not be disposed of unlawfully, the court may direct that said article be delivered to the owner thereof for relabeling or reprocessing as the case may be.

(b) Any person violating any provision of this Act shall be fined not more than One Thousand Dollars (\$1,000.00) or be confined in jail not more than six (6) months. Acts 1957, 55th Leg., p. 463, ch. 224.

Effective 90 days after May 23, 1957, date of adjournment.

Title of Act:

An Act regulating the marketing of brake fluids in the State of Texas; granting certain powers to the Public Safety Director

in connection therewith; providing penalties for the violation of this Act; providing for the confiscation of brake fluids held or sold in violation of the Act; and declaring an emergency. Acts 1957, 55th Leg., p. 463, ch. 224.

Art. 6701j. Texas Traffic Safety Act of 1957

Title of act

Section 1. This Act may be cited as the "Texas Traffic Safety Act of 1957".

Coordination of traffic safety program; Texas Traffic Safety Council

Sec. 2. The Governor shall provide for the coordination of a traffic safety program for more adequate protection of the lives and property of those who use the streets and highways of the state. For this purpose, the Governor is authorized to establish by executive proclamation a Texas Traffic Safety Council, to be comprised of representatives of state and local agencies whose duties relate to traffic safety and representatives of public and private traffic safety organizations.

Duties of safety council

Sec. 3. It shall be the duty of the Texas Traffic Safety Council to assist the Governor and other state agencies in the development of a cooperative program of traffic safety for the State of Texas, its cities, towns and communities. The Council shall work in cooperation with all official and unofficial agencies and organizations which are interested in traffic safety to the end that all possible resources shall be marshaled and utilized to reduce the menace of accidental death and injury. It shall work toward obtaining better observance and enforcement of laws governing street and highway traffic; assist in bringing about the application of further modern engineering measures for the control and facility of street and highway traffic movement, and for the prevention of traffic accidents; cooperate with and encourage drivers education and traffic safety courses, themes and programs in the schools and colleges; plan and execute such public information and education programs as may be necessary to carry out the purposes of this Act; conduct research in the field of traffic safety; and cooperate with the Texas Legislative Council in studying needs for additional traffic legislation and in making recommendations to the Legislature.

Members designated by governor; executive committee

Sec. 4. Members of the Texas Traffic Safety Council shall be designated by the Governor, except that there shall be an executive committee composed of the Governor as chairman, the Director of the Department of Public Safety as vice-chairman, the State Highway Engineer, the Attorney General, the Commissioner of Education, and the Director of the Department of Public Welfare. The executive committee shall determine matters of policy and procedure when the Council is not in session. No person shall receive compensation or salary for his service as a member of the Council.

Personnel; clerical assistance

Sec. 5. The Governor may employ such personnel as may be necessary to provide the direction and the necessary clerical assistance to carry out the purpose of this Act, and he is hereby authorized to use any of the funds heretofore otherwise appropriated to the Executive Department which he may deem necessary to carry out the provisions of this Act.

**Cooperation of other state agencies, officers and employees;
conflicting functions and duties**

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, agencies, and institutions of the state and of all officers and employees of the state, when requested by the Governor, to cooperate in all activities consistent with the purposes of this Act and the functions of their offices or employment. Membership of state officials or employees on the Texas Traffic Safety Council and services in furtherance of the purposes of this Act shall be considered as additional duties of their offices or employment. While so engaged such persons shall be considered as carrying out the activities for which their salaries and other expenses are appropriated, it being the intention of this Act that all state officials shall participate in every manner consistent with their other duties in the establishment of an adequate state program for traffic safety.

It is hereby specifically provided that this Act shall not limit any of the authority presently vested by law in any state department, officer or agency, and that the functions of the Texas Traffic Safety Council shall not conflict in any manner with the authority, power or duties now vested in any state department, officer, or agency.

Gifts, grants or donations to Council

Sec. 7. The Texas Traffic Safety Council may accept gifts, grants, or donations of money, or of property, from private sources to effectuate the purpose of this Act. Any and all funds so donated shall be placed in the State Treasury in a special fund called the Traffic Safety Fund and shall be expended in the same manner as other state monies are expended, upon warrants drawn by the Comptroller upon the order of the Council. Such monies are hereby appropriated for the purpose of carrying out this Act. Acts 1957, 55th Leg., p. 1465, ch. 502.

Emergency. Effective June 12, 1957.

Section 8 of the Act of 1957 was a severability provision.

Art. 6701½. Mobile homes; movement of overlength and overwidth on highways; permits; fees

A. When any person, firm, or corporation shall desire to move over a state highway a mobile home and/or a component part thereof, which in combination with the towing vehicle, is in excess of the legal length or width provided by law, the State Highway Department may, upon application, issue a permit for the movement of said equipment. 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 moving over the state highways. When so designated, the route shall be shown on said maps routing said equipment 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 the state highway for equipment within such cities or towns. No fee or license shall be required by any city or town for movement of said oversized mobile homes and/or component parts thereof on the route of a state highway designated by the State Highway Department or on said special route designated by a city or town.

B. The application for a permit as provided for in this Article shall be in writing and contain the following:

(1) The make and model of the mobile home, the over-all length and width, the make and model of the towing vehicle, the length and width of the towing vehicle and the over-all length and width of the combined mobile home and/or component part thereof and towing vehicle.

(2) The highway or highways over which the same is to be moved, indicating the point of origin and destination.

(3) The same shall be dated and signed by the applicant.

C. Said special permits shall be issued by the Highway Department through the agent or agents in each county designated for that purpose as set out in Article 6701a, Section 1-a.

D. There shall also accompany the application for permit a fee of Five Dollars (\$5), which fee shall be by the State Highway Department deposited in the Treasury of the State of Texas to the credit of the State Highway Fund. Said fee shall be made by cashiers or certified check, postal or express money order.

E. Permits issued by the State Highway Department as provided for under this Article shall be substantially in the following form:

(1) It shall contain the name of the applicant and shall be dated and signed by the State Highway Engineer, a Division Engineer or a designated agent.

(2) It shall state the make and model of the mobile home and/or component part to be transported over the highways, the make and model of the towing vehicle, the combined over-all length and width of the mobile home and/or component part thereof and towing vehicle.

(3) It shall state the highway and/or highways over which the same is to be moved.

F. Said special permits shall be good for a period of ten (10) days and valid only for a single continuous movement.

G. Movements authorized by said special permits shall be made during daylight hours only. Added Acts 1957, 55th Leg., p. 138, ch. 59, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

CHAPTER TWO—ESTABLISHMENT OF COUNTY ROADS

Art. 6716—1. The Optional County Road Law of 1947

County Road Engineer; County Road Administrator

Sec. 5. The County Road Engineer shall be appointed by the Commissioners Court. He shall be a licensed professional engineer, experienced in road construction and maintenance, who shall meet the qualifications required by the State Highway Department for its county engineers. If the Commissioners Court is not able to employ a licensed professional engineer for any reason, then the Commissioners Court is authorized to employ a qualified road administrative officer, who shall be known as the County Road Administrator, to perform the duties of the County Road Engineer. The County Road Administrator shall have had

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

experience in road building or maintenance or other types of construction work qualifying him to perform the duties imposed upon him, but it shall not be necessary that he have had any fixed amount of professional training or experience in engineering work. The County Road Administrator shall perform the same duties as are imposed upon the County Road Engineer, and all references in other Sections of this Act to the County Road Engineer shall include and apply to the County Road Administrator. As amended Acts 1957, 55th Leg., p. 371, ch. 176, § 1.

Emergency. Effective May 6, 1957.

Salary of Engineer

Sec. 6. The County Road Engineer shall receive an annual salary not to exceed Twelve Thousand Dollars (\$12,000.00), the exact amount thereof to be determined by the Commissioners Court, and said salary shall be paid in twelve (12) equal monthly installments out of the Road and Bridge Fund of the county. As amended Acts 1957, 55th Leg., p. 24, ch. 17, § 1.

Emergency. Effective March 5, 1957.

Purchase of equipment and supplies

Sec. 15. All equipment, materials and supplies for the construction and maintenance of county roads and for the county road department shall be purchased by the Commissioners Court on competitive bids in conformity with estimates and specifications prepared by the County Road Engineer; except when upon recommendation of the County Road Engineer and when in the judgment of the Commissioners Court it is deemed in the best interest for the county to do so, purchases in an amount not to exceed One Thousand Dollars (\$1,000.00) may be made through negotiation by the Commissioners Court or the Commissioners Court's duly authorized representative, upon requisition to be approved by the Commissioners Court or the County Auditor without advertising for competitive bids. Before any claims covering the purchase of such equipment, materials and supplies and for any services contracted for by the Commissioners Court shall be ordered paid by the Commissioners Court, the County Road Engineer shall certify in writing to the correctness of the claims therefor and shall certify that the respective equipment, materials and supplies covered by the claims conform to specifications approved by him and that the same respective equipment, materials and supplies were delivered in good condition and that any road department services contracted for by the Commissioners Court have been satisfactorily performed. The provisions of this section shall not be construed to permit the division or reduction of purchases for the purpose of avoiding the requirement of taking formal bids on purchases which would otherwise exceed One Thousand Dollars (\$1,000.00). As amended Acts 1957, 55th Leg., p. 24, ch. 17, § 2.

Emergency. Effective March 5, 1957.

Section 3 of Acts 1957, 55th Leg., p. 24, ch. 17, repealed all conflicting laws and parts of laws. Section 4 provided that par-

tial invalidity should not affect the remaining portions of the Act.

CHAPTER THREE—MAINTENANCE OF ROADS

Art. 6748. 6960, 4770 Road districts

Publication of annual financial statements
by districts, see art. 29b.

Art. 6762. 6977 Ex-officio commissioners

In all counties of this state, as shown by the preceding federal census to contain as many as thirty-five thousand (35,000) inhabitants or more, the members of the Commissioners Court shall be ex officio road commissioners of their respective precincts; and under the direction of the Commissioners Court shall have charge of the teams, tools and machinery belonging to the county and placed in their hands by said court. They shall superintend the laying out of new roads, the making or changing of roads and the building of bridges under rules adopted by said court. Each commissioner shall first execute a bond of One Thousand Dollars (\$1,000.00) payable to and to be approved by the County Judge for the use and benefit of the road and bridge fund, conditioned that he will perform all the duties required of him by law, or by the Commissioners Court, and that he will account for all money or other property belonging to the county that may come into his possession. As amended Acts 1957, 55th Leg., p. 433, ch. 208, § 1.

Emergency. Effective May 10, 1957.

Section 2 of the amendatory Act of 1957 provided: "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."

TITLE 117—SALARIES

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| <p>Art. 6819a—13. Salary of district court judge of seventy fifth judicial district; supplementation by commissioners courts [New].</p> <p>6819a—14. Additional compensation of district court judge of 70th Judicial District [New].</p> <p>6819a—15. 34th Judicial District; additional compensation for district judge [New].</p> | <p>Art. 6819a—16. 65th Judicial District; additional compensation for district court judge [New].</p> <p>6819a—17. 41st Judicial District; additional compensation for district judge [New].</p> <p>6819a—18. Salaries of Justices of Supreme Court, Court of Criminal Appeals, Courts of Civil Appeals, and District Court Judges [New].</p> |
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Art. 6813. Enumeration

Acts 1957, 55th Leg., p. 5, ch. 4, provides as follows:

Section 1. The salaries of all state officers and all state employees, except the salaries of the District Judges and other compensation of District Judges, shall be for the period beginning September 1, 1957 and ending August 31, 1959 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 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.

**Art. 6819a—6. Repealed. Acts 1951, 52nd Leg., p. 669, ch. 386, § 2.
Eff. 90 days after June 8, 1951**

Acts 1951, 52nd Leg., p. 669, ch. 386, § 2, repealing this article was repealed by Acts 1957, 55th Leg., p. 606, ch. 272, § 3.

Salaries of justices and judges of Supreme Court, Courts of Civil Appeals District Courts and Criminal District Courts, see art. 6819a—18.

**Art. 6819a—9. Repealed. Acts 1957, 55th Leg., p. 606, ch. 272, § 3.
Eff. Sept. 1, 1957**

Acts 1955, 54th Leg., p. 1124, ch. 418, § 2, repealing par. (a) of this article was repealed by Acts 1957, 55th Leg., p. 606, ch. 273, § 3.

Salaries of justices of supreme court, court of criminal appeals, courts of civil appeals, and district court judges, see art. 6819a—18.

**Art. 6819a—10. Repealed. Acts 1957, 55th Leg., p. 606, ch. 272, § 3.
Eff. Sept. 1, 1957**

Repealed article derived from Acts 1955, 54th Leg., p. 1124, ch. 418, § 1.

Art. 6819a—12. Salaries of district court judges in 106th, 109th and 143rd Judicial Districts

Section 1. In the 106th, 109th and 143rd Judicial Districts, the district judge, or district judges, may receive annually, payable in monthly installments, a salary to be fixed by the Commissioners Court of each county, to be paid by said county out of the general fund thereof, as compensation for all judicial and administrative services now rendered by said judge, or judges, and any additional judicial or administrative services hereafter to be assigned to said judge, or judges, in addition to all salaries paid or hereafter to be paid to said judge, or judges, by the State of Texas, out of state revenues; provided, however, that the salary herein authorized to be paid by any County Commissioners Court to any judge shall not exceed the sum of One Thousand, Two Hundred Dollars (\$1,200) per annum; and provided that the total remuneration to be received by any judge under the provisions hereof shall not exceed the sum of Two Thousand, Nine Hundred Dollars (\$2,900) per annum. Acts 1957, 55th Leg., p. 52, ch. 30.

Emergency. Effective March 20, 1957.

Section 2 of the Act of 1957 provided that if any section, subsection, paragraph, sentence, clause or provision of this law be declared unconstitutional or invalid by the courts, it shall not affect the constitutionality or validity of the remainder thereof, and declared that this Act would nevertheless have been passed without such section, or subsection, or clause so declared unconstitutional. Section 3 repealed all conflicting laws and parts of laws to the extent of such conflict only.

Title of Act:

An Act providing for fixing the compensation of judges of district courts in the 106th, 109th and 143rd Judicial Districts; providing the manner of payment; establishing a limitation of amount of such compensation; providing for the validity of the remaining portion of this Act if any part declared unconstitutional; repealing all laws or parts of laws in conflict; and declaring an emergency. Acts 1957, 55th Leg., p. 52, ch. 30.

Art. 6819a—13. Salary of district court judge of seventy fifth judicial district; supplementation by commissioners courts

Section 1. The District Judge of the 75th Judicial District of Texas may be compensated for his services by an annual salary in an amount not to exceed Fifteen Thousand Dollars (\$15,000) annually.

Sec. 2. The Commissioners Courts of the Counties comprising the 75th Judicial District are hereby authorized to pay the supplement to the salary paid the District Judge by the State of Texas in such amounts that the total salary paid the District Judge shall not exceed the maximum prescribed in Section 1 of this Act.

Sec. 3. The supplemental salary to be paid the District Judge of the 75th 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 1957, 55th Leg., p. 168, ch. 75.

Emergency. Effective April 19, 1957.

Art. 6819a—14. Additional compensation of district court judge of 70th Judicial District

Section 1. In addition to the compensation provided by law and paid by the State, the Commissioners Court of Ector County is hereby authorized to pay the District Judge of the 70th Judicial District for services rendered to Ector County and for performing administrative duties, a reasonable sum not to exceed Three Thousand, Five Hundred Dollars (\$3,500) per annum.

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

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation paid or authorized to be paid the District Judge of the 70th Judicial District. Acts 1957, 55th Leg., p. 205, ch. 93.

Emergency. Effective April 19, 1957.

Section 3 of the Act of 1957 was a severability clause.

Title of Act:

An Act authorizing the Commissioners Court of Ector County to pay the District

Judge of the 70th Judicial District compensation in addition to the compensation paid by the State; making other provisions relating thereto; providing a severability clause; and declaring an emergency. Acts 1957, 55th Leg., p. 205, ch. 93.

Art. 6819a—15. 34th Judicial District; additional compensation for district judge

Section 1. In addition to the compensation provided by law and paid by the state, the Commissioners Court of Hudspeth, Culberson and El Paso Counties is hereby authorized to pay the District Judge of the 34th Judicial District for services rendered to Hudspeth, Culberson and El Paso Counties and for performing administrative duties, a reasonable sum not to exceed Five Thousand Dollars (\$5,000.00) per annum, providing, however, such sum shall be apportioned by the aforesaid three counties.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation paid or authorized to be paid the District Judge of the 34th Judicial District. Acts 1957, 55th Leg., p. 307, ch. 138.

Emergency. Effective May 2, 1957.

Section 3 of the Act of 1957 was a severability clause.

Title of Act:

An Act authorizing the Commissioners Court of Hudspeth, Culberson and El Paso Counties to pay the District Judge of the

34th Judicial District compensation in addition to the compensation paid by the state; making other provisions relating thereto; providing a severability clause; and declaring an emergency. Acts 1957, 55th Leg., p. 307, ch. 138.

Art. 6819a—16. 65th Judicial District; additional compensation for district court judge

Section 1. In addition to the compensation provided by law and paid by the state, the Commissioners Court of El Paso County is hereby authorized to pay the District Judge of the 65th Judicial District for services rendered to El Paso County and for performing administrative duties, a reasonable sum not to exceed Five Thousand Dollars (\$5,000.00) per annum.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation paid or authorized to be paid the District Judge of the 65th Judicial District. Acts 1957, 55th Leg., p. 308, ch. 139.

Emergency. Effective May 2, 1957.

Section 3 of the Act of 1957 was a severability clause.

Title of Act:

An Act authorizing the Commissioners Court of El Paso County to pay the District

Judge of the 65th Judicial District compensation in addition to the compensation paid by the state; making other provisions relating thereto; providing a severability clause; and declaring an emergency. Acts 1957, 55th Leg., p. 308, ch. 139.

Art. 6819a—17. 41st Judicial District; additional compensation for district judge

Section 1. In addition to the compensation provided by law and paid by the state, the Commissioners Court of El Paso County is hereby authorized to pay the District Judge of the 41st Judicial District for services rendered to El Paso County and for performing administra-

tive duties, a reasonable sum not to exceed Five Thousand Dollars (\$5,000.00) per annum.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation paid or authorized to be paid the District Judge of the 41st Judicial District. Acts 1957, 55th Leg., p. 309, ch. 140.

Emergency. Effective May 2, 1957.

Section 3 of the Act of 1957 was a severability clause.

Title of Act:

An Act authorizing the Commissioners Court of El Paso County to pay the Dis-

trict Judge of the 41st Judicial District compensation in addition to the compensation paid by the state; making other provisions relating thereto; providing a severability clause; and declaring an emergency. Acts 1957, 55th Leg., p. 309, ch. 140.

Art. 6819a—18. Salaries of Justices of Supreme Court, Court of Criminal Appeals, Courts of Civil Appeals, and District Court Judges

Section 1. Beginning September 1, 1957:

(a) The Justices of the Supreme Court of the State of Texas and the Judges and the Commissioners of the Court of Criminal Appeals of the State of Texas shall each be paid an annual salary of Twenty Thousand Dollars (\$20,000.00).

(b) The Justices of the several Courts of Civil Appeals of the State of Texas shall each be paid an annual salary of Sixteen Thousand Dollars (\$16,000.00).

(c) The Judges of the several District Courts and of the Criminal District Courts of the State of Texas shall each be paid an annual salary of Twelve Thousand Dollars (\$12,000.00).

(d) The salaries herein provided shall be paid in equal monthly installments upon warrants drawn by the Comptroller upon the State Treasury.

(e) The salary of the State's Attorney before the Court of Criminal Appeals shall be Ten Thousand Dollars (\$10,000.00) per year.

Sec. 2. This Act shall not repeal any law which permits or requires any county in this state to pay a Judge of a District Court or of a Criminal District Court any supplemental salary or compensation out of county funds. Acts 1957, 55th Leg., p. 606, ch. 272.

Effective September 1, 1957.

Section 2a of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Sections 3 and 4 reads as follows:

"Sec. 3. Chapter 386, Acts of the 52nd Legislature [arts. 6819a—6, 6819—9], and Chapter 418, Acts of the 54th Legislature [art. 6819a—10], are hereby repealed, and all other laws in conflict herewith are hereby repealed to the extent of conflict, subject to the provisions of Section 2 of this Act.

"Sec. 4. There are hereby appropriated out of the General Revenue Fund whatever

sums of money that may be necessary, together with the sums appropriated for such purposes by House Bill No. 133 of the 55th Legislature, to pay the salaries of the Justices of the Supreme Court, the Judges and Commissioners of the Court of Criminal Appeals, the Justices of the Courts of Civil Appeals, the Judges of the District Courts and Criminal District Courts, and the State's Attorney before the Court of Criminal Appeals at the rates provided in this Act during the biennium beginning September 1, 1957, and ending August 31, 1959."

TITLE 121—STOCK LAWS

CHAPTER SIX—STOCK RUNNING AT LARGE

Art. 6954. 7235 Petition

Upon the written petition of thirty-five (35) freeholders of any of the following counties: Anderson, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, 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, Comal, 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, Kerr, Kimble, King, Kleberg, Knox, Lamar, Lamb, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Lubbock, Lynn, Madison, Marion, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, 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 fifteen (15) 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; Acts 1954, 53rd Leg., 1st C.S., p. 65, ch. 26, § 1; Acts 1955, 54th Leg., p. 805, ch. 296, § 1; Acts 1957, 55th Leg., p. 355, ch. 165, § 1.

Emergency. Effective May 6, 1957.

CHAPTER SEVEN—PROTECTION OF STOCK RAISERS

Art.

7005—1. Deaf Smith, Hale, Swisher, and
Wichita counties exempt from
act [New].

**Art. 7005—1. Deaf Smith, Hale, Swisher, and Wichita counties exempt
from act**

The counties of Deaf Smith, Hale, Swisher, and Wichita are hereafter exempted from all of the provisions of Chapter 7, Title 121, Revised Civil Statutes of Texas, 1925, as well as all amendments thereto, and are further exempted from all other laws regulating the inspection of hides and animals, and particularly Articles 1471 through 1487 of the Penal Code of Texas, 1925. Acts 1957, 55th Leg., p. 184, ch. 82, § 1.

Emergency. Effective April 19, 1957.

Title of Act:

An Act exempting Deaf Smith, Hale, Swisher, and Wichita Counties from the provisions of Chapter 7, Title 121, Revised Civil Statutes of Texas, 1925, and from all

other laws regulating the inspection of hides and animals, and particularly from the provisions of Articles 1471 through 1487 of the Penal Code of Texas, 1925; and declaring an emergency. Acts 1957, 55th Leg., p. 184, ch. 82.

TITLE 122—TAXATION

CHAPTER ONE—LEVY OF TAXES AND OCCUPATION TAXES

Art.

7047a—19a—7047a—19b. Repealed.

Art. 7047a—19. Admission taxes; records and reports; apportionment; offenses and penalties

(1) 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 contests 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 not held continuously at a regular fixed place or establishment; and further provided, however, no tax shall be levied under this Section 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 one dollar and one cent (\$1.01) 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 corporation, at the time of making such report shall pay to the Treasurer of this State a tax in rates and amounts as hereinafter provided.

(2) There is hereby levied 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.

(3) There is hereby levied 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 one dollar (\$1) and not more than one dollar and ten cents (\$1.10) a tax of six cents (6¢); and where the admission charged is in excess of one dollar and ten cents (\$1.10) a tax of seven cents (7¢) plus one cent (1¢) on each ten cents (10¢) or fractional part thereof in excess of one dollar and twenty cents (\$1.20).

(4) There is hereby levied 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.

(5) There is hereby levied 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¢).

(6) There is hereby levied 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.

(7) The taxes herein levied shall not apply to complimentary tickets and passes for which no admission charge is collected.

(8) All the revenues derived under and by virtue of this Section shall be credited by the Treasurer, one-fourth ($\frac{1}{4}$) to the Available School Fund, and three-fourths ($\frac{3}{4}$) to the Texas Old Age Assistance Fund.

(9) Every person, firm, association of persons, or corporation who operates any place of amusement as designated in this Section upon which an admission tax is due shall make and keep records in Texas at Headquarter office, or if an itinerant producer the place where records are to be kept shall be at the address shown on remittance report if outside the boundaries of Texas, or at a place to be named on said remittance report if to be kept in Texas, for a period of two (2) years. Said records shall correctly reflect (1) the date of event for which a ticket of admission was required, (2) the value of each ticket of admission, (3) number of patrons admitted by each ticket of admission, and (4) if admitted gratuitously, the number of patrons so admitted. Said records shall be open to the inspection of the Comptroller of Public Accounts and the Attorney General, or their duly authorized agents. If any person, firm, association of persons, or corporation shall fail to keep such records or shall refuse to allow the inspection of such records as above provided for, such person, firm, association of persons, or corporation shall forfeit to the State of Texas as a penalty not less than Twenty-five Dollars (\$25) nor more than One Thousand Dollars (\$1,000) for each violation, and each violation shall constitute a separate offense. The venue for the collection of such penalties by suit shall be in Travis County, Texas.

(10) In the event any person, firm, association of persons, or corporation who operates any place of amusement as designated in this Section 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 Section, 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. Venue for the collection of such penalties by suit shall be in Travis County, Texas.

(11) The State of Texas shall have a prior lien for all delinquent taxes and penalties provided for in this Section on all property used by the owner or operator of any place of amusement as designated in this Section, and the Attorney General of the State of Texas may file suit for the collection of such tax and penalties in any court of competent jurisdiction in Travis County, Texas, and for the foreclosure of such lien, and may enjoin the operation of any such business until such taxes and penalties are paid.

(12) Any person managing or controlling any place of amusement required to file a report or keep records as provided in this Section, who shall fail or refuse to file such report on the date provided in this Section, or make and keep such records, shall be deemed guilty of a misdemeanor

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

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, Texas. As amended Acts 1953, 53rd Leg., p. 62, ch. 49, § 1; Acts 1957, 55th Leg., p. 70, ch. 34, § 1.

Emergency. Effective March 22, 1957.

Arts. 7047a—19a, 7047a—19b. Repealed. Acts 1957, 55th Leg., p. 70, ch. 34, § 2. Effective March 22, 1957

The repealed articles were derived from Acts 1953, 53rd Leg., p. 62, ch. 49, §§ 2, 3, and related to failure or refusal to pay admission tax or to file report. Similar provisions are now incorporated in art. 7047a—19.

Section 2 of the repealing Act provided that "the repeal * * * shall not affect the prosecution and enforcement of civil or criminal penalties for violations which occurred prior to the effective date of this Act."

CHAPTER TWO—TAXES BASED UPON GROSS RECEIPTS

Art. 7065b—1. Definitions; motor fuel taxes

The following words, terms and phrases shall, for all purposes of this Article, be defined as follows:

(a) "Motor Fuel" shall mean all products commonly or commercially known or sold as gasoline, including natural, absorption, casing-head and drip gasolines, regardless of their classification or uses. The said term shall not include the fuels defined hereinafter as "special fuels" upon which a tax is imposed by Section 14 of this Article.¹ As amended Acts 1957, 55th Leg., p. 832, ch. 360, § 1.

Emergency. Effective May 31, 1957.

(c) "Other liquid fuels" shall mean and include diesel fuel, kerosene, distillate, and any other liquid or substance, other than the fuels defined hereinabove as "motor fuel" or "liquefied gas," which is used, or is capable of being used as a fuel to generate power for the propulsion of motor vehicles upon the public highways of Texas. As amended Acts 1957, 55th Leg., p. 832, ch. 360, § 1.

Emergency. Effective May 31, 1957.

(g) "Distributor" shall mean and include every person who refines, distills, manufactures, produces, or compounds motor fuel or blending materials in this state, or imports or causes to be imported motor fuel or blending materials in this state, or in any other manner acquires or possesses said products, for the purpose of making a first sale, distribution or use of said products in this state; and said term shall also mean and include any wholesale dealer or jobber of motor fuel who desires to purchase motor fuel without paying the tax to the distributor selling said products when the motor fuel is purchased for taxable resale, distribution, or use thereof by said wholesale dealer or jobber in this state. The said term shall also include any person who produces or is responsible for the production of the product commonly known as "drip gasoline" unless said drip gasoline is totally destroyed, burned, or otherwise rendered incapable of use as motor fuel or blending material. As amended Acts 1957, 55th Leg., p. 416, ch. 200, § 1.

Emergency. Effective Sept. 1, 1957.

(n) "First sale" shall mean, except as otherwise provided herein, the first sale or distribution in this state of motor fuel, produced, refined, compounded, imported into, or otherwise acquired in said state; provided that

when motor fuel has been purchased tax free under the terms of this Article, the first resale or distribution of said motor fuel for any purpose other than a tax free sale duly authorized as such by the Comptroller shall, for the purposes of this Article, mean and constitute a "first sale". As amended Acts 1957, 55th Leg., p. 416, ch. 200, § 2.

Emergency. Effective Sept. 1, 1957.

(q) The term "tax free," as applied to the sale or purchase of motor fuel, shall mean the sale or purchase of said motor fuel on authority granted by the Comptroller under the terms of this Article without collecting or paying the tax on said sale or purchase. Added Acts 1957, 55th Leg., p. 416, ch. 200, § 3.

Emergency. Effective Sept. 1, 1957.

Subsections (a) and (c) were amended by Acts 1957, 55th Leg., p. 832, ch. 360. Subsections (g) and (n) were amended, and (q) was added, by Acts 1957, 55th Leg., p. 416, ch. 200.

Section 7 of Acts 1957, 55th Leg., p. 416, ch. 200, and section 2 of Acts 1957, 55th Leg., p. 832, ch. 360, provided that all laws or parts of laws that conflict herewith are, insofar as such confliction exists, hereby repealed; and this Act shall prevail over any conflicting provision of law. Provided, however, that all taxes, penalties and interest accruing, and all liens and obliga-

tions created, and all bonds executed to secure their payment before the effective date of this Act, shall be and remain legal and valid obligations to the State of Texas; and the punishment of offenses committed, and recovery of fines, forfeitures and penalties incurred before the effective date of this Act shall take place as if the law amended had remained in force.

Section 8 of Acts 1957, 55th Leg., p. 416, ch. 200, and section 3 of Acts 1957, 55th Leg., p. 832, ch. 360 were severability provisions.

Art. 7065b—2. Motor fuel; excise tax on each gallon; amount; interstate commerce; in lieu of other motor fuel taxes

(b) Provided, that the tax on one and one-half per cent (1½%) of the taxable gallons of motor fuel sold or distributed in this state shall be allocated to the persons selling, distributing, or handling said motor fuel or the taxes collected thereon, which said allocation or allowance shall be deducted in the payment of said tax to the State of Texas in the following manner: The tax on one and one-half per cent (1½%) of said taxable gallonage shall be deducted by the distributor who refines, imports into, or produces motor fuel in Texas and makes the first taxable sale or distribution thereof; the tax on one and four-tenths per cent (1¼%) of said taxable gallonage shall be deducted by the distributor who purchases motor fuel tax free from another licensed distributor under authority issued by the Comptroller and makes a taxable resale or distribution thereof; and one-tenth of one per cent (⅒ of 1%) of the tax collected upon the resale or distribution of motor fuel purchased tax free by a distributor shall be set aside in the State Treasury for use by the Comptroller as hereinafter provided.

The above allocation or allowance shall be 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 said motor fuel and for the expense of collecting, accounting for, reporting and handling such motor fuel and the taxes collected thereon, and shall be apportioned among all persons selling, distributing or handling motor fuel or the tax collected thereon in this state as follows:

I. One-half of one per cent (½ of 1%) to the distributor who refines, imports into, or produces motor fuel in Texas and makes the first taxable sale or distribution of said motor fuel in this state;

II. One-half of one per cent (½ of 1%) to the wholesaler or jobber who pays the tax to a distributor on motor fuel purchased for resale or distribution to retailers;

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

III. One-half of one per cent ($\frac{1}{2}$ of 1%) to the retailer or other person making a sale or distribution of such motor fuel to the person using or consuming said motor fuel;

IV. Provided that the tax on nine-tenths of one per cent ($\frac{9}{10}$ of 1%) of said taxable gallonage shall be apportioned to a distributor who performs functions both as a distributor and as a wholesaler or jobber by paying over to the State of Texas taxes collected upon the resale or distribution of motor fuel which has been purchased tax free under authority issued by the Comptroller and thereafter resold or distributed at wholesale to retailers;

V. One-tenth of one per cent ($\frac{1}{10}$ of 1%) of the taxes collected and paid over to the state upon the resale or distribution of motor fuel purchased tax free by a distributor under authority issued by the Comptroller shall be allocated to and set aside in the State Treasury for use by the Comptroller in the administration and enforcement of the provisions of this Article.

In the distribution of motor fuel in this state, if any person performs more than one (1) of the functions or activities referred to above (distributor, wholesaler or jobber, and retailer), then he shall be entitled to the apportionment or allowance for each such function or activity, subject to the limitations prescribed for each such function or activity, and provided that the aggregate allowance shall never exceed the total amount authorized herein for all three functions or activities. Provided further, if sales or distributions of motor fuel are made between wholesalers, jobbers, or distributors between the first sale made at the source of said motor fuel in Texas and its sale to the retailer, then the aggregate allowances shall never exceed one and one-half per cent ($1\frac{1}{2}\%$).

Nothing contained herein shall be construed as entitling any person using or consuming motor fuel in this state to any portion of said allocation or allowance.

Pursuant to rules and regulations to be prescribed by the Comptroller the allocation or allowance hereinabove provided shall be distributed to the persons entitled thereto as follows: (1) Every distributor who makes a first sale or distribution of motor fuel to a wholesaler, jobber, or another distributor, upon which said first sale or distribution the tax is required to be collected and paid over to this state shall, after setting out the tax separately on the manifest as required by this Article, deduct one per cent (1%) from the amount of such tax and the balance shall be the amount such distributor shall be entitled to collect from such purchaser; and (2) every wholesaler, jobber or distributor who makes a sale, resale, or distribution of motor fuel upon which the tax is required to be collected, to a retailer of said motor fuel shall, after setting out the tax separately on the manifest as required by this Article, deduct one-half of one per cent ($\frac{1}{2}$ of 1%) from the amount of such tax and the balance shall be the amount such wholesaler, jobber or distributor shall be entitled to collect from such purchaser. As amended Acts 1953, 53rd Leg., p. 735, ch. 289, § 1; Acts 1957, 55th Leg., p. 416, ch. 200, § 6.

¹ Article 7065b—13.

Emergency. Effective Sept. 1, 1957.

Art. 7065b—5. Sales without payment of tax for further refining, exporting and certain other purposes

(a) The Comptroller may authorize and permit any person producing natural gasoline, casing-head gasoline, drip gasoline, or any derivative or condensate of crude oil or natural gas, in their natural and unrefined state, or any person operating a pipeline as a common carrier, or any

licensed distributor of motor fuel in this state to make a sale, resale, or distribution of such products or of motor fuel without collecting the tax levied herein, to any distributor holding a valid permit under the terms of this Article when such distributor purchasing the same has, in the opinion of the Comptroller, a satisfactory and sufficient bond, and when the product is sold and purchased for the purpose of exportation, further refining, further processing, further treating, blending or compounding with other products to produce motor fuel, or non-motor fuel products, or for resale to the Federal Government for the exclusive use of said Federal Government, or for resale for some one (1) or more of such purposes and not otherwise.

(b) The Comptroller may also authorize and permit any licensed distributor to make sales or distributions of motor fuel without collecting the tax to any other licensed distributor purchasing said motor fuel for resale or distribution of said product at wholesale when said other licensed distributor holds a valid distributor's permit and has, in the opinion of the Comptroller, a satisfactory and sufficient bond to justify such tax free purchases.

Every such distributor who shall be authorized and permitted to purchase motor fuel without paying the tax thereon for the purpose of resale or distribution of said products at wholesale, shall collect and pay over to the State of Texas at the time and in the manner provided in this Article, a tax at the rate of Five Cents (5¢) per gallon upon the first sale or distribution of said motor fuel made thereafter for any purpose other than a tax free sale authorized by the Comptroller, and shall pay said tax at the rate aforesaid upon each gallon of motor fuel used or unaccounted for by said distributor during the calendar month next preceding the month said tax payment is required to be made, it being the intent hereof that said distributor shall on the 25th day of each calendar month report and pay to the State of Texas all taxes due on motor fuel purchased tax free and thereafter sold, resold, distributed, used or unaccounted for during the calendar month next preceding. Any motor fuel purchased tax free which is unaccounted for at the end of each calendar month shall be prima facie presumed to have been sold or used for taxable purposes.

The Comptroller may, upon request from any distributor, issue a certificate of authority to make sales of motor fuel without collecting the tax, under the terms and conditions provided in this Article, which certificate shall show the date issued, the names of the seller and purchaser of said motor fuel, the quantities authorized, and the period of time and the conditions under which said motor fuel may be sold and distributed tax free to the purchaser thereof, and any distributor who shall make sales of motor fuel in Texas without holding a valid certificate of authority or who shall make sales of motor fuel in excess of the quantities authorized shall be liable for the tax imposed upon the first sale or distribution of said motor fuel. The certificate of authority to make tax free sales of motor fuel shall be subject to revocation for failure or refusal by the seller or purchaser of said motor fuel to comply with any provisions of this Article or any rule and regulation duly promulgated by the Comptroller, or for the violation of the same, and said certificate of authority shall be revoked forthwith upon the failure of any distributor to report and pay all taxes due and owing the State of Texas within the time prescribed by this Article, or at the time fixed by the Comptroller for making periodical reports and tax payments, and no further tax free sales shall be made to a distributor named in any certificate of authority after said certificate has been revoked until such certificate has been reinstated or a new certificate of authority has been issued.

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

(c) Provided further, that any producer, pipeline operator, or licensed distributor who shall make any sale or distribution of motor fuel as provided herein, shall be required to make and keep all the records and manifests required of a distributor in Section 9(b) of this Article,¹ and shall be required to make and file with the Comptroller the return or report required by Section 3 of this Article,² showing all the information set out therein. When motor fuel is sold or distributed tax free under authority issued by the Comptroller, the manifest required to be issued shall bear the notation that said product is sold for the purpose of resale to the Federal Government, exportation, further refining, blending, or resale at wholesale, whichever the case may be. Provided further, that every producer and every pipeline operator shall qualify as a licensed distributor before selling the products named herein to any person other than a licensed distributor. All sales and distributions made without collecting the tax levied herein shall be made subject to any rules and regulations promulgated by the Comptroller.

(d) All taxes collected under the provisions of this Article shall be for the use and benefit of the State of Texas and shall not be appropriated or diverted to any other use. Said taxes shall be paid over to the state at the time and in the manner provided in this Article.

(e) It is the intent of this Article that when a certificate of authority has been issued to a licensed distributor to make tax free sales to another licensed distributor, said sales shall be tax free within the limitations set out in said certificate of authority. As amended Acts 1955, 54th Leg., p. 849, ch. 316, § 1; Acts 1955, 54th Leg., p. 1080, ch. 404, art. II, § 4; Acts 1957, 55th Leg., p. 416, ch. 200, § 4.

¹ Article 7065b—9(b).

² Article 7065b—3.

Emergency. Effective Sept. 1, 1957.

Art. 7065b—7. Bond or cash deposit; deposit of securities; default in payment of tax; suits

(a) Before any permit shall be issued and before engaging in the first sale, use, or distribution of motor fuel, upon which a tax is required to be paid in Texas, every distributor shall execute and file with the Comptroller a good and sufficient surety bond, which shall run concurrently with the permit required of a distributor to be obtained. The said bond shall be signed by said distributor and a good and sufficient surety company or companies authorized to do business in this state, to be approved by the Comptroller, and except as hereinafter provided, in an amount not less than One Thousand Dollars (\$1,000.00) nor more than Fifty Thousand Dollars (\$50,000.00), payable to the State of Texas, and conditioned upon the full, complete, and faithful performance by the distributor of all the conditions and requirements imposed upon him by this Article, or the rules and regulations of the Comptroller promulgated hereunder, on a form to be prescribed by the Comptroller with the approval of the Attorney General, expressly providing for the performance of said obligations, and the remittance and/or payment at Austin, Travis County, Texas, of all taxes collected and required to be collected for the use and benefit of the state, and all other taxes due and accruing upon the use of motor fuel by said distributor, and all costs, penalties, and interest provided in this Article; provided, however, that in any event the total of all recoveries under such bond for any and all breaches of its conditions occurring at any time while it remains in force to support a permit, shall not for any calendar year exceed the penal sum named therein; provided further, that any such bond, continuous in form, may be, if sufficient and acceptable to the

Comptroller, continued in effect by a renewal certificate, and if so continued in effect shall be sufficient to support the issuance of any new permit; and provided further, that the said renewal certificates as, if and when issued shall have all the force and effect of an original bond for the calendar year for which said renewal certificate is issued. The amount of any bond required of any distributor shall be fixed by the Comptroller, and subject to the limitations herein provided, additional bond may be required by the Comptroller at any time an existing bond becomes insufficient, unsatisfactory, or unacceptable. However, the distributor may demand a reduction of his bond after six (6) months from the effective date thereof to a sum to be not more than three (3) times the highest tax said distributor has collected and paid to the state for any month during the preceding six (6) months, or the highest tax that could accrue on motor fuel purchased tax free during any said month, but which shall never be less than the minimum aforesaid.

Provided, that when a distributor or other person produces, manufactures, refines, or acquires in any other manner any product of petroleum or natural gas for his own use and consumption as motor fuel and not to be sold or distributed, the Comptroller may accept a minimum bond in an amount of not less than Five Hundred Dollars (\$500.00); said bond to be in the form and substance and conditioned as hereinabove provided. As amended Acts 1957, 55th Leg., p. 416, ch. 200, § 5.

Emergency. Effective Sept. 1, 1957.

Art. 7083a. Allocation of revenue derived from certain occupations and gross receipts taxes; appropriations and allocations for certain funds; construction of farm to market roads

(4—c). The allocations provided for in Section 2 of Article 7083a, Vernon's Texas Civil Statutes (Annotated), shall be made in the following manner:

A. Of the amount in the Clearance Fund the following allocations shall be made on the first of each month, after the amounts for enforcement and the one-fourth ($\frac{1}{4}$) to the Available School Fund are taken out:

First. Section 2. (4—b) Farm to Market Road Fund

Second. Section 2. (1) Blind Assistance Fund

Third. Section 2. (2) Children Assistance Fund

Fourth. Section 2. (3) Teacher Retirement System

Fifth. Section 2. (4) Old Age Assistance

Sixth. Section 2. (6) Disabled Assistance Fund

B. The cash balance in the fund on the fifth working day of the month shall be allocated on the fifth working day of the month in the following manner, after the amounts for enforcement and the one-fourth to the Available School Fund are taken out:

First. Section 2. (4—a) Foundation School Fund

Second. Balance to General Revenue Fund. Added Acts 1955, 54th Leg., p. 1080, ch. 404, art. V, § 1 as amended Acts 1957, 55th Leg., p. 672, ch. 284, § 4.

(6). There shall be allocated, transferred, and credited to the special fund in the Treasury known as the "Disabled Assistance Fund" for the purpose of providing assistance to the permanently and totally disabled in the manner as authorized by law or as hereafter may be authorized by law the sum of One Million, Five Hundred Thousand Dollars (\$1,500,000) for the fiscal year beginning September 1, 1957, and for each fiscal year

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

thereafter, said amount to be provided for on the basis of equal monthly payments payable on the first day of each calendar month.

If, on the first day of any calendar month, the amount on that day transferred from the "Clearance Fund" to the "Disabled Assistance Fund" is not sufficient to provide the allocation from State funds as herein provided for that month, then in that event, there shall be deposited to the credit of the "Disabled Assistance Fund" from the first revenues collected after the first day of the month, which would otherwise go into the General Revenue Fund, after deposit of such revenues as provided in Subsection (4) of this Section, such sum, as with the balance on hand in the fund plus the payment from the "Clearance Fund," will make available in the "Disabled Assistance Fund" the total amount of State funds for that month as is herein provided.

The allocation shall be and is in lieu of all other State allocations for permanently and totally disabled assistance and such allocation and appropriation shall not include any funds received from the Federal Government. Added Acts 1957, 55th Leg., p. 672, ch. 284, § 4.

Effective May 23, 1957 as limited by Section 6 of this Act.

CHAPTER THREE—FRANCHISE TAX

Article 7084. Amount of tax

(2) Corporations, other than those enjoying the use of public highways by virtue of a certificate of public convenience and necessity granted by the Railroad Commission of Texas, which are required by law to pay annually a tax upon intangible assets, and corporations incorporated only for the purpose of owning or operating street railways or passenger bus systems in any city or town and suburbs thereof, and corporations incorporated only for the purpose of maintaining or owning or operating electric interurban railways, and corporations, four-fifths ($\frac{4}{5}$) or more of whose assets are invested in, and four-fifths ($\frac{4}{5}$) or more of whose gross income is received from, voting common capital stock which comprises four-fifths ($\frac{4}{5}$) or more of the total fully voting common capital stock of one or more corporations which are public utility corporations under clause (3) hereof, shall be required hereafter to pay a franchise tax equal to one-fifth ($\frac{1}{5}$) of the franchise tax herein imposed against all other corporations under Section (1) herein. As amended Acts 1957, 55th Leg., p. 1179, ch. 394, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957, provided that this Act shall be applicable to franchise taxes payable after the effective date of this Act.

Section 3 repealed all conflicting laws and parts of laws.

Art. 7094. 7403 Corporations exempt

The franchise tax imposed by this Chapter shall not apply to any insurance company, surety, guaranty or fidelity company, transportation company or sleeping, palace car and dining car company now required to pay an annual tax measured by their gross receipts, or to any corporation organized as a railway terminal corporation and having no annual net income from the business done by it, or to corporations having no capital stock and organized for the exclusive purpose of promoting the public interest of any city, town, county or other area within the State, or to corporations organized for the purpose of religious worship or for providing

places of burial not for private profit, or to corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for strictly educational purposes, or for purely public charity, or to State-chartered building and loan associations, or to any mutual investment company registered under the Federal Investment Company Act of 1940, as from time to time amended, which holds stocks, bonds or other securities of other companies solely for mutual investment purposes. As amended Acts 1951, 52nd Leg., p. 245, ch. 143, § 1; Acts 1955, 54th Leg., p. 1080, ch. 404, Art. IV, § 6; Acts 1957, 55th Leg., p. 353, ch. 162, § 1.

Emergency. Effective May 6, 1957.

Amendment by Acts 1957, 55th Leg., p. 790, ch. 325, § 1, see art. 7094, post.

Art. 7094. 7403. Corporations exempt

The franchise tax imposed by this Chapter shall not apply to any insurance company, surety, guaranty or fidelity company, transportation company or sleeping, palace car and dining car company now required to pay an annual tax measured by their gross receipts or to any corporation organized as a railway terminal corporation and having no annual net income from the business done by it, or to corporations having no capital stock and organized for the exclusive purpose of promoting the public interest of any county, city or town, or to corporations organized for the purpose of religious worship or for providing places of burial not for private profit, or to corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for strictly educational purposes, or for purely public charity, or to state-chartered building and loan associations; or to any mutual investment company registered under the Federal Investment Company Act of 1940,¹ as from time to time amended, which holds stocks, bonds or other securities of other companies solely for mutual investment purposes, or for nonprofit corporations having no capital stock organized for the purpose of the education of the public in the protection and conservation of fish, game and other wildlife, grass lands and forests. As amended Acts 1951, 52nd Leg., p. 245, ch. 143, § 1; Acts 1955, 54th Leg., p. 1080, ch. 404, art. IV, § 6; Acts 1957, 55th Leg., p. 790, ch. 325, § 1.

¹ 15 U.S.C.A. §§ 80a—1 to 80a—52.

Emergency. Effective May 31, 1957.

Amendment by Acts 1957, 55th Leg., p. 353, ch. 162, § 1, see art. 7094, ante.

Section 2 of Acts 1957, 55th Leg., p. 790, ch. 325, was a severability provision. Section 3 repealed all laws or parts of laws to the extent of such conflict only.

The Attorney General, in Opinion WW-260, dated Sept. 19, 1957 holds that there is

no conflict between Chapters 162 and 325, of Laws 1957, both of which amend this Article, and that both should be given full effect as one law.

CHAPTER FIVE—INHERITANCE TAX

Art.

7122—a. Applicability of art. 7122 [New].

Art. 7122—a. Applicability of art. 7122

The provisions of Article 7122, Revised Civil Statutes of Texas, 1925, as amended by Acts of the 43rd Legislature, Regular Session, Chapter 192, and by Acts of the 54th Legislature, Regular Session, 1955, Chapter 389, shall apply to the bequests, devises and/or gifts of decedents dying after June 3, 1955, being the date on which the Governor of Texas approved the amendatory Act last mentioned. Added Acts 1957, 55th Leg., p. 489, ch. 236, § 1.

Emergency. Effective May 16, 1957.

Section 2 of the Act of 1957 repealed all conflicting laws and parts of laws.

CHAPTER EIGHT—COLLECTION AND COLLECTOR

Art.

7298a. Professional conferences or legal institutes; attendance; payment of expenses [New].

Art. 7298a. Professional conferences or legal institutes; attendance; payment of expenses

Section 1. The Assessor-Collector of Taxes of each county and the Sheriff who also performs the duties of Assessor-Collector of Taxes in certain counties, may attend one professional conference or legal institute each year, as may be called by the State Comptroller of Public Accounts, in order that the Assessor-Collector or the Sheriff, as the case may be, may be apprised of the changes in the tax laws, the court decisions and the Attorney General's opinions in connection therewith, and the policy of the Comptroller's office and the other state agencies concerning the assessing and collecting of county and state taxes. The Assessor-Collector of Taxes, or the Sheriff, as the case may be, may be allowed all actual and necessary expenses for meals and lodging which are incurred in going to and returning from such conferences and institutes and while in attendance at such conferences or institutes. In addition to these expenses, the Assessor-Collector of Taxes or the Sheriff may be allowed a transportation allowance under one of the following provisions:

(1) If the Assessor-Collector of Taxes or the Sheriff uses his private automobile for going to or returning from institutes or conferences, he may be allowed Seven Cents (7¢) per mile for each mile that he actually travels in going to and returning from such conferences and institutes.

(2) If the Assessor-Collector of Taxes or Sheriff uses a public conveyance in going to and returning from such conferences or institutes, he may be entitled to a transportation allowance equal to the actual cost of transportation.

Sec. 2. In the event the Assessor-Collector of Taxes or the Sheriff, as the case may be, is unable because of illness or other valid reason to attend any of these conferences or institutes, he may designate his First Assistant or Chief Deputy to attend such conference or institute. If for some good reason the First Assistant or Chief Deputy cannot attend these meetings, then the Assessor-Collector may designate the assistant or dep-

uty of his own choosing to attend such institutes or conferences. The First Assistant, Chief Deputy, or some other assistant or deputy who is designated to attend the conferences or institutes may be allowed his actual and necessary expenses for meals and lodging incurred in going to and returning from such conferences or institutes, and while in attendance at such institutes or conferences. In addition to these expenses, the First Assistant, Chief Deputy, or the assistant or deputy so designated may be allowed a transportation allowance under one of the following provisions:

(1) If the First Assistant, Chief Deputy, or the assistant or deputy so designated uses his private automobile for going to or returning from institutes or conferences, he may be allowed Seven Cents (7¢) per mile for each mile that he actually travels in going to and returning from such conferences and institutes.

(2) If the First Assistant, Chief Deputy, or the assistant or deputy so designated uses a public conveyance in going to and returning from such conferences or institutes, he may be entitled to a transportation allowance equal to the actual cost of transportation. Acts 1957, 55th Leg., p. 1363, ch. 464.

Emergency. Effective June 10, 1957.

Section 3 of the Act of 1957 repealed all conflicting laws and parts of laws.

TITLE 126—TRUSTS—CONSPIRACIES AGAINST TRADE

1. DEFINITIONS, FORFEITURES AND OTHER PROVISIONS

Art.

7436a. Declaratory judgment suits against state; violations of anti-trust laws [New].

1. DEFINITIONS, FORFEITURES AND OTHER PROVISIONS

Art. 7436a. Declaratory judgment suits against state; violations of anti-trust laws

Section 1. Any person, partnership, joint stock company or corporation residing or incorporated in or having a permit to do business in this State and who may be in doubt or uncertain as to whether his, their or its actions or proposed action, procedure or method of doing business is or will be in violation of the Anti-Trust Laws of the State of Texas, shall have and are hereby given the right to file suit for declaratory judgment in one of the District Courts of Travis County, Texas, naming the State of Texas as Defendant.

Sec. 2. Any and all suits for declaratory judgment filed under this Article shall cite this Act as authority for bringing such suit and citation and all other process filed by the Plaintiff shall be served on the Attorney General of Texas who shall represent the State of Texas in such suit. The Plaintiff's petition shall describe in detail the acts, procedure and practice being followed or proposed to be followed by Plaintiff, concerning which Plaintiff desires judgment declaring whether or not same are in violation of the Anti-Trust Laws of the State of Texas and the Court in its declaratory judgment shall set out the facts relied upon and considered by the Court as the basis for its judgment.

Sec. 3. Any declaratory judgment rendered under the authority of this Act approving any act, procedure or method of doing business as not being violative of the Anti-Trust Laws of the State of Texas shall be strictly construed and shall not be extended by implication to cover any other act, procedure or method of doing business not set forth in said judgment and shall not be binding on the State of Texas with reference to any other person, partnership, joint stock company or corporation, and the State of Texas, as Defendant, shall not be estopped by said judgment from showing in some later proceeding some act or acts, procedure or method of doing business on the part of the Plaintiff not disclosed in said declaratory judgment suit and relied upon and considered by the Court as the basis for its judgment, and which, considered in connection with the actions or proposed actions, procedure or method of doing business as set out in said declaratory judgment suit, constitute a violation of the Anti-Trust Laws of the State of Texas.

Sec. 4. Any Plaintiff filing such suit for declaratory judgment hereunder shall pay all costs of said proceeding. Added Acts 1957, 55th Leg., p. 1392, ch. 479.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the Act of 1957 provided that nothing in this Act shall ever be construed to alter, amend or repeal any Anti-Trust Laws of this State.

Section 3 provided that this Act is cumulative of all other Acts on the subject but to the extent that its provisions are inconsistent or in conflict with the provisions of other laws, the provisions of this Act shall be controlling.

TITLE 127—VETERINARY MEDICINE AND SURGERY

Art. 7465a. Veterinary licensing act

Appeals

Sec. 16. a. Within 30 days after issuance of an order by the Board suspending, revoking, or refusing to renew a license, the affected licensee or applicant may appeal such order to the district court of the county in which the applicant or licensee maintained his principal office for the practice of veterinary medicine on the dates of the commission of the acts relied upon by the Board to suspend or revoke a license or refuse to issue a renewal of a license. An applicant who has never practiced veterinary medicine may, within 30 days after issuance of an order by the Board refusing to examine the qualifications of the applicant or refusing to issue a license to the applicant, appeal the Board's order to the district court of the county in which the applicant resided at the time he made such application to the Board.

b. The trial in the district court shall be de novo as in cases of appeal from the justice courts to the county courts of the State of Texas. The district court upon final hearing shall enter its judgment suspending or revoking the license or refusing to suspend or revoke the license as the court or jury may determine. The Board or the applicant or licensee may appeal as in other civil cases. As amended Acts 1957, 55th Leg., p. 279, ch. 128, § 1.

Emergency. Effective April 30, 1957.

Section 2 of the amendatory Act of 1957 provided: "This Act does not affect pro-

ceedings that were begun before its effective date."

TITLE 128—WATER

I. IRRIGATION AND WATER RIGHTS

CHAPTER ONE—USE OF STATE WATER

2. BOARD OF WATER ENGINEERS

Art.

7472d—1. Water Planning Act of 1957 [New].

7537b. Natural pollution of tributaries of Red River; study of causes and means of elimination [New].

3. REGULATION OF USE

Art.

7550a. Diversion of waters released from reservoirs or dam on international stream; rules and orders; appeals; penalties [New].

7589b. Water master; appointment; suit to divert waters of stream; state a party [New].

2. BOARD OF WATER ENGINEERS

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 stockraising, public parks, game preserves, recreation and pleasure resorts, power and water supply for industrial purposes and plants and for domestic use. Those unappropriated public waters consisting of only storm and flood waters may also be appropriated for the purpose of recharging underground fresh water bearing sands and aquifers in that portion of the Edwards underground reservoir located within the counties of Kinney, Uvalde, Medina, Bexar, Comal and Hays, when it can be established by expert testimony that an unreasonable loss of such water will not occur and that such water can be withdrawn at a later time for application to a beneficial use; provided, that the normal or ordinary flow of a stream or watercourse shall never be authorized to be appropriated, diverted or used by a permittee for such recharging purpose; providing further, however, that any water so appropriated, hereunder, upon being put or allowed to sink into the ground, shall thereupon lose its character and classification and be considered percolating ground water. 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 1957, 55th Leg., p. 254, ch. 118.

Emergency. Effective April 30, 1957.

Section 2 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the act.

Art. 7471. Priority in appropriation of water

Acts 1957, 55th Leg., p. 449, ch. 221 (Article 8280—198) provides in section 25 that nothing in the act should be interpreted as amending or repealing Article 7471.

Bistone Municipal Water Supply District, act creating as not amending or repealing this article, see art. 8280—206.

3. Construction and application

Texas statute establishing priorities for water use merely regulates priorities prospectively, and is not intended to upset normal time priority or to disturb outstanding permits. *El Paso County Water Imp. Dist. No. 1 v. City of El Paso*, D.C., 133 F. Supp. 894, reformed in part and affirmed in part 243 F.2d 927.

Art. 7472d—1. Water Planning Act of 1957

Name of Act

Section 1. This Act shall be known as "The Texas Water Planning Act of 1957."

Definitions

Sec. 2. 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) "Board" means the Board of Water Engineers.
- (b) "Planning Division" or "Division" means the Texas Water Resources Planning Division of the State Board of Water Engineers, as created and constituted by this Act.
- (c) "Public Agency" means and includes any agency of the United States, State of Texas or political subdivision of the State.
- (d) "Conservation Storage" means that portion or part of a reservoir created by a dam or other works of improvement in which water may be impounded or stored for conservation, development, and beneficial use in accordance with law.

Creation of Water Planning Division

Sec. 3. The State Board of Water Engineers is hereby authorized and directed to establish within the Board a division to be known as the Texas Water Resources Planning Division.

Functions of Division

Sec. 3(a). The Planning Division shall be under the supervision and direction of the State Board of Water Engineers, and its functions shall be:

- (1) To develop an inventory as to quantity, quality, and location of all surface water resources of the State.
- (2) To analyze topographic maps and other data appropriate for the determination of the development of available surface supplies for meeting present and foreseeable needs.
- (3) To prepare an inventory of information as to available underground water disclosed by geologic and hydrologic investigation of underground reservoirs.
- (4) To enter into contracts with federal, state and local political subdivisions and agencies including the State Soil Conservation Board and any other persons, firm or corporation for topographic mapping, joint investigation and research in the field of water and soil resource planning.
- (5) To enter into contracts and agreements with any public agency to carry out a joint program of topographic and geologic mapping of the watersheds of this state and to expend funds specifically appropriated to the State Board of Water Engineers for this purpose.
- (6) To prepare a present and continuing inventory of the available water resources of the state.
- (7) To make studies of probable additional beneficial use for surface, ground and underground waters.
- (8) To prepare and submit to the Legislature a state wide water report of the water resources of the state with a correlation and relation-

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

ship of these resources and to make recommendations to the Legislature for the maximum development of the water resources of the state, and to furnish the same to all members of the Legislature and elected officers of the state without cost.

Accumulation of Data and Cooperation of Agencies

Sec. 3(b) The Planning Division shall have access to all public records pertaining to the purposes of this section, and all state public agencies are hereby directed to cooperate with and to furnish to said Division copies of all data collected by any such agencies. The Planning Division is hereby directed to bring together the studies heretofore and hereafter made by the Board, the Texas Water Resources Committee, the University of Texas Bureau of Business Research, the Texas Society of Professional Engineers, the University of Texas, the A. & M. College System of Texas, the State Soil Conservation Board, the Public Health Authorities, the United States Geological Survey, the United States Soil Conservation Service, the United States Army Corps of Engineers, the United States Bureau of Reclamation, the International Boundary and Water Commission, the Canadian, Pecos, Rio Grande, and Sabine Compact Commissions, the several river authorities, ground water conservation districts and other political subdivisions, and any and all other agencies having information or having studied the subject of water resources policy and conservation, and to relate and correlate such information with such additional data and information as the Division may collect and assemble on its own behalf.

The State Soil Conservation Board is authorized to appoint a representative to advise and work with the Planning Division; the State Soil Conservation Board is hereby authorized to use any funds heretofore appropriated for use during the current biennium ending August 31, 1959, for the purpose of paying the salary, travel expenses and other expenses of the representatives appointed by the Soil Conservation Board.

Distribution and Publication of Information

Sec. 3(c) All records, reports, data and information in the files of the Planning Division shall be open to public inspection and shall be made available and supplied in printed form to all interested persons, firms, corporations, political subdivisions and public agencies. The State Board of Water Engineers is authorized to charge and collect reasonable fees of all interested parties, to cover the costs of the publication and distribution of such information.

Salaries and Other Expenses: Method of Financing

Sec. 4. (a) The Planning Engineer shall receive a salary to be determined by the Legislature. The Board is authorized to employ a Planning Engineer, and such assistant planning engineers and such professional and clerical employees as may be authorized for the performance of the duties herein imposed upon the Planning Division. The Legislature hereafter in General Departmental Appropriation Acts, shall make the necessary appropriation to pay wages, salaries, and other expenses of the Planning Division.

For the balance of the current biennium, and out of the moneys hereinafter transferred to the Board of Water Engineers, the Board is author-

ized to expend the following sums, or as much of them as may be necessary, for the objects and purposes shown:

| | For the nine months end- ing Aug. 31, 1958 | For the year ending Aug. 31, 1959 |
|---|---|---|
| For salaries and wages— | | |
| 1. Planning Engineer | \$ 7,500 | \$ 10,000 |
| 2. Secretary to Planning Engineer | 2,700 | 3,600 |
| 3. First Assistant Planning Engineer | 6,750 | 9,000 |
| 4. Secretary to Assistant Planning Engi- neer | 2,475 | 3,300 |
| Sub-total | 19,425 | 25,900 |
| 5. Chief Topographic Engineer | \$ 6,750 | \$ 9,000 |
| 6. Secretary | 2,385 | 3,180 |
| 7. For topographic mapping, ground water studies, evaporation control research, either alone, by contract, or in coopera- tion with Federal, State, or local legal entities, including salaries and wages.. | 325,070 | 53,615 plus U.B. |
| Sub-total, Topographic Mapping Section | 334,205 | 65,795 plus U.B. of item 7 |
| For flood forecasting, evaporative studies and other surface water investigations necessary for planning purposes: | | |
| 8. Chief Surface Water Planning En- gineer | 6,750 | 9,000 |
| 9. Engineer, Grade 5 | 6,450 | 8,600 |
| 10. Engineers, Grade 4, NTE \$7,800 | 11,700 | 15,600 |
| 11. Engineers, Grade 3, NTE \$7,200 | 5,400 | 14,400 |
| 12. Engineering Aides, NTE \$3,800 | 7,905 | 15,340 |
| 13. Secretaries, NTE \$3,180 | 4,770 | 6,360 |
| Sub-total | 42,975 | 69,300 |
| Ground Water Research, Investigation and Evaluation necessary for Planning Purposes: | | |
| 14. Chief Ground Water Planning En- gineer | 6,750 | 9,000 |
| 15. Geologist Grade 6, or Chemist, 2 NTE \$8,600 | 12,900 | 17,200 |
| 16. Geologists, NTE \$6,600 | 9,900 | 13,200 |
| 17. Geologists, NTE \$5,400 | 8,100 | 10,800 |
| 18. Engineering Aides, NTE \$4,800 | 10,830 | 19,240 |
| 19. Secretaries, NTE \$3,180 | \$ 4,770 | \$ 6,360 |
| 20. Engineering Stenographer | 2,475 | 3,300 |
| Sub-total | \$ 55,725 | \$ 79,100 |

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

Coordinating and Planning Section:

| | | |
|---|-----------|-----------|
| 21. Chief Engineer for Coordination of Planning | \$ 6,750 | \$ 9,000 |
| 22. Associate Engineer, Grade 6 | 6,450 | 8,600 |
| 23. Engineers, NTE \$7,800 | 10,400 | 23,400 |
| 24. Junior Engineers, NTE \$5,400 | — | 10,800 |
| 25. Secretaries, NTE \$3,180 | 4,770 | 6,360 |
| 26. Clerks, NTE \$2,820 | 2,115 | 5,640 |
| | <hr/> | <hr/> |
| Sub-total, Coordinating and Planning Section | \$ 30,485 | \$ 63,800 |

For the purposes of augmenting the Boards' present statistical and administrative service division with additional positions for the planning purposes of this Act:

| | For the nine months ending Aug. 31, 1958 | For the year ending Aug. 31, 1959 |
|---|--|-----------------------------------|
| 27. Chief Clerk | \$ 4,050 | \$ 5,400 |
| 28. Assistant Statistician | 3,600 | 4,800 |
| 29. Tabulating Machine Supervisor | 4,050 | 5,400 |
| 30. File Supervisor | 2,700 | 3,600 |
| 31. Seasonal Help | 600 | 800 |
| | <hr/> | <hr/> |
| Sub-total | \$ 15,000 | \$ 20,000 |

For Other Operating Expenses..

| | | |
|---|-----------|--------------------------------------|
| 32. For travel expenses, the operation and maintenance of trucks, office and engineering supplies, equipment, furniture and fixtures, telephone and telegraph, utilities, bond premiums, postage, printing, reference books, rents, and for electronic computations of engineering and hydrological data by contract or machine rental, and other contingent expense, including the State's share of contributions required by law to the Employees Retirement System and Old Age and Survivors insurance for Employees hereinabove provided .. | 37,730 | 35,200 plus U.B. |
| | <hr/> | <hr/> |
| Total | \$535,545 | \$359,095 plus U.B. designated above |

It is specifically provided that the Board of Water Engineers in its discretion is authorized to use the funds designated by items 8 through 13 by contractual agreements for surface water investigation to accomplish the purposes of this Act.

It is also provided that the Board is authorized in its discretion to use the funds designated in items 14 through 20 by contractual agreements for ground water research and investigation to accomplish the purposes of this Act.

At the request of the Board, the Comptroller shall transfer such sums as the Board specifies into separate accounts in order to carry out the provisions of the two paragraphs immediately preceding this one.

Expenditures from all the amounts specified hereinabove shall be governed by the provisions of Chapter 385, (H.B. 133), Acts Fifty-fifth Legislature, Regular Session, to the extent that such provisions will not conflict with this Act; provided, however, that moneys specified by this subsection which are hereby specifically transferred to the Board of Water Engineers for the purpose of carrying out the provisions of this Act may be transferred by the Board between such items, provided such transfers do not increase the salary rates specified hereinabove, with the advance, written approval of the Governor after obtaining the advice of the Legislative Budget Board.

It is further provided that line item positions and other expense items may be assigned by the Board to cooperative work with the United States Geological Survey upon approval by the Governor after obtaining the advice of the Legislative Budget Board.

(b) Funds heretofore appropriated for the Board of Water Engineers in line items 29 through 32 of H. B. 133, Acts Fifty-fifth Legislature, Regular Session, 1957, may be used by the Board for collecting information and data to accomplish the purposes of this Act. The Board may also use any other general revenue funds appropriated to it by H. B. 133, Acts Fifty-fifth Legislature, Regular Session, 1957, necessary to accomplish the purposes of this Act, provided such transfers do not increase the salary rates specified hereinabove. Provided, however, that not more than Four Hundred Thousand Dollars (\$400,000) may be expended from the funds transferred by this subsection during the balance of the biennium ending August 31, 1959, for or by the Topographic Mapping Section described in items 5, 6, and 7 of subsection (a) of this Section 4.

That portion of said House Bill No. 133, Acts, 55th Legislature, Regular Session, 1957, immediately preceding Item Number 33 in the appropriation to the Board of Water Engineers and reading "Watershed Planning—None of the money appropriated in Items 33 through 39 below for the Watershed Planning shall be expended until and unless the Constitutional Amendment proposed by House Joint Resolution No. 3, of the Fifty-fifth Legislature is duly adopted by the voters of Texas" is hereby repealed. The sums appropriated in items 33 through 39 of the appropriation for the Board contained in said House Bill No. 133, totaling One Hundred Thousand, Two Hundred and Forty Dollars (\$100,240) for the biennium ending August 31, 1959, are hereby transferred to the Board in a lump sum for the purposes specified in this Act.

The sum of Five Hundred Thousand Dollars (\$500,000) appropriated to the Texas Prison System in that portion of House Bill No. 133, Chapter 385, General and Special Laws of the Fifty-fifth Regular Session, page 1051, entitled "Texas Prison System—Contingency Appropriations," is hereby transferred to the Board of Water Engineers to be used in accomplishing the purposes of this Act.

Effective September 1, 1958, there is hereby transferred an amount not to exceed Two Hundred Ninety-four Thousand, Four Hundred Dollars (\$294,400) or so much thereof as may be available, from the One Million, Two Hundred Fifty Thousand Dollars (\$1,250,000) previously appropriated for allocation by the Texas Commission on Higher Education to meet student enrollment increases in the eighteen State Colleges and Universities (said appropriation being the one made by House Bill No. 133, Chapter 385, Acts, Fifty-fifth Legislature, Regular Session, Article V, item 15 under the heading "Texas Commission on Higher Education")

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

to the Board of Water Engineers to be used in accomplishing the purposes of this Act. It is specifically provided, however, that the manner or formula set forth in said Chapter 385 for allocating the One Million, Two Hundred Fifty Thousand Dollars (\$1,250,000) for meeting student enrollment increases shall be fully applied, and only the amount remaining in such appropriation after the full allocations to general academic teaching institutions have been certified by the Commission on Higher Education on or before May 1, 1958, shall be transferred to the Board of Water Engineers by the provisions of this paragraph, not to exceed Two Hundred Ninety-four Thousand, Four Hundred Dollars (\$294,400).

In addition to any funds made available by the Legislature, the Board is authorized to contract for, receive or accept money or services from anyone, or from any agency, political subdivision, or other legal entity, provided, however, that the same shall not be, become, held or considered as a debt or enforceable obligation against the State of Texas, and may then use such money to carry into effect the duties required by this Section. The money thus obtained shall be deposited by the Board in the State Treasury as a special fund and said money may be used by the Planning Division for any of its purposes, including wages, salaries, and other expenses.

(c) No person shall be appointed Planning Engineer who has not resided in the State of Texas for at least five years of the 10 years last preceding his appointment.

(d) No person shall be appointed as Planning Engineer, Assistant Engineer, or Chief Engineer of any section authorized by this Act who is not a registered Professional Engineer under the laws of the State of Texas.

Authority to Acquire Conservation Storage

Sec. 5. (a) When the Board finds it necessary, in the conservation of the water resources of the State, the Board is authorized and empowered to negotiate with the United States, or any agency of the United States, for the development and acquisition of conservation storage in reservoirs constructed by the United States, or any agency thereof, and may enter into preliminary agreements therefor; provided, however, any such action shall not abrogate, modify, implement, supplement, designate or in anywise effect rights in and to such water, or in anywise affect existing or vested rights of any kind or character.

(b) The Board shall, at the next succeeding session of the Legislature, whether general or special, report in writing to the Governor, the Lieutenant Governor, and the Speaker of the House, with sufficient copies for all members of the Legislature, the status of all such negotiations, and furnish copies of all such preliminary agreements made by the Board and the United States, or any agency thereof.

(c) No such preliminary agreement shall be binding upon the State of Texas or the Board of Water Engineers, or have any effect, unless such agreement is thereafter specially approved by the Legislature. Acts 1957, 55th Leg., 1st C. S., p. 23, ch. 11.

Emergency. Effective Dec. 2, 1957.

Section 6 of the Act of 1957, 1st C.S., was a severability provision.

Art. 7519a. Cancellation of unused permits or certified filings

1. All permits for the appropriation and use of public waters heretofore issued by the Board of Water Engineers of the State of Texas, at least ten (10) years prior to the effective date of this Act

or which shall have been issued at least ten (10) years prior to the date of the cancellation proceedings herein authorized, or certified filings filed with said Board in accordance with the provisions of Section 14 of Chapter 171, Acts of the Thirty-third Legislature of Texas, 1913, as amended,¹ which said permits and certified filings authorize the appropriation and use of public waters, and under which no part of the water authorized to be withdrawn and appropriated has been put to beneficial use at any time during a period of ten (10) consecutive years next preceding the effective date of this Act or the date of the cancellation proceedings herein authorized, whichever is later in time, shall be presumed to have been wilfully abandoned in that the holder has not been diligent in applying any of such unused water to beneficial use under the terms of the permit or certified filing for each year during the ten-year period and has not been justified in such non-use for each year during the ten-year period. When the Board finds that its records do not show that any water has been beneficially used under any such permit or certified filing at any time during such ten-year period, it shall cause a public hearing to be held on the matter of cancelling such permit or certified filing. Provided, however, that before cancelling any such permit or certified filing, the Board shall send notice of such pending cancellation hearing by certified mail, return receipt requested, to the holder or holders of any such permit or certified filing as shown by the records of the Board of Water Engineers or its successors, at the last address shown by such records, and shall also cause a notice of such hearing to be published each week for two (2) consecutive weeks in a newspaper published in each county in which diversion of such water from the source of supply was authorized or proposed to be made and in each county in which the water was authorized to be used or proposed to be used according to the records of the Board, or, if there be no newspaper published in any such county then in a newspaper having general circulation in the county where no newspaper is published, at least thirty (30) days prior to such hearing date, and shall also give notice thereof by letter mail to all other holders of permits and certified filings in the same watershed; and the Board shall give such record holder or holders of the permit or certified filing sought to be cancelled and other persons interested in the questions to be determined at such hearing an opportunity to be heard and present evidence that water has, or has not, been beneficially used for the purposes authorized under the permit or certified filing during such ten-year period. At the conclusion of the hearing, if the Board finds that no water has been beneficially used for the purposes authorized during such ten-year period, such permit or certified filing shall be deemed as wilfully abandoned, shall be null, void and of no further force and effect, and shall be forfeited, revoked and cancelled by the Board.

2. When the Board of Water Engineers or its successor has determined from its records that all of the public waters authorized to be appropriated under a certified filing, or under a permit issued ten (10) years or more prior to the effective date of this Act, or prior to the date of cancellation proceedings herein authorized, has not been put to a beneficial use at any time during a period of ten (10) consecutive years next preceding the effective date of this Act, or the date of the cancellation proceedings herein authorized, it may cause a public hearing to be held on the matter of cancelling that portion of such permit or certified filing which has not been beneficially used at any time during such ten (10) consecutive years, and if it should appear to the Board that the holder of the permit or certified filing has

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not been diligent in applying all or any part of such unused water to beneficial use under the terms of the permit or certified filing and has not been justified in such nonuse or does not have a bona fide intention of putting such unused waters to beneficial use under the terms of the permit or certified filing within a reasonable period of time after the date of such hearing, then such permit or certified filing shall be subject to forfeiture and cancellation by the Board as to such portion of such waters as to which such facts are so found. The absence from the records of the Board of proof of use of such water during said ten-year period shall be sufficient for initiating such cancellation proceedings. In determining what constitutes a reasonable period of time in this paragraph, the Board shall give consideration to expenditures made or obligations incurred by the owner of such permit or certified filing in connection therewith, the purpose to which the water is to be applied, the priority under the general law of such purpose, and the amount of time usually necessary to put such water to a beneficial use for the same purpose when diligently developed. Provided, however, that before cancelling any unused portion of a permit or certified filing the Board shall send notice of such hearing by certified mail, return receipt requested, to the holder or holders of any such permit or certified filing as shown by the records of the Board or its successor at the last address shown by such records, and shall also cause such notice to be published once each week for two (2) consecutive weeks in a newspaper regularly published in the county in which the diversion of such water from the source of supply was authorized or proposed to be made and in each county in which the water was authorized to be used or proposed to be used according to the records of the Board or, if there be no newspaper published in any such county, then in a newspaper having general circulation in the county where no newspaper is published, at least thirty (30) days prior to such hearing date, and shall also give notice thereof by letter mail to all other holders of permits and certified filings in the same watershed; and the Board shall give such record holder or holders of the unused portion of the permit or certified filing sought to be cancelled and other persons interested in the questions to be determined at such hearing an opportunity to be heard and to present evidence on any matter pertinent to the questions at issue in said hearing.

If the Board should find as a result of such hearing that any portion of the water authorized to be diverted and used under such permit or certified filing has not been put to an authorized beneficial use during said ten-year period, and that reasonable diligence has not been used by the holder or holders in applying such unused portion of said water to beneficial use under the terms of the permit or certified filing, and that such holder has not been justified in such nonuse or does not have a then bona fide intention of putting such unused water to beneficial use under the terms of the permit or filing within a reasonable time after such hearing, the Board shall enter its order cancelling such permit or certified filing as to the portion of the water as to which such findings are made, and said portion of said water shall again be subject to appropriation.

Where the holder of a certified filing or permit has facilities for the storage of water in a reservoir, the Board shall allow such holder to retain a water appropriation to the extent of the conservation storage capacity of such reservoir owned by such holder of the certified filing or permit. Notwithstanding other provisions of this Article to the contrary, no portion of a certified filing held by a city, municipal water

district, town or village authorizing the use of water for municipal purposes shall be cancelled when water has been put to use under such certified filing for municipal purposes at any time during the ten-year period prior to the cancellation proceedings herein authorized.

Failure on the part of the Board to initiate a proceeding to cancel a permit or certified filing or portion thereof in accordance with the terms of this Article shall not be construed as validating or enhancing any such permit or certified filing or portion thereof not cancelled. Once cancellation proceedings have been initiated against a particular permit or certified filing and a hearing has been held thereon, the Board shall not initiate further cancellation proceedings against such permit or certified filing for a period of not less than five (5) years after the date of such public hearing.

3. The term 'other persons interested' as used in Subdivisions 1 and 2 of this Article shall be deemed to include any person, firm or corporation, public or private, other than a record holder, interested in such permit or certified filing, or whose interest would be served by the cancellation of such permit or certified filing in whole or in part. As amended Acts 1957, 55th Leg., p. 82, ch. 39, § 1.

1 Repealed Acts 1917, 35th Leg., p. 211, ch. 88, § 139.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the Act of 1957 provided that all laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict, and should any section or provisions hereof be declared unconstitu-

tional or invalid, such invalidity shall not impair any remaining sections or provisions of this Act, and it is hereby declared to be the legislative intent that this Act would have been passed as to the remaining portions hereof regardless of the invalidity of any part.

Art. 7519b. Certified filing defined; appeals from board; hearing on appeal

For the purpose of this Act, the term "Certified Filing" 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, and amendments thereto.

Appeals from any Board order revoking, forfeiting or cancelling all or part of any permit or certified filing may be as is provided by Chapter 357, General Laws, Regular Session, Fifty-third Legislature, 1953, codified as Article 7477, Vernon's Civil Statutes of Texas, and the hearing on such appeal shall be as though the jurisdiction of the district court were original jurisdiction. As amended Acts 1957, 55th Leg., p. 82, ch. 39, § 1.

Art. 7537b. Natural pollution of tributaries of Red River; study of causes and means of elimination

The Texas Board of Water Engineers is hereby authorized and directed to study salt springs, gypsum beds, and other sources of natural pollution to tributaries of the Red River and to study means of elimination of such natural pollution and to prevent such pollution from reaching the Red River, within the limits of its facilities and appropriation of money. Acts 1957, 55th Leg., p. 834, ch. 362, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Title of Act:

An Act authorizing the Texas Board of Water Engineers to study the causes of natural pollution to the tributaries of the

Red River and to study means to eliminate such pollution within the limits of its facilities and appropriation of money; and declaring an emergency. Acts 1957, 55th Leg., p. 834, ch. 362.

3. REGULATION OF USE

Art. 7550a. Diversion of waters released from reservoirs or dam on international stream; rules and orders; appeals; penalties

Section 1. When stored storm and flood waters are released from a reservoir or dam on an international stream and such waters are designated for use or storage downstream by a specified user legally entitled to receive such water, it shall be unlawful for anyone without legal right to store, divert, appropriate, use or otherwise interfere with the passage of the waters that are designated for downstream use or storage. The Board of Water Engineers is hereby authorized and empowered to adopt and enforce rules, regulations and orders to effectuate the provisions of this Act and to avoid the unlawful taking of water in transit; provided that nothing in this Act shall in anywise affect any pending litigation involving the waters of any international stream. Such rules, regulations and orders may:

(a) Establish an orderly system for water releases and diversions so as to protect vested rights and to avoid the loss of water released from storage for downstream use;

(b) Prescribe the time that such releases of water may begin and end;

(c) Determine the proportionate quantities of the released waters in transit and the waters that would have been flowing in the stream without the addition of the released waters;

(d) Require each owner or operator of a dam and reservoir on the stream between the point of release and the point of destination to allow the free passage through the dam and reservoir of all such released waters in transit;

(e) Establish such other requirements as may be necessary in the opinion of the Board to effectuate the purposes of this Act.

The rules and regulations promulgated by the Board shall be adopted and may be enforced in accordance with Article 7531, Revised Civil Statutes of Texas, 1925, as amended by Section 1, Chapter 356, Acts of the 53rd Legislature, 1953. Orders adopted by the Board to implement and effectuate the rules and regulations that may be promulgated pursuant to the provisions of this Act shall require no publication in the manner set forth in said Article 7531; provided, however, that a copy of any such Board order shall be mailed by certified mail to each diverter of water and reservoir owner on the stream between the point of release and the point of destination of the released water, as shown by the records of the Board.

Appeals from any rule, regulation or order of the Board shall be in the manner provided for other appeals of Board decisions by Section 1, Chapter 357, Acts of the 53rd Legislature, 1953, codified as Article 7477. To enforce its rules, regulations and orders, the Board is authorized and empowered to proceed in the manner provided by Article 7550 of the Revised Civil Statutes of Texas, 1925, and by Article 7531 of the Revised Civil Statutes of Texas, 1925, as amended. Provided that nothing herein shall be construed to in anywise affect, diminish or enhance any vested rights including riparian rights.

Sec. 2. Anyone violating the provisions of this Act shall be guilty of the same offense and shall be subject to the same penalty as provided by

Article 7549 of the Revised Civil Statutes of Texas, 1925, and by Article 839 of the Texas Penal Code. Acts 1957, 55th Leg., p. 502, ch. 241.

Effective 90 days after May 23, 1957, date of adjournment.

Section 3 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 7589b. Water master; appointment; suit to divert waters of stream; state a party

Application of act; water master

Section 1. The provisions of this Act shall apply in any suit to which the State of Texas is a party and the purpose of which suit is to determine the rights of parties to divert or use the waters of a surface stream in which suit rights are asserted to divert or use such waters in not more than four (4) counties, the Court having jurisdiction over such suit is authorized to appoint a water master with power to allocate and distribute the waters taken into judicial custody under the supervision and direction of the Court. In no event shall the Court be authorized to appoint a water master as herein provided to act both upstream and downstream from any reservoir constructed on any surface stream of this State.

Deputies and assistants; powers and duties

Sec. 2. Under such terms and conditions as the Court may order, the water master provided for in Section 1 shall have authority to appoint such necessary deputies and assistants and to perform such duties and assume such responsibility as may be delegated to him by the Court, including the power to police the stream and advise the Court of violations of the Court's order of allocation of any waters within the judicial custody of the Court, and to incur such expenses as the Court may deem necessary.

Compensation; expenses; assessment of cost

Sec. 3. The compensation of the water master and his staff shall be fixed by the Court, and the cost and expense of the water master and his office including all salaries and expenses authorized and approved by the Court shall be assessed by the Court monthly, or at such time intervals as may be ordered by the Court against all persons receiving an allocation of the waters taken into judicial custody. Such assessment of cost shall be based either on an acreage basis, an acre foot of allocated water basis, a per capita basis or such other basis as the Court after notice and hearing may determine to be the most equitable distribution of cost.

Determination of distribution of cost and expenses

Sec. 4. In determining the distribution of cost and expenses provided for in Section 3, the costs are not to be considered as ordinary court costs to be taxed in the manner otherwise provided by law, but are to be considered as costs necessary to protect the rights and privileges of the parties receiving allocations of water during the pendency of the litigation and shall be borne by such parties. If the costs assessed pursuant to the provisions of Section 3 of this Act are not paid within the time prescribed by the Court, the Court may after notice and hearing withdraw or limit allocations of water to any party failing or refusing to pay its share of such cost until all costs assessed against such party are paid in full.

Jurisdiction and powers of court

Sec. 5. The Court having jurisdiction of any suit described in Section 1 of this Act in addition to all other jurisdiction, powers and authority

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provided for by the Constitution and laws of this State may withdraw or limit allocations of water to any party who violates any order of the Court for such time as such party continues his violation.

Provisions cumulative

Sec. 6. The provisions of this Act shall be cumulative of all other laws or parts of law, general or special. Acts 1957, 55th Leg., p. 1347, ch. 458.

Effective 90 days after May 23, 1957,
date of adjournment.

Section 7 of the Act of 1957 was a severability provision.

CHAPTER TWO—WATER IMPROVEMENT DISTRICTS

Art.

7622b—1. Annexation of lands owned by district directors [New].

Art. 7622b—1. Annexation of lands owned by district directors

Section 1. That any director of a Water Improvement District organized and operating under Section 59, Article XVI of the State Constitution, and laws enacted pursuant thereto, may have land owned by such director annexed to any such district of which he is a director under the provisions of the law now existing, or hereafter enacted, pertaining to the annexation of lands to such district or political organization.

Sec. 2. Any such director seeking to have lands owned by him annexed to any such district of which he is a director shall not participate in the proceedings of the Board of Directors of such district relative to receiving or rejecting the application to annex such land; and same may be annexed under such terms and conditions, not inconsistent with the laws in force relating thereto, as may be prescribed by the remaining directors of such district. Acts 1957, 55th Leg., p. 816, ch. 346.

Emergency. Effective May 31, 1957.

Title of Act:

An Act to permit directors of Water Improvement Districts organized and operating by virtue of Article XVI, Section 59 of

the State Constitution, and laws enacted pursuant thereto, to have their lands annexed to and to form a part of such District of which they are directors, or director; and declaring an emergency. Acts 1957, 55th Leg., p. 816, ch. 346.

CHAPTER THREE A—WATER CONTROL AND IMPROVEMENT DISTRICTS

Art.

7880—111(c). Lease of facilities to bona fide water customers [New].

7880—147c6a. Subsequent election; abolition of district [New].

7880—147c10. Validating organizational proceedings; orders, etc., of boards; bonds; exception [New].

7880—147z3. Validation of Austin County Water Control and Improvement District No. 2; proceedings; bonds, etc. [New].

Art.

7880—147z4. Validation of Brushy Creek Water Control and Improvement District No. 1; elections; proceedings, etc. [New].

7880—147z5. Validation of Ward County Water Control and Improvement District No. 4 [New].

7880—147z6. Validation of Menard County Water Control and Improvement District No. 1 [New].

Art. 7880—1. May be organized; petition**Creating and Validating Acts**

Bexar County Water Control and Improvement District No. 13, redefining boundaries, see Acts 1957, 55th Leg., p. 294, ch. 135.

Brushy Creek Water Control and Improvement District No. 1 of Williamson and Milam Counties, validation of exclusion hearing, bond election, proceedings and official acts, see Acts 1957, 55th Leg., 2nd C. S., p. 166, ch. 10, § 3.

San Gabriel River Water Control and Improvement District of Williamson; Bur-

net and Milam Counties, validation, see Acts 1957, 55th Leg., 2nd C.S., p. 192, ch. 30, § 3.

Taxation

Brushy Creek Water Control and Improvement District No. 1 of Williamson and Milam Counties, see Acts 1957, 55th Leg., 2nd C.S.; p. 166, ch. 10.

San Gabriel River Water Control and Improvement District of Williamson, Burnet and Milam Counties, maintenance tax, see Acts 1957, 55th Leg., 2nd C.S., p. 192, ch. 30.

Art. 7880—3c. Underground water conservation districts**Definitions****A.****(9) Unconstitutional**

Invalidity of subd. A(9) of this article as amended as providing that grazing lands could not be excluded from district unless tracts were in excess of 640 acres, did not invalidate remainder of statute which was not affected but left intact by saving clause providing for such invalidity. Ground Water Conservation Dist. No. 2 v. Hawley, Civ.App., 304 S.W.2d 764, error refused 306 S.W.2d 352.

Where subd. A(9) of this article as amended provided for exclusion of grazing lands and tracts of not less than 640 acres from water conservation district upon petition filed with proper authority and proper showing made so that such tracts would not be liable for bonded indebtedness of district which had levied a property tax to retire its bonds but no provision was made for excluding grazing land in tracts

smaller than 640 acres, there was no reasonable basis for the discrimination between larger and smaller landowner, and statute violated equal rights provisions of Const. art. 1, § 3. Id.

Subd. A(9) of this article as amended providing for exclusion of grazing lands and tracts of not less than 640 acres from water conservation district so that such tracts will not be liable for bonded indebtedness of the district, but containing no provision for excluding grazing lands in tracts smaller than 640 acres, is unconstitutional as violating equal rights provisions of Const. art. 1, § 3, since there is no reasonable basis for discrimination between larger landowners and smaller landowners. Hawley v. Ground Water Conservation Dist. No. 2, Sup., 306 S.W.2d 352.

Art. 7880—16. Designation of districts

All districts organized under the provisions hereof may be known and designated as Water Control and Improvement Districts. Such districts lying in one county may be named: ——— County Water Control and Improvement District, Number ———, filling in the name of the county and proper consecutive number, or any district organized under the provisions hereof may be known and designated by any term descriptive of the locale of the district and descriptive of the principal powers to be exercised by such district; provided, however, that the word 'district' shall be included in the designation and a consecutive number shall be assigned it if other districts of the same name have been created in the county. As amended Acts 1957, 55th Leg., p. 77, ch. 36, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 7880—19. Granting or refusing petition

If it shall appear on hearing by the Commissioners Court or the Board of Water Engineers, as the case may be, that the organization of a district as prayed for is feasible and practicable, that the lands to be included and the residents thereof will be benefited thereby, that there is a public necessity or need therefor, and that the creation of such district would

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further the public welfare, then the Commissioners Court or Board shall grant the petition; otherwise, the Court or Board shall refuse to grant the petition. Provided, however, that if the Court or Board finds that any of the lands sought to be included in the proposed district will not be benefited by inclusion in such district, the Court or Board may exclude such lands not to be benefited and shall redefine the boundaries of the proposed district to include only those lands that will receive benefits from such district.

The foregoing provisions shall not be applicable to underground water conservation districts seeking creation pursuant to the provisions of House Bill No. 162, Acts, Fifty-first Legislature, Regular Session, 1949, Chapter 306 (codified as Article 7880—3c), as heretofore or as may be hereafter amended. Such underground water conservation districts seeking creation shall be governed by the following provisions: If it shall appear on hearing by the Commissioners Court or the Board of Water Engineers, as the case may be, that the organization of an underground water conservation district as prayed for is feasible and practicable, that it would be a benefit to the land to be included therein, and be a public benefit, or utility, the Commissioners Court or Board shall so find and grant the petition. If the Court or Board should find that such proposed district is not feasible or practicable, would not be a public benefit or utility, or would not be a benefit to the land to be included therein, or is not needed, the Court or Board shall refuse to grant the petition. As amended Acts 1957, 55th Leg., p. 786, ch. 323, § 1,

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 7880—23. Election; ballot

Whenever a district shall have been organized by the granting of a petition therefor by the Commissioners Court or by the State Board of Water Engineers, and the directors shall have qualified by giving bond and taking the oath of office, the directors shall meet, elect a president, vice-president, and secretary and enter upon the discharge of their duties.

Before such district shall incur any indebtedness other than for its operation and the holding of an election, and in any event within thirty (30) days after the date of their first meeting, they shall make and publish an order calling an election within and for such district for the purpose of confirming the organization of the district by a vote of the qualified electors. The ballots for such election shall contain the proposition: "FOR CONFIRMATION OF DISTRICT" and "AGAINST CONFIRMATION OF DISTRICT."

The election shall be held as herein provided for other elections. At the same time, and at the same election, the proposition for the issuance of preliminary bonds may be submitted to the resident qualified property taxpaying voters if separate ballot boxes are provided for the different classification of voters. As amended Acts 1957, 55th Leg., p. 751, ch. 310, § 1.

Emergency. Effective May 31, 1957.

Art. 7880—43. Fees of directors

The directors shall receive as fees of office the sum of not to exceed Twenty-five Dollars (\$25.00) per day for each day of service necessary to discharge their duties; provided, however, that such fees shall not exceed the sum of One Hundred Dollars (\$100.00) for any one month regardless of the number of days of necessary service during that month. They

shall file with the secretary a verified statement showing the actual number of days of service each month on the last day of the month, or as soon thereafter as possible and before a warrant shall be issued therefor. As amended Acts 1957, 55th Leg., p. 1251, ch. 415, § 1.

Emergency. Effective June 6, 1957.

Art. 7880—76. Lands Excluded from District

After a district has been organized, preliminary surveys have been completed, the district does adopt plans for the construction of a plant and improvements, and before the district calls an election for the authorization of construction bonds, there must be exclusions of land or other property, if any such exclusions are deemed practicable, just or desirable, from the district by means and upon conditions as follows:

1st. The directors of the district must before the holding of such election give notice of a time and place of a hearing to announce their own conclusions as to exclusions of lands or other property and to receive petitions for exclusion of land or other property. Such notice shall be published in one or more newspapers which will give general circulation in the district. The notice of such hearing shall be published once a week for two (2) consecutive weeks. The first of such publications shall appear not less than fifteen (15) days, nor more than forty (40) days, prior to the date of the hearing. Said notice shall give advice to all interested property owners of their right to present petitions for exclusions and to offer evidence in support thereof, or to contest any proposed exclusion and offer evidence in support thereof, whether to be based on a petition or upon the Board's own conclusions. Petitions for exclusion of lands must accurately describe the metes and bounds of such lands. Petitions for exclusions of other property shall describe the same for identification.

In order to give the district opportunity to investigate the physical conditions of property sought to be excluded, all petitions for exclusions shall be filed with the district not later than ten (10) days prior to the hearing, must clearly set out the particular grounds on which the exclusion is sought and consideration shall be confined to the stated grounds. The grounds upon which exclusions from such districts may be made are as follows, viz:

(a) That to retain certain lands, or other property, within the district's taxing power would be arbitrary, not required to conserve the public welfare, and would in fact impair or destroy the value of the property desired to be excluded, and would in fact constitute the arbitrary imposition of a confiscatory burden.

(b) That to retain any given land, or other property, in the district and to extend to it, either presently or in the future, the benefits, service or protection of the district's works and facilities cannot be done without creating an undue and uneconomic burden on the remainder of the district.

(c) That the lands desired to be excluded cannot be bettered as to conditions of living and health, or served with water, or protected from flood, or drained or rendered free from interruption of traffic caused by any excess of water on the roads, highways, or other means of transportation serving such land, or otherwise benefited by the district's proposed improvements.

The hearing may be adjourned from one day to another and until all persons who desire to be heard are heard. Immediately on the hearing the directors shall specifically describe all property which they, on their own motion, proposed to exclude, and shall first hear protests and evidence against such exclusions.

If upon consideration of all engineering data in hand, and the other evidence, the directors determine that the facts disclose the affirmative of the propositions stated in paragraphs (a) or (b), or, in appropriate case, in paragraph (c) of this Section, then they shall enter of record their order excluding all lands, or other property, falling within the conditions by said respective paragraphs defined, and shall in said order redefine the boundaries of the district to embrace all lands not excluded. Anyone owning land or an interest in land affected by such order may within twenty (20) days after the effective date of such order, file a petition in an action to review, set aside, modify or suspend such order. The venue in any action shall be in any District Court having jurisdiction in the county wherein the district lies. If the district includes land in more than one county, the venue shall be in the District Court having jurisdiction in the county wherein lies the major portion in acreage of the land sought to be excluded from the district. In all suits brought to review, modify, suspend or set aside the order of the board of directors, 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, but determination 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 of directors 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. 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 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. As amended Acts 1957, 55th Leg., p. 787, ch. 324, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 7880—111(c). Lease of facilities to bona fide water customers

Section 1. Any water control and improvement district heretofore organized, or hereafter to be organized, under Chapter 25, General Laws of the 39th Legislature, Regular Session, 1925, (Articles 7880—1 et seq., Title 19, Chapter 3A, Vernon's Texas Civil Statutes), as originally enacted or as heretofore or hereafter amended, is hereby granted, in addition to all the powers now conferred upon such district, the right, power and authority to lease any of its river pump stations, conveyance canals, off-channel reservoirs, reservoir pump stations, water mains, water treatment plants, or other facilities used in connection therewith, together with such of its lands as are necessary or appropriate to the utilization of the leased facilities (including but not limited to lands acquired by eminent domain), to any person, firm or corporation which is a bona fide water customer of such district.

Sec. 2. Such lease shall be upon such terms and conditions, and contain such provisions and stipulations, and be in such form, as may be

agreed upon between the directors of the district and the lessee; provided, however, that the term of the lease shall not be for a longer duration than the duration of the water contract between the district and the lessee under the primary term of the water contract and any renewal or extension thereof.

Sec. 3. Such lease, when duly authorized by the board of directors of the district, shall be executed on behalf of the district by the president or vice-president of the district and attested by its secretary, and no other requirement or prerequisite on the part of the district or the board shall be necessary to its validity or effectiveness. Acts 1957, 55th Leg., 2nd C. S., p. 173, ch. 17.

Emergency. Effective Dec. 10, 1957.

Section 4 of the Act of 1957, 2nd C.S., repealed all conflicting laws and parts of laws to the extent of such conflict; section 5 was a severability provision.

Art. 7880—117. Lowest Responsible Bidder: Notice

Contracts involving an expenditure of more than Ten Thousand Dollars (\$10,000.00) for the purchase of materials, machinery, construction, and all things whatever, to constitute the plant, works, facilities and improvements of the district shall be made by the directors of the district, as hereinafter specified. Such letting of contracts, save as later provided hereby, shall be advertised as to the general conditions, time and place of opening of sealed bids, by publishing notice thereof in one or more newspapers having general circulation in the State of Texas, and further, by making such publication in one or more newspapers published in each county in which a district, in whole or in part, may be located, and to give general circulation in the district; or if there are more than four (4) counties within such district, publication may be made in any newspaper of general circulation within the district; provided, that if there be no such newspaper published in the county, or counties, of the district's location, then the publication first above provided shall be deemed sufficient. Such notice shall be so published once a week for three consecutive weeks prior to the date upon which such bids will be opened, and the first of such publications shall be circulated not less than twenty-one days prior to the opening of sealed bids.

Contracts may be let to cover all of the improvements proposed to be provided by the district; or the various elements of the improvements may be segregated for the purpose of receiving bids and making award. Such contracts may provide for the payment of a total sum to be the completed cost of such improvement; or may be based on bids to cover cost of units of the various elements entering into the works, as estimated, and approximately specified by the district's engineers; or such contract may be let and awarded in any other form, or composite of forms, and to such responsible person, or persons, as will, in the judgment of district's directors, be most advantageous to the district, and result in the best and most economical completion of the district's proposed plant, improvements, facilities and works.

It is, however, expressly provided that the total sum required to fully complete such proposed plant, works, facilities and improvements, as stipulated by the district's adopted plans, shall not in any event exceed the total sum estimated by the district's engineer in his plans, adopted by the district prior to the election for the authorization of bonds, to be sufficient to pay the completed cost of all elements of the proposed works, other than the cost of lands, easements and other property necessary to be acquired under the provisions of Sections 125 and 126 of said Chapter 25,¹ or any present or future amendments thereof. No contract which violates this provision shall be valid. The provisions of this Section shall not apply to

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

a district operating under a contract with the United States of America. As amended Acts 1957, 55th Leg., p. 109, ch. 53, § 1.

¹ Articles 7880—125, 7880—126.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 7880—147c1. Abolition of Districts

All water control and improvement districts organized or operating under the provisions of Chapter 25 of the General Laws passed by the 39th Legislature at its Regular Session, as amended, situated entirely within counties having a population of less than eleven thousand (11,000), according to the last preceding United States census, may be abolished by a majority vote of the taxpaying qualified voters residing in such district at an election held for the purpose of determining whether or not such district shall be abolished. In the event any such district shall have outstanding bonds or other indebtedness maturing beyond the current year in which such abolition occurs, the Commissioners Court of the county in which such district is situated shall levy and cause to be collected as county taxes are assessed and collected sufficient taxes on all taxable property within such district to pay the principal and interest on such bonds and other indebtedness when due. As amended Acts 1957, 55th Leg., p. 109, ch. 53, § 1A.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 7880—147c6a. Subsequent election; abolition of district

If the proposition to abolish such district fails to carry at the election held therefor, no other election for the same purpose shall be held within one (1) year after the date such election is held. Acts 1925, 39th Leg., p. 86, ch. 25, § 155 added Acts 1957, 55th Leg., p. 855, ch. 371, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Art. 7880—147c10. Validating organizational proceedings; orders, etc., of boards; bonds; exception

All organizational proceedings of water control and improvement districts, and other political subdivisions of the State of Texas where the law required that a confirmation election be held under the general law pertaining to water control and improvement districts wherein an election has been held for the confirmation of the district and a majority of those participating in the election voted in favor of the confirmation of the district, are hereby in all things validated, ratified and confirmed and the organization of such districts is hereby declared to have been accomplished and completed. All orders, resolutions and findings of the boards of directors in approving plans and specifications for proposed improvements, estimating the cost of such facilities, calling bond elections, holding such elections, defining boundaries after exclusions have been made, adopting a plan or taxation and issuing bonds, are hereby in all things validated, ratified and confirmed. All bonds of such districts and political subdivisions which have been heretofore approved by the Attorney General of Texas are hereby in all things validated, ratified and confirmed and are declared to be valid and binding obligations or special obligations according to their tenor and effect. It is provided, however, that the provisions of this Section 2 shall not apply to any water control and improvement district or other political subdivision which may be involved in litigation pending at the time this Act becomes effective involving the formation,

organization, proceedings, boundaries, plans, authority or other activities of such district or political subdivision or any act or acts of the board of directors thereof. Acts 1957, 55th Leg., p. 751, ch. 310, § 2.

Emergency. Effective May 31, 1957.

Art. 7880—147z1. Repealed. Acts 1957, 55th Leg., p. 348, ch. 161, § 3. Eff. May 6, 1957

Section 3 of Acts 1957, 55th Leg., p. 348, ch. 161, also provided that "such repeal shall not affect vested rights heretofore acquired or vested under said chapter 134 [of Acts 1951, 52nd Leg., p. 226, adding Art. 7880—147z1]."

Art. 7880—147z3. Validation of Austin County Water Control and Improvement District No. 2; proceedings; bonds, etc.

Section 1. Austin County Water Control and Improvement District No. 2, hereinafter sometimes referred to as "District," in Austin County, Texas, is hereby in all things validated and is hereby declared to be a validly existing and operating conservation and reclamation district under Section 59, Article 16 of the Constitution of Texas. Without in any way limiting the generalization of the foregoing, it is expressly provided that the area and boundary lines of said District, as redefined by order adopted on August 27, 1956, by the Board of Directors of said District, and the election held on November 24, 1956, within said District upon the proposition of issuing Three Hundred Fifty Thousand Dollars (\$350,000.00) bonds of said District, and all proceedings in connection with said order and said election are hereby in all things validated; and the bonds authorized at said election are in all respects validated, and when said bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and delivered to the purchaser or purchasers thereof, they shall be incontestable.

Sec. 2. All governmental proceedings and acts performed by the governing board of said District and all officers thereof in connection with said District are hereby in all things validated as of the respective date of such proceedings and acts.

Sec. 3. It is hereby found and determined that all of the lands and other property included within the boundaries of the District are, and will be, benefited by said District and its improvements and facilities to be constructed and acquired. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors of said District to hold a hearing on the adoption of a plan of taxation.

Sec. 4. The Legislature hereby exercises the authority conferred upon it by Section 59, Article 16, Constitution of Texas, and declares that said District is essential to the accomplishment of the purposes of said constitutional provision, finds that all the land and other property included therein are, and will be, benefited thereby, and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. Acts 1957, 55th Leg., p. 212, ch. 99.

Emergency. Effective April 25, 1957.

Section 5 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 7880—147z4. Validation of Brushy Creek Water Control and Improvement District No. 1; elections; proceedings, etc.

Section 1. The creation and organization of the Brushy Creek Water Control and Improvement District No. 1 of Williamson and Milam

Counties, hereinafter referred to as "District," is hereby in all things validated. Without limiting the generalization of the foregoing, it is specifically provided that the order adopted by the State Board of Water Engineers of Texas on the first day of November, 1956, creating said District; the election held within said District on the eighth day of January, 1957, for the confirmation of the organization of said District, the election of directors, and for the issuance of preliminary bonds and levy of taxes in payment therefor, and all proceedings in connection with the order and said election are in all respects validated and when said preliminary bonds have been issued and delivered to the purchaser or purchasers thereof, they shall be incontestable.

Sec. 2. All governmental proceedings and acts performed by the directors of said District are hereby in all things validated as of the respective date of such proceedings and acts.

Sec. 3. The area and boundaries of said District (as described in the instrument of record in Volume 414, Page 261, Deed Records, Williamson County, Texas) as originally created, are hereby in all things validated, ratified and confirmed, and it is hereby found and determined that all of the lands and other property included within the boundaries of the District, are and will be, benefited by said District and its improvements, works and measures to be constructed and accomplished. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors of said District to hold a hearing on the adoption of a plan of taxation or for the exclusion of land or property. All proceedings and actions heretofore taken by the directors of the said District in connection with exclusions of lands or other property be, and the same are hereby, in all things validated.

Sec. 4. The Legislature hereby exercises the authority conferred upon it by Section 59, Article 16, Constitution of Texas, and declares that said District is essential to the accomplishment of the purposes of said Constitutional provision, and declares the District to be a governmental agency, a body politic and corporate.

Sec. 5. The District shall have and possess all powers necessary or requisite to fully co-operate with the Federal Government, its agencies, departments and representatives thereof in securing and getting assistance, aid, benefits, grants, credit and money as provided in Public Law 566, Eighty-third Congress, Chapter 656, Second Session, H.R. 6788, as amended by Public Law 1018, Eighty-fourth Congress, Chapter 1027, Second Session, H.R. 8750.¹ It is the intention of the Legislature to grant the District all the powers and authority necessary or requisite to fully qualify and gain the full benefits of said Public Laws, including but not limited to, the power and authority to secure a loan or loans from the proper agencies or departments of the Federal Government, and if necessary to issue bonds of the District as collateral or security therefor, for the purpose of paying or defraying the costs and expenses of the District in connection with its works and improvements. The provisions of said Public Laws that are applicable to the District are hereby enacted into this law by reference and made applicable to the District.

Sec. 6. For the purpose of providing dams, structures, projects and works of improvement for flood prevention, the conservation and development of water, and for other necessary plants, facilities and equipment in connection therewith and for the improvement, repair and operation of same and for carrying out any other powers or authority conferred by this Act or by Chapter 25 of the General Laws of the Thirty-ninth Legislature, Regular Session² and the several amendments thereof, and for the purpose of paying all costs, charges and expenses

of the District, the District is empowered to issue negotiable bonds in the manner provided by general law for water control and improvement districts.

In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District.

Sec. 7. No loan shall be consummated by the District from the Federal Government and no bonds shall hereafter be issued unless authorized at an election at which only qualified voters who reside in the District, and who own taxable property therein and who have duly rendered same for taxation, shall be qualified to vote unless a majority of the votes cast favor the proposition.

Sec. 8. The District shall have and exercise and is hereby vested with all of the rights, powers, privileges and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted applicable to water control and improvement districts created under the authority of Section 59, Article 16, Constitution of Texas, but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Upon approval of bonds by the Attorney General and registration by the Comptroller, they shall be incontestable. Acts 1957, 55th Leg., p. 807, ch. 341.

¹ 16 U.S.C.A. § 1001 et seq.

² Article 7880—1 et seq.

Emergency. Effective May 31, 1957.

Section 9 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 7880—147z5. Validation of Ward County Water Control and Improvement District No. 4

Section 1. All acts of Ward County Water Control and Improvement District No. 4 of Ward County and all acts and proceedings of the Commissioners Court in connection therewith and all acts and proceedings of the Board of Directors of said District in the creation and organization of the District, the confirmation election and exclusion hearing heretofore held in said District, are in all things hereby validated, ratified and confirmed.

Sec. 2. It is hereby found and determined that all the taxable property in said District will be benefited by the creation of said District and the improvements to be made therein by said District. Acts 1957, 55th Leg., 1st C. S., p. 33, ch. 15.

Emergency. Effective Dec. 2, 1957.

Title of Act:

An Act validating Ward County Water Control and Improvement District No. 4;

making a finding of benefits; and declaring an emergency. Acts 1957, 55th Leg., 1st C.S., p. 33, ch. 15.

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

Art. 7880—147z6. Validation of Menard County Water Control and Improvement District No. 1

Section 1. The Menard County Water Control and Improvement District No. 1, hereinafter called "District," situated in Menard County, Texas, organized, established and created pursuant to the provisions of Article XVI, Section 59, of the Constitution of Texas and of Chapter 3a of Title 128, Vernon's Annotated Civil Statutes of Texas, together with all amendments thereto is, in all things, hereby validated, ratified, and confirmed; provided, however, that nothing herein shall prevent the annexation of additional territory to said District in the manner now provided by general law. Said District is described by metes and bounds as follows:

Beginning at the Southwest corner of Menard County, the Northwest corner of Kimble County, the Northeast corner of Sutton County, and the Southeast corner of Schleicher County near the central part of the South one-fourth of M. L. Garcia Survey 10, TWNG R. R. Co. Block 16, Abstract 176, Menard County, Texas, for the Southwest corner of this district;

THENCE North with the West line of Menard County about 23 miles crossing said Survey 10; also A. O. Striegler Survey West Half of Survey 129; Ellen M. Hugh Survey 2; GH&SA Ry. Co. Survey 51, Block A; Thomas Ball Surveys 48 and 24; GH&SA Ry. Co. Survey 21, Block A, to Southwest corner of L. L. Ball Survey 12;

THENCE continuing North with the West line of Menard County and along West line of said L. L. Ball Survey 12; West line of Theodore H. Kleinmetz Survey 292 to South Bank of San Saba River;

THENCE continuing North with the West line of Menard County crossing said river, and crossing John H. Burkhard Survey 1496; G. W. Hankamer Survey 1651; John Gibson Survey 9; C. E. Treadwell Survey 62; A. B. & M. Survey 13; EL & RR R. R. Co. Survey 69; W. W. Treadwell Survey 24; Michael Johannes Surveys 1633 and 1634; Jos. T. Callan Survey 78; Clemens Hartmann Survey 1637; Johann F. Wilhelm Survey 311; TWNG R. R. Co. Survey 3; John Kennedy Surveys 18 and 8 to stake in North line of GH & SA R. R. Co. Survey 13 and South line of Ralph Tisdale Survey 6 about 86 varas East of Northwest corner of said Survey 13 for the most western Northwest corner of this District;

THENCE East one mile with the South line of said Survey 6 to its Southeast corner and Southwest corner and Southwest corner BS&F Survey 5;

THENCE North one mile to Northwest corner said Survey 5 in South line J. S. Tisdale Survey 134;

THENCE East about 1/12th mile to Southeast corner of said Survey 134;

THENCE North about 5/8ths mile to Northeast corner said Survey 134 and Southwest corner of J. S. Tisdale Survey 128;

THENCE East one mile to Southeast corner said Survey 128;

THENCE North about 59/64ths mile to North line of Menard County for the most northern Northwest corner of this district;

THENCE East about 6 miles with North line of Menard County, crossing EL&RR R. C. Co. Survey 127, Pink Easley Survey West Half of 20, J. Hughes Survey East Half of 20, Fred Speck Survey 7, N. Gwatney Surveys 11 and 10, Fred Speck Survey 6, Thomas Green Surveys 5, 4 and 3 to stake in East line of said Survey 3;

THENCE South about 5/8ths mile to Southeast corner of said Survey 3 in North line of H&OB R. R. Co. Survey 69;

THENCE East about 3/16ths mile passing Northeast corner said Survey 69 to an inner Southwest corner of Thomas Green Survey 2;

THENCE South about 5/16ths mile with West line said Survey 2, to its Southwest corner;

THENCE East about one mile with South line Thomas Green Surveys 2 and 1, and North line Owen Baker Survey 112 to its Northeast corner;

THENCE South one mile to Southeast corner said Survey 112 and Southwest corner Hooper and Wade Survey 111 in North line W. C. Huey Survey 62;

THENCE East one mile with said Survey 62 to its Northeast corner;

THENCE South one mile to its Southeast corner and Southwest corner H. & W. Survey 101;

THENCE East one mile with South line said Survey 101 to its Southeast corner;

THENCE North one mile with East line said Survey 101 and West line P. C. Baird Survey 102 to its Northwest corner;

THENCE East 2 miles with North line said Survey 102 and North line of H. & W. Survey 103 to its Northeast corner;

THENCE South one mile with East line said Survey 103 to its Southeast corner and Southwest corner of A. B. & M. Survey 9;

THENCE East 2 miles along South line said Survey 9 and A. B. & M. Survey 7 to its southeast corner, the Northeast corner of A. B. & M. Survey 5;

THENCE South about 1/16th mile to stake in East line said Survey 5;

THENCE East at 1/8th mile to Southwest corner A. B. & M. Survey 37, Northwest corner A. B. & M. Survey 25;

THENCE East 4 miles with North line A. B. & M. Survey 25, William J. Smith Survey 28, R. J. Godfrey Survey 30, and A. B. & M. Survey 29 to its Northeast corner and Southeast corner of John B. Callan Survey 32;

THENCE North 15/16ths mile to stake in East line said Survey 32;

THENCE East 1/8th mile to the Northwest corner of BS&F Survey 17;

THENCE East 2 miles with North line said Survey 17 and North line BS&F Survey 15 to its Northeast corner;

THENCE South 2 miles with East line said Survey 15 and East line of R. J. Godfrey Survey 14 to its Southeast corner and Southwest corner BS&F Survey 11;

THENCE East 3 miles with South lines of said Survey 11 and R. R. Russell Survey 10 and BS&F Survey 5 to its Southeast corner and Northeast corner BS&F Survey 1;

THENCE South one mile to Southeast corner said Survey 1 and Northwest corner V. Sippel Survey 40;

THENCE East about 5 and 15/16ths miles with the North line of said Survey 5 and the North line of BS&F Survey 3, H. Heynemann Survey 89, S. C. Pittman Survey 2½, Ernest Raven Survey 91, C. Von Carlowitz Survey 741 to the East line of Menard County, the West line of McCulloch County for the middle Northeast corner of this district;

THENCE South with the East line of Menard County and West line of McCulloch County about 4 and 10/16ths miles crossing C. Von Carlowitz Survey 741, heirs of Adam Bicking Survey 92, heirs of Johann Bicking Survey 93, J. F. Wilhelm Survey 102; Adolph Schultze Survey 99 and Daniel Holloway Survey 1 to the Southwest corner of McCulloch County located in said Daniel Holloway Survey 1 about 1200 varas South of its North line, and about 250 varas West of its East line for inner corner of this district;

THENCE East about 7 mile with the South line of McCulloch County and a North line of Menard County crossing the East part of Daniel Holloway Survey 1, North part of George Junke Survey 126; H&TC Ry. Co. Survey 25, North part of Wolfgang Fochs Survey 145, IRRR Co. Sur-

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

vey 27, North part of John Berring Surveys 158 and 159, North part J. C. Harper Survey 72, North part Johann Mechels Surveys 244 and 245 to the most southern Northeast corner of Menard County, and the most southern Northeast corner of this district and the Northwest corner of Mason County;

THENCE South about 8 miles with the East line of Menard County, and the West line of Mason County, crossing said Johann Mechels Survey 245, J. B. Kerr Survey 46, Louis Brumme Survey 250, San Saba River, F. Doebbler Surveys 72 and 13, H & G N R. R. Co. Survey 939, Heinrich Frosch Survey 456, J. C. Harper Survey 70, HE&WT R. R. Co. Survey 123 to North line Fisher and Miller Survey 31 for the most northern Southeast corner of this district;

THENCE West about one and 5/8ths miles with the North line of said F. & M. Survey 31, W. Steinberg Survey 93, G. Weidemann Survey 70 to its Northwest corner;

THENCE South one mile to Northeast corner Heinrich Langkopf Survey 123;

THENCE West 6 miles with the North line of H. Langkopf Surveys 123 and 124, Eugene Ohlenburgers Surveys 2 and 20, Seth Mabry Survey 8, TT R. R. Co. Survey 7, C. C. French Survey 29 to its Northwest corner and Northeast corner G. W. Littlefield Survey 14;

THENCE South one mile to Southeast corner said Survey 14 and Northeast corner E. Ohlenburger Survey 24;

THENCE West one mile with North line of said Survey 24 to its Northwest corner;

THENCE South one mile with West line of said Survey 24 to its Southwest corner and the Northeast corner of T&NO R. R. Co. Survey 9;

THENCE West one mile to Northeast corner W. Grams Survey 217;

THENCE South one mile with the East line of W. Grams Survey 217 to its southeast corner and North east corner F. L. Banowsky Survey 10;

THENCE West approximately two miles to Northwest corner of M. Pofskey Survey 220;

THENCE South 1/8th mile to Northeast corner of Nancy Pierson Survey 104;

THENCE West 3/8ths mile to Northwest corner of said Survey 104 in East line of J. H. Gibson Survey 81;

THENCE North 1/4th mile to Northeast corner said Survey 81 and South line E. Carlin Survey 43;

THENCE West one and 1/4th mile to Southwest corner A. Verite Survey 44, Northwest corner E. Carlin Survey 45;

THENCE South one mile to Northeast corner J. J. Moore Survey 48;

THENCE West 2 miles to Northwest corner E. Carlin Survey 61, Northeast corner R. B. Hubbard Survey 62;

THENCE South one mile to Southeast corners said Survey 62, the Northeast corner of V. O. Lane Survey 60;

THENCE West 3 and 1/4th miles along North line of said Survey 60, E. Carlin Survey 69, S. L. Steen Survey 70, crossing S. P. Merchant Survey 6, to Northwest corner S. L. Steen Survey 10;

THENCE South one mile to Northeast corner J. H. Gibson Survey 17;

THENCE West one mile to Northwest corner said Survey 17 in East line T. M. Schrier Survey 26;

THENCE South 3/8ths mile to Southeast corner said Survey 26;

THENCE West at about 3/8ths mile the Northeast corner B&B Survey 9, at one and 1/8th miles a stake in North line of B&B Survey 9 due South of Southeast corner N. H. Corder Survey 166;

THENCE North about 3/8ths mile to Southeast corner said Survey 166;

THENCE West 2 and 3/8ths miles with South lines of said Survey 166, GC&SF Ry. Co. Survey 165 and S. Zettlemeyer Survey 14 to a stake due North of Northeast corner of Mrs. Mary Toliver Survey 133;

THENCE South 1/8th mile to Northeast corner said Survey 133;

THENCE West about 6 and 15/16ths miles with North lines of said Survey 133, T. O. Howell Survey 8, S. Zettlemeyer Survey 8, T. O. Howell Survey 54, BS&F Survey 53, J. T. Cox Survey 56, TWNG R. R. Co. Survey 11, and J. T. Cox Survey 2 to Northeast corner TWNG R. R. Co. Survey 3;

THENCE South about 6/8ths mile to South line of Menard County in South part of said Survey 3;

THENCE West about 7 and 1/2 miles crossing TWNG R. R. Co. Survey 3, J. W. Murr Survey 4, TWNG R. R. Co. Survey 5, J. W. Murr Survey 6, TWNG R. R. Co. Survey 7, M. L. Garcia Survey 8, TWNG R. R. Co. Survey 9 and M. L. Garcia Survey 10 to Southwest corner of Menard County, the place of beginning.

Sec. 2. This Act shall be cumulative of other laws governing said District, but in the event of a conflict or conflicts, the provisions of this Act shall control.

Sec. 3. All governmental proceedings and acts performed by the governing board of said District and all officers thereof are hereby, in all things, validated as of the respective dates of such proceedings and acts.

Sec. 4. The area and boundary lines of said District are, in all things, validated.

Sec. 5. The Legislature hereby exercises the authority conferred upon it by Section 59, Article XVI, Constitution of Texas, and declares that said District is essential to the accomplishment of the purposes of said constitutional provision, finds that all of the land and other property included therein are, and will be, benefited thereby and declares the District to be a governmental agency, a body politic and corporate.

Sec. 6. This Act shall have no application to any litigation pending upon the effective date hereof, in which the validity of the creation of the District is involved, if such litigation is ultimately determined against the legality thereof. Acts 1957, 55th Leg., 1st C. S., p. 93, ch. 31.

Emergency. Effective Dec. 2, 1957.

Section 7 of the Act of 1957, 1st C.S., was a severability provision.

CHAPTER FOUR—FRESH WATER SUPPLY DISTRICTS

3. POWERS OF DISTRICTS

Art. 7930—4. Additional powers of districts

Section 1. All Fresh Water Supply Districts heretofore or hereafter created under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, as amended, in addition to the powers heretofore granted, are hereby authorized to purchase, construct, acquire, own, operate, repair, improve and extend sanitary sewer systems for the collection, transportation, processing, disposal and control of all domestic, industrial and communal wastes provided no other public sanitary sewer system is available for the area contained in such Fresh Water Supply District, and the powers herein provided are not exercised except after a duly called election held in the same manner as other elections of such water

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

district as provided by law. As amended Acts 1957, 55th Leg., p. 484, ch. 232, § 1.

Emergency. Effective May 16, 1957.

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict.

II. LEVEES

CHAPTER SIX—LEVEE IMPROVEMENT DISTRICTS

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 Twenty-five Dollars (\$25) 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 1957, 55th Leg., p. 791, ch. 326, § 1.

Emergency. Effective May 31, 1957.

III. DRAINAGE

CHAPTER SEVEN—DRAINAGE DISTRICTS

1. ESTABLISHMENT

Art.
8176b—1. Annexation of territory to certain drainage districts [New].

Art.

8176c. Contracts for improvements with federal agency by drainage district converted into conservation and reclamation district [New].

1. ESTABLISHMENT

Art. 8120. [2585] Commissioners Salary; Additional Compensation in Counties over 12,000

The commissioners of drainage districts shall receive for their services not more than Two and 50/100 Dollars (\$2.50) per day for the time actually engaged in the work of their district, which compensation shall be fixed by an order of the Commissioners Court. Before the accounts of such commissioners shall be approved by the Commissioners Court such commissioners shall first submit a detailed report in writing, under oath, to the Commissioners Court of their county, showing the time actually consumed in the work for said district, and describing the work done, and such reports shall be audited and allowed by the Commissioners Court in such amount as it may determine; provided that in all counties having a population of more than twelve thousand (12,000) inhabitants according to the last preceding or any future federal census, and having one or more drainage districts therein, and having an assessed valuation for county tax purposes of Forty-eight Million Dollars (\$48,000,000.00), or more, the Commissioners Courts of such counties, upon application therefor in writ-

ing by the commissioners of drainage districts located in such counties showing the necessity therefor, may allow commissioners of such drainage districts for work thereafter to be done and services thereafter to be performed an additional sum not to exceed Two and 50/100 Dollars (\$2.50) per day, and such courts may upon written application therefor permit an automobile or automobiles to be used by such commissioners in the discharge of their duties and allow not to exceed Two and 50/100 Dollars (\$2.50) per day for their use, expense, oil, gas, repairs and upkeep of each automobile so permitted to be used; provided that such courts, after having heard such petitions, may deny or grant the same in whole or in part, and shall enter their written orders in the premises fixing the amount of such allowance or allowances within the limits aforesaid, stating the reasons and necessity therefor, and fixing the number of days in which allowances are to be in effect. As amended Acts 1955, 54th Leg., p. 657, ch. 230, § 1; Acts 1957, 55th Leg., p. 485, ch. 233, § 1.

Emergency. Effective May 16, 1957.

Section 2 of the amendatory Act of 1957 was a severability clause.

Section 2 of the amendatory Act of 1955, provided that this Act shall be cumulative of all other laws, both general and

special, relating to compensation and expenses of drainage district commissioners and shall not be deemed to repeal any other law on this subject.

Art. 8176b—1. Annexation of territory to certain drainage districts

Section 1. Any drainage district in this State heretofore or hereafter organized under the provisions of Section 52, Article III, Constitution of Texas, which district shall not have theretofore been converted into a conservation and reclamation district under Section 59, Article XVI, Constitution of Texas, and which district lies wholly within one county and has no outstanding bonds, may have defined areas of territory contiguous to the district and lying wholly within the same county but outside of any other drainage district and outside of any incorporated city, town or village added to said district in the following manner:

(1) A petition praying for the annexation of such territory shall first be presented to the Commissioners Court of said County, which petition shall describe the territory proposed to be annexed by metes and bounds, and which petition shall be signed by twenty-five (25) or a majority, whichever is the lesser, of the freehold resident taxpayers in the territory proposed to be annexed and by twenty-five (25) or a majority, whichever is the lesser, of the freehold resident taxpayers in the drainage district as it then exists.

(2) If the Commissioners Court finds that such petition meets the requirements set forth in (1) above said Court shall at the same session when said petition is presented set said petition down for hearing at some regular or special session called for the purpose, not less than thirty (30) nor more than sixty (60) days from the presentation of said petition, and shall order the Clerk to give notice of the date and place of said hearing by (a) posting a copy of said petition and a copy of the order of the Court thereon for twenty (20) days prior to the date set for said hearing in five (5) public places in said county, one (1) of which shall be at the courthouse door, two (2) of which shall be within the limits of the district as it then exists, and the remaining two (2) of which shall be within the limits of the territory proposed to be annexed, and (b) by publishing a substantial copy of the Court's order in a newspaper having general circulation within the district and within the territory proposed to be annexed at least one (1) time, and at least fifteen (15) days prior to the date set for said hearing.

(3) All persons whose land or other property might be affected by the proposed annexation or part thereof and all other interested persons may appear before said Court at the hearing and urge or contest the addition of such territory or parts thereof to the district and offer evidence pertinent to the issues mentioned in paragraph (4) of this Section 1, and said hearing may be adjourned by the Court from day to day.

(4) If at the hearing it appears to the Commissioners Court that the drainage of the territory proposed to be annexed is feasible and practicable, and that it is needed, that the drainage would be conducive to the public health or would be a public benefit or a public utility (either sanitary, agricultural or otherwise) and that both the district and the territory proposed to be annexed would be benefited by the addition of such territory to the district, then the Court by order duly entered upon its Minutes shall so find and shall declare and decree such proposed territory to be annexed to the district and in said order shall by metes and bounds set forth a description of the territory added to the district and a description by metes and bounds of the district as enlarged. But if said Court finds any of said issues in the negative, it shall enter an order on its Minutes denying the petition for the annexation of such territory to the district. If the Court finds in favor of annexing territory to the district, such order need not add to the district all of the territory described in the petition if upon the hearing a modification or change is found necessary or desirable and such order must exclude and not annex to the district those portions, if any, of the territory proposed by the petition to be added to the district as to which the Court shall find any of said issues in the negative. In the event the order annexes any territory to the district, a copy of such order shall be filed and recorded in the Deed Records of the county in which the district is situated, and such territory shall be a component part of the district from and after the recording of the copy of such order.

Sec. 2. The provisions of this Act shall be cumulative of all other laws pertaining to such drainage district. Acts 1957, 55th Leg., p. 814, ch. 345.

Emergency. Effective May 31, 1957.

Section 3 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Art. 8176c. Contracts for improvements with federal agency by drainage district converted into conservation and reclamation district

Section 1. Any drainage district in this State heretofore or hereafter organized under the provisions of Section 52, Article III, Constitution of Texas, which district has heretofore or shall hereafter be converted into a conservation and reclamation district under Section 59, Article XVI, Constitution of Texas, and which district lies wholly within one (1) county, may have defined areas of territory lying wholly within the same county added to said district (whether such territory is contiguous to said district or not) in the following manner:

(1) A petition praying for the annexation of such territory shall be filed with the Commissioners Court of said county, which petition shall describe the territory by metes and bounds, and which petition shall be signed by fifty (50) or a majority of those qualified resident voters of said territory who own taxable property within said territory and who have duly rendered the same for taxation.

(2) If the Commissioners Court finds that such petition meets the requirements set forth in (1) above, said Court shall order a hearing upon such petition, setting the time and place thereof, which hearing shall be held within thirty (30) days after the date of such order. Notice of said

hearing shall consist of a substantial copy of the order calling the same, and said notice shall be published in a newspaper giving general circulation within the district and within the territory proposed to be annexed at least one (1) time not less than ten (10) nor more than twenty (20) days before the date set for said hearing.

(3) All persons whose land or other property might be affected by the proposed annexation, and all other interested persons, may appear at the hearing and offer testimony or evidence either for or against said annexation, and said hearing may be adjourned from day to day. If the Commissioners Court shall at the conclusion of said hearing determine that both the district and the territory proposed to be annexed would be benefited by the same, it shall order an election upon the proposition of whether said Court shall annex such territory. Provision shall be made in the order calling said election for a voting place or places both in the district and in the territory proposed to be annexed, and only duly qualified resident electors of the district or of the territory proposed to be annexed, as the case may be, who own taxable property within said territory and who have duly rendered the same for taxation, shall be qualified to vote at said election. If the district has outstanding bonds payable in whole or in part from taxes, the proposition shall also include the assumption of such bonds. The ballots shall have written or printed thereon "FOR ANNEXATION" and "AGAINST ANNEXATION," or if the district has outstanding tax bonds, "FOR ANNEXATION AND ASSUMPTION OF BONDS" and "AGAINST ANNEXATION AND ASSUMPTION OF BONDS." Notice of said election shall be given in the same manner as the notice of hearing, as above provided. Except as provided herein, said election shall be called and held in accordance with the General Election Laws of this State. The Commissioners Court shall pass an order canvassing the returns cast at said election, and if a majority of those voting at said election within said district and if a majority of those voting at said election within the territory proposed to be annexed shall vote in favor of the proposition, said Commissioners Court shall pass an order declaring the annexation of said territory, and, in the case that there are outstanding district tax bonds, the assumption of said bonds by the district as enlarged by the annexation.

(4) If said election results favorably to the annexation of said territory, the Commissioners Court shall adopt an order defining the boundaries of the district as enlarged by the annexation, and a copy of such order shall be filed and recorded in the deed records of the county.

(5) Any such district shall have the right, in the accomplishment of the purposes for which the district was organized, created or established to enter into contracts for the construction of the improvements with the Government of the United States of America or any agency or instrumentality thereof, including but not limited to the Bureau of Reclamation of the Department of Interior. The governing body must approve the project, the plans and specifications and the methods of construction or reconstruction, and may then execute a contract for a specified number of years or until such plans or programs of the drainage district shall have been completed, and make payment of the obligations incurred thereunder by the issuance of bonds by the district approved by the voters of such district in the manner provided by general law for the issuance of bonds by a drainage district and not otherwise, and deliver same to the Government of the United States, or any agency or instrumentality thereof entering into such contract with said district.

Sec. 2. The provisions of this Act shall be cumulative of all other laws pertaining to such conservation and reclamation districts. Acts 1957, 55th Leg., p. 221, ch. 105.

Emergency. Effective April 24, 1957.

IV. CONSERVATION AND RECLAMATION

CHAPTER EIGHT—CREATION OF DISTRICTS

Art. 8194. Creation

Publication of annual financial statements by districts, see art. 29b.

Art. 8195. Conversion of districts

Powers, etc., of converted districts, see art. 8176a.

V. NAVIGATION

CHAPTER NINE—NAVIGATION DISTRICTS

1. ORGANIZATION

Art. 8198. [5955] Scope of district

Creating and Validating

Calhoun County Navigation District, validation, see Acts 1957, 55th Leg., p. 694, ch. 291.

Harris County Houston Ship Channel Navigation District,

Powers to acquire, enlarge, repair, operate, etc.; bond issue, see Acts 1957, 55th Leg., p. 241, c. 117.

Orange County Navigation and Port District, creation, as amended, see Acts 1957, 55th Leg., p. 173, ch. 80, § 1.

Port of Beaumont Navigation District of Jefferson County, creation, see Acts 1957, 55th Leg., p. 30, ch. 20.

Willacy County Navigation District, Powers to lease and sell lands, see Acts 1957, 55th Leg., p. 310, c. 141.

Art. 8224. Chapter 3 applicable

The provisions of Chapter 3 of this title governing Water Control and Preservation Districts shall, in the manner and to the extent herein specified, apply to all districts hereunder, and the acts therein authorized or required to be done by the district directors shall apply to the navigation commissioners:

1. Taxes. When ordered by the Commissioners Court having jurisdiction of the navigation district, the tax assessors and collectors of each county in the district shall assess and collect the district taxes and pay the same to the district treasurer, in like manner as provided in such cases in said Chapter 3; and the provisions of said Chapter relating to taxation, except the levy of maintenance taxes, creation and investment of sinking fund, and the liability of the Commissioners Court for failure to order such assessment, shall apply.

2. Construction Contracts. All the provisions of said Chapter governing the advertising for, letting and performance of contracts for the construction of improvements and work authorized by law shall apply, except that the bidder's deposit shall be for five per cent (5%) of the amount bid, the contractor's bond shall be for not less than twenty-five per cent (25%) of the contract price; the contract shall be signed by any two (2) commissioners, and the partial payments made thereon shall not exceed ninety per cent (90%) of the contract price.

Provided, that in case of public calamity or extreme emergency, where it becomes necessary to act at once to preserve the property of such district or when it is necessary to preserve or protect the property of the citizens of such district or in case of unforeseen damage to the property or equipment of the District, the provisions of this Section requiring advertisements for bids for construction contracts as provided in Article 7853 of the Revised Civil Statutes of the State of Texas 1925 may be waived. In all such cases, the Board of Navigation and Canal Commissioners shall set out in the Minutes of the District that an emergency exists and the facts which gave rise to the emergency.

3. Construction. All the provisions of said Chapter governing the right of eminent domain, employment and duties of the district engineer, cooperation with the Federal Government, and the directors' annual report, shall apply. As amended Acts 1957, 55th Leg., p. 202, ch. 90, § 1.

Emergency. Effective April 19, 1957.

2. SPECIAL POWERS

A. PORT FACILITIES

Art. 8235a. Districts having city over 375,000; governing body's powers and duties

Contracts; purchases

Sec. 3. (a) No contract may be made by the Board which encumbers future revenues of the District, unless the Commissioners Court shall have levied a special tax therefor, or unless the revenues of a particular facility or facilities are encumbered to discharge the obligation.

(b) The Board shall be authorized to make, or to authorize the General Manager to make, routine purchases or contracts not to exceed the sum of One Thousand Dollars (\$1,000) upon requisitions signed by at least two (2) Commissioners, or the General Manager, which requisitions shall be executed at least in triplicate, one (1) copy to be delivered to the person, firm or corporation from whom the purchase is made, one (1) copy to be delivered to the County Auditor, and one (1) copy to remain on file with the Board, before any purchase shall be made. Such purchases and requisitions shall be subject to ratification and approval at the next succeeding meeting of the Board. This Act shall not be construed to permit the division or reduction of purchases or contracts for the purpose of avoiding the requirement of taking formal bids on purchases or contracts which would otherwise exceed One Thousand Dollars (\$1,000).

(c) Cumulative of the provisions of Section 3(b) of this Act and the authority thereby extended, the Board may, by an order or regulation entered in its minutes, provide for the making of routine purchases or contracts in amount not to exceed One Thousand Dollars (\$1,000) in any one (1) instance or for the payment of wages or salaries of its hourly-rated employees, in the interim between meetings of the Board, and such purchases, contracts or payroll payments shall be subject to ratification and approval at the next succeeding meeting of the Board; provided, however, that the making of such interim purchases or contracts or the interim payment of such payrolls shall be approved by the General Manager and by at least three (3) of the Navigation Commissioners; and when so approved, any requisition issued, and signed as and in the manner provided for in this Section 3(c), and any warrant issued or au-

thorized by the provisions of Section 4 of this Act, may be approved and certified by the County Auditor in full and complete reliance thereon in the same manner and to the same extent as if the same had been made and issued pursuant to the provisions of this Section 3(c) of this Act or other applicable laws; provided further, however, that nothing in this Section 3(c) shall apply or operate as a limitation upon the authority of the Board in cases of public calamity where it becomes necessary to act at once to appropriate money to relieve the distress of the citizens or to protect the property of the District; in cases of unforeseen damage to Navigation District property, machinery, or equipment, or in the handling of ships where time will not permit of advertisement; nor shall they apply to contracts for professional services. In all such cases the Board shall set out in the minutes of the District that an emergency exists and the facts which gave rise to the emergency. In instances provided in this Section 3(c), requisitions shall be executed at least in triplicate, signed by the General Manager, and to which shall be attached or with which shall be filed with the County Auditor a letter of approval of the item, account or subject covered by such requisitions, signed by said General Manager and at least three (3) of the Navigation Commissioners, one (1) copy of such requisition to be delivered to the person, firm or corporation from whom the purchase is made or with whom the contract is made, one (1) copy to be delivered to the County Auditor, and one (1) copy to remain on file with the Board, before any such purchase or contract shall be made; provided, however, that it shall be sufficient to issue only one (1) requisition (in at least triplicate) covering or in respect of any payroll for wages or salaries of all hourly-rated employees.

(d) In cases in which the materials, supplies, machinery, equipment, or other items sought to be purchased or the contract sought to be made shall exceed One Thousand Dollars (\$1,000) written specifications shall be filed with the County Auditor and advertisement shall be published once a week for two (2) successive weeks or for such added time as the Board may require (in a newspaper of general circulation within said District prior to the last date for the receipt of the bids, in which advertisements shall be stated the items or things to be purchased or the contract sought to be made); the time and place of receipt of such bids; and the place where specifications may be obtained. The specifications shall state in detail what is desired; shall require that bids be sealed; and shall require the attachment to said bid of a certified or cashier's check payable to the Navigation District, drawn on a bank which is a member of the Federal Reserve System, for five per cent (5%) of the total amount of the bid, or a bidder's bond executed by a responsible corporate surety authorized to do business in Texas, conditioned that the successful bidder will enter into a contract and give bond as required by the specifications. All such contracts shall be awarded by the Board at a regularly scheduled or specially called meeting; shall be reduced to writing; executed for the District by the Chairman or General Manager; and filed with the proper officers of said District with a copy thereof filed with the County Auditor. Before any contract or requisition shall be placed into effect or become binding upon the Navigation District it shall be submitted to the County Auditor for his approval and certification that funds are or will be available to meet the contract when due and a requisition, purchase order or work order issued in triplicate, one (1) copy to be delivered to the contractor, one (1) copy to be delivered to the County Auditor, and one (1) copy to remain on file with the Navigation District. Provided, however, that the provisions of this Sec-

tion shall not apply in cases of public calamity where it becomes necessary to act at once to appropriate money to relieve the distress of the citizens or to protect the property of the Navigation District; in cases of unforeseen damage to Navigation District property, machinery, or equipment, or in the handling of ships where time will not permit of advertisement; nor shall they apply to contracts for professional services. In all such cases the Board shall set out in the minutes of the District that an emergency exists and the facts which gave rise to the emergency. In such cases, bids and the advertisement therefor may be waived.

(e) Any purchase or contract made without compliance with the provisions of this Act shall be void and unenforceable in any courts in this State. As amended Acts 1955, 54th Leg., p. 606, ch. 211, § 1; Acts 1957, 55th Leg., p. 160, ch. 71, § 1.

Emergency. Effective April 19, 1957.

Art. 8247b. Additional powers conferred on navigation districts

Sec. 1.

Sub-Sec. (b). Such Navigation District, through its Navigation and Canal Commission, shall have power to lease for oil, gas and minerals all rights of way, spoil grounds, spoil basins, or any other lands owned by such Navigation District, provided such leasing shall not interfere with the use of or obstruct any waterway, natural or artificial, of such Navigation District for navigation purposes. Before such lease or leases may be executed by the Navigation and Canal Commissioners of such District upon all or any part of such land, the Navigation and Canal Commission shall cause to be published in some newspaper of general circulation within said Navigation District, at least once per week for two (2) consecutive weeks preceding the last date for the receipt of bids, requesting bids on such leases, which notice shall contain the approximate amount of land offered for leasing, the general location thereof, the time and the place of receipt of such bids, the place where specifications may be obtained, and that each bid shall be accompanied by a certified check, cashier's check or bidder's bond with a responsible corporate surety authorized to do business in Texas, in an amount equal to the first rental payment and/or bonus offered for such lease over and above the royalty, to guarantee that such bidder will perform the terms of his bid, providing the same is accepted by the Navigation and Canal Commission and which notice shall state that the Navigation and Canal Commission reserves the right to reject any or all bids. The Navigation and Canal Commission may lease all or any part of such land providing that such lease is awarded to the highest and best bidder for the same and shall reserve at least one-eighth royalty of all gas, oil or minerals in or produced upon said land, and said lease shall contain such other provisions as shall be reasonably necessary to protect the interests of the Navigation District, and in no event shall be less favorable to the Navigation District than customary commercial leases in such locality, such leases to be executed by the chairman and secretary of the Navigation and Canal Commission pursuant to an order entered in the minutes thereof, which shall, among other things, give the consideration for such lease. As amended Acts 1957, 55th Leg., p. 170, ch. 77, § 1.

Sub-Sec. (c). Such Navigation District may sell or lease all or any part of any lands owned by it, whether said lands be acquired by gift, purchase or in settlement of any litigation, controversy, or claim in behalf of the District, or in any other manner, provided such lands are declared as surplus and are not necessary to be used by such Navigation District in connection with the development of such navigation project, and provided further that such sale or lease shall be made in the manner provided

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

in this Subsection. Such Navigation District, by and through its Navigation and Canal Commissioners, may lease the surface of such lands for a term never to exceed, by renewal, extension or otherwise, five (5) years by the entry of an order upon the minutes of the Commission, and the execution of such lease in the manner provided by such order. Before making a sale of such lands or making a lease of such lands for a term in excess of five (5) years, the Navigation and Canal Commission shall cause to be published in some newspaper of general circulation within said Navigation District, at least once per week for two (2) consecutive weeks preceding the last date for receipt of bids, for sale, or lease, a notice requesting bids on such land, which notice shall contain the approximate amount of land offered for sale or lease, the general location thereof, the time and place of receipt of such bids, the place where specifications may be obtained and providing that each bid shall be accompanied by a certified check, cashier's check or bidder's bond with a responsible corporate surety authorized to do business in Texas, each in an amount equal to the bid for such land or for the first rental payment for such lease, to guarantee that such bidder will perform the terms of his bid, providing such bid is accepted by the Navigation and Canal Commission, and which such notice shall further provide that the Navigation and Canal Commission reserves the right to reject any or all bids. After the publication of such notice, as above provided, the Navigation and Canal Commission may sell or lease all or any part of such land, provided that such sale or lease is awarded to the highest and best bidder for the same and shall enter an order in the minutes of the Navigation and Canal Commission confirming such sale, which order, among other things, shall set forth the terms thereof, including the consideration therefor, and which shall further provide that when such bidder complies with the terms of his bid, the chairman and secretary of the Navigation and Canal Commission shall execute a deed or lease, as the case may be, in proper form and providing further that such sale or lease shall not be made for a less sum than its reasonable market value in such locality at the time and place of such sale or lease. As amended Acts 1957, 55th Leg., p. 170, ch. 77, § 1.

Emergency. Effective April 19, 1957.

Sections 2 and 3 of the amendatory Act of 1957 provided:

"Sec. 2. This Act shall be cumulative of and in addition to all other laws affecting Navigation Districts. The powers specifically granted herein shall not be a limitation upon the general grants of power in this Act. This Act shall not be construed

to repeal or effect a limitation upon the right of any Navigation District which may be now enjoyed by such District under the Constitution and laws of this State.

"Sec. 3. If any part of this Act shall be held unconstitutional, it shall not affect the remainder of such Act, but the same shall remain in full force and effect."

Art. 8247e. Promotion and development funds in districts containing city over 100,000 population

Section 1. It is recognized that navigation districts in this State containing cities of one hundred thousand (100,000) or more population and operating ports or waterways and the harbor and terminal facilities thereof, are in keen competition with other ports, waterways, harbors and terminals outside this State, as well as being in active competition with privately owned port and terminal facilities within this State; that well situated and equipped ports and waterways in other nearby States, as well as the owners of substantial port and terminal facilities located within and without this State have been and are advertising, promoting and developing such competing ports, waterways, harbors and terminals through spending large funds without any sort of auditing or restriction on or in connection with such expenditures; and that such activities

and expenditures by the port authorities of such other nearby States and those of the owners of such competing port and terminal facilities within and without this State, have been and are thwarting and impeding the use, progress and development of the ports, waterways, harbors and terminals of this State, and that continuation of such hardship and injustice can best be met and coped with by more liberal use of some relatively small fund set aside from gross income from operations of such ports of this State, to be used in the manner hereinafter referred to.

Sec. 2. Any navigation district heretofore organized, or hereafter to be organized, under General or Special Law, which navigation district contains a municipality which has one hundred thousand (100,000) population or more by the last preceding or by any future Federal Census, is hereby granted, in addition to all 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 operations a Promotion and Development Fund of not more than five per cent (5%) of its gross income from operations in each calendar year. From time to time such moneys shall be expended by the Commissioners of each such navigation district or as they may direct in payment of any expenses in connection with any activity or matter incidental to the advertising, development or promotion of such navigation district, or its port, waterway, harbor or terminal, or to furthering the general welfare of the same, or to the betterment of its relations with steamship and rail lines, shippers, consignees of freight, governmental officials or others interested or sought to be interested in such port, waterway, harbor or terminal.

Sec. 3. The moneys in each such Promotion and Development Fund shall be kept separate from all other funds and accounts of such navigation district, no amounts collected from assessing or levying taxes shall be placed in or mingled with said fund, and all of said fund shall be under the sole control of the Commissioners of such navigation district. Such Commissioners shall have full responsibility for auditing, approving and safeguarding the expenditure of said funds; County Auditors 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 five per cent (5%) of its gross income from operations in each calendar year in any such Promotion and Development Fund.

Sec. 4. It is expressly provided that neither the setting aside of such Promotion and Development Fund nor the use or disbursements therefrom shall affect payment of other expenses heretofore and now customarily approved, audited and paid out of the regular funds of such navigation districts; it being the purpose and intention of this Act to authorize use and disbursements from such Promotion and Development Fund for unusual purposes and occasions not covered by existing laws. As amended Acts 1957, 55th Leg., p. 163, ch. 72, § 1.

Emergency. Effective April 19, 1957.

Section 2 of the amendatory Act of 1957 provided that this Act shall be cumulative

of all other laws governing navigation districts not in conflict herewith.

VI. GENERAL PROVISIONS

CHAPTER ELEVEN—IN GENERAL

Art.
8280—8. Annexation of land or extension
of boundaries; water district;
description [New].

Art.
8280—9. Texas Water Development Board
[New].

Art. 8280—8. Annexation of land or extension of boundaries; water district; description

From and after the effective date of this Act, whenever any land is annexed or added to any Water Improvement District, Water Control and Preservation District, Water Control and Improvement District, Fresh Water Supply District, Levee Improvement District, Drainage District and any other district organized or operating under the provision of Title 128 of the Revised Civil Statutes of Texas, 1925, and whenever the boundaries of such district are extended, the land to be annexed or added to the district shall be described by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of such land. Acts 1957, 55th Leg., p. 744, ch. 305, § 1.

Emergency. Effective May 31, 1957.

Section 2 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 3 was a severability provision.

Art. 8280—9. Texas Water Development Board

Definitions

Sec. 2. For the purpose of this Act the term:

- (a) "Board" means the Texas Water Development Board.
- (b) "Chairman" means the Chairman of the Texas Water Development Board.
- (c) "Secretary" means the Executive Secretary of the Texas Water Development Board.
- (d) "Water Board" means the Board of Water Engineers or its successor.
- (e) "Political Subdivision" means any political subdivision or body politic and corporate of the State of Texas, and includes any river authority, conservation and reclamation district, water control and improvement district, water improvement district, water control and preservation district, fresh water supply district, irrigation district, and any type of district heretofore or hereafter created or organized or authorized to be created or organized pursuant to the provisions of Article XVI, Section 59 or Article III, Section 52 of the Constitution of the State of Texas; "political subdivision" also means any interstate compact commission to which the State of Texas is a party, municipal corporation or city whether operating under the Home Rule Amendment of the Constitution or under the General Law.
- (f) "Project" means any engineering undertaking or work for the purpose of the conservation and development of the surface water resources of the State of Texas, including the control, storing and preservation of its storm and flood waters and the waters of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension or construction of dams, reservoirs and other water storage projects, filtration and water treatment plants including any system necessary for the transportation of water from storage to points

of distribution, or from storage to filtration and treatment plants, including facilities for transporting water therefrom to wholesale purchasers, or for any one or more of such purposes or methods.

(g) "Weighted average effective interest rate" means that rate which shall be computed by dividing the amount of the net interest cost on all State bonds issued under the provisions of this Act (to be determined by the total value of all coupons thereto attached and deducting all premiums and adding all discounts involved) by the total of the number of years from its date to maturity of each such State bond theretofore issued.

(h) "Bonds," unless the context makes reference to the contrary, shall mean the Texas Water Development Bonds authorized or permitted by the Constitutional Amendment submitted at the election held on November 5, 1957.

Creation; members; chairman; organization; quorum

Sec. 3. The Texas Water Development Board is hereby created and declared to be a State Agency for performing the governmental functions authorized by this Act and such other duties as the Legislature may prescribe from time to time. The Texas Water Development Board shall consist of six (6) members appointed by the Governor, with the advice and consent of the Senate. Each of the members of the Board shall have at least ten (10) years of successful business or professional experience and shall be selected from the following groups: One (1) from each of the fields of engineering, business, law, and a farmer or rancher, and two (2) with such experience in the field of public or private finance, and each member shall be from a different section of the State. Of the members first appointed, two (2) shall serve for a term of two (2) years, two (2) for terms of four (4) years, and two (2) for terms of six (6) years. Thereafter, each member shall serve for a term of six (6) years and until his successor is appointed and has qualified. In case of the death or resignation of any member, his unexpired term shall be filled by appointment in the same manner. Each of the six (6) members of the Board is hereby declared to be an officer of the State as defined by the Texas Constitution and each shall qualify by taking the official oath of office prescribed by law.

The members of the Texas Water Development Board shall receive a per diem of not more than Twenty-five Dollars (\$25) for each day served in the performance of their duties, together with traveling and other necessary expenses.

The Governor shall designate the Chairman of the Board who shall serve as Chairman at the will of the Governor. At the first meeting of the Board, a Vice-Chairman shall be elected by the Board from its members who shall serve for a term of two (2) years from the effective date of this Act; thereafter, a Vice-Chairman shall be elected every two (2) years by the members of the Board. Vacancies in the office of Vice-Chairman shall be filled by the Board for the remainder of the unexpired term. The Chairman, or in his absence the Vice-Chairman, shall preside at all meetings of the Board and perform the other duties required by this Act. A majority of the members of the Board shall constitute a quorum to transact business.

Bond issues; approval by Attorney General

Sec. 4. The Board, by appropriate action, is hereby authorized from time to time to provide, by resolution, for the issuance of negotiable bonds in a total aggregate amount not exceeding One Hundred Million Dollars (\$100,000,000) and the Board may, upon two-thirds ($\frac{2}{3}$) vote

of the elected members of each House at a subsequent Legislature, be given the power to issue additional negotiable bonds in an amount not to exceed One Hundred Million Dollars (\$100,000,000). All of such bonds shall be on a parity and shall be called the "Texas Water Development Bonds." The proceeds from the sale of any bond, or bonds, shall be used for the purpose of creating the Texas Water Development Fund provided for in the Constitution. No bonds shall be sold until the project to be aided thereby has been finally approved by the Board. At the option of the Board, said bonds may be issued in one (1) or several installments. The Bonds of each issue shall be dated, and shall bear interest at a rate not exceeding four per cent (4%) per annum, which interest may, at the option of the Board, be payable annually or semi-annually; shall mature serially or otherwise not later than forty (40) years from their date; and may be redeemable before maturity, at the option of the Board, at such price or prices, and under such terms and conditions as may be fixed by the Board in the resolution providing for the issuance of the bonds. The Board shall determine the form of the bonds, including the form of any interest coupon to be attached thereto, and shall fix the denomination or denominations of said bonds and the place or places of the payment of the principal and interest thereon. Said bonds shall be executed on behalf of the Texas Water Development Board as general obligations of the State of Texas in the following manner: They shall be signed by the Chairman and Secretary respectively of the Board, and the seal of the Board shall be impressed thereon, and they shall be signed by the Governor and attested by the Secretary of State of the State of Texas with the Seal of the State of Texas impressed thereon. The resolution authorizing the issuance of any installment or series of bonds may prescribe the extent to which facsimile signatures and facsimile seals in lieu of manual signatures and manually impressed seals may be used in executing such bonds and appurtenant coupons. Interest coupons may be signed by the facsimile signatures of the Chairman and Secretary of the Board. In the event any officer whose manual or facsimile signature appears on any bond, or whose facsimile signature shall appear on any coupon, shall cease to be such officer before the delivery of the bonds, the signature shall, nevertheless, be valid and sufficient for all purposes the same as if he had remained in office until such delivery had been made. The resolution may provide for registration of the bonds as to ownership and for successive conversion and reconversion from registered to bearer bonds and vice versa. Before any such bonds so issued are delivered to the purchasers, the record pertaining thereto shall have been examined by the Attorney General of Texas and said records and bonds shall be approved by him. After such approval, the bonds shall be registered in the office of the Comptroller of Public Accounts of Texas. Such bonds having been approved by the Attorney General and registered in the Comptroller's office shall be held, in every action, suit or proceeding in which their validity is or may be brought into question, valid and binding obligations of the State of Texas. In every action brought to enforce collection of such bonds or any rights incident thereto, the certificate of approval by the Attorney General and a certificate of registration by the Comptroller, or duly certified copies thereof, shall be admitted and received in evidence as proof of their validity. All bonds issued in accordance with and under the provisions of this Act shall be, and are hereby declared to be negotiable instruments under the laws of this State. The Board is fully authorized to provide for the replacement of any bond which might have become mutilated, lost or destroyed.

Refunding bonds

Sec. 5. The Board is hereby authorized to provide by resolution for the issue of refunding bonds for the purposes of refunding any bonds issued under the provisions of this Act and then outstanding, together with accrued interest thereon. The issuance of such refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the Board in respect to the same, shall be governed by the foregoing provisions of this Act in so far as the same may be applicable. The refunding bonds may be sold and the proceeds used to retire the outstanding bonds or may be used in exchange for the outstanding bonds.

Bonds as legal investments; security for deposits of public funds; exemption from taxation

Sec. 6. All State bonds hereafter issued pursuant to the provisions of this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and all other political subdivisions and public agencies of the State of Texas. Such State bonds, when accompanied by all unmatured coupons appurtenant thereto, shall be lawful and sufficient security for all deposits of State funds, and of all funds of any agency or political subdivision of the State, of counties, school districts, cities and all other municipal corporations or subdivisions at the par value of said bonds. Such State bonds and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Publication of notice of sale of bonds; requirements of bidders

Sec. 7. When the Board shall have authorized the issuance of a series of said bonds and shall have determined to call for bids therefor, it shall be the duty of the Board to publish at least one (1) time not less than twenty (20) days before the date of said sale an appropriate notice thereof. Such publication shall be made in a daily newspaper of general state-wide circulation which is published not less than seven (7) times weekly. Said notice shall also be published for such number of times as the Board may determine in one or more recognized financial publications of general circulation published within the State and one or more such publications published outside the State. The Board shall demand of bidders, other than the administrators of the State funds, that their bids be accompanied by exchange or bank cashier's check for such sum as it may consider adequate to be a forfeit guaranteeing the acceptance and payment for all bonds covered by such bids, and accepted by the Board.

Sale of bonds at not less than face value; rejection of bids

Sec. 8. No installment or series of said bonds shall be sold for an amount less than the face value of all of the bonds comprising such installment or series with accrued interest from their date, and all of such bonds shall be sold after competitive bidding to the highest and best bidder. The Board shall have the right to reject any and all bids.

Special funds created

Sec. 9. All moneys coming into the hands of the Texas Water Development Board shall be deposited in the State Treasury. For the

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

purposes of administering such moneys, there are hereby created the following special funds:

(a) The "Texas Water Development Clearance Fund," hereinafter called "Clearance Fund," into which shall be deposited all moneys received by the Board except proceeds from the sale of Texas Water Development Bonds and except proceeds from the resale of bonds purchased from political subdivisions, and from which fund transfers shall be made as hereinafter set out.

(b) The "Texas Water Development Fund," hereinafter called "Development Fund," shall be a revolving fund into which there shall be deposited the proceeds derived from the sale of the Texas Water Development Bonds, and such other moneys as provided in this Act, and which fund shall be used upon the terms and conditions set out in this Act for the purpose of aiding and making funds available to the various political subdivisions for projects and purposes authorized under this Act, and upon the terms and conditions hereinafter set out.

(c) The "Texas Water Development Bonds Interest and Sinking Fund," hereinafter called "Interest and Sinking Fund," shall be a special fund into which there shall be accumulated and set aside from the sources hereinafter specified, an amount sufficient to pay all interest becoming due during the ensuing fiscal year on all the Water Development Bonds outstanding, and to pay all such bonds which mature during such fiscal year and collection charges and exchanges thereon, and to establish a reserve equal to the average annual principal and interest requirements on all outstanding Bonds issued under this Act.

(d) The "Texas Water Development Board Administrative Fund," hereinafter called "Administrative Fund," shall be the special fund into which there shall be transferred, from sources specified in this Act, sufficient moneys with which to pay the administrative expenses of the Board as authorized by appropriations of the Legislature to the Texas Water Development Board for administrative purposes.

Proceeds of bonds; disposition

Sec. 10-A. All proceeds from the sale of the Water Development Bonds shall be deposited to the account of the Development Fund except accrued interest which shall be deposited in the Interest and Sinking Fund.

Clearance Fund; payments into; transfers to other special funds

Sec. 10-B. With the exception of proceeds from the sale of Texas Water Development Bonds and proceeds from the sale of bonds of political subdivisions sold in accordance with the provisions of Section 15 hereof, all moneys received by the Board in any fiscal year, including all amounts received as repayment of financial assistance granted under this Act and interest on such loans, shall be paid into and accumulated in the Clearance Fund. Not later than fifteen (15) days following the end of each fiscal year, the funds standing to the credit of the Clearance Fund shall be transferred to the other special funds created by this Act in the following manner:

(a) There shall be determined the amount of interest becoming due on all Water Development Bonds then outstanding, together with the amount of principal of such bonds maturing and becoming payable during such ensuing fiscal year, and there shall also be determined the average annual principal and interest requirements on all outstanding bonds issued under this Act. There shall be transferred to the Interest and Sinking Fund, after taking into account any moneys already on deposit therein, such amount as may be necessary to pay all such principal and interest maturing on such bonds during the ensuing fiscal year, together

with all collection charges and exchanges thereon plus an amount sufficient to establish and maintain an additional reserve equal to the average annual principal and interest requirements on all outstanding Bonds issued under this Act. In the event the amount transferable from the Clearance Fund at the end of any fiscal year and the moneys on hand in the Interest and Sinking Fund is insufficient to pay the interest becoming due and the principal maturing on the Water Development Bonds during the ensuing fiscal year, then after the transfer to the Interest and Sinking Fund of so much as is available in the Clearance Fund, the State Treasurer shall transfer out of the first moneys coming into the Treasury of the State of Texas, not otherwise appropriated by the Constitution, such amount as shall be required to pay principal and interest on such Water Development Bonds during such fiscal year.

(b) If, after making the transfers provided in paragraph (a) in this Section, there remain other moneys in the Clearance Fund, then to the extent possible there shall be transferred from such fund to the Administrative Fund an amount sufficient to cover the appropriation for administrative appropriations of said Board, as authorized by the Legislature, for the ensuing fiscal year.

(c) If, after making the transfers provided for in paragraphs (a) and (b) in this Section, there remain other moneys in the Clearance Fund, the balance of such fund shall be transferred at the end of each fiscal year occurring before December 31, 1982, to the Development Fund, and such moneys so transferred may be used for all of the purposes for which the proceeds of the Water Development Bonds were authorized to be used.

(d) Any funds remaining in the Development Fund on December 31, 1982, shall be transferred to the Interest and Sinking Fund.

(e) After December 31, 1982, after making the transfers provided for in paragraphs (a) and (b) of this Section, any balance remaining in the Clearance Fund shall be transferred annually at the end of each fiscal year to the Interest and Sinking Fund until such time as there are on deposit in such Interest and Sinking Fund sufficient moneys to pay all bonds then remaining outstanding with interest to maturities; and when such amount shall be accumulated in the Interest and Sinking Fund, all amounts collected into the Clearance Fund in excess of the amounts needed to cover authorized administrative expenses shall annually be transferred and deposited into the General Revenue Fund of the State of Texas.

Transfers of funds; payments of bond interest and principal

Sec. 10-C. The Comptroller of Public Accounts is hereby authorized and directed to make the transfers required under any provision of this Act. The Treasurer of the State of Texas is hereby authorized and directed to pay or cause to be paid principal and interest on Bonds as they mature and come due.

Investment of moneys in Interest and Sinking Fund

Sec. 10-D. All moneys standing to the credit of the Interest and Sinking Fund which may not be needed to pay obligations maturing during the current fiscal year may be invested by the Board in bonds of the United States, or the State of Texas (or of the several counties or municipalities or other political subdivisions of the State of Texas, except bonds issued by any such political subdivision to finance the projects as herein defined); and such Board may sell such bonds, or any of them at the governing market rate; provided, however, to the extent that the resolution or resolutions authorizing the issuance of bonds hereunder further restrict the investment of such moneys in bonds of the United States, such restric-

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tions shall be binding on the Board. Surplus moneys in the Development Fund which may not be needed for at least ninety (90) days may be invested in direct obligations of the United States of America maturing on or prior to the contemplated date on which said funds will be needed.

Water Development Fund; purposes for which used

Sec. 11. Until December 31, 1982, the Texas Water Development Fund shall be used by the Board hereof for the purpose of providing financial assistance and aid to the various political subdivisions as defined in Section 2 hereof, in the conservation and development of the water resources of the State of Texas by the construction, acquisition or improvement of projects, as defined in Section 2 hereof.

Financial assistance; prerequisites to granting

Sec. 12. No application for financial assistance shall be granted until the political subdivision shall have furnished to the Board a resolution adopted by the Board of Water Engineers certifying:

(a) The feasibility of the project based on preliminary investigation and studies, including the estimated cost of construction, operation and maintenance, and the quantity and quality of water;

(b) That there is an existing need or bona fide future need within a reasonable time, or both, for the water to be provided by the project;

(c) That the applicant is possessed of the necessary permit, or certified filing, authorizing it to impound, or otherwise appropriate and use, the waters to be made available by the project; and

(d) That if a dam is to be constructed or enlarged, the project contemplates the optimum development of the site of the project which is reasonably required under all existing circumstances.

Application for financial assistance; requisites

Sec. 13. The application for financial assistance from the Texas Water Development Board shall contain the name of the political subdivision, its principal officers, the authority of law under which the political subdivision was created and operates, the total costs of the project, the amount of State financial assistance requested, the plan for repayment of the total costs of the project and such other information as the Board may require to aid in the performance of its duties and for the protection of the public interest.

Hearing and determination of application; regulations as to form of application

Sec. 14. In passing upon such applications, the Board shall consider the needs of and the benefits to the area to be served by the project in relation to the needs and benefits appertaining to other projects requiring State assistance as well as the availability of revenues from all sources of the political subdivision for the ultimate repayment of the costs of such project, including interest, and whether the project can be financed without assistance of the State.

If after consideration of the foregoing, and the consideration of any other relevant factors, the Board finds that the public interest requires State participation in the project, that the project cannot be financed without State assistance, and if the Board makes the further finding that in its opinion the revenues or taxes or both pledged by the political subdivision will be sufficient to meet all of the obligations assumed by the political subdivision within not more than forty (40) years, the Board may approve the project within the limits set forth herein.

Application for financial assistance shall be in such form as prescribed herein and by regulations of the Board and shall not be accepted by the

Board unless submitted in affidavit form by the officials of the political subdivision as prescribed by the regulations of the Board. Nothing in such regulations shall restrict or prohibit the Board from requiring additional factual material of any applicant.

**Purchase of bonds of political subdivision by board;
bond requirements; sale**

Sec. 15. After the Board has examined an application of a political subdivision for financial assistance from the Fund and determined by resolution that same should be approved, the Board may give financial assistance to the political subdivision by the purchase with moneys out of the Texas Water Development Fund of bonds or other securities issued by the political subdivision for the purpose of providing funds to finance a project. The Board is hereby empowered to purchase such political subdivision bonds or other securities even though such bonds or other securities be secondary, or subordinate to other bonds or other securities issued by the political subdivision to finance the same project for which assistance from the Fund is sought. The Board shall never purchase bonds or other securities which have a maturity date in excess of forty (40) years from date of issuance. The Board shall never purchase bonds or other securities of a political subdivision in excess of one-third ($\frac{1}{3}$) of the total costs of a project for which assistance from the Fund is sought nor in excess of Five Million Dollars (\$5,000,000), whichever is the lesser for any one (1) project. The Board shall never purchase from any single political subdivision bonds or other securities of such political subdivision in excess of Five Million Dollars (\$5,000,000). Such bonds and other securities purchased from moneys in the Fund by the Board shall bear whichever of the following rates of interest is greater: (a) the weighted average effective interest rate on all State Bonds theretofore sold under the provisions of this Act plus one-half ($\frac{1}{2}$) of one per cent (1%); or (b) the effective interest rate of the bonds sold by the issuing agency for the purpose of providing the remaining funds which are required for the project. The Bonds shall bear coupons evidencing interest at such a rate or a combination of rates as shall approximate the effective rate as nearly as the Board shall deem practicable, and the effective rate shall be arrived at by the payment of premiums or the deduction of discounts as necessary. Before purchasing any bonds or other securities of a political subdivision, the Board shall be assured that such bonds or other securities have been approved by the Attorney General and registered by the Comptroller of Public Accounts and after such approval and registration and sale at not less than par and accrued interest, said bonds shall be valid, binding and incontestable. The Board is fully empowered and authorized to sell or dispose of political subdivision bonds purchased with moneys out of the Fund, provided that such bonds are sold at not less than par and accrued interest. The proceeds from such sale shall be deposited to the credit of the Fund and used in the same manner as other funds deposited therein, except accrued interest shall be deposited in the Interest and Sinking Fund. Should the Board determine to sell such political subdivision bonds, competitive bids therefor shall be received and notice of such sale shall be given and the sale conducted in the same manner as in the case of a sale of the State bonds authorized by this Act; provided, however, that the Board shall first have offered said bonds at their par value plus accrued interest to the issuing political subdivision at least thirty (30) days prior to the date of requesting competitive bids; and provided such political subdivision shall have failed within such thirty-day period to give notice to said Board of its desire to acquire such bonds at par and accrued interest.

**Net revenues of project pledged to pay bonds; definition;
proceedings to enforce**

Sec. 16. Unless wholly supported by political subdivision taxes, any bonds or other securities of a political subdivision which may be purchased by the Board in accordance with the terms of this Act shall be secured by a pledge of all or part of the net revenues which result from the ownership and operation of the project of the political subdivision; the term "net revenues" as used in this Section shall mean the gross revenues of the project after deduction of the amount necessary to provide for principal, interest and reserve requirements of bonds superior to those purchased by the Board and the amount necessary to pay the cost of maintaining and operating the project of the political subdivision and the project properties. In the event of a default in the payment of principal or interest on bonds purchased by the Board, or should any other default as defined in the proceedings or indentures authorizing the issuance of the bonds of such political subdivision occur, the Attorney General of Texas shall thereupon institute appropriate proceedings by mandamus and all other legal remedies to compel the subdivision and/or its officers, agents and employees to perform those duties which they are obligated to perform under the law and under such proceedings or covenants, in order to cure such default. Venue in all actions by the Attorney General to enforce all rights, obligations and covenants in and under said bonds purchased by the Board shall lie in the District Courts of Travis County, Texas. The provisions of this Section shall be cumulative of all other remedies available by virtue of the resolution authorizing the issuance of or the terms of any trust agreement securing any such bonds or other securities.

Financing payment of bonds of political subdivision

Sec. 17. The bonds of a political subdivision which the Board is authorized to purchase with moneys out of the Fund may be financed with income derived from revenues that accrue from operation of the project, may be supported by taxes levied by the political subdivision for that purpose, or may be supported by a combination of taxes and revenue and any other revenue available to the political subdivision. The Board, in its discretion and for the protection of the Texas Water Development Fund, may require as a condition precedent to purchasing any bonds of a political subdivision issued to finance a project, that the bonds be supported by both income derived from revenue as well as moneys collected from taxes, in such a ratio as to assure the Texas Water Development Board that the investment of moneys out of the Fund will be fully secured and protected. The Board shall make such other requirements and impose such other conditions for the purchase of bonds or other securities of a political subdivision as in the opinion of the Board may be commensurate with sound investment practices and in the public interest.

Contracts for construction of projects

Sec. 18. The governing body of every political subdivision receiving State financial assistance from the Texas Water Development Fund shall, in all contracts for the construction of a project, require that the contract shall be paid for in partial payments as the work progresses and such payments shall not exceed ninety per cent (90%) of the amount due at the time of such payment as shown by the engineer of the project. Such contract shall also require that upon completion of said contract, the remaining ten per cent (10%) due thereunder may be paid only after approval by the engineer for the political subdivision as may be required under the

bond proceedings and in addition upon obtaining from the Board of Water Engineers a certificate that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices. The Board of Water Engineers shall have the privilege of inspecting the construction of any project at any time to assure itself that the engineering plans of a project, as submitted when approval of the feasibility of the project was sought, are being substantially complied with and that the works are being constructed in accordance with sound engineering principles, but such inspection shall never subject the State of Texas to any action for damages. No substantial or material alteration in the engineering plans of a project shall be made after approval of eligibility unless and until authorization to make such alteration has been given by the Board of Water Engineers. Failure to construct the project according to the plans as approved by or altered with approval of the Board of Water Engineers, failure to construct the works in accordance with sound engineering principles, or failure to comply with any term or terms of a construction contract, may be considered by the Board of Water Engineers as grounds for refusal to give a certificate of approval for any construction contract. A certified copy of every construction contract entered into and executed by the political subdivision for the construction of the project in whole or in part shall be filed in the office of the Board of Water Engineers. All such contracts shall contain or have attached thereto the specifications for all work included in the contract and the plans and details thereof and all such work shall be done in accordance with plans and specifications.

Rules and regulations

Sec. 19. The Board shall promulgate rules and regulations governing the form and contents of applications for financial assistance for the guidance of applicant political subdivisions (reserving the right to make additional requirements as hereinabove provided) and may make such other provisions as may be deemed necessary or advisable. Such rules and regulations and amendments thereto shall be approved by the Attorney General of Texas and filed with the Secretary of State.

Purchase of supplies

Sec. 20. The Board is hereby authorized to purchase through the State Board of Control any and all supplies including, but not by way of limitation, stationery, stamps, printing, record books, and such other things as may be needed at State expense, in order to carry on its functions as a State agency in the performance of the duties herein imposed upon it.

Meetings of board; executive secretary; seal; office space; employees

Sec. 21. The Board shall meet once each month on a day and at a place selected by it, and continue with each meeting until its docket is cleared, subject to recesses at the discretion of the Board. The Chairman of the Board may call a special meeting of same at any time he thinks necessary, by giving the other members notice thereof. The Board shall select an executive secretary who shall perform all duties required by this Act and by said Board. The Executive Secretary shall execute a bond in a sum to be determined by the Board, approved by the Board, and payable to it. Said bond shall be conditioned upon the faithful performance by the Secretary of his duties under the law, and for the delivery to his successor or other employee designated by the Board to receive the same, all moneys.

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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 money available to the Board for administrative expenses. The Executive 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 resolution and decision made by it. The Secretary shall be custodian of all files and records of the Board. The Board shall procure and adopt a seal bearing the words "Texas Water Development Board" encircled by the oak and olive branches common to other official seals. The Board is authorized to rent office space and to employ such legal and financial experts, and such employees as may be necessary for the discharge of the duties herein prescribed and required of the Board. It is expressly provided, however, that all engineering services required by the Board in connection with a project under this Act shall be performed by the Board of Water Engineers. The Employees of the Board shall be deemed to be State employees, and all civil and criminal laws regulating the conduct and relations of other State employees shall apply in all things to the employees of the Board. All papers, records and archives of the Board shall be placed in a depository selected by the Board and shall be open to public inspection at all reasonable times.

Appropriation; budget; compensation of employees of board

Sec. 22. To pay the expense of administering the provisions of this Act, there is hereby appropriated for the use of the Board the sum of One Hundred and Forty-eight Thousand Dollars (\$148,000) for the remainder of the biennium, it is expressly provided, however, that this appropriation shall lapse should this Act not become operative as specified in Section 1 hereof. The Board, upon their first meeting following the effective date of this Act shall prepare and file a budget with the Comptroller of Public Accounts, and may amend that budget from time to time provided the following limitations shall be observed:

| | 1957-58 | 1958-59 |
|--|----------|---|
| Salaries, Wages, Per Diem | \$50,000 | \$48,000 |
| Travel Expenses of Employees and Board Members | | and unexpended balance of previous year |
| Postage, telephone, telegraph | | |
| Office rental and supplies, equipment, office furnishings and machines and contingent expenses | \$50,000 | Unexpended balance of previous year |
| Professional Services, Fees, expenses and their travel expenses, and temporary personnel | | |

All employees of the Board shall be paid compensation until the effective date of the next general Departmental Appropriation Act at a rate comparable with the rate being paid by the State to other State employees doing the same or similar type of work. All such employees shall be paid their compensation and perform their duties with the same rules, requirements and regulations of the general law governing the State employees in such respects. After September 1, 1959, employees of the Board shall receive such wages and salaries as may be authorized by the Legislature in Departmental Appropriation Acts. It is provided, however, that no inter-agency contract shall be made between the Board and the Water Board, it being the intent of the Legislature that the services required of

the Water Board shall be performed within available appropriations. Acts 1957, 55th Leg., p. 1268, ch. 425.

Effective 90 days after May 23, 1957, date of adjournment.

Section 23 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Acts 1957, 55th Leg., p. 1268, ch. 425 became effective upon adoption of amendment of Const. art. 3, § 49c as provided in section 1 of the Act as set out in note, post.

VII. PARTICULAR WATER SUPPLY AND CONTROL DISTRICTS

CHAPTER TWELVE—CREATION, POWERS AND OBLIGATIONS

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| <p>Art. 8280—191. Ground Water Conservation District No. 3, South of Canadian River [New].</p> <p>8280—192. Tri-County Municipal Water District [New].</p> <p>8280—193. North Central Texas Municipal Water Authority [New].</p> <p>8280—194. Plum Creek Conservation District [New].</p> <p>8280—195. Lee County West Yequa Water Control and Improvement District No. 2 [New].</p> <p>8280—196. Athens Municipal Water Authority [New].</p> <p>8280—197. Jefferson County Fresh Water Supply District No. 2 [New].</p> <p>8280—198. White River Municipal Water District [New].</p> <p>8280—199. Fannin County Water Control and Improvement District No. 2 [New].</p> <p>8280—200. Elm Creek Watershed Authority [New].</p> <p>8280—201. Metropolitan Sanitary Sewer District of South Jefferson County [New].</p> <p>8280—202. Pond Creek Watershed Authority [New].</p> <p>8280—203. Jefferson Water and Sewer District [New].</p> | <p>Art. 8280—204. North Tarrant County Municipal Water District [New].</p> <p>8280—205. Harris County Eastex Oaks Water and Sewer District [New].</p> <p>8280—206. Bistone Municipal Water Supply District [New].</p> <p>8280—207. Tarrant County Water Control and Improvement District No. 1 [New].</p> <p>8280—208. Lakeside Water District of Tarrant County [New].</p> <p>8280—209. Wilbarger Creek Water Control and Improvement District No. 1 of Bastrap and Travis Counties [New].</p> <p>8280—210. Collin County Water Control and Improvement District # 2 [New].</p> <p>8280—211. Bell County Water Control and Improvement District #6 [New].</p> <p>8280—212. Eceto Creek Watershed District [New].</p> <p>8280—213. Hondo Creek Watershed Improvement District [New].</p> <p>8280—214. Donahoe Creek Watershed Authority [New].</p> <p>8280—215. Darr's Creek Watershed Authority [New].</p> |
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The complete text of Acts relating to particular Water Supply and Control Districts, as amended, is set out in Vernon's Annotated Civil Statutes, Articles 8280—119 et seq.

Art. 8280—119. San Antonio River Authority

Acts 1957, 55th Leg., p. 1469, ch. 504, § 1.

Art. 8280—120. Harris County Flood Control District

Acts 1957, 55th Leg., p. 550, ch. 258.

Art. 8280—124. Upper Guadalupe River Authority

Acts 1957, 55th Leg., p. 185, ch. 83, § 1.

Art. 8280—126. Bexar County Metropolitan Water District

Acts 1957, 55th Leg., p. 86, ch. 40, § 1.

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

Art. 8280—135. Trinity Bay Conservation District

Acts 1957, 55th Leg., p. 321, ch. 144, § 1.

Art. 8280—154. Canadian River Municipal Water Authority

Acts 1957, 55th Leg., p. 427, ch. 204, §§
1-4.

Art. 8280—157. Upper Neches River Municipal Water Authority

Acts 1957, 55th Leg., 2nd C.S., p. 194, ch.
31, §§ 1-5.

Art. 8280—160. Green Belt Municipal and Industrial Water Authority

Acts 1957, 55th Leg., p. 165, ch. 73.

Art. 8280—162. West Central Texas Municipal Water District

Acts 1957, 55th Leg., 1st C.S., p. 31, ch. 13.

Art. 8280—167. Yorks Creek Improvement District

Acts 1957, 55th Leg., p. 447, ch. 219, §§ 1,
2.

Art. 8280—172. Boling Municipal Water District

Acts 1957, 55th Leg., p. 319, ch. 143, § 1.

Art. 8280—187. Fort Bend County Water Supply District

Acts 1957, 55th Leg., p. 150, ch. 65, § 1.

Art. 8280—188. Trinity River Authority of Texas

Acts 1957, 55th Leg., p. 548, ch. 256, § 1.
Acts 1957, 55th Leg., 1st C.S., p. 49, ch.
22, § 1.

**Art. 8280—191. Ground Water Conservation District No. 3, South of
Canadian River**

Acts 1957, 55th Leg., p. 27, ch. 19.

Art. 8280—192. Tri-County Municipal Water District

Acts 1957, 55th Leg., p. 120, ch. 56.
Acts 1957, 55th Leg., 2nd C.S., p. 168, ch.
11.

Art. 8280—193. North Central Texas Municipal Water Authority

Acts 1957, 55th Leg., p. 183, ch. 86.

Art. 8280—194. Plum Creek Conservation District

Acts 1957, 55th Leg., p. 267, ch. 126.

**Art. 8280—195. Lee County West Yequa Water Control and Improve-
ment District No. 2**

Acts 1957, 55th Leg., p. 282, ch. 131.

Art. 8280—196. Athens Municipal Water Authority

Acts 1957, 55th Leg., p. 311, ch. 142.

Art. 8280—197. Jefferson County Fresh Water Supply District No. 2

Acts 1957, 55th Leg., p. 322, ch. 145.

Art. 8280—198. White River Municipal Water District

Acts 1957, 55th Leg., p. 449, ch. 221.

Art. 8280—199. Fannin County Water Control and Improvement District No. 2

Acts 1957, 55th Leg., p. 552, ch. 259.

Art. 8280—200. Elm Creek Watershed Authority

Acts 1957, 55th Leg., p. 607, ch. 273.

Art. 8280—201. Metropolitan Sanitary Sewer District of South Jefferson County

Acts 1957, 55th Leg., p. 640, ch. 278.

Art. 8280—202. Pond Creek Watershed Authority

Acts 1957, 55th Leg., p. 650, ch. 279.

Art. 8280—203. Jefferson Water and Sewer District

Acts 1957, 55th Leg., p. 764, ch. 317.

Art. 8280—204. North Tarrant County Municipal Water District

Acts 1957, 55th Leg., p. 771, ch. 318.

Art. 8280—205. Harris County Eastex Oaks Water and Sewer District

Acts 1957, 55th Leg., p. 821, ch. 351.

Art. 8280—206. Bistone Municipal Water Supply District

Acts 1957, 55th Leg., p. 840, ch. 368.

Art. 8280—207. Tarrant County Water Control and Improvement District No. 1

Acts 1957, 55th Leg., p. 569, ch. 268.

Art. 8280—208. Lakeside Water District of Tarrant County

Acts 1957, 55th Leg., p. 860, ch. 377.

Art. 8280—209. Wilbarger Creek Water Control and Improvement District No. 1 of Bastrop and Travis Counties

Acts 1957, 55th Leg., p. 1366, ch. 466.

Acts 1957, 55th Leg., 2nd C.S., p. 164, ch.

9.

Art. 8280—210. Collin County Water Control and Improvement District #2

Acts 1957, 55th Leg., 1st C.S., p. 34, ch.

16.

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

Art. 8280—211. Bell County Water Control and Improvement District #6

Acts 1957, 55th Leg., 1st C.S., p. 38, ch.
18.

Art. 8280—212. Ecletto Creek Watershed District

Acts 1957, 55th Leg., 1st C.S., p. 52, ch.
25.

Art. 8280—213. Hondo Creek Watershed Improvement District

Acts 1957, 55th Leg., 1st C.S., p. 67, ch.
26.

Art. 8280—214. Donahoe Creek Watershed Authority

Acts 1957, 55th Leg., 1st C.S., p. 79, ch.
29.

Art. 8280—215. Darr's Creek Watershed Authority

Acts 1957, 55th Leg., 1st C.S., p. 86, ch.
30.

TITLE 130—WORKMEN'S COMPENSATION LAW

PART 4

Art.

8309f. Texas Technological College Directors, Workmen's Compensation Insurance for employees under [New].

PART 1.

Art. 8306. Damages and compensation for personal injuries

Art. 8306, sec. 7. Medical services

Sec. 7. The association shall furnish such medical aid, hospital services, nursing, chiropractic services, and medicines as may reasonably be required at the time of the injury and at any time thereafter to cure and relieve from the effects naturally resulting from the injury. Such treatment shall include treatments necessary to physical rehabilitation, including proper fitting and training in the use of prosthetic appliances, for such period as the nature of the injury may require or as necessary to reasonably restore the employee to his normal level of physical capacity or as necessary to give reasonable relief from pain, but shall not include any other phase of vocational rehabilitation. The obligation of the association to provide hospital services as 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. If the association fails to so furnish reasonable medical aid, hospital services, nursing, chiropractic services and medicines as and when needed 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, hospital services, nursing, 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.

Upon receipt thereof, the Board shall promptly analyze each notice of injury incurred by an injured employee covered under this law. If the Board concludes that vocational rehabilitation is indicated in any such case, it immediately shall take the necessary steps to inform the injured employee of the services and facilities available to him under the Texas Program of Vocational Rehabilitation for Disabled Persons administered by the Vocational Rehabilitation Division of the Texas Education Agency and the Board immediately shall notify said Vocational Rehabilitation Division of such case. In each such case recommendation of services and facilities shall be made after consultation by the Board with the physician or chiropractor furnishing medical aid or chiropractic services as required by this Section, who shall retain general supervision of treatment of the injured employee and, should the

employee request it, the Board shall consult with a physician or chiropractor of his own selection. The Board shall co-operate with said Vocational Rehabilitation Division with reference to the work of said Division in providing said services and facilities to injured employees covered under the provisions of this law. As amended Acts 1957, 55th Leg., p. 1186, ch. 397, § 1.

Savings Clause—1957 Amendment

Savings provisions with respect to claims for injury sustained prior to effective date of Acts 1957, 55th Leg., p. 1186, ch. 397, see section 4 of the act, set out in note under this section.

Savings clause. Acts 1957, 55th Leg., p. 1186, ch. 397, § 4 provided as follows:

"Sec. 4. As respects claims for injury sustained prior to the effective date of this Act, no inchoate, vested, matured, existing or other rights, remedies, powers, duties or authority, either of any employee or legal beneficiary, or of the Board, or of the Association, or of any other person shall be in any way affected by any of the amendments or repeals herein made to the original law hereby amended or repealed, but all such rights, remedies, powers, duties, and authority shall remain and be in force as under the original law just as if the amendments or repeals hereby adopted had never been made, and to that end it

is hereby declared that as respects such injuries occurring prior to the effective date of this Act, said original law is not repealed, but the same is, and shall remain in full force and effect as to all such rights, remedies, powers, duties, and authority; and further this Act in so far as it adopts the law of which it is an amendment is a continuation thereof, and only in other respects a new enactment."

Section 5 of the amendatory Act of 1957 was a severability clause, § 6 repealed conflicting laws and parts of laws to the extent of the conflict, and § 7 provided that the Act should take effect September 1, 1957, subject to the provisions of § 4 set out above.

Art. 8306, sec. 7c. Attorneys' fees regulated by the board

Sec. 7c. All fees of attorneys for representing claimants before the Board under the provisions of this law shall be subject to the approval of the Board. No attorneys' fees for representing claimants before the Board shall be allowed or approved against any party or parties not represented by such attorney, nor exceeding an amount equal to fifteen per cent (15%) of the total recovery, in addition to the reasonable expenses incurred by the attorney in the preparation and presentation of the said claim before the Board, such expenses to be allowed by the Board. Where an attorney represents only a part of those interested in the allowance of a claim before the Board and his services in prosecuting such claim and obtaining an award therein inures to the benefit of others jointly interested therein, then the Board may take these facts into consideration and allow the attorney a reasonable charge, to be assessed against the interest of those receiving benefits from the service of such attorney. The attorneys' fees herein provided for may be redeemed by the association by the payment of a lump sum or may be commuted by the agreement of the parties subject to the approval of the Board, but not until the claim represented by said attorney has been finally determined by the Board and recognized and accepted by the association. After the approval, as first above provided for, if the association be notified in writing of such claim or agreement for legal services, the same shall be a lien against any amount thereafter to be paid as compensation; provided, that where the employee's compensation is payable by the association in periodical installments, the Board shall fix at the time of approval the proportion of each installment to be paid on account of said legal services. As amended Acts 1957, 55th Leg., p. 1186, ch. 397, § 1.

Savings Clause—1957 Amendment

Savings provisions with respect to claims for injury sustained prior to effective date of Acts 1957, 55th Leg., p. 1186, ch. 397, see section 4 of the act, set out in note under section 7 of this article.

For provisions relating to severability, date of the amendatory Act of 1957, see repeal of conflicting laws and effective note under art. 8306, sec. 7.

Art. 8306, sec. 7d. Attorneys' Fees Regulated by the Court

Sec. 7d. 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 attorneys' fee for such representation, not to exceed twenty-five per cent (25%) of the amount recovered, such fee for services so rendered to be fixed and allowed by the trial court in which such matter may be heard and determined.

In fixing and allowing such attorney's fees the court must take into consideration the benefit accruing to the beneficiary as a result of such services. No attorney's fees (other than the amount which the Board may have approved) shall be allowed for representing a claimant in the trial court unless the court finds that benefits have accrued to the claimant by virtue of such representation, and then such attorney's fees may be allowed only on a basis of services performed and benefits accruing to the beneficiary.

Provided, however, in the event an appeal or proceeding in error is taken to an appellate court by any party, the attorney shall receive for his fee an amount not to exceed one-third ($\frac{1}{3}$) of the amount recovered. As amended Acts 1957, 55th Leg., p. 1186, ch. 397, § 1.

Savings Clause—1957 Amendment

Savings provisions with respect to claims for injury sustained prior to effective date of Acts 1957, 55th Leg., p. 1186, ch. 397, see section 4 of the act, set out in note under section 7 of this article.

For provisions relating to severability, date of the amendatory Act of 1957, see repeal of conflicting laws and effective note under art. 8306, sec. 7.

Art. 8306, sec. 8. Death benefit

Sec. 8. If death should result from the injury the association hereinafter created shall pay the legal beneficiaries of the deceased employee a weekly payment equal to sixty per cent (60%) of his average weekly wages, but not more than Thirty-five Dollars (\$35) nor less than Nine Dollars (\$9) per week, for a period of three hundred and sixty (360) weeks from the date of the injury. As amended Acts 1957, 55th Leg., p. 1186, ch. 397, § 1.

Savings Clause—1957 Amendment

Savings provisions with respect to claims for injury sustained prior to effective date of Acts 1957, 55th Leg., p. 1186, ch. 397, see section 4 of the act, set out in note under section 7 of this article.

For provisions relating to severability, date of the amendatory Act of 1957, see repeal of conflicting laws and effective note under art. 8306, sec. 7.

Art. 8306, sec. 10. Total incapacity

Sec. 10. While the incapacity for work resulting from the injury is total, the association shall pay the injured employee a weekly compensation equal to sixty per cent (60%) of his average weekly wages,

but not more than Thirty-five Dollars (\$35) nor less than Nine Dollars (\$9) and in no case shall the period covered by such compensation be greater than four hundred and one (401) weeks from the date of the injury. As amended Acts 1957, 55th Leg., p. 1186, ch. 397, § 1.

Savings Clause—1957 Amendment

Savings provisions with respect to claims for injury sustained prior to effective date of Acts 1957, 55th Leg., p. 1186, ch. 397, see section 4 of the act, set out in note under section 7 of this article.

For provisions relating to severability, date of the amendatory Act of 1957, see repeal of conflicting laws and effective note under art. 8306, sec. 7.

Art. 8306, sec. 11. Partial incapacity

Sec. 11. While the incapacity for work resulting from the injury is partial, the association shall pay the injured employee a weekly compensation equal to sixty per cent (60%) of the difference between his average weekly wages before the injury and his average weekly wage earning capacity during the existence of such partial incapacity, but in no case more than Thirty-five Dollars (\$35) per week. The period covered by such compensation shall be in no case greater than three hundred (300) weeks; provided that in no case shall the period of compensation for total and partial incapacity exceed four hundred and one (401) weeks from the date of injury. Compensation for all partial incapacity resulting from a general injury shall be computed in the manner provided in this Section, and shall not be computed on a basis of a percentage of disability. As amended Acts 1957, 55th Leg., p. 1186, ch. 397, § 1.

Savings Clause—1957 Amendment

Savings provisions with respect to claims for injury sustained prior to effective date of Acts 1957, 55th Leg., p. 1186, ch. 397, see section 4 of the act, set out in note under section 7 of this article.

For provisions relating to severability, date of the amendatory Act of 1957, see repeal of conflicting laws and effective note under art. 8306, sec. 7.

Art. 8306, sec. 12. Specific compensation

Sec. 12. For the injuries enumerated in the following schedule the employee shall receive in lieu of all other compensation except medical aid, hospital services and medicines as elsewhere herein provided, a weekly compensation equal to sixty per cent (60%) of the average weekly wages of such employee, but not less than Nine Dollars (\$9) per week nor exceeding Thirty-five Dollars (\$35) per week, for the respective periods stated herein, to wit:

For the loss of a thumb, sixty per cent (60%) of the average weekly wages during sixty (60) weeks.

For the loss of a first finger, commonly called the index finger, sixty per cent (60%) of the average weekly wages during forty-five (45) weeks.

For the loss of a second finger, sixty per cent (60%) of the average weekly wages during thirty (30) weeks.

For the loss of a third finger, sixty per cent (60%) of the average weekly wages during twenty-one (21) weeks.

For the loss of a fourth finger, commonly known as the little finger, sixty per cent (60%) of the average weekly wages during fifteen (15) weeks.

The loss of the second or distal phalange of the thumb shall be considered to be equal to the loss of one-half ($\frac{1}{2}$) of such thumb; the

loss of more than one-half ($\frac{1}{2}$) of such thumb shall be considered to be equal to the loss of the whole thumb.

The loss of the third or distal phalange of any finger shall be considered to be equal to the loss of one-third ($\frac{1}{3}$) of such finger.

The loss of more than the middle and distal phalange of any finger shall be considered to be equal to the loss of the whole finger; provided that in no case shall the amount received for the loss of a thumb and more than one (1) finger on the same hand exceed the amount provided in this schedule for the loss of a hand.

For the loss of the metacarpal bone (bone or palm) for the corresponding thumb, finger or fingers above, add ten (10) weeks to the number of weeks as above subject to the limitation that in no case shall the amount received for the loss or injury to any one (1) hand be more than for the loss of the hand.

For ankylosis (total stiffness of) or contracture (due to scars or injuries) which make the fingers useless, the same number of weeks shall apply to such finger or fingers or parts of fingers (not thumb) as given above.

For the loss of a hand, sixty per cent (60%) of the average weekly wage during one hundred and fifty (150) weeks.

For the loss of an arm at or above the elbow, sixty per cent (60%) of the average weekly wage during two hundred (200) weeks.

For the loss of one (1) of the toes other than the great toe, sixty per cent (60%) of the average weekly wages during ten (10) weeks.

For the loss of the great toe, sixty per cent (60%) of the average weekly wages during thirty (30) weeks.

The loss of more than two-thirds of any toe shall be considered to be equal to the loss of the whole toe.

The loss of less than two-thirds of any toe shall be considered to be equal to the loss of one-half ($\frac{1}{2}$) of the toe.

For the loss of a foot, sixty per cent (60%) of the average weekly wages during one hundred and twenty-five (125) weeks.

For the loss of a leg, at or above the knee, sixty per cent (60%) of the average weekly wages during two hundred (200) weeks.

For the total and permanent loss of the sight of one (1) eye, sixty per cent (60%) of the average weekly wages during one hundred (100) weeks.

In the foregoing enumerated cases of permanent, partial incapacity, it shall be considered that the permanent loss of the use of a member shall be equivalent to and draw the same compensation as the loss of that member.

For the complete and permanent loss of the hearing in both ears, sixty per cent (60%) of the weekly wages during one hundred and fifty (150) weeks.

For the loss of an eye and leg above the knee, sixty per cent (60%) of the average weekly wages during a period of three hundred and fifty (350) weeks.

For the loss of an eye and an arm above the elbow, sixty per cent (60%) of the average weekly wages during a period of three hundred and fifty (350) weeks.

For the loss of an eye and a hand, sixty per cent (60%) of the average weekly wages during a period of three hundred and twenty-five (325) weeks.

For the loss of an eye and a foot, sixty per cent (60%) of the average weekly wages during a period of three hundred (300) weeks.

Where the employee sustains concurrent injuries resulting in concurrent incapacities, he shall receive compensation only for the injury

which produces the longest period of incapacity; but this Section shall not affect liability for the concurrent loss or the loss of the use thereof of more than one (1) member, for which member compensation is provided in this schedule, compensation for specific injuries under this law shall be cumulative as to time and not concurrent.

In all cases of permanent partial incapacity it shall be considered that the permanent loss of the use of the member is equivalent to, and shall draw the same compensation as, the loss of that member; but the compensation in and by said schedule provided shall be in lieu of all other compensation in such cases.

In all other cases of partial incapacity, including any disfigurement which will impair the future usefulness or occupational opportunities of the injured employee, compensation shall be determined according to the percentage of incapacity, taking into account among other things any previous incapacity, the nature of the physical injury or disfigurement, the occupation of the injured employee, and the age at the time of injury. The compensation paid therefor shall be calculated by first determining a basic figure amounting to sixty per cent (60%) of the average weekly wages of the employee, but which basic figure shall not exceed Thirty-five Dollars (\$35); such basic figure shall then be multiplied by the percentage of incapacity caused by the injury, and the result shall be the weekly compensation which shall be paid for such period not exceeding three hundred (300) weeks as the Board may determine. Whenever the weekly payments under this paragraph would be less than Three Dollars (\$3) per week, the period may be shortened, and the payments correspondingly increased by the Board. As amended Acts 1957, 55th Leg., p. 1186, ch. 397, § 1.

Savings Clause—1957 Amendment

Savings provisions with respect to claims for injury sustained prior to effective date of Acts 1957, 55th Leg., p. 1186, ch. 397, see section 4 of the act, set out in note under section 7 of this article.

For provisions relating to severability, date of the amendatory Act of 1957, see repeal of conflicting laws and effective note under art. 8306, sec. 7.

Art. 8306, sec. 12c—2. Second Injury Fund—how created

Sec. 12c—2. The special fund known as the "Second-Injury Fund" shall be created in the following manner:

(a) In every case of the death of an employee under this Act where there is no person entitled to compensation surviving said employee, the association shall pay to the Industrial Accident Board the sum of Three Thousand Dollars (\$3,000) to be deposited with the Treasurer of the State for the benefit of said Fund and the Board shall direct the distribution thereof.

(b) When the total amount of all such payments into the Fund, together with the accumulated interest thereon, equals or exceeds One Hundred Thousand Dollars (\$100,000) in excess of existing liabilities, no further payments shall be required to be paid to said Fund; but whenever thereafter the amount of such Fund shall be reduced below Fifty Thousand Dollars (\$50,000) by reason of payments to such Fund, then payments to such Fund shall be resumed forthwith, and shall continue until such Fund again amounts to One Hundred Thousand Dollars (\$100,000) including accumulated interest thereon. As amended Acts 1957, 55th Leg., p. 1186, ch. 397, § 1.

Savings Clause—1957 Amendment

Savings provisions with respect to claims for injury sustained prior to effective date of Acts 1957, 55th Leg., p. 1186, ch. 397, see section 4 of the act, set out in note under section 7 of this article.

For provisions relating to severability, date of the amendatory Act of 1957, see repeal of conflicting laws and effective note under art. 8306, sec. 7.

Art. 8306, sec. 26. Medical treatment**Sec. 26.**

(d). In the event of incapacity from silicosis or asbestosis, the association shall provide reasonable medical treatment; but liability for such treatment shall not extend beyond ninety-one (91) days. As amended Acts 1956, 55th Leg., p. 1186, ch. 397, § 1.

Savings Clause—1957 Amendment

Savings provisions with respect to claims for injury sustained prior to effective date of Acts 1957, 55th Leg., p. 1186, ch. 397, see section 4 of the act, set out in note under section 7 of this article.

For provisions relating to severability, date of the amendatory Act of 1957, see repeal of conflicting laws and effective note under art. 8306, sec. 7.

Art. 8306, sec. 28. Workmen's Compensation Fund

Sec. 28. There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, a Workmen's Compensation Fund which shall be used by the board for the purpose of paying costs of the administration of the law, in addition to amounts appropriated by the Legislature of the State of Texas. The State Treasurer shall be the treasurer and custodian of the fund. He shall administer such fund in accordance with the directions of the board, and the Comptroller shall issue warrants upon it in accordance with the directions of the board. In addition to all other taxes now being paid, each stock company, mutual company, reciprocal, or interinsurance exchange or Lloyds Association writing Workmen's Compensation insurance in this State, shall pay annually into the State Treasury, for the use and benefit of the Workmen's Compensation Fund, an amount equal to one-fourth ($\frac{1}{4}$) of one per cent (1%) of gross premiums collected by such company or association during the preceding year under workmen's compensation policies written by such companies or associations covering risks in this State according to the reports made to the Board of Insurance Commissioners as required by law. Said amount shall be collected at the same time and in the same manner as provided by law for the collection of taxes on gross premiums of such workmen's compensation insurance carriers. Failure to make any report required by this Section shall be punishable by fine not to exceed One Thousand Dollars (\$1,000) and the failure to pay any tax within thirty (30) days after same is due under this Section shall be punishable by a penalty of ten per cent (10%) of the amount, and shall be recovered by the Attorney General in a suit brought by him in the name of the State of Texas and such penalties when collected shall be deposited in the State Treasury for the use and benefit of the Workmen's Compensation Fund. Added Acts 1957, 55th Leg., p. 1186, ch. 397, § 1.

Savings Clause—1957 Amendment

Savings provisions with respect to claims for injury sustained prior to effective date of Acts 1957, 55th Leg., p. 1186, ch. 397, see section 4 of the act, set out in note under section 7 of this article.

For provisions relating to severability, date of the amendatory Act of 1957, see repeal of conflicting laws and effective note under art. 8306, sec. 7.

PART 2.

Art. 8307. Industrial Accident Board

Art. 8307, sec. 5. Determination of questions; suit to set aside final ruling decision; revocation of association's license

Sec. 5.

Notwithstanding any other provision of this law, as amended, no award of the Board, and no judgment of the court, having jurisdiction of a claim against the association for the cost or expense of items of medical aid, hospital services, nursing, chiropractic services, medicines or prosthetic appliances furnished to an employee under circumstances creating a liability therefor on the part of the association under the provisions of this law, shall include in such award or judgment any cost or expense of any such items not actually furnished to and received by the employee prior to the date of said award or judgment. The first such final award or judgment rendered on such claim shall be res judicata of the liability of the association for all such cost or expense which could have been claimed up to the date of said award or judgment and of the issue that the injury of said employee is subject to the provisions of this law with respect to such items, but shall not be res judicata of the obligation of the association to furnish or pay for any such items after the date of said award or judgment. After the first such final award or judgment, the Board shall have continuing jurisdiction in the same case to render successive awards to determine the liability of the association for the cost or expense of any such items actually furnished to and received by said employee not more than six (6) months prior to the date of each such successive award, until the association shall have fully discharged its obligation under this law to furnish all such medical aid, hospital services, nursing, chiropractic services, medicines or prosthetic appliances to which said employee may be entitled; provided, each such successive award of the Board shall be subject to a suit to set aside said award by a court of competent jurisdiction, in the same manner as provided in the case of other awards under this law. Paragraph added Acts 1957, 55th Leg., p. 1186, ch. 397, § 2.

Savings Clause—1957 Amendment

Savings provisions with respect to claims for injury sustained prior to effective date of Acts 1957, 55th Leg., p. 1186, ch. 397, see section 4 of the act, set out in note under art. 8306, § 7.

For provisions relating to severability, date of the amendatory Act of 1957, see repeal of conflicting laws and effective note under art. 8306, sec. 7.

PART 4.

Art. 8309. Definitions and general provisions

Art. 8309, sec. 1b. Transportation or travel as basis for claim for injury

Sec. 1b. Unless transportation is furnished as a part of the contract of employment or is paid for by the employer, or unless the means of such transportation are under the control of the employer, or unless the employee is directed in his employment to proceed from one place to another place, such transportation shall not be the basis for a claim that an injury occurring during the course of such transportation is sustained in the course of employment. Travel by an employee in the furtherance of the affairs or business of his employer shall not be the basis for a claim that an injury occurring during the course of such travel is sustained in the course of employment, if said travel is also in furtherance of personal or private affairs of the employee, unless the trip to the place of occurrence of said injury would have been made even had there been no personal or private affairs of the employee to be furthered by said trip, and unless said trip would not have been made had there been no affairs or business of the employer to be furthered by said trip. Added Acts 1957, 55th Leg., p. 1186, ch. 397, § 3.

Savings provisions with respect to claims for injury sustained prior to effective date of Acts 1957, 55th Leg., p. 1186, ch. 397, see section 4 of the act, set out in note under art. 8306, § 7.

For provisions relating to severability, date of the amendatory Act of 1957, see repeal of conflicting laws and effective note under art. 8306, sec. 7.

Art. 8309b. Agricultural and Mechanical College Directors, Workmen's Compensation Insurance for employees under

Definitions

Sec. 2.

2. "Workman" shall mean every person employed in the service of any institution as defined above, whose name appears on the payroll thereof, except clerical and office employees not required by their duties to travel or work away from their offices. No person in the service of such institution who is paid on a piece-work basis, or on any basis other than by the hour, day, week, month, or year shall be considered an employee nor shall be entitled to compensation under the terms and provisions of this Act. As amended Acts 1957, 55th Leg., p. 460, ch. 222, § 1.

Emergency. Effective May 16, 1957.

Group life and accident insurance

Sec. 3. After the effective date of this Act the Board of Directors of the Agricultural and Mechanical College of Texas is hereby authorized to require, as a condition of employment, all employees, except those persons who are paid on a piece-work basis, or on any basis other than by the hour, day, week, month, or year, to acquire protection under a group life and accident insurance plan approved by it.

After the effective date any workman, as defined in this Act, who sustains an injury in the course of his employment shall be paid compensation as hereinafter provided.

The institution is hereby authorized to be self-insuring and is charged with the administration of this Act. The institution shall notify the Board of the effective date of such insurance, stating in such notice the nature of the work performed by the workmen of the institution, the approximate number of workmen, and the estimated amount of pay roll.

The institution shall give notice to all workmen that, effective at the time stated in such notice, the institution has provided for payment of insurance. As amended Acts 1957, 55th Leg., p. 460, ch. 222, § 2.

Emergency. Effective May 16, 1957.

Physical examination necessary to be certified as workman; exception

Sec. 14. Except as provided in Section 15, 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. As amended Acts 1957, 55th Leg., p. 460, ch. 222, § 3.

Emergency. Effective May 16, 1957.

Certification as workman of person failing to pass physical examination; waiver of insurance coverage

Sec. 15. In the discretion of the institution, any person failing to pass a physical examination as provided in Section 14 may be certified as a workman on the condition that such person shall execute in writing, prior to his employment, or continued employment if such person is already employed by the institution upon the effective date hereof, a waiver of coverage under the provisions of this Act. Such waiver shall be valid and binding on the workman so executing it and in the event of injury or death of the workman suffered in the course of his employment no compensation or death benefits shall be paid to him or his beneficiaries. As amended Acts 1957, 55th Leg., p. 460, ch. 222, § 4.

Emergency. Effective May 16, 1957.

provided that partial invalidity should not affect the remaining portions of the Act.

Art. 8309c. County employees

Art. 8309c, sec. 3. Authority of county; order; notice; acceptance by employers

Sec. 3. The county is hereby authorized to either be self-insuring or that it purchase workmen's compensation insurance for its employees from any company authorized to do business in Texas, and is charged with the administration of this Act. It is expressly understood that the provision authorizing counties to provide such compensation or insurance is permissive and not mandatory; provided, however, that in any county of this state, the Commissioners Court on its own motion may call an election for the purpose of determining whether the county shall adopt the provisions of this Act. If a majority of the qualified voters at such an election votes for the adoption of the provisions of this Act, the provisions of this Act shall thereafter be applicable to such county, and in such event it shall be mandatory that such county be either self-insuring or that it purchase workmen's compensation insurance for its employees from any company authorized to do business in Texas, and is charged with the administration of this Act.

The Commissioners Court may by proper order put into effect the provisions of this Act. The Commissioners Court of the county shall notify

the Board of the effective date of such insurance, stating in such notice the nature of the work performed by the employee of the county, the approximate number of employees, and the estimated amount of payroll.

The Commissioners Court of the county shall give notice to all workmen that effective at the time stated in such notice, the county has provided for payment of insurance.

Employees of the county shall be conclusively deemed to have accepted the provisions hereof in lieu of common law or statutory causes of action, if any, for injuries resulting in the course of their employment. As amended Acts 1957, 55th Leg., p. 535, ch. 251, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957 was a severability provision.

Art. 8309f. Texas Technological College Directors, Workmen's Compensation Insurance for employees under

Constitutional authority

Section 1. By virtue of the provisions of Section 59 of Article III of the Constitution of the State of Texas granting the Legislature power to pass such laws as may be necessary to provide for workmen's compensation insurance for state employees, as in its judgment is necessary or required, and to provide for the payment of all costs, charges, and premiums on such insurance, provision is made as hereinafter set forth.

Definitions

Sec. 2. The following words and phrases as used in this Act shall, unless a different meaning is plainly required by the context, have the following meanings, respectively:

1. "Institution" whenever used in this Act shall be held to mean the institution and agency under the direction or government of the Board of Directors of Texas Technological College including the following:

- Texas Technological College, Lubbock;
- Pan Tech Farm, Carson County, Texas;

Any other agencies now or hereafter under the direction and control of said Board of Directors.

2. "Workman" shall mean every person in the service of Texas Technological College under any appointment or expressed contract of hire, oral or written, whose name appears upon the pay roll of Texas Technological College except,

- (a) Administrative staff including officers of administration;
- (b) Teaching staff who are not required by their teaching or research duties to handle or work in close proximity to dangerous chemicals, materials, machinery or equipment;
- (c) Research staff who are not required to handle or work in close proximity to dangerous chemicals, materials, machinery or equipment;
- (d) Clerical and office employees not required by their duties to regularly travel or work in a dangerous area;
- (e) Supervisory staff whose duties are predominantly administrative and clerical and who do not participate in manual labor, or work in a dangerous area;
- (f) Persons paid on a piecework basis, or any basis other than by the hour, day, week, month, or year.

Provided further, that no person shall be classified as a "workman" nor be eligible to any compensation benefits under the terms and provi-

sions of this Act until he shall have submitted himself first to a physical examination by a regularly licensed physician or surgeon designated by Texas Technological College to make such examination and thereafter been certified by Texas Technological College to be placed on the pay roll of Texas Technological College.

3. "Insurance" shall mean workmen's compensation insurance.

4. "Board" shall mean the Industrial Accident Board of the State of Texas.

5. "Legal beneficiaries" shall mean the relatives named in Section 8a of Article 8306, Revised Civil Statutes of Texas of 1925, adopted in Section 7 of this Act.

6. "Average weekly wages" shall be as defined in Section 1, Article 8309, Revised Civil Statutes of Texas of 1925.

7. Any reference to a workman herein who has been injured shall, when the workman is dead, also include the legal beneficiaries, as that term is herein used, of such workmen to whom compensation may be payable. Whenever in this Act the singular is used, the plural shall be included; whenever the masculine gender is used, the feminine and neuter shall be included.

Authority of institution; notice

Sec. 3. The institution is hereby authorized to either be self-insuring or to purchase Workmen's Compensation Insurance for their employees from a company authorized to do business in the State of Texas, and who shall be charged with the administration of this Act. The institution shall notify the Board of the effective date of such insurance, stating in such notice the nature of the work performed by the workmen of the institution, the approximate number of workmen, and the estimated amount of payroll.

Compensation for injury in course of employment

Sec. 4. If a workman of the institution sustains an injury in the course of his employment, he shall be paid compensation by the institution as herein provided except that compensation for any person employed on less than a full work-day basis shall not exceed sixty per cent (60%) of his average weekly earning.

Actions; defenses

Sec. 5. In an action to recover damages for personal injuries sustained by a workman in the course of his employment, or for death resulting from personal injuries so sustained, the institution may defend in such action on the ground that the injury was caused by the willful intention of the workman to bring about the injury, or was so caused while the workman was in a state of intoxication.

Exclusiveness of remedy; exemption of compensation from legal process; assignability

Sec. 6. Workmen of the institution and parents of minor workmen shall have no right of action against the agents, servants, or employees of the institution for damages for personal injuries, nor shall representatives and beneficiaries of deceased workmen have a right of action against the agents, servants or employees of the institution for injuries resulting in death, but such workmen and their representatives and beneficiaries shall look for compensation solely to the institution as is provided in this Act. 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.

Laws governing

Sec. 7. Unless otherwise provided herein, Section 6, as amended by Acts 1927, 40th Legislature, page 84, Chapter 60, Sections 1, 7, 7b, 7c, and 8, as amended by House Bill No. 10, Acts 1947, 50th Legislature; 8a, 8b, and 9, as amended by Acts 1931, 42nd Legislature, page 303, Chapter 178; 10, as amended by House Bill No. 10, Acts 1947, 50th Legislature; 11, as amended by House Bill No. 10, Acts 1947, 50th Legislature; 11a, Acts 1927, 40th Legislature, page 41, Chapter 28, Section 1; 12, as amended by House Bill No. 10, Acts 1947, 50th Legislature; 12a, 12b, 12c, 12d, as amended by Acts 1931, 42nd Legislature, page 260, Chapter 155, Section 1; 12e, 12f, and 12i, as amended by Acts 1931, 42nd Legislature, page 259, Chapter 154, Section 1; 13, 15, 15a, 16, 17, and 19, as amended by Acts 1927, 40th Legislature, page 383, Chapter 259, Section 1, as amended by Acts 1931, 42nd Legislature, page 133, Chapter 90, Section 1; 20, 21, 22, 23, 24, 25, 26, and 27, as added by Senate Bill No. 40, Acts 1947, 50th Legislature; Acts 1931, 42nd Legislature, page 415, Chapter 248, Section 1, all being sections of Article 8306 of the Revised Civil Statutes of Texas 1925, as amended; Section 4a, as amended by Senate Bill No. 40, Acts 1947, 50th Legislature; 6a, 11, and 12, of Article 8307 of the Revised Civil Statutes of Texas, 1925; and 13 and 14 of Article 8307, as added by Senate Bill No. 40, Acts 1927, 50th Legislature; and Sections 4 and 5 of Article 8309 of the Revised Civil Statutes of Texas, 1925, and Senate Bill No. 64, Acts Regular Session, 45th Legislature, are hereby adopted and shall govern insofar as applicable under the provisions of this law. Provided that whenever in the above adopted sections of Articles 8306, 8307, and 8309 of the Revised Civil Statutes of Texas, 1925, the words "association," "subscriber," or "employer," or their equivalents, appear in such articles, they shall be construed to and shall mean "the institution".

Attorney's fees

Sec. 8. For representing the interest of any claimant in any matter carried from the Board into the courts, it shall be lawful for the attorney representing such interest to contract with any beneficiary under this Act 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 ($\frac{1}{3}$) 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 causes may be heard and determined.

Payment of compensation

Sec. 9. It is the purpose of this Act 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; 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 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 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 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 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 of having a physician 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 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 the power to subpoena witnesses, administer oaths, inquire into matters of fact, and 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 accordance with the provisions of this Act.

Decisions of Board; suits to set aside decisions; suit on order, ruling or decision; suit to collect award

Sec. 11. 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 rendition of said final ruling and decision by the 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 workman or person suing on account of the death of such workman shall be against the institution. If the final order of the Board is against the institution, then the institution 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 institution 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 institution, 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 institution, and the institution shall willfully 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, after demanding compliance, 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 institution requiring the payment to an injured workman or his beneficiaries of any weekly or monthly payments, under the terms of this Act, and the institution should thereafter fail or refuse, without justifiable cause, to continue to make said payments promptly as they mature, then the said injured workman 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 or more of such claimants may have his place of residence at the time of the institution of the suit.

Record of injuries; reports

Sec. 12. The institution shall hereafter keep a record of all injuries, fatal or otherwise, sustained by its workmen in the course of their employment. Within eight (8) days after the occurrence of an accident resulting in an injury to a workman, causing his absence from work for more than one day, a written report thereof shall be made to the Board on blanks to be procured from the Board for that purpose. Upon the termination of the incapacity of the injured workman, or if such incapacity extends beyond a period of sixty (60) days, the institution 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 workman 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 institution shall be responsible for the submission of the reports in the time specified in this section.

Rules and regulations; designation of physicians and surgeons; 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 and surgeons 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 and surgeons 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.

Physical examination before certification

Sec. 14. No person shall be certified as a workman of 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 or surgeon 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.

Waiver of rights

Sec. 15. An agreement to waive his rights under this Act made in writing by any workman prior to his employment shall be valid.

Orders, awards or proceeding as evidence; certified copies; fees

Sec. 16. 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 institution shall be furnished such certified copies without charge. No fee or salary shall be paid to any person in said Board for making such copies in excess of the fees charged for such copies.

Venue of suits; transfer to proper county

Sec. 17. 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 Act, 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 hearing of claim

Sec. 18. When an injured workman 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 workman is being paid compensation as provided in this Act, and the institution is furnishing either hospitalization or medical treatment 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.

Amounts to be set aside for awards and expenses; accounts; reports

Sec. 19. The institution covered by this Act is hereby authorized to set aside from available appropriations other than itemized salary appropriations an amount not to exceed two per cent (2%) of the annual workman payroll of the institution for the payment of all costs, administrative expense, charges, benefits, insurance, and awards authorized by this Act.

The amounts so set aside shall be set up in a separate account in the records of the institution, which account shall show the disbursements authorized by this Act; provided the amounts so set aside in this account shall not exceed two per cent (2%) of the annual workman pay roll at any one time. A statement of the amounts set aside for and disbursements from said account shall be included in reports made to the Governor and the Legislature and required by the statutes.

Legal representative of institution

Sec. 20. The Attorney General of the State of Texas shall be the legal representative of the institution and is hereby given power and authority to bring and defend all suits and hearings necessary to carry out the purposes of this Act.

Appeals; notice; duties of clerk of court and attorneys

Sec. 21. In every case appealed from the Board to any 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 filing such suit, and shall, within twenty (20) days after judgment is rendered in such suit, mail to the Board a certified copy of such judgment. The duties devolving upon district and county clerks under this Act shall constitute a part of their ex officio duties and for such services they shall not be entitled to any fee.

In every such case the attorney preparing the judgment shall file the original and a copy of 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 clerk of a district or county court 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 (\$250.00), (Acts, 1931, 42nd Legislature, page 308, Chapter 182).

Option of institution as to appropriations

Sec. 22. The institution covered by this Act shall have an option to set aside available appropriations, depending on the availability of such

appropriations, as approved by the Legislature. Under no circumstances shall the institution be obligated to execute this Act should it jeopardize its existing financial operations.

Partial invalidity

Sec. 23. If any section, sentence, clause or part of this Act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each sentence, clause and part thereof despite the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional. Acts 1957, 55th Leg., p. 536, ch. 252.

Effective 90 days after May 23, 1957, date of adjournment.

Section 24 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict.

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TEXAS RULES OF CIVIL PROCEDURE

PART II

RULES OF PRACTICE IN DISTRICT AND COUNTY COURTS

SECTION 1. GENERAL RULES

Rule

21b. Notice by Certified Mail.

SECTION 9. EVIDENCE AND DEPOSITIONS

A. EVIDENCE

177a. Subpoena for Production of Documentary Evidence.

Rule

182a. Court Shall Instruct Jury Effect of Article 3716.

B. DEPOSITIONS

186a. Scope of Examination.

186b. Orders for Protection of Parties and Deponents.

215a. Refusal to Answer Questions or Interrogatories; Consequences.

SECTION 1. GENERAL RULES

Rule 21b. Notice by Certified Mail

Wherever these Rules provide for notice or service by registered mail, such notice or service may also be had by certified mail. Added by order of March 19, 1957, effective Sept. 1, 1957.

Note: New Rule.

SECTION 8. PRE-TRIAL PROCEDURE

Rule 167. Discovery and Production of Documents and Things for Inspection, Copying, or Photographing

Upon motion of any party showing good cause therefor and upon notice to all other parties, and subject to such limitations of the kind provided in Rule 186b as the court may impose, the court in which an action is pending may order any party to produce and permit the inspection and copying or photographing by or on behalf of the moving party, of any designated documents, papers (except written statements of witnesses), books, accounts, letters, photographs, objects or tangible things, not privileged, which constitute or contain evidence material to any matter involved in the action and which are in his possession, custody, or control; or order any party to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying or photographing the property or any designated object or operation thereon which may be material to any matter involved in the action. The order shall specify the time, place and manner of making the inspection, measurement or survey and taking the copies and photographs and may prescribe such terms and conditions as are just, provided that the rights herein granted shall not extend to the written communications passing between agents or representatives or the employees of either

party to the suit, or communications between any party and his agents, representatives, or their employees, where made subsequent to the occurrence or transaction upon which the suit is based, and made in connection with the prosecution, investigation or defense of such claim or the circumstances out of which same has arisen. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Federal Rule 34.

Change: The provision of the Federal Rule regarding land surveying is omitted. The proviso is added to limit the scope of the discovery authorized.

Change by amendment effective September 1, 1957: Provision is added authorizing entry on land of party for inspecting, surveying, etc.

SECTION 9. EVIDENCE AND DEPOSITIONS

A. EVIDENCE

Rule 176. Witnesses Subpoenaed

The Clerk of the district or county court, or justice of the peace, as the case may be, at the request of any party to a suit pending in his court, or of any agent or attorney, shall issue a subpoena for any witness or witnesses, male or female, who may be represented to reside within one hundred miles of the courthouse of the county in which the suit is pending or who may be found within such distance at the time of trial; provided that any clerk, justice of the peace or other officer issuing a subpoena pursuant to the provisions of this Rule, or of any other Rule or statute, shall issue a separate subpoena, together with a copy thereof, for each witness subpoenaed. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Acts 1939, 46th Leg., p. 323, Sec. 1, amending Art. 3704.

Change by amendment effective September 1, 1957: Witnesses residing within

one hundred miles of courthouse made subject to subpoena; officer required to issue separate subpoena for each witness.

Rule 177. Form of Subpoena

The style of the subpoena shall be "The State of Texas." It shall state the style of the suit, the court in which the same is pending, the time and place at which the witness is required to appear, and the party at whose instance the witness is summoned. It shall be dated and tested by the clerk or justice, but need not be under the seal of the court, and the date of its issuance shall be noted thereon. It may be made returnable forthwith, or on any date for which trial of the cause may be set. It shall be addressed to any sheriff or constable of the State of Texas. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Acts 1939, 46th Leg., p. 323, Sec. 2, amending Art. 3705.

Change by amendment effective December 31, 1941: Instead of the words "names of the parties to" the words "style of" have been supplied; and the last sentence has been added.

Change by amendment effective September 1, 1957: Subpoena directed to any sheriff or constable of the State of Texas instead of to sheriff or any constable of county in which suit is pending.

Rule 177a. Subpoena for Production of Documentary Evidence

A subpoena may also command the person to whom it is directed to produce the books, papers, documents or tangible things designated therein; but the court, on motion made seasonably and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable and oppressive or (2)

condition denial of the motion to quash or modify upon the advancement by the person in whose behalf the subpoena is issued, of the reasonable costs of producing the books, papers, documents or tangible things. Added by order of March 19, 1957, effective Sept. 1, 1957.

Note: New Rule.

Source: Federal Rule 45(b).

Rule 178. Service of Subpoenas

Subpoenas may be executed and returned at any time, and shall be served by delivering a copy of such subpoena to the witness; and service thereof may be accepted by any witness by a written memorandum, signed by such witness, attached to the subpoena. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Acts 1939, 46th Leg., p. 323, Sec. 3, amending Art. 3706.

Change by amendment effective September 1, 1957: Subpoena served by delivering copy instead of reading to witness.

Rule 182a. Court Shall Instruct Jury Effect of Article 3716

Subject to appellate review for an abuse of discretion, the trial court shall in a proper case, where Article 3716 prohibits an interested party or witness from testifying, instruct the jury that such person is not permitted by the law to give evidence relating to any transaction or conversation with, or statement by, a deceased person, unless he is called to testify thereto by the opposite party. Added by order of March 19, 1957, effective Sept. 1, 1957.

Note: New Rule.

B. DEPOSITIONS

Rule 186. Depositions of Witnesses

Depositions of witnesses may be taken when the party desires to perpetuate the testimony of a witness, and, in all civil suits heretofore or hereafter brought in this State, whether the witness resides in the county where the suit is brought or out of it; provided, the failure to obtain the deposition of any witness, male or female, residing within 100 miles of the courthouse of the county in which the suit is pending shall not be regarded as want of diligence where diligence has been used to secure the personal attendance of such witness by the service of subpoena or attachment, under the rules of law, unless by reason of age, infirmity or sickness, or official duty, the witness will be unable to attend the court, or unless such witness is about to leave, or has left the State or county in which the suit is pending and will not probably be present at the trial. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Acts 1939, 46th Leg., p. 323, Sec. 7, amending R.C.S. Art. 3738, unchanged.

Change by amendment effective September 1, 1957: language "residing in the county in which the suit is pending" has

been changed to "residing within 100 miles of the courthouse of the county in which the suit is pending" to conform to the change in Rule 176.

Rule 186a. Scope of Examination

Any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for the purpose of discovery or for use as evidence in the action or for both purposes. Unless otherwise ordered by the court as provided by Rule 186b the deponent may be examined regarding any matter, not privileged, which is relevant to the subject involved in the pending action, whether it relates to the claim or defense of the examining party or to the claim or

defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. It is not ground for objection that the testimony will not be admissible at the trial of the cause in which the deposition is taken if the testimony sought appears reasonably calculated to relate to the discovery of admissible evidence at such trial. Provided, however, that the rights herein granted shall not require the production of written statements of witnesses or extend to communications passing between agents or representatives or the employees of either party to the suit, or communications between any party and his agents, representatives, or their employees, where made subsequent to the occurrence or transaction upon which the suit is based, and made in connection with the prosecution, investigation, or defense of such claim, or the circumstance out of which same has arisen; and provided further, that the rights herein granted shall not require disclosure of information obtained in the course of an investigation of a claim or defense by a person employed to make such investigation. Added by order of March 19, 1957, effective Sept. 1, 1957.

Note: New Rule.

Source: Federal Rules 26(a) and 26(b).

Rule 186b. Orders for Protection of Parties and Deponents

After notice is served for taking a deposition on written interrogatories or by oral examination, upon motion seasonably made by any party or by the person to be examined and upon notice and for good cause shown, the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only before the court or at some designated place other than that stated in the notice or subpoena, or that it may be taken only on written interrogatories, or that it may be taken only by oral examination, or that certain matters shall not be inquired into, or that the examination shall be held with no one present except the witness and his counsel and the parties to the action and their officers and counsel, or that the deposition shall not be taken by or before the officer having the commission, or that after being sealed the deposition shall be opened only by order of the court, or that secret processes, developments or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice requires to protect the party or witness from undue annoyance, embarrassment, oppression, or expense. Added by order of March 19, 1957, effective Sept. 1, 1957.

Note: New Rule.

Source: Federal Rule 30(b).

Rule 187. Deposition to Perpetuate Testimony

When any person may anticipate the institution of a suit in which he may be interested, and may desire to perpetuate the testimony of a witness to be used in such suit, he, his agent or attorney, may file a written statement in the proper court of the county where such suit could be instituted, representing the fact and the names and residences, if known, of the persons supposed to be interested adversely to said person; a copy of which statement and writ shall be served on the persons interested adversely. Where such person, his agent or attorney, shall at the time of filing such statement make affidavit that the names and residences of the heirs, successors or legal representatives of any deceased person are unknown to the affiant, or reside beyond the jurisdiction of the State, the

clerk of the court or justice shall issue a like writ, which shall be served on such unknown or nonresident persons by publication in some newspaper in the mode and manner provided by law for the service of original citation upon nonresidents or unknown parties; after which the depositions of such witnesses may be taken and returned by the parties making the said statement in the form and under the rules prescribed for taking testimony by deposition; and such testimony may be used in any suit which may be thereafter instituted by or between any of the parties to the statement, or those claiming under them, in like manner as if such depositions had been taken after the institution of such suit.

An application or petition for the probate of a will, or an anticipated application or petition for the probate of a will, shall be considered as a suit within the meaning and purport of this Rule; and, whenever any person in this State shall desire to perpetuate testimony for use in an anticipated application for the probate of a will, the writ, accompanied by a copy of the aforesaid statement may be served by posting as prescribed by Section 33(f) (2) of the Texas Probate Code, such writ to be directed to all parties interested in the estate of the testator and to comply with the requirements of Section 33(c) of said code in so far as they may be applicable. When such suit has been instituted, all such depositions so taken and returned shall be subject to the like exceptions as other depositions. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: R.C.S. Art. 3742. to require notice to conform to applicable provisions of Probate Code instead of old statutes.
Change by amendment effective September 1, 1957: Last two sentences reworded

Rule 194. Requisites of Commission

The style of the commission shall be: "The State of Texas". It shall be dated and attested as other process; and be addressed to the several officers authorized to take depositions as set forth in Article 3746 of the Revised Civil Statutes of Texas, 1925, as amended, and Article 2324a, Vernon's Annotated Texas Statutes, wheresoever the witness may be found, either of whom may execute and return the same within their respective jurisdictions. It shall authorize and require them, or either of them, to summon the witness before him forthwith, and to take his answers under oath to the direct and cross interrogatories, if any, a copy of which shall be attached to such commission, and to return without delay the commission and interrogatories and the answers of the witness thereto to the clerk or justice of the proper court, giving his official title and postoffice address. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Art. 3745. Change by amendment effective September 1, 1957: Reference to Art. 2324a inserted.
Change by amendment effective February 1, 1946: The last part of second sentence commencing "as amended" and ending "jurisdictions", has been added.

Rule 195. Subpoena for Witness

This rule is repealed by order of the Supreme Court of March 19, 1957, effective September 1, 1957.

Rule 202. Subpoena for Taking Depositions

The officer authorized to take any deposition, written or oral, and to whom the commission is delivered shall immediately issue and cause to be served upon the witness a subpoena directing him to appear before said officer at the time and place named in the commission for the purpose of giving his deposition; provided that where the witness is a party to the suit, with an attorney of record, service of the subpoena in such case may

be made upon the attorney representing the witness. In a proper case a subpoena may be issued by said officer to the person to whom it is directed to produce at such time and place, designated books, papers, documents and tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by Rule 186a, but in that event the subpoena will be subject to the provisions of Rules 177a and 186b. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Art. 3755 and Federal Rule 45(d) (1).

Change by amendment effective December 31, 1947: The previous Rule has been completely redrafted and its meaning has been materially altered.

Change by amendment effective March 1, 1950: The words "in the county of the residence of the witness" and the proviso in the second sentence have been added.

Change by amendment effective September 1, 1957: First sentence of old Rule has been transferred to Rule 203; provision authorizing penalty for failure of party to appear has been transferred to Rule 215a; provision added authorizing issuance of subpoena duces tecum.

Rule 203. Request for Issuance of Commission: Requisites

Upon the application of any party to a suit who desires to take the oral deposition of a witness, the clerk of the court in which the cause is pending shall immediately issue a commission to take the deposition fixing the time and place for the taking of the testimony as set out in the application. The place of taking such deposition shall be in the county of the witness's residence, or where he is employed or regularly transacts business in person, or at such other convenient place as may be directed by the court in which the suit is pending. A nonresident or transient person may be required to attend in the county where he is served with a subpoena, or within one hundred miles from the place of service, or at such other convenient place as such court may direct. Such commission shall be styled, addressed, dated and tested as provided for in case of written interrogatories, and shall authorize and require the officer or officers to whom the same is addressed, or either of them, to examine said witness before him on the date named in the notice and commission and to take his answers under oath to such questions as may be propounded to him by the respective parties or their attorneys to the suit or proceeding. Such Commission shall require such witness to remain in attendance from day to day until such deposition is begun and completed. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Arts. 3755 and 3756 and Federal Rule 45(d) (2).

Change by amendment effective September 1, 1957: First sentence of old Rule

202 added, provisions specifying places for taking of depositions added.

Rule 212. Objections to Depositions

When a deposition shall have been filed in the court at least one entire day before the day on which the case is called for trial, no objection to the form thereof, or to the manner of taking the same, shall be heard, unless such objections are in writing and notice thereof is given to the opposite counsel before the trial commences. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Art. 3765.

Change by amendment effective September 1, 1957: Provision requiring making and determination of objections at first

term of court after filing of deposition deleted.

Rule 215a. Refusal to Answer Questions or Interrogatories; Consequences

(a) **Refusal to Answer.** If a party or other deponent refuses to answer any question propounded upon oral examination or written interrogatories, the examination shall be completed on other matters. Thereafter, on reasonable notice to all persons affected thereby, either party may apply to the court in which the action is pending or to the district court in the district where the deposition is taken for an order compelling an answer, or for an order requiring the remainder of the deposition to be taken before the judge of such court. If the motion is granted and if the court finds that the refusal was without substantial justification the court may require the refusing party or deponent to pay to the examining party the amount of the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees. If the motion is denied and if the court finds that the motion was made without substantial justification, the court may require the examining party to pay to the refusing party or witness the amount of the reasonable expenses incurred in opposing the motion, including reasonable attorney's fees.

(b) **Failure to Comply with Order.** If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the court in which the action is pending or by the district court in the district in which the deposition is being taken, the refusal may be considered a contempt of that court. Or the court in which the action is pending may make such orders in regard to the refusal as are just, and among others, those permitted by Rule 170.

(c) **Failure of Party or Witness to Attend.** If a party or an officer or managing agent of a party, except for good cause shown, fails to appear before the officer who is to take his oral deposition or his answers to written interrogatories or cross-interrogatories under these rules, after proper service of subpoena, the court in which the action is pending on motion and notice may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or direct that such party shall not be permitted to present his grounds for relief or his defense, or enter a judgment by default against that party, or make such other order with respect thereto as may be just.

Any witness who, except for good cause shown, fails to appear before the officer who is to take his oral deposition or answers to written interrogatories or cross-interrogatories under these rules, after proper service of subpoena, may be punished as for contempt of the court in which the action is pending or of the district court in the district in which such deposition or answers are to be taken, and an attachment may issue out of such court for such witness, as in ordinary civil cases. Added by order of March 19, 1957, effective Sept. 1, 1957.

Note: New Rule.

Source: Rule 202 and Federal Rule 37(d).

SECTION 11. TRIAL OF CAUSES**G. FINDINGS BY COURT****Rule 296. Conclusions of Fact and Law**

Upon a trial by the court, the judge shall, at the request of either party, which request shall be filed within ten days from rendition of final judgment or order overruling motion for new trial, state in writing the conclusions of fact found by him separately from the conclusions of law.

Notice of the filing of the request shall be served on the opposite party as provided in Rules 21a or 21b. Such findings of fact and conclusions of law shall be filed with the clerk and shall be a part of the record. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Art. 2208.

Change by amendment effective September 1, 1957: Provisions added limiting time in which to request conclusions of fact and law and requiring notice to opposite party of filing of request.

Rule 298. Additional or Amended Findings

After the judge so files original findings of fact and conclusions of law, either party may, within five days, request of him specified further, additional, or amended findings; and the judge shall, within five days after such request, and not later, prepare and file such further, other or amended findings and conclusions as may be proper, whereupon they shall be considered as filed in due time. Notice of the filing of the request provided for herein shall be served on the opposite party as provided in Rule 21a or 21b. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Acts 1931, 42nd Leg., p. 118, ch. 76, appearing in Vernon's Statutes as Art. 2247a.

Change by amendment effective September 1, 1957: Provision added requiring that notice of request be given to opposite party.

J. NEW TRIALS

Rule 324. Prerequisites of Appeal

In all cases tried in the county or district court, where parties desire to appeal from a judgment of the trial court, a motion for new trial shall be filed as a prerequisite to appeal; provided that it shall not be so prerequisite where a peremptory instruction is given, a case is withdrawn from the jury and judgment is rendered by the court without a jury, a judgment is rendered, or denied, non obstante veredicto or notwithstanding the finding of the jury on one or more special issues, or a motion for judgment on the verdict is made by the party who becomes appellant and is overruled; nor shall a motion for new trial be so required in a non-jury case, in a case coming within the proviso of Rule 329-a, or in a case where the appeal is based upon some error of the trial court arising after its action upon the motion for new trial. But motion for new trial shall be a necessary prerequisite to consideration of the complaints mentioned in Rule 325. When judgment is rendered non obstante veredicto or notwithstanding the finding of the jury on one or more special issues, the appellee may bring forward by cross-point contained in his brief filed in the Court of Civil Appeals any ground which would have vitiated the verdict or would have prevented an affirmance of the judgment had one been entered by the trial court in harmony with the verdict, including although not limited to the ground that one or more of a jury's findings have insufficient support in the evidence or are against the overwhelming preponderance of the evidence as a matter of fact, and the ground that the verdict and judgment based thereon should be set aside because of improper argument of counsel. In the event appellee assigns error by cross-point based upon an alleged improper argument of counsel, he shall support the same by proper bill of exceptions. The failure to bring forward by cross-points such grounds as would vitiate the verdict shall be deemed a waiver thereof, save and except such grounds as require the taking of evidence in addition to that adduced upon the trial of the cause. A motion for new trial

shall not be necessary in behalf of appellee where he does not complain of the judgment or a part thereof. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Texas Rule 71a (for District and County Courts).

Change: Reference to fundamental error as an exceptional situation not requiring motion for new trial eliminated. Addition of last sentence commencing "Provided, however."

Change by amendment of March 31, 1941: The second paragraph above has been added.

Change by amendment effective December 31, 1941: In the first paragraph the concluding wording beginning "by cross assignments of error" has been omitted, and the sentence beginning "A motion for new trial" has been added. Also, in the last paragraph as appearing in the amendment of March 31, 1941, after the words

"instructed verdict" the following wording has been interpolated "or in withdrawing the case from the jury and rendering judgment."

Change by amendment effective January 1, 1955: The Rule has been largely rewritten and re-arranged.

Change by amendment effective September 1, 1957: Provisions of Rule dealing with cross-points of error of appellee when judgment has been rendered non obstante veredicto have been expanded to require cross-points, as to any matter, not requiring the taking of evidence, which would vitiate the verdict. The amendment is intended to modify the holding in *De Winne v. Allen*, 154 Tex. 316, 277 S.W. 2d 95, 99.

Rule 329a. County Court Cases

Motion for new trial when required in any case tried in a County Court shall be made within ten (10) days after the rendition of judgment if the term of court shall continue so long, if not, then before the end of the term, and may be amended under leave of the court. Such motions for new trial, original or amended, shall be determined at the term of the court, at which made. Provided, however, that if there is not remaining in the term five full days' time from the rendition of the judgment to the adjournment of the court for the term in which the judgment is rendered, the filing of a motion for new trial shall never be a prerequisite to an appeal in a case tried in a county court. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Note: New Rule.

Change by amendment effective September 1, 1957: Time for filing motion changed from two (2) days to ten (10) days.

PART III

RULES OF PROCEDURE FOR THE COURTS OF CIVIL APPEALS

SECTION 1. PERFECTING APPEAL

Rule 354. Cost Bond

The appellant shall execute a bond to be approved by the Clerk, payable to the appellee in a sum at least double the probable amount of the costs of the Court below to be fixed by the Clerk, less such sums as may have been paid to the Clerk by appellant on the costs, conditioned that appellant shall prosecute his appeal or writ of error with effect, and shall pay all the costs which have accrued in the court below. Each surety on the bond shall give his post office address. Appellant may make the bond payable to the Clerk instead of the appellee, and same shall inure to the use and benefit of the appellee and the officers of the Court, and shall have the same force and effect as if it were payable to the appellee; or in lieu of a bond, appellant may deposit with the Clerk cash equal to the estimated

costs in the court below, less such sums as have been paid to the Clerk by appellant on the costs, and in that event the Clerk shall file among the papers his certificate showing that the deposit has been made and copy same in the transcript, and this shall have the force and effect of an appeal bond. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Art. 2265, with minor textural change.

Change by amendment effective December 31, 1941: After the words "to be fixed

by the clerk" the following words have been interpolated: "less such sums as may have been paid to such clerk by appellant on such costs."

Rule 356. Time for Filing Cost Bond or Making Deposit

(a) Whenever a bond for costs on appeal is required, the bond shall be filed with the Clerk within thirty days after rendition of judgment or order overruling motion for new trial. If a deposit of cash is made in lieu of bond the same shall be made within the same period.

(b) The affidavit in lieu of bond shall be filed not more than twenty days after the date of rendition of such judgment or order. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Arts. 2253, 2258.

Change: The time for filing cost bond on appeal is made uniform in all cases and in all courts.

Change by amendment of March 31, 1941: The following wording of subdivision (a) of the original rule has been eliminated: "but the trial judge may, for good cause shown, extend such time for not exceeding thirty days additional."

Change by amendment effective February 1, 1946: The words, "rendition of," have been added immediately after the words, "date of," in subdivision (a), and the words, "the date of rendition of," immediately after the words, "twenty days after," in subdivision (b).

Change by amendment effective September 1, 1957: Last sentence of paragraph (a) added.

SECTION 3. PROCEEDINGS IN THE COURTS OF CIVIL APPEALS

Rule 388a. Deposit for Costs in Court of Civil Appeals

When the record in an appeal or writ of error is filed with the clerk of the Court of Civil Appeals from within its Supreme Judicial District, the appellant shall deposit with the clerk the sum of \$25.00 as costs in the Court of Civil Appeals. In all proceedings for writs of mandamus, prohibition, injunction, and other like proceedings originating in the Court of Civil Appeals, the petitioner, upon the filing of the motion for leave to file, shall deposit with the clerk the sum of \$10.00 as costs, and if the leave to file is granted, he shall deposit the additional sum of \$15.00 to cover the costs in the Court of Civil Appeals. In a proceeding for an extension of time for filing a record on appeal or writ of error, or to direct the clerk to file a record on appeal or writ of error, the movant, upon the filing of the motion, shall deposit with the clerk the sum of \$5.00 as costs, and if the extension of time is granted, or the record is ordered filed, and the record is subsequently filed pursuant to such order, the appellant shall deposit with the clerk the additional sum of \$20.00 to cover the costs in the Court of Civil Appeals, and no further deposit for costs in the Court of Civil Appeals will be required. No deposit will be required on a second or subsequent motion to file or to extend the time for filing a record.

Upon motion for affirmance by certificate under Rule 387, the appellee shall deposit the sum of \$10.00 upon the filing of the certificate and motion to affirm thereon, and such deposit shall cover all costs in the Court of Civil Appeals by reason of such proceeding. Upon the filing of other motions or proceedings not specifically enumerated herein, when no record is filed with the clerk, the party filing such motion or proceeding shall de-

posit the sum of \$10.00 with the clerk, which deposit shall cover all costs in such proceeding.

The court may dismiss a proceeding for failure to make proper deposit for costs; provided, however, that no such deposit shall be required of any party who, under these rules or the statutes, is not required to give security for costs. If any party is unable to pay the costs as above required, he may make affidavit of his inability to do so and deliver it to the clerk of the Court of Civil Appeals simultaneously with the tender of the record, petition, or motion. Contest of such affidavit in the Court of Civil Appeals shall be governed by the provisions of Rule 355. If the appellant has filed in the trial court an affidavit of inability to pay costs as required by Rule 355, then he shall be entitled to file the record in the Court of Civil Appeals without making an additional affidavit in that court. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Note: New Rule, effective March 1, 1950, pursuant to Acts 1949, 51st Leg., ch. 86, amending Art. 3924 so as to provide for fixed deposits to cover all costs in the Court of Civil Appeals.

Change by amendment effective September 1, 1957: Last sentence of second paragraph added.

SECTION 5. OPINIONS

Rule 456. Copy of Opinion to Attorneys, etc.

It shall be the duty of the Clerk of each of the Courts of Civil Appeals and the Clerk of the Supreme Court, within three days after rendition of a decision by such court, to mail or deliver to the Clerk of the trial court, to the trial judge who tried the case, and to one of the attorneys for the plaintiffs and one of the attorneys for the defendants a copy of the opinion rendered by such appellate court. The copy received by the Clerk of the trial court shall be by him filed among the papers of the cause in such court. Where there is more than one attorney on each side, the attorneys may designate in advance the one to whom the copy shall be mailed. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Acts 1929, 41st Leg., p. 233, ch. 98, sec. 2, appearing in Vernon's Statutes as Art. 1836b.

Change: Omission of reference to Court of Criminal Appeals.

Change by amendment effective December 31, 1941: Rule 457, which sourced in Acts 1930, 41st Leg., 4th C.S. p. 86, ch. 45, appearing in Vernon's Statutes as Art. 1836c, has been repealed, but in substance has been combined with this rule; and the caption has been amended to read "Copy of Opinion to Attorneys"; and the rule has been materially redrafted, it being provided that the copies of opinions of both appellate courts shall be sent to attorneys.

Change by amendment effective December 31, 1943: "Etc." added to caption, and wording interpolated in the body of the rule which makes delivery of copy of opinion permissible and which requires a copy to go to and be filed by the trial clerk.

Change by amendment effective March 1, 1950: Provision for charging a fee of \$1.00 to be taxed as costs, for each copy of the opinion furnished to the attorneys has been eliminated. See Rule 388a.

Change by amendment effective September 1, 1957: Provision added requiring mailing of copy of opinion to trial judge.

SECTION 8. APPLICATION FOR WRIT OF ERROR

Rule 471. Service on Respondent

When an application for a writ of error from a Court of Civil Appeals to the Supreme Court is filed in the Court of Civil Appeals, the petitioner shall, at the same time, cause to be delivered to an attorney of record of respondent or else to be deposited with the Clerk of said Court of Civil

Appeals a true copy of the application, notifying the attorney of record of the respondent of the deposit of said copy. In the latter case, on request of the respondent or his attorney the Clerk shall deliver the copy of the application to the respondent or his attorney. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Arts. 1744, 1881, 1882, and Rule 3 (for Supreme Court).

Change: Omission of provision for final disposition of the case as if the application had been granted, when respondent fails to answer.

Change by amendment effective December 31, 1943: Delivery allowed alternatively to filing. It is made clear that the respondent has ten days after the filing of the record in the Supreme Court, and not ten days from the filing of the record

in the Court of Civil Appeals, in which to file his answer. The Supreme Court is authorized to proceed to consider the application as soon as the answer is filed. The last sentence gives the court authority to shorten the period of delay where necessary. The caption is made clearer.

Change by amendment effective September 1, 1957: Provision of Rule dealing with answer to application for writ of error transferred to Rule 480.

PART IV

RULES OF PRACTICE FOR THE SUPREME COURT

SECTION 1. PROCEEDINGS IN THE SUPREME COURT

Rule 480. Filing Docketing Application: Answer

The Clerk of the Supreme Court shall receive all applications for writ of error, shall file the petition and accompanying record from the Court of Civil Appeals and enter the same upon the docket, but he shall not be required to receive same from the post office or express office unless the postage or express charges shall have been paid. The Clerk shall notify the attorneys of record by post card or letter of the filing and docketing of applications for writs of error in the Supreme Court, and respondent shall have fifteen days after the filing thereof, unless additional time is allowed, within which to file answer. When an answer is filed or the time for filing same has expired, the application shall be deemed submitted to the court and ready for disposition. The court may dispense with notice and may grant the writ immediately upon the filing of the application where, in its opinion, the circumstances require it. As amended by order of March 19, 1957, effective Sept. 1, 1957.

Source: Rule 2 (for the Supreme Court) with minor textual change.

Change by amendment effective February 1, 1946: The last sentence of the former Rule has been eliminated.

Change by amendment effective September 1, 1957: Provision of the Rule dealing with answer to application for writ of error has been transferred from Rule 471. Time for filing answer changed from ten to fifteen days.

THE PENAL CODE

TITLE 1—GENERAL PROVISIONS

CHAPTER THREE—PERSONS PUNISHABLE, AND THE CIRCUMSTANCES WHICH EXCUSE, EXTENUATE, OR AGGRAVATE AN OFFENSE

Art. 34. 39 Insanity

No act done in a state of insanity can be punished as an offense. No person who becomes insane after he committed an offense shall be tried for the same while in such condition. No person who becomes insane after he is found guilty shall be punished while in such condition; however the time he is confined in a State mental hospital for treatment may be considered time served and may be credited to the term of his sentence. As amended Acts 1957, 55th Leg., p. 1413, ch. 486, § 19.

Effective Jan. 1, 1958.

TITLE 5—OFFENSES AFFECTING THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENT OF THE GOVERNMENT

CHAPTER ONE—BRIBERY

Art. 158. 174, 125 Bribery of certain officers

Whoever shall bribe or offer to bribe any executive, legislative or judicial officer after his election or appointment, and either before or after he shall have qualified or entered upon the duties of his office, or any person employed by or acting for or on behalf of the State of Texas, any board, commission, agency or department thereof, any county, school district, city or town, or any political subdivision or municipal corporation whatsoever, with intent to influence his act, vote, decision, judgment or recommendation on any matter, question, cause, contract or proceeding which may be then pending, or which may thereafter be brought or come before such person in his official capacity, or in his place, agency or position of employment, or do any other act or omit to do any other act in violation of his duty as an officer, or as such employee or agent, shall be guilty of bribery and shall be confined in the penitentiary not less than two nor more than five years, or be confined in jail for not less than one month nor more than two years, or be fined not less than Five Hundred Dollars nor more than Five Thousand Dollars, or by both such fine and imprisonment. As amended Acts 1957, 55th Leg., p. 1241, ch. 411, § 1.

Effective 90 days after May 23, 1957, date of adjournment. penalty incurred before the effective date of this Act shall be affected by this Act,

Section 3 of the amendatory Act of 1957 provided that no offense committed, no case or proceeding pending and no fine or at the effective date of this Act, but the

punishment and prosecution for such act or offense shall take place as if the law or laws in conflict herewith had remained in full force and effect. Section 4 provided that, if any clause, phrase, sentence, paragraph, section or provision of this Act, or

the application thereof to any particular person or thing, is held to be invalid, such invalidity shall not affect the remainder of this Act or the application thereof to any other person or thing.

Art. 159. 175, 126 Officers accepting bribe

Any legislative, executive or judicial officer, or any employee or agent, or person holding a position of honor, trust or profit with, or any person acting for or on behalf of, the State of Texas, any board, commission, agency or department thereof, any county, school district, city or town, or any political subdivision or municipal corporation whatsoever, who shall accept a bribe, or agree or consent to accept a bribe under an agreement or with an understanding that his act, vote, recommendation, opinion or judgment shall be done, influenced or given in any particular manner or upon a particular side of any question, matter, contract, cause or proceeding which is or may thereafter be pending, or which may be brought or come before him in his official capacity, or in his place, agency or position of employment, or in his position of honor, trust or profit, or that he shall make any particular nomination or appointment, or shall do any other act, or omit to do any act, in violation of his duty as an officer, or his position, agency or employment shall be guilty of bribery and shall be punished as is provided in Section 1 of this Act; or any such person who shall ask, solicit or offer to accept a bribe with the intent or for the purpose of influencing his act, decision, vote, opinion or recommendation, on any question, matter, nomination, cause, proceeding or contract which may at any time be pending, or which may be brought or come before him in his official capacity, or in his employment, agency or place or position of honor, trust or profit shall be guilty of bribery and shall be confined in the penitentiary not less than two nor more than ten years, or be confined in jail for not less than one month nor more than two years, or be fined not less than Five Hundred Dollars nor more than Five Thousand Dollars, or by both such fine and imprisonment. As amended Acts 1957, 55th Leg., p. 1241, ch. 411, § 2.

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

finer or penalties incurred prior to effective date of act, see note under art. 158.

Effect of amendatory Act of 1957 upon pending cases or proceedings and upon

CHAPTER TWO—LOBBYING

Art.
183—1. Representation before the Legislature; registration; prohibited acts; violations; penalties [New].

Art.
183—2. Representation before state agencies; registration; violations [New].

Arts. 179—183. Repealed. Acts 1957, 55th Leg., 1st C.S., p. 17, ch. 9, § 16. Eff. Jan. 1, 1959

Art. 183—1. Representation before the Legislature; registration; prohibited acts; violations; penalties

Short Title

Section 1. This Act shall be known as the Representation Before the Legislature Act.

Definitions

Sec. 2. As used in this Act, unless the context otherwise requires:

(a) The term "person" means any individual, firm, partnership, committee, association, corporation, or any other organization or group of persons, except that "personal" in Section 2(e) and "persons" required to register in Section 3 refer only to natural persons.

(b) The term "expenditure" means a payment, distribution, loan, advance, reimbursement, deposit, or gift of money or any thing of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(c) The term "legislation" means bills, resolutions, amendments, nominations, and other matters pending in either House of the Legislature, or any other matter which may be the subject of action by either House, including the consideration, passage, defeat, approval or veto of same.

(d) The term "compensation" means any money, service, facility, thing of value or financial benefit received or to be received in return for or in connection with services rendered or to be rendered.

(e) The term "direct communication" means any personal appearance before a legislative committee, or any personal contact with any member of the Legislature, the Governor or Lieutenant Governor, during a session of the Legislature, to argue for or against pending legislation, or any action thereon by the Legislature, the Governor, or the Lieutenant Governor.

Persons Required to Register

Sec. 3. The following persons shall register with the Chief Clerk of the House of Representatives as provided herein:

(a) Any person who, for compensation, undertakes by direct communication to promote or oppose the passage of any legislation by the Legislature or the approval or veto thereof by the Governor.

(b) Any person who, without compensation but acting for the benefit of another person, undertakes by direct communication to promote or oppose the passage of any legislation by the Legislature or the approval or veto thereof by the Governor.

(c) Any person who, acting on his own behalf and without compensation, makes an expenditure, or expenditures, totaling in excess of Fifty Dollars (\$50.00) during a session of the Legislature for direct communication as defined in Section 2(e) above.

Persons not Required to Register

Sec. 4. Section 3 of this Act is not intended and shall not be construed to apply to the following:

(a) Persons performing professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending legislation where such professional services are not otherwise, directly or indirectly, connected with legislative action.

(b) Persons who own, publish, or are employed by a newspaper or other regularly published periodical, or who own or are employed by a radio station, television station, wire service or other bona fide news medium which in the ordinary course of business disseminates news, letters to the editor, editorial or other comment, or paid advertisements which directly or indirectly urge the passage or defeat of legislation, if

such persons engage in no further or other activities and represent no other person in connection with passage or defeat of such legislation.

(c) Persons who represent bona fide churches solely for the purpose of protecting the right of their own members to practice the doctrines of such churches.

(d) Persons appearing before a legislative committee at the invitation or request of the committee and who engage in no further or other activities in connection with the passage or defeat of legislation.

(e) Any duly elected or appointed officials or employees of the state or of the United States of America or any duly elected or appointed officials or employees of any county, municipal corporation, a political subdivision or instrumentality of such municipal corporation, school district of the state, or district organized under Article 16, Section 59 and Article 3, Section 52 of the Constitution of Texas, when appearing only and solely on matters pertaining to their respective counties, municipal corporation, school districts, or districts organized under Article 16, Section 59 and Article 3, Section 52 of the Constitution of Texas, and when not appearing, or offering to appear, as representatives, in any manner, of any voluntary association or associations, or of any committee or committees of any voluntary association or associations, of elected or appointed officials or employees.

Contacting own legislators without registration

Sec. 4a. Nothing in this Act shall be construed to prevent persons from contacting their own Senators and Representatives without registration so long as they do not come within the provisions of Section 3 of this Act.

Information Required of Registrants

Sec. 5. Every person required to register under Section 3 shall, each and every year within five (5) days of the first undertaking requiring such person's registration hereunder, file in or mail to the office of the Chief Clerk of the House of Representatives a written statement, subscribed under oath before a notary public, containing the following information:

(a) The name, occupation and address of the registrant.

(b) The name, occupation and address of the person or persons employing or retaining registrant to perform such services, or for whom the registrant is acting, and

(c) A brief description of the legislation in which the registrant is interested.

Separate or supplemental reports shall be filed to cover any additional persons for whom the registrant is subsequently employed or retained, or for whom he may act, as well as any additional legislation in reference to which such undertaking is had.

Reports

Sec. 6. Each person so registering, or required to register hereunder, shall, between the first and fifteenth day of each calendar month, succeeding a month during any part of which the Legislature is in session, so long as his activity continues, file with the Chief Clerk of the House of Representatives, a signed, written report, under oath, giving the total expenditures made by him during the preceding month, or part thereof, for direct communication, as that term is defined herein in Section 2(e); provided, however, that expenditures of the registrant for his personal sustenance and office expense, clerical help, lodging and travel need not be included in such reports. Entertainment expense for direct communication as that term is defined herein in Section 2(e) shall be reported.

Failure to file any such report within the time designated herein or the intentional reporting of incomplete or incorrect information shall constitute a violation of this Act.

No report shall be required for any reporting period during which the registrant makes no expenditure for direct communication as defined in Section 2(e).

Campaign contributions need not be reported, other than as provided for under Chapter 14¹ of the Election Code of Texas, of 1951, and amendments thereto, and nothing contained in this Act shall be construed as repealing Chapter 14 of the Election Code of Texas of 1951 and amendments thereto.

¹ V.A.T.S. Election Code, art. 14.01 et seq.

Statement of date of termination of employment or retainment; filing

Sec. 7. Any person required to register hereunder shall within ten (10) days from the date of termination of his employment or retainment file under oath a statement setting forth the date of such termination with the Chief Clerk of the House of Representatives in the manner herein prescribed for filing.

Duties of the Chief Clerk of the House of Representatives

Sec. 8. It shall be the duty of the Chief Clerk of the House of Representatives to provide appropriate forms which may be used at the option of the registrant for the registration and reporting of information required by this Act and to keep such registrations and reports on file in his office for three (3) years from the date of filing, after which period of time the reports shall be destroyed. He shall also provide and maintain a register with appropriate blanks and indexes so that the information required in Section 5 and 6 of this Act may be accordingly entered. Such records shall be considered public information and shall be open to public inspection. The Clerk shall maintain a deputy available at the Capitol to receive registrations at all hours when the Legislature or any committee or subcommittee thereof is in session.

Public access to information

Sec. 8a. Members of the Legislature and the public shall have free access to all the information submitted in accordance with this Act.

Contingent Fees Prohibited

Sec. 9. No person shall retain or employ another to promote or oppose legislation for compensation contingent in whole or in part upon the passage or defeat of any legislation, or the approval or veto of any legislation by the Governor, and no person shall accept any such employment or render any such service for compensation contingent upon the passage or defeat of any legislation or the approval or veto of any legislation by the Governor.

Admission to Floors

Sec. 10. No person who is registered or required to be registered under the provisions of this Act and no person not authorized by law shall go upon the floor of either House of the Legislature, reserved for the members thereof, while such House is in session, except on invitation of such House.

Influencing Legislation Restricted

Sec. 11. No person shall in any manner seek to influence the vote of any member of the Legislature or the Lieutenant Governor or the

approval or veto of the Governor on any pending legislation other than by an appeal to reason.

Spurious Communications

Sec. 12. Whoever shall transmit, utter or publish to the Legislature or to any member or members of the Legislature, or any committee, officer or employee of either House of the Legislature, any communication relating to any matter within the jurisdiction of the Legislature, or be a party to the preparation thereof, knowing such communication or signature thereto is false, forged, counterfeit or fictitious shall be guilty of a misdemeanor and shall be punished as provided in Section 13 of this Act.

Penalties

Sec. 13. (a) Any person who wilfully and knowingly violates any of the provisions of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or imprisonment in the county jail for not more than two (2) years, or by both such fine and imprisonment.

(b) Any corporation which violates Section 9 of this Act shall, upon conviction thereof, be punished by a fine of not more than Five Thousand Dollars (\$5,000.00).

Venue

Sec. 14. Any violation of this Act may be prosecuted in the county where the offense is committed or in Travis County.

Provisions Cumulative

Sec. 15. This Act is cumulative of Title 5, Chapter One, Articles 158, 159, 160, 161, 162, 177, and 178 of the Penal Code of Texas, and shall not be construed as repealing any provision thereof.

Repealing Clause

Sec. 16. Articles 179 to 183, inclusive, of Title 5, Chapter Two, of the Penal Code of Texas, are hereby repealed. Acts 1957, 55th Leg., 1st C. S., p. 17, ch. 9.

Effective Jan. 1, 1959.

Section 17 of the Act of 1957, 1st C.S., was the emergency clause and section 19 was a severability provision. Section 18 the effective date.

Art. 183—2. Representation before state agencies; registration; violations

Definitions

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

(a) "state agency" means any office, department, commission or board of the executive department of government;

(b) "person" means any individual including a member of the Legislature, legislative employee, state officer or state employee.

Registration

Sec. 2. Except as herein provided, every person appearing before a state agency or contacting in person any officer or employee thereof on behalf of any other person, firm, partnership, corporation or association in relation to any case, proceeding, application, or other matter before

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

such agency, shall register in an appropriate record, which shall be maintained by the agency for such purpose, the following information:

- (a) the name and address of the registrant;
- (b) the name and address of the person, firm, partnership, corporation, or association on whose behalf the appearance or contact is made;
- (c) a statement as to whether or not the registrant has received or expects to receive any money, thing of value or financial benefit in return for the services rendered in making the appearance or contact.

This Act shall not apply to officers or employees of a state agency when appearing before or contacting officers or employees of another state agency on official inter-agency matters.

Reporting and Filing of Registrations

Sec. 3. Each state agency shall file a report with the Secretary of State between the first and tenth of the month following the close of each calendar quarter. The report shall set forth the names of persons registering with the agency during the preceding quarter, together with the detailed information specified in Section 2 of this Act. Such reports, which shall be considered public records of this state and open to public inspection, shall be appropriately indexed and kept on file in the office of the Secretary of State for a period of four (4) years from the date of filing.

Persons not required to register

Sec. 3. A. No person shall be required to register if:

- (a) the contact with a state agency or its officers or employees is solely for the purpose of obtaining information, and no attempt is made to influence the action of any officer or employee of such agency;
- (b) the contact consists in participating in a public hearing, at which such person enters his appearance at such hearing;
- (c) the contact is made in connection with any matter where pleadings or instruments disclosing such person's representation is on file with the agency;
- (d) the contact is one for which such person receives no fee, payment, compensation or any thing of value.

Penalty

Sec. 4. Any person who fails to register as required by Section 2 of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding Five Hundred Dollars (\$500) or by imprisonment in the county jail not exceeding six (6) months, or by both such fine and imprisonment. Acts 1957, 55th Leg., 1st C. S., p. 30, ch. 12.

Effective 90 days after Nov. 12, 1957, date of adjournment.

Title of Act:

An Act requiring the registration of persons who represent others before State Agencies; defining certain terms; requiring all State Agencies to report cer-

tain information to the Secretary of State; requiring the Secretary of State to index and file reports made by State Agencies; containing certain exceptions; and providing penalties for the violation of this Act. Acts 1957, 55th Leg., 1st C.S., p. 30, ch. 12.

TITLE 7—RELIGION AND EDUCATION

CHAPTER THREE—TEACHERS AND SCHOOLS

Art. 288. Shall use English Language

Registration of organizations designed to interfere with operation of public schools, penalty for violation, see Vernon's Ann.Civ.St. art. 2906—3.

TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE

CHAPTER FOUR—ARREST AND CUSTODY OF PRISONERS

Art.

353c. Alcoholic beverages and narcotics; furnishing to prisoners; punishment [New].

Art. 353c. Alcoholic beverages and narcotics; furnishing to prisoners; punishment

Section 1. It shall be unlawful for any officer or employee of the Texas Prison System or for any other person to furnish, attempt to furnish, or assist in furnishing to any inmate of the Texas Prison System any alcoholic beverage, narcotic drug, barbiturate, or drug stimulant that would cause prisoners to behave abnormally, except from the prescription of a physician. It shall also be unlawful for any person to take, attempt to take, or assist in taking any of the aforementioned articles into the confines of property belonging to the Texas Prison System which is occupied or used by prisoners except for delivery to a prison warehouse or pharmacy or to a physician.

Sec. 2. As used in this Act, "alcoholic beverage" shall have the meaning defined in the Texas Liquor Control Act,¹ as heretofore or hereafter amended; "narcotic drug" shall have the meaning defined in the Texas Uniform Narcotic Drug Act, as heretofore or hereafter amended; and "barbiturate" shall have the meaning defined in Chapter 413, Acts of the 52nd Legislature, 1951,² as heretofore or hereafter amended.

Sec. 3. Any person who violates any provision of this Act shall be guilty of a felony and upon conviction shall be punished by confinement in the penitentiary for not less than two years nor more than fifteen years.

Sec. 4. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application; and to this end the provisions of this Act are declared to be severable. Acts 1957, 55th Leg., p. 33, ch. 21.

¹ Article 666—1 et seq.; Article 667—1 et seq.

² Article 726c.

Emergency. Effective March 11, 1957.

Title of Act:

An Act defining offenses in connection with the furnishing of alcoholic beverages, narcotic drugs, barbiturates, and other drug stimulants to inmates of the Texas Prison System and the taking of these

articles into the confines of Texas Prison System property, and prescribing a penalty for violation; providing for severability; and declaring an emergency. Acts 1957, 55th Leg., p. 33, ch. 21.

CHAPTER SEVEN—FAILURE OF DUTY

Art. 414b. Neglect of duty concerning budget

Violations of school budget and accounting acts, penalties, see, also, Vernon's Ann.Civ.St. arts. 689a—17a, 689a—19a.

Art. 427a. Repealed. Acts 1957, 55th Leg., p. 505, ch. 243, § 103. Eff. Jan. 1, 1958

TITLE 9—OFFENSES AGAINST THE PUBLIC PEACE

CHAPTER FOUR—UNLAWFULLY CARRYING ARMS

Art. 483. 475, 338, 318 Unlawfully carrying arms

Any person who shall carry on or about his person, saddle or in his saddlebags, or in his portfolio or purse any pistol, dirk, dagger, slung shot, blackjack, hand chain, night stick, pipe stick, sword cane, spear, knuckles made of any metal or any hard substance, bowie knife, switch blade knife, spring blade knife, throw blade knife, a knife with a blade over five and one half (5½) inches in length, or any other knife manufactured or sold for the purposes of offense or defense shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) or by confinement in jail for not less than one (1) month nor more than one (1) year. As amended Acts 1957, 55th Leg., p. 806, ch. 340, § 1.

Emergency. Effective May 31, 1957.

Art. 489c. Possession of firearms by persons convicted of felony involving use of firearm

Section 1. It shall be unlawful for any person who has been convicted of burglary or robbery, or of a felony involving an act of violence with a firearm under the laws of the United States or of the State of Texas, or of any other state, and who has served a term in the penitentiary for such conviction, to have in his possession away from the premises upon which he lives any pistol, revolver or any other firearm capable of being concealed upon the person. As amended Acts 1957, 55th Leg., p. 50, ch. 28, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory Act of 1957 was a severability provision.

TITLE 10—OFFENSES AGAINST MORALS, DECENCY AND CHASTITY

CHAPTER SEVEN—MISCELLANEOUS OFFENSES

Art. 527. 509 Immoral publications, motion pictures, penny arcade machine pictures, and indecent objects

Whoever shall within this State engage in the business of editing, publishing or disseminating any pamphlet, magazine, or any printed paper devoted mainly or purporting to be devoted mainly to the publications of whoring, lechery, assignations, intrigues between men and women or immoral conduct of persons, or of depraved acts showing violent brutality, or shall knowingly have in his possession for sale or shall keep for sale or distribute or in any way assist in the sale or shall give away such pamphlet, magazine or printed matter in this State; or whoever shall within this State engage in the showing and exhibition of lewd, lascivious, or depraved motion pictures, or of lewd, lascivious, or depraved pictures in penny arcade machines, or of indecent objects or images, or shall knowingly have in his possession for sale, or shall keep for sale or distribute or in any way assist in the sale or give away any such lewd, lascivious, or depraved pictures in penny arcade machines, or of indecent objects or

images, or shall knowingly have in his possession for sale, or shall keep for sale or distribute or in any way assist in the sale or give away any such lewd, lascivious, or depraved motion pictures, penny arcade pictures, or indecent objects or images; or whoever shall within this State engage in the business of editing, publishing, disseminating, printing, designing, manufacturing, or in any manner preparing any advertisement, notice, picture, placard, book cover, book jacket, magazine cover, frontispiece, illustration, figure, image, article or thing to be used in connection with the sale, distribution, advertisement, exhibition or display of any pamphlet, magazine, or placard, book cover, book jacket, magazine cover, frontispiece, illustration, figure, image, article or thing portrays nude or partly denuded female figures in compromising and obscene poses or which are in any manner lewd, lascivious, obscene, indecent, immoral, or depraved, or which represents or purports to represent to any prospective purchaser or reader that the contents, text or subject matter of such pamphlet, magazine or any printed paper or matter is devoted in whole or in part to the publication of whoring, lechery, assignations, intrigues between men and women, immoral conduct of persons, or of depraved acts showing violent brutality, or shall knowingly show, exhibit, or display any such advertisement, notice, picture, placard, book cover, book jacket, magazine cover, frontispiece, illustration, figure, image, article or thing in this State shall upon conviction be deemed guilty of a misdemeanor and be punished by confinement in the county jail for not more than six (6) months or be fined not more than One Thousand Dollars (\$1,000), or by both such fine and imprisonment. As amended Acts 1955, 54th Leg., p. 386, ch. 107, § 1; Acts 1957, 55th Leg., p. 425, ch. 203, § 1.

Emergency. Effective May 9, 1957.

Section 2 of the amendatory Act of 1957 laws to extent of conflict only. Section 3 repealed all conflicting laws and parts of was a severability clause.

TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND ECONOMY

CHAPTER ONE—BANKING

Art. 567b. Giving check, draft or order without sufficient funds

Payment of wages or salaries for personal services

Sec. 1a. It shall be unlawful for any person or persons to make, draw, utter or deliver, or to cause or direct the making, drawing, uttering, or delivering of any check, draft or order for the payment of money on any bank, person, firm or corporation, in payment of wages or salaries for personal services rendered, knowing that the maker, drawer or payor does not have sufficient funds in or on deposit with such bank, person, firm or corporation, for the payment in full of such check, draft or order, as well as all other then outstanding checks, drafts or orders upon such funds, and with no good reason to believe the check, draft, or order would be paid upon presentation to the person or bank upon which same was drawn. Acts 1939, 46th Leg., p. 246, § 1a, added Acts 1957, 55th Leg., p. 69, ch. 33, § 1.

Emergency. Effective March 21, 1957.

CHAPTER EIGHT—TEXAS LIQUOR CONTROL ACT

II. MALT LIQUORS

667—2a. Manufacture of beer in areas where sale prohibited by local option [New].

I. INTOXICATING LIQUORS

Art. 666—8. Importation

It shall be unlawful for military personnel stationed in Texas or any resident of the State of Texas to import into this state more than one (1) quart of liquor unless he is the holder of a permit as provided in Section 4(a) hereof. It shall further be unlawful for any non-resident of the State of Texas to import into this state more than one (1) gallon of liquor. In addition to the penalties set out in Section 41 of this Act,¹ any person violating any provision of this section shall forfeit the liquor so illegally imported to the Texas Liquor Control Board. It is further provided that any person importing any liquor into this state under the provisions of this section shall pay the state tax thereon as levied in Section 21, Article I, Texas Liquor Control Act,² and affix thereto the required State Tax Stamps. As amended Acts 1957, 55th Leg., p. 51, ch. 29, § 1.

¹ Article 666—41.

² Article 666—21.

Emergency. Effective March 20, 1957.
 Section 3 of the amendatory Act of 1957 repealed all conflicting laws.

Art. 666—15. Classification of permits

(13) Private Carrier Permit. Brewers, Distillers, Wineries, Rectifiers, Wholesalers, Class B Wholesalers, and Wine Bottlers Permittees shall

be entitled to transport liquor from the place of purchase of such permittees to their place of business and from the place of sale or distribution to the purchaser, upon vehicles owned or leased in good faith by such permittees when such transportation is for a lawful purpose; provided, however, that such permittees shall not be permitted to engage in the business of transporting for hire such liquor in violation of the motor carrier laws of this state, and any such permittee desiring to engage in such business for hire shall first secure a certificate or permit, as the case may be, from the Railroad Commission of Texas under the terms of the motor carrier laws, and shall be required to comply with the provisions of such laws. Motor vehicles used for such transportation shall be fully described in the application for a Private Carrier Permit and such application shall contain all information which shall be required by the Board. All vehicles used for such transportation within the state by such permittees shall have printed or painted on said vehicles such designation as may be required by the Board. It shall be unlawful for any such permittee above named to transport liquors in any vehicle not fully described in his application for a permit.

The annual state fee for a Private Carrier Permit shall be Five Dollars (\$5.00). As amended Acts 1957, 55th Leg., p. 92, ch. 45, § 1.

Emergency. Effective April 5, 1957.

Art. 666—23a. Transportation from wet area to wet area; importation of liquor for personal use; stamps; hotels authorized to hold package store permits; evidence

(4). It is provided that any military personnel stationed in Texas or any resident of the State of Texas may bring into this state not more than one (1) quart of liquor for his own personal use; and it is further provided that any non-resident of the State of Texas may bring into this state for his own personal use not more than one (1) gallon of liquor. In addition to the penalties set out in Section 41 of this Act,¹ any person violating any provision of this section shall forfeit the liquor so illegally imported to the Board. It is further provided that any person importing any liquor into this state under the provisions of this section shall pay the state tax thereon as levied in Section 21, Article I, Texas Liquor Control Act,² and affix thereto the required State Tax Stamps. It is further provided that no person under twenty-one (21) years of age or who is intoxicated or under the influence of an intoxicating beverage shall be allowed or permitted at any time to import or bring into the State of Texas any liquor in any amount whatsoever. As amended Acts 1957, 55th Leg., p. 51, ch. 29, § 2.

¹ Article 666—41.

² Article 666—21.

Emergency. Effective March 20, 1957.

II. MALT LIQUORS

Art. 667—2a. Manufacture of beer in areas where sale prohibited by local option

Regardless of any other provision of the Texas Liquor Control Act, no person who has theretofore been issued a Manufacturer's License shall subsequently be denied a Manufacturer's License or any renewal of a Manufacturer's License for the same location on the grounds that the sale of beer has been prohibited by local option election in the area in which said manufacturer is located; and any Manufacturer's License so previously held, or issued under this provision, shall authorize

its holder to do all things which a manufacturer is authorized to do under any other provision of the Texas Liquor Control Act including but not limited to manufacture, possession, storage, packaging, and transportation to areas wherein the sale of beer is legal. Acts 1935, 44th Leg., 2nd C.S., p. 1795, ch. 467, art. 2, § 2a, added Acts 1957, 55th Leg., p. 108, ch. 52, § 1.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 3 provided that, if any section, subsection, paragraph, sentence, clause, or provision of this Act

is for any reason held invalid, such invalidity shall not affect any other portion of this Act; but this Act shall be construed and enforced as if such invalid provision had not been contained therein.

Art. 667—6. Hearing upon application

(a) The application of any person desiring to be licensed to manufacture, distribute, or sell beer shall be filed in duplicate with the county judge, who shall set same for hearing at a date not less than five (5) nor more than ten (10) days from the filing of same.

(b) (1) Upon the filing of an original application for license to manufacture or distribute beer, the County Clerk shall give notice thereof by posting at the Courthouse door, a written notice of the filing of such application, which notice shall contain the substance of said application and the date of the hearing thereon.

(b) (2) Upon the filing of an original application for a license to sell beer at retail at a location heretofore licensed, the County Clerk shall give notice thereof by posting at the Courthouse door, a written notice of the filing of such application, which notice shall contain the substance of said application and the date of the hearing thereon.

However, upon the filing of an original application for a license to sell beer at retail at a location not theretofore licensed, the County Clerk shall give notice of such application by publication for two (2) consecutive issues in a newspaper of general circulation published in the city or town in which the applicant's place of business is to be located. Provided, however, that where no newspaper is published in the city or town, then the same shall be published in a newspaper of general circulation in the county where applicant's business is to be located, and if no newspaper is published in the county, then notice shall be published in a newspaper which is published in the closest neighboring county and circulated in the county where the license or permit is sought. Such notice shall be published in ten (10) point black face type, and shall set forth the type of retail license or permit to be applied for, the exact location of said business, the name of the owner or owners thereof, and if operating under an assumed name, the trade name, together with all names of owners, and if a corporation, the names and titles of all officers of said corporation. At the time the application is filed with the Clerk, the applicant shall deposit with said Clerk, cost of the publication of two (2) notices, which deposit shall be used in payment of such publication.

(b) (3) Any person shall be permitted to contest the facts stated in any application for a license to distribute, manufacture or sell beer at retail, and the applicant's right to secure such license, upon giving security for all costs which may be incurred in such contest should the case be decided in favor of the applicant; provided, however, no officer of a county or incorporated city or town shall be required to give bond for such cost. As amended Acts 1957, 55th Leg., p. 1178, ch. 393, § 1.

Emergency. Effective June 6, 1957.

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of

laws to the extent of such conflict. Section 3 was a severability provision.

Art. 667—10¹/₂. Regulation by cities and towns

In any incorporated city or town where the sale of beer as defined in the Texas Liquor Control Act is prohibited by charter or amendment thereto or by any ordinance from being sold in the residential section, such charter amendments or ordinances shall remain valid and continue effective until such time as such charter provisions, amendments, or ordinances may be repealed or amended.

All incorporated cities and towns are hereby authorized to regulate the sale of beer within the corporate limits of such cities and towns by charter amendment or ordinance, and may thereby prescribe the opening and closing hours for such sales; such cities and towns may also designate certain zones in the residential section or sections of said cities and towns where such regulations for opening and closing hours for the sale of beer shall be observed or where such sales may be prohibited. All incorporated cities and towns and all Commissioners Courts when acting under authority of this section are hereby authorized in adopting charter amendments, ordinances, or orders to distinguish between retailers selling beer for consumption on the premises where sold and those retailers, manufacturers, or distributors selling not for consumption on the premises where sold, and to provide for separate and distinct regulations. Nothing herein shall authorize any incorporated city or town to extend by ordinance or charter the hours of sale as fixed by the state law.

When, in a county in which only one incorporated city or town is located, and said incorporated city or town has within its limits a majority of the total population of said county according to the last preceding Federal Census, and said incorporated city or town has, prior to January 1, 1957, by valid charter amendment or ordinance, shortened the hours of sale of beer permitted on Sundays by Section 10 of Article II of this Act, then the Commissioners Court of said county is hereby given the power after publication of notice for four (4) consecutive weeks in some newspaper of general circulation published in said county, or if there be no such newspaper published in said county then in some newspaper published in a nearby county and generally circulated in said county, to enter an order prohibiting the sale of beer on Sundays during the same hours when it is prohibited by said charter amendment or ordinance in any part or all of the areas within the prescribed limits of said county lying outside of said incorporated city or town. As amended Acts 1957, 55th Leg., p. 604, ch. 271, § 1.

Emergency. Effective May 21, 1957.

Section 2 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

Section 3 repealed all conflicting laws and parts of laws.

TITLE 12—PUBLIC HEALTH

CHAPTER ONE—ACTS INJURIOUS TO HEALTH

Art. 696a. Dumping refuse near highway

Section 1.

(a) The term "refuse" shall include garbage, rubbish, and all other decayable and non-decayable waste, including vegetable, animal and fish carcasses, except sewage from all public and private establishments and residences. As amended Acts 1957, 55th Leg., p. 480, ch. 230, § 1.

(b) The term "garbage" shall include all decayable wastes, including vegetable, animal and fish offal and carcasses of such animals and fish, except sewage and body wastes, but excluding industrial by-products, and shall include all such substances from all public and private establishments and from all residences. As amended Acts 1957, 55th Leg., p. 480, ch. 230, § 2.

(e) The term "public highway" shall mean and include the entire width between property lines of any road, street, way, thoroughfare, bridge, public beach, or park in this state, not privately owned or controlled, when any part thereof is opened to the public for vehicular traffic or which is used as a public recreational area and/or over which the state has legislative jurisdiction under its police power. As amended Acts 1957, 55th Leg., p. 480, ch. 230, § 3.

Emergency. Effective May 16, 1957.

Section 4 of the amendatory Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act.

CHAPTER THREE—DRUGS, NARCOTICS AND POISONS

Art.

726—1. Hazardous substances; sale; labeling [New].

Art.

726—2. Sale of preparations containing thallium compounds [New].

Art. 725b. Narcotic drug regulations

Penalties

Sec. 23.

(2) Any adult person who hires, employs, or uses a person 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, give, furnish or administer any narcotic drug to a person under nineteen (19) years of age shall, upon conviction, be punished by confinement in the penitentiary for life or for any term of years not less than five (5), and upon the second or subsequent conviction therefor shall be punished by death or by confinement in the penitentiary for life or for any term of years not less than ten (10), and the benefits of the suspended sentence law shall not be available to a defendant convicted for a violation of the provisions of this subsection. As amended Acts 1953, 53rd Leg., p. 812, ch. 328, § 6; Acts 1955, 54th Leg., p. 903, ch. 354, § 1; Acts 1957, 55th Leg., p. 215, ch. 101, § 1.

Emergency. Effective April 24, 1957.

Art. 726. Repealed. Acts 1957, 55th Leg., p. 1282, ch. 428, § 8. Eff. 90 days after May 23, 1957, date of adjournment

Art. 726—1. Hazardous substances; sale; labeling

Title

Section 1. This Act may be cited as the Texas Hazardous Substances Act.

Definitions

Sec. 2. For the purposes of this Act:

(a) The term "Commissioner" means the Commissioner of Health of the State of Texas.

(b) The term "person" includes individual, partnership, corporation, association, and other groups of persons.

(c) The term "hazardous substance" means any substance or mixture of substances the customary or directed handling or use of which may result in the risk of substantial personal injury or illness by reason of: (1) its toxicity through ingestion, inhalation, or absorption through the skin; (2) its corrosiveness; (3) its irritating properties; (4) its flammability; or (5) the likelihood of bursting of the container in which the substance is contained.

(d) The term "container" means an individual receptacle, such as a bag, box, bottle, tube, or can, suitable or intended for household use, that is used to store or dispense a hazardous substance.

(e) The term "corrosive" means any substance which in contact with living tissue will cause substantial destruction of tissue by chemical action. The term "corrosive" as used in this Act shall not refer to action on inanimate surfaces.

(f) The term "irritating properties" means the inherent capacity of any substance which, after prolonged or repeated contact with the skin, will induce a severe local tissue reaction not leading directly to destruction of tissue. This term shall not include a sensitizing material which, as ordinarily handled, does not necessarily cause any discernible reaction in living tissue, but which after initial or repeated contact with the tissue of some individuals may, at a later time, produce a prompt inflammatory reaction on contact with the tissue of the same individuals.

(g) The term "flammability" means any substance which has a flash point of 80°F or below as determined from Tagliabue's opencup tester, as used for the test of burning oils.

(h) The term "mixture" means a physical commingling of two (2) or more substances which may or may not bear a fixed proportion to one another and which have not reacted chemically with one another.

(i) The term "toxicity" means the inherent capacity of a substance to produce bodily injury by other than physical means.

(j) The term "label" means the written, printed or graphic matter on or attached to the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the hazardous substance. Information required to be on the label by or under the authority of this Act must also appear on the outside wrapper or container unless the words on the immediate container are easily legible through the outside wrapper.

(k) The term "poison" means a substance or mixture of substances hazardous to man which falls within any of the following categories:

(1) Produces death within forty-eight (48) hours in half or more than half of a group of ten (10) or more laboratory white rats weighing between two hundred (200) and three hundred (300) grams at a single dose

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

of fifty (50) milligrams or less, per kilogram of body weight, when orally administered; or

(2) Produces death within forty-eight (48) hours in half or more than half of a group of ten (10) or more laboratory white rats weighing between two hundred (200) and three hundred (300) grams when inhaled continuously for a period of one (1) hour or less at an atmospheric concentration of two (2) milligrams or less per liter of gas, vapor, mist or dust; or

(3) Produces death within forty-eight (48) hours in half or more rabbits tested in a dosage of two hundred (200) milligrams or less per kilogram of body weight when administered by continuous contact with the bare skin for twenty-four (24) hours or less.

(4) And such other substances as the Commissioner may, after public hearing following due notice, find, upon substantial evidence and data from human experience, causes death in humans in relatively small doses under customary or directed conditions of handling or use.

(1) The term "food" shall include all articles used by man for food, drink, flavoring, confectionery or condiment, whether simple, mixed or compounded, except water.

Prohibited Acts

Sec. 3. No person shall sell, offer for sale, or hold for sale in this State in a container suitable for or intended for household use any of the following:

(a) Any mixture or substances containing thallium sulfate or any thallium salt, containing more than one per cent (1%) of thallium, expressed as metallic thallium.

(b) Any hazardous substance or poison as defined in Section 2 if such hazardous substance or poison has been mixed with food, as food is defined in this Act, except this provision shall not apply to water, or to mixtures where such food has lost its identity and is not likely to be mistaken for food for human consumption. The Commissioner may also for the protection of the public health, after public hearing following due notice, restrict or regulate the packaging and sale of any hazardous or poisonous substance when mixed with food as defined in this Act.

(c) Any hazardous substance unless there is affixed to each container suitable or intended for household use a label on which appears the following matter in English located prominently on the container and in contrast by typography, layout, or color with other printed matter on the label:

(1) The name and place of business of the manufacturer, seller or distributor.

(2) The chemical, common or recognized generic name, not the trade name only, of each component that is a hazardous substance.

(3) A signal word indicating the degree of hazard such as "DANGER," "WARNING," or "CAUTION."

(4) An affirmative statement of the principal hazard or hazards of the hazardous substance.

(5) A statement of precautionary measures to be followed or avoided.

(6) Instructions, where necessary, as to first-aid treatment in case of contact or exposure.

(7) Instructions, where necessary, for handling, storing or disposing of containers.

(d) Any poison as that term is defined in Section 2(k) of this Act unless the label shall bear in addition to any other matter required by this Act the following:

(1) The word "Poison" prominently and in red on a background of distinctly contrasting color followed by a statement of antidote or first-aid treatment for the poison.

Regulations

Sec. 4. (a) The Commissioner shall, after public hearing following due notice, issue regulations for carrying out the purposes and provisions of this Act including the following:

(1) Illustrative wording for labels of hazardous substances which wording or the practical equivalent thereof shall be deemed to be in compliance with this Act.

(2) Abbreviated labeling requirements which need not include all of the matter required by this Act when the size of the container makes it impractical to include all of the subject matter required herein.

(b) Special labeling requirements for any substances in the developmental stage which are being used for experimental purposes.

(c) And such other regulations as the Commissioner may deem necessary to carry out the purposes of this Act.

Enforcement

Sec. 5. (a) This Act shall be enforced by the Commissioner of Health of the State of Texas.

(b) Any hazardous substance in a container suitable for or intended for household use which is not labeled in accordance with the requirements of this Act shall be liable to be condemned, confiscated and forfeited by a civil suit brought in the District Court of the county where said hazardous substance is located in the name of the State of Texas, as plaintiff, and in the name of the owner thereof or the person manufacturing, selling, or distributing the same, as defendant, and service shall be had as in other civil cases. If upon a trial of said case it shall be determined that said hazardous substance is not labeled in compliance with this Act, then the same shall be disposed of by destruction or sale in accordance with the judgment of the Court, or returned to the owner, manufacturer, distributor, or seller under bond that it shall not be offered for sale until labeled in compliance with this Act. The proceeds of any sale, less legal costs and charges, shall be paid into the General Fund of the State of Texas.

(c) After trial of said cause the Court may enjoin the defendant from selling, offering for sale, or holding for sale or distribution said hazardous substance unless labeled in compliance with this Act.

(d) The Texas Rules of Civil Procedure shall govern all proceedings begun under this Section, except that no bond for injunction shall be required of the State of Texas, and except as otherwise required herein. Either party shall be entitled to trial by jury or any issue of fact in this proceeding, and either party shall have the right of appeal as in other civil cases.

Penalties

Sec. 6. Violation of the provisions of this Act or the regulations issued under the authority of this Act shall be a misdemeanor, and any person convicted of violating this Act shall be subject to a fine of not more than One Thousand Dollars (\$1,000) and imprisonment for not more than one (1) year or both. The Commissioner shall not be required, however, to report for prosecution minor violations of this Act where the Commissioner deems that a warning and appropriate action by the offender under supervision of the Commissioner shall satisfy the purposes of this Act.

Exceptions

Sec. 7. The requirements of this Act shall not apply to:

(a) Any substance prepared, possessed or manufactured for purposes of export.

(b) Products manufactured, distributed or sold in Texas which come under the jurisdiction of the Liquefied Petroleum Gas Division of the Railroad Commission of Texas.

(c) Soap, soap products, and detergents intended for use as a soap product.

(d) Products registered under the Federal Insecticide, Fungicide and Rodenticide Act provided that the sale of such substances is not otherwise prohibited by the provisions of this Act.

(e) Products containing an added poisonous or hazardous substance for which a tolerance has been established under the Federal or Texas Food, Drug, and Cosmetic Act. Acts 1957, 55th Leg., p. 1282, ch. 428.

Effective 90 days after May 23, 1957, date of adjournment.

Section 8 of the Act of 1957 provided that Article 726 of Vernon's Penal Code of Texas is hereby repealed and all laws and parts of laws in conflict with the provisions of this Act, except Article 135b-1 of Vernon's Revised Civil Statutes (Texas Insecticide and Fungicide Law), shall be and the same are hereby repealed.

Section 9 was a severability provision.

Title of Act:

An Act regulating the labeling and sale of hazardous substances for the protection of the public health in the State of Texas; repealing Article 726 of the Penal Code of Texas and all other laws in conflict herewith; prescribing penalties; providing a saving clause; and declaring an emergency. Acts 1957, 55th Leg., p. 1282, ch. 428.

Art. 726—2. Sale of preparations containing thallium compounds

Section 1. (a) It shall be unlawful to sell, or offer for sale, any rat poison, insect poison, or any other preparation which contains thallium sulphate, or any other thallium compound, in sufficient quantity to be dangerous to the health or life of a human being.

(b) A sufficient quantity of thallium sulphate or any other thallium compound to be dangerous to the life of a human being is herein defined as one containing more than one per cent (1%) of thallium, expressed as metallic.

Sec. 2. Any person who violates any provision of this Act shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than Fifty Dollars (\$50), nor more than Two Hundred Dollars (\$200). Acts 1957, 55th Leg., p. 1346, ch. 457.

Emergency. Effective June 6, 1957.

CHAPTER FOUR—BARBER SHOPS AND BEAUTY PARLORS

Art. 734a. Texas Barber Law

Notice of hearing before suspension or revocation of certificate or permit

Sec. 22-A. If any person to whom a certificate or permit has been issued fails to comply with any of the requirements of this Act, the Board shall suspend or revoke such certificate or permit or refuse to renew the same. Before suspending, revoking or refusing to renew such certificate or permit the Board shall give the person holding same a public hearing, notice of which hearing shall be delivered to such person at least twenty (20) days prior to the date thereof and shall state the grounds complained of, and notice by registered mail to his last known address shall be sufficient. If said Board suspend, revoke or refuse to renew such certificate or permit at said hearing, then such person may file suit to prevent same

or to appeal from said order. Any and all suits filed hereunder shall be filed within twenty (20) days from the date of the order of said Board in a District Court of the county where the person filing such suit or appeal has his residence, or in any of the District Courts of Travis County, Texas. Such suit shall be a trial de novo as that term is used in appeals from Justice Courts to County Courts, and under no circumstances shall the substantial evidence rule, as defined by the Supreme Court of Texas, ever be used or applied in such cases. The burden of proof shall be on the Board to prove a violation. As amended Acts 1957, 55th Leg., p. 869, ch. 384, § 1.

Emergency. Effective June 5, 1957.

CHAPTER SEVEN—DENTISTRY

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; or to (7) employees of a dentist who make dental x-rays in the dental office and under the supervision of such dentist or dentists legally engaged in the practice of dentistry in this state. 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; Acts 1957, 55th Leg., p. 755, ch. 312, § 6.

Effective 90 days after May 23, 1957, date of adjournment.

TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY

CHAPTER ONE—HIGHWAYS AND VEHICLES

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| <p>Art. 802e. Driving while intoxicated by certain minors; traffic violations [New].</p> | <p>Art. 827e—1. Traffic signs at highway and street intersections [New].</p> |
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Art. 802e. Driving which intoxicated by certain minors; traffic violations

Section 1. Any male minor who has passed his 14th birthday but has not reached his 17th birthday, and any female minor who has passed her 14th birthday but has not reached her 18th birthday, and who drives or operates an automobile or any other motor vehicle on any public road or highway in this state or upon any street or alley within the limits of any city, town or village, or upon any beach as defined in Chapter 430, Acts of the 51st Legislature, 1949,¹ while under the influence of intoxicating liquor, or who drives or operates an automobile or any other motor vehicle in such way as to violate any traffic law of this state, shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Hundred Dollars (\$100.00). As used in this section, the term "any traffic law of this state" shall include the following statutes, as heretofore or hereafter amended:

Chapter 42, Acts of the 41st Legislature, Second Called Session, 1929 (Article 827a, Vernon's Texas Penal Code), except Section 9a thereof; Chapter 421, Acts of the 50th Legislature, Regular Session, 1947 (Article 6701d, Vernon's Texas Civil Statutes); Chapter 430, Acts of the 51st Legislature, Regular Session, 1949, (Article 827f, Vernon's Texas Penal Code); and Articles 795 and 801, Texas Penal Code of 1925.

Sec. 2. No such minor, after conviction or plea of guilty and imposition of fine, shall be committed to any jail in default of payment of the fine imposed, but the court imposing such fine shall have power to suspend and take possession of such minor's driving license and retain the same until such fine has been paid.

Sec. 3. If any such minor shall drive any motor vehicle upon any public road or highway in this state or upon any street or alley within the limits of any corporate city, town or village, or upon any beach as defined in Chapter 430, Acts of the 51st Legislature, 1949, without having a valid driver's license authorizing such driving, such minor shall be guilty of a misdemeanor and shall be fined as set out in Section 1 hereof.

Sec. 4. The offenses created under this Act shall be under the jurisdiction of the courts regularly empowered to try misdemeanors carrying the penalty herein affixed, and shall not be under the jurisdiction of the Juvenile Courts; but nothing contained in this Act shall be construed to otherwise repeal or affect the statutes regulating the powers and duties of Juvenile Courts. The provisions of this Act shall be cumulative of all other laws on this subject.

Sec. 5. Chapter 436, Acts of the 51st Legislature, Regular Session, 1949,² is hereby repealed, but the repeal thereof shall not exempt from punishment any person who may have previously violated such repealed

law, and persons convicted of a violation thereof shall be punished as therein provided. Acts 1957, 55th Leg., p. 736, ch. 302.

¹ Article 827f.

² Probably legislative intention to repeal "chapter 436, Acts of the 52nd Legislature, Regular Session, 1951" (Vernon's Texas Penal Code, Article 802d), as recited in title of this Act. See italicized note under art. 802d.

Emergency. Effective May 31, 1957.

Section 6 of the Act of 1957 was a severability provision.

Title of Act:

An Act making it a misdemeanor, punishable by fine, for any male minor between 14 and 17 years of age or any female minor between 14 and 18 years of age to drive or operate a motor vehicle while under the influence of intoxicating liquor or in such a way as to violate any traffic law of this state; defining the term "any traffic law of this state"; prohibiting commitment of any such minor to jail in default of pay-

ment of fine, but authorizing suspension of his or her driver's license until the fine is paid; making it a misdemeanor for any such minor to operate a motor vehicle without a valid driver's license and providing the penalty therefor; fixing jurisdiction of the offenses created hereunder and stating the effect of this Act on other laws; repealing Chapter 436, Acts of the 52nd Legislature, Regular Session, 1951, but providing for prosecution and punishment of offenses committed prior to repeal; providing a severability clause; and declaring an emergency. Acts 1957, 55th Leg., p. 736, ch. 302.

Art. 827a. Regulating operation of vehicles on highways

Art. 827a, sec. 5c. Exception to limitation on weight

Sec. 5a [5c]. Notwithstanding other provisions of the statutes governing the weight of motor vehicles which may be operated over, on, and upon the highways and roads of this state, it shall be lawful to operate motor vehicles whose total gross weight shall not exceed fifty-eight thousand (58,000) pounds, where such vehicles comply with all other provisions of law excepting only as to their total gross weight and the limitations of weight on axle or group of axles, where such vehicles are used exclusively for transporting fixed load oil field service equipment used in connection with servicing oil and gas wells from the point of origin to well location not more than fifty (50) highway miles distant from such origin. Added Acts 1957, 55th Leg., p. 332, ch. 151, § 1.

Emergency. Effective May 6, 1957.

Attorney General Opinion No. WW-200 dated July 23, 1957, holds that under the terms of Acts 1957, 55th Leg., p. 332, § 2, set out in note hereunder, the act has never become effective.

This section was added as section 5a by Acts 1957, 55th Leg., p. 332, c. 151.

Acts 1957, 55th Leg., p. 332, § 2 provided as follows:

"All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of the conflict only,

provided only that this Act shall not be effective as long as it prevents the receipt of Federal Aid Funds provided for in the Federal Aid Highway Act of 1956, Title I of Act, June 29, 1956 [23 U.S.C.A. § 151 et seq.].

Art. 827a, sec. 9-b. Penalty for violation of section 9-a

Sec. 9-b. Any person violating any of the provisions of this Act¹ shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding Fifty Dollars (\$50) for the first offense, and by a fine not exceeding Two Hundred Dollars (\$200) for the second offense, or not exceeding Five Hundred Dollars (\$500), or imprisonment in the county jail, not to exceed sixty (60) days, or by both such fine and imprisonment in the discretion of the Court for each subsequent offense thereafter. Acts 1935, 44th Leg., p. 757, ch. 328, § 2; Acts 1945, 49th Leg., p. 394, ch. 256, § 2.

¹ Section 9-a of this article.

Art. 827b. Temporary registration for out of state visitors**Trucks, trailers, etc., used in movement of farm products; temporary registration permit 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 nonresident 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 railhead, not more than seventy-five (75) miles distant from such place of production.

To expedite and facilitate, during the harvesting season, the harvesting and movement of farm products produced outside of Texas but marketed or processed in Texas or moved to points in Texas for shipment, the Department is authorized to issue to a nonresident 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 farm commodities from the point of entry into Texas to market, storage, processing plant, railhead or seaport not more than eighty (80) miles distant from such point of entry into Texas. All mileages and distances referred to herein are State Highway mileages. Before such temporary registration provided for in this paragraph may be issued, the applicant must present satisfactory evidence that such motor vehicle is protected by such insurance and in such amounts as may be described in Section 5 of the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes) as it is now written or as it may hereafter be amended, and such policies must be issued by an insurance company or surety company authorized to write Motor Vehicle Liability Insurance in this State; and that such vehicle has been inspected as required under the Uniform Act Regulating Traffic on Highways in Texas (Article XV of Article 6701d, Vernon's Texas Civil Statutes) as it is now written or as it may hereafter be amended.

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 ($\frac{1}{12}$) of the annual Texas registration fee for the vehicle for which the special permit is secured.

The temporary permits 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 or Country for the current registration year; and said permit will remain valid only so long as the home State or Country 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 three (3) such temporary registration permits may be issued to a non-resident owner during any one (1) 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 nonresident owner secures a second temporary permit as provided above, or unless the nonresident 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.

Any person who shall transport any of the commodities described in this Act, under a temporary permit provided for herein, to a market, place of storage, processing plant, railhead or seaport, which is a greater distance from the place of production of such commodity in this State, or the point of entry into the State of Texas than is provided for in said temporary permit, or shall follow a route other than that prescribed by the Highway Commission, shall be punished by a fine of not less than Twenty-five Dollars (\$25), nor more than Two Hundred Dollars (\$200).

Nothing in this Act shall be construed to authorize such nonresident owner or operator to operate or cause to be operated any of such vehicles in this State in violation of Acts, 1929, Forty-first Legislature, Chapter 314, as amended (Article 911b, Vernon's Civil Statutes) 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; Acts 1957, 55th Leg., p. 1305, ch. 438, § 1.

Emergency. Effective June 6, 1957.

**Motor vehicles unauthorized to travel on roads for lack of registration;
temporary registration for transit only**

Sec. 3. To provide for the movement of any vehicle subject to license by the State of Texas which is not authorized to travel on the public roads of the State for lack of registration or for lack of reciprocity with the state or country in which it is registered, the Department is authorized to temporarily register such vehicle upon application of the owner thereof. Such registration shall be for one (1) trip only between the points of origin and destination and such intermediate points as may be set forth in the application and registration receipt; and, except where the vehicle is a bus operating under charter which is not covered by a reciprocity agreement with the state or country in which it is registered, such registration shall be for the transit of the vehicle only, and the vehicle shall not at the time of the transit be used for the transportation of any passenger or property whatsoever, for compensation or otherwise. In no case shall such temporary registration be valid for a period longer than fifteen (15) days from the effective date of the registration.

Such registration may be obtained by submitting application therefor on a form prescribed and furnished by the Department, to the County Tax Collector of the county in which the vehicle is first to be operated on the public roads of this State, or to the Department in Austin, and by accompanying such application with a fee of Five Dollars (\$5) in cash, post office money order or certified check. A registration receipt shall be issued on a form prescribed and furnished by the Department, which shall be recognized as legal registration and which shall contain all pertinent information required by this law. Said registration receipt shall be carried in the vehicle at all times during its transit within the State.

The Department may refuse, and notify the County Tax Collectors to refuse, to issue temporary registration for any vehicle, when, in its opinion, the vehicle or the owner thereof has been involved in operations which constitute an abuse of the privilege herein granted. Any registration issued after such notice to the County Tax Collectors shall be void.

Any person who shall operate or move any vehicle under registration provided for herein, outside the routes provided for therein, shall be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

This Act applies to registration of vehicles only, and nothing herein shall be construed to authorize the operation or movement of any vehicle

737 OFFENSES AGAINST PUBLIC PROPERTY **Art. 827e—1**

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

in this State in violation of any other laws of this State. As amended Acts 1957, 55th Leg., p. 1308, ch. 439, § 1.

Emergency. Effective June 6, 1957. unconstitutional, it should not affect the remainder.
Section 2 of the amendatory Act of 1957 provided that if any section was declared

Art. 827e—1. Traffic signs at highway and street intersections

Yield Right-of-Way Signs

Section 1. (a) The State Highway Department in respect to state highways, and any local authority in respect to highways or streets under its jurisdiction, may erect yield right-of-way signs at one (1) or more approaches to an intersection of streets and highways under its jurisdiction which are not through highways.

(b) Every yield right-of-way sign hereafter erected shall conform to the State Highway Department's manual and specifications.

(c) Every yield right-of-way sign shall be located at or near the entrance to the intersection where motorists are required to yield the right of way.

Vehicle Entering Intersection of Roadway Controlled by Yield Right-of-Way Sign

Sec. 2. (a) The driver of a vehicle or the motorman of a streetcar approaching a yield right-of-way sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary, and shall yield the right of way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard.

(b) Said driver after so yielding shall not proceed into the intersection or highway guarded by the yield right-of-way sign until the way is clear on the guarded intersection or highway and until said yielding driver may safely enter without interference or collision with traffic moving on the guarded intersection or highway.

(c) A driver involved in a collision or interference with other traffic after passing through a yield right-of-way sign is presumed not to have yielded the right of way as required by this Act.

Penalty

Sec. 3. A driver of a vehicle who violates this Act shall be fined not less than One Dollar (\$1) nor more than Two Hundred Dollars (\$200). Acts 1957, 55th Leg., p. 809, ch. 342.

Effective 90 days after May 23, 1957, date of adjournment.

Traffic signals, see, also, Vernon's Ann. Civ.St. art. 6701d, §§ 29-37; Vernon's Ann. P.C. art. 827e.

Title of Act:

An Act concerning traffic signs, authorizing the State Highway Department and
Tex.St.Supp. '58—47

local authorities in their respective jurisdiction, to erect yield right-of-way signs for intersections of highways and streets; providing for a penalty for violating such signs; repealing all laws or parts of laws in conflict; and declaring an emergency. Acts 1957, 55th Leg., p. 809, ch. 342.

CHAPTER FOUR—PUBLIC BUILDINGS AND GROUNDS

Art.
861b. Consent to buildings, concessions,
parking areas, etc., within capitol
grounds [New].

Art. 861b. Consent to buildings, concessions, parking areas, etc., within capitol grounds

Section 1. It shall be unlawful, without the prior express consent of the Legislature, for any officer of this state or any employee thereof or any other person to construct, build, erect or maintain any building, structure, memorial, monument, statue, concession or any other structure including creation of parking areas or the laying of additional paving on any of the grounds that surrounded the State Capitol on January 1, 1955, and which grounds were then bounded by Eleventh, Brazos, Thirteenth and Colorado Streets, in the City of Austin, Texas, whether such land lay inside or outside the fence enclosing part of the grounds; provided, however, that paved access and underground utility installations may be constructed and maintained; provided further, that the provisions of this Act shall not apply to the Supreme Court Building, according to the approved plans dated October 29, 1956, nor to the State Office Building, according to the approved plans dated November, 1956.

Sec. 2. Any officer or employee of this state, or other person violating Section 1 of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or imprisoned in the County Jail of Travis County for a period of time not to exceed one year, or by both such fine and imprisonment.

Sec. 3. Any officer of this state who is subject to removal from office by means of impeachment shall be subject to such removal for violation of Section 1 of this Act and any other officer or any employee of the state who shall violate Section 1 shall be dismissed immediately from any employment by the state. Acts 1957, 55th Leg., p. 758, ch. 313.

Emergency. Effective May 31, 1957.

Section 4 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act. Section 5

repealed all conflicting laws and parts of laws.

CHAPTER SIX—GAME, FISH AND OYSTERS

Art.
880a. Brazoria, Matagorda, Fort Bend or Wharton counties; hunting with dogs [New].
880b. Shelby county; hunting with dogs [New].
895c. Hunting licenses; necessity; form; exemptions, etc. [New].

Art.
923m—1. Fur-bearing animals; open season [New].
978k—1. Commercial game bird breeder's license [New].
978n—2. Pen raised quail [New].

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, De Witt, Frio, Gonzales, Haskell, Hays, Hidalgo, Jack, Kaufman, Cameron, Starr, Webb, Zapata, Angelina and Trinity. As amended Acts 1949, 51st Leg., p. 14, ch. 16, § 1; Acts 1949, 51st Leg., p. 15, ch. 18, § 1; Acts 1953, 53rd Leg., p. 528, ch. 192, § 1; Acts 1953, 53rd Leg., p. 886, ch. 365, § 1; Acts 1957, 55th Leg., p. 856, ch. 372, § 3.

Emergency. Effective May 31, 1957.

Art. 880a. Brazoria, Matagorda, Fort Bend or Wharton counties; hunting with dogs

Section 1. From and after the effective date of this Act it shall be unlawful for any person to hunt deer or to run deer in Brazoria County, Matagorda County, Fort Bend County, or Wharton County, by the use of any dog or dogs; or to permit any dog or dogs owned, possessed or under the control of any such person, to run any deer in Brazoria County, Matagorda County, Fort Bend County or Wharton County.

Sec. 2. Any person who violates any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10) nor more than Two Hundred Dollars (\$200). Acts 1957, 55th Leg., p. 19, ch. 14.

Effective 90 days after May 23, 1957, date of adjournment.

Section 3 of the Act of 1957 repealed all conflicting laws and parts of laws to the extent of such conflict only.

Title of Act:

An Act prohibiting the hunting or running of deer in Brazoria County, Matagorda

County, Fort Bend County or Wharton County, by the use of dogs; or to permit any dogs owned, possessed or under the control of any person to run deer; providing a penalty; providing a repealing clause; and declaring an emergency. Acts 1957, 55th Leg., p. 18, ch. 14.

Art. 880b. Shelby county; hunting with dogs

Section 1. It shall be unlawful for any person to make use of a dog or dogs in the hunting of or pursuing or taking of any deer in that portion of Shelby County, Texas, lying and being situated South and West of U. S. Highways 59 and 96, and being that portion of Shelby County lying South and West of the public highways leading from Carthage in Panola County, Texas, through Tenaha and Center, in Shelby County, Texas, to San Augustine, in San Augustine County, Texas, at any time.

Sec. 2. Any person owning or controlling any dog who permits or allows such dog to run, trail, or pursue any deer at any time shall, upon conviction, be guilty of a misdemeanor, and shall be fined in any sum not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00). Acts 1957, 55th Leg., 2nd C. S., p. 170, ch. 13.

Emergency. Effective Dec. 10, 1957.

Title of Act:

An Act making it unlawful for any person to make use of a dog or dogs in the hunting, pursuing, or taking of any deer in the South and West portion of Shelby

County, Texas, at any time; providing penalties for violation of this Act; and declaring an emergency. Acts 1957, 55th Leg., 2nd C.S., p. 170, ch. 13.

Art. 888. Protection against depredation of wild fowls or animals

(a) Whenever any wild birds, wild fowls, or wild animals, protected under the provisions of this Chapter, are destroying crops or domestic animals, the Game and Fish Commission is hereby authorized to permit the killing of such wild birds or wild animals, without regard to the open or closed season, bag limit, or night shooting; but before such permission shall be granted, the Commission shall be furnished with a statement of facts, sworn to by persons whose property is being injured, with the endorsement of the county judge of the county in which the crops are being destroyed or domestic animals being injured or killed, to the effect that the sworn statement is true, and that such crops or domestic animals can only be preserved by the granting of such permit. Such permit when issued shall distinctly state the time for which it is granted, the area which it covers, and a designation of the person or persons permitted to kill the noxious birds and animals named in such permit. Such permit shall not authorize the killing of migratory birds protected by the Federal Migratory Bird Treaty Act, unless the applicant shall first procure a permit from the United States Department of Agriculture, in compliance with the regulations of such Migratory Bird Treaty Act.¹

(b) A permit for the killing of deer shall not be issued unless the applicant agrees to notify a game warden or deputy game warden serving in the area covered by the permit, or the sheriff or a deputy sheriff of the county wherein a deer is killed, as soon as is practicable after a deer is killed, of the place where the deer carcass is then located; such agreement shall be included in the sworn statement furnished to the Commission. Upon receiving such notice, the officer notified shall cause the deer carcass to be disposed of by donating it to a charitable institution or hospital or to needy persons. Any permittee who fails to give the notice as required herein for any deer killed under authority of his permit, or who disposes of the carcass or allows it to be disposed of other than by making it available to an officer designated herein, shall be guilty of a misdemeanor and upon conviction shall be fined not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500). As amended Acts 1957, 55th Leg., p. 805, ch. 339, § 1.

¹ 16 U.S.C.A. §§ 703-711.

Effective 90 days after May 23, 1957, date of adjournment.

Section 2 of the amendatory act of 1957 was a severability provision.

Powers and duties of Game, Fish and Oyster Commissioner transferred to Game and Fish Commissioner, see art. 978f-3.

Art. 895c. Hunting licenses; necessity; form; exemptions, etc.**Resident Hunting License**

Section 1. No citizen of this State shall hunt any wild bird or wild animal outside the county of his residence without first having procured from the Game and Fish Commission, or one of its authorized agents, a license to hunt, for which he shall pay the sum of Three Dollars and fifteen cents (\$3.15); fifteen cents (15¢) of which amount shall be retained by the issuing officer as his fee for collecting.

Nonresident Hunting License

Sec. 2. No nonresident citizen of this State or alien shall hunt any wild bird or wild animal in this State without first having procured from the Game and Fish Commission, or one of its authorized agents, a nonresident hunting license. The fee for a nonresident citizen or alien hunting license shall be Twenty-five Dollars (\$25); One Dollar (\$1)

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-four Dollars (\$24) 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 (5) consecutive days shall be issued to any person entitled to a nonresident citizen or alien hunting license upon payment of a fee of Five Dollars (\$5); fifty cents (50¢) of which amount shall be retained by the issuing officer. That any person entitled to a hunting license shall be permitted to hunt migratory waterfowl in this State by procuring a nonresident or alien hunting license for a fee of Ten Dollars (\$10), Nine Dollars (\$9) of which shall be paid into the Game and Fish Fund and One Dollar (\$1) shall be retained by the issuing officer; provided, however, that this license shall apply to those nonresident citizens or aliens who live in a state or legal domicile which affords to the State of Texas similar reciprocal privileges at the same cost and which shall apply only to migratory waterfowl.

Exception

Sec. 3. It shall be unlawful for any citizen of this State to hunt, take or kill any deer or wild turkey in this State without first having procured from the Game and Fish Commission, or one of its authorized agents, or from any county clerk in this State, a hunting license.

Form of License

Sec. 4. It shall be unlawful for any person to issue or accept any license required by the provisions of this Act except on a form provided by the Game and Fish Commission. Each license issued under the provisions of this Act shall be accompanied by the number of deer tags equal to the number of deer permitted to be killed during the deer season fixed by law for the year for which such hunting license is issued. Each license and tag required by this Act shall be on forms provided by the Game and Fish Commission.

Duplicate License

Sec. 5. It shall be unlawful for any person to procure or possess more than one hunting license during a license year. Provided, however, in the event the holder of a license provided for in this Act shall have lost such license, or same shall have become destroyed, such license holder may file with the Game and Fish Commission, or its authorized agent, an application in the form of an affidavit as to the facts of such loss or destruction, which affidavit shall contain a statement as to the number of deer, if any, said applicant has killed under such lost or destroyed license; whereupon said Commission, or its authorized agent, may issue to such person a duplicate hunting license, the fee for which shall be fifty cents (50¢) without exception; provided, however, that the issuing officer shall issue only the number of deer tags unused on the lost or destroyed license. The officer issuing the duplicate license shall retain twenty-five cents (25¢) as his fee for issuing same.

Deer Tag

Sec. 6. It shall be unlawful for any person to have in his possession at any time the carcass of any wild deer that does not have attached thereto a tag provided by the Game and Fish Commission, issued to such person under the provisions of this Act. Such deer tag shall remain on said deer carcass while on storage and until such carcass is finally processed or destroyed. It shall be unlawful for any person to use more deer

tags during one license year than are originally provided by his hunting license for that year. It shall be unlawful for any person to use the same deer tag on more than one (1) deer. It shall be unlawful for any person to use a deer tag which was not issued to such person. Nothing in this Act shall be construed to authorize any person to exceed any bag limit or to hunt deer during closed season provided for deer; and the fact that a deer tag was attached to the carcass or hide of any deer shall not be prima facie evidence that such deer was lawfully killed.

Disposition of Fees and Fines

Sec. 7. All moneys received from the sale of licenses provided for herein, after the payment of the fees allowed under this Act have been deducted, and all moneys received from penalties assessed for violations of this Act, and for violations of any of the hunting laws not otherwise disposed of by law, after deduction of fees allowed by law, shall be remitted to the Game and Fish Commission at Austin, and be deposited by said Commission in the State Treasury to the credit of the Special Game and Fish Fund, and shall be used for the propagation and distribution, management and protection of game animals in the State, including control of undesirable species and the dissemination of information pertaining to the conservation of game animals in this State. All expenditures shall be verified by affidavit to the Game and Fish Commission, and on the approval of such expenditures by the Executive Secretary of said Commission, it shall be the duty of the Comptroller of the State to draw his warrant on the Treasurer of the State for the amount of such expenditures in favor of the person claiming the same, such warrant to be paid out of the Special Game and Fish Fund.

Exemptions

Sec. 8. No citizen of this State who is under seventeen (17) years of age or sixty-five (65) years of age or over shall be required to pay the fee prescribed for the license provided for in this Act; nor shall any citizen be required to pay said fee before taking, killing or hunting on land on which he is residing. Provided, however, that any person exempted by this Section, before hunting deer or wild turkey, shall first register with the Game and Fish Commission or one of its authorized agents, on a form to be furnished by said Commission, and receive from said Commission a hunting license which shall be in the form and signed by such exempted licensee as prescribed herein for licenses for which a fee is charged; but in addition thereto, such exemption license shall clearly show on its face that it is an exemption license.

Hunting under License of Another

Sec. 9. Any person who shall hunt under the license issued to another person, or any person who shall permit another person to hunt under a license issued to him, shall be guilty of a violation of this Act.

Exhibiting License

Sec. 10. Any person required to hold a hunting license under the provisions of this Act, who fails or refuses, on demand by any officer, to show such officer his hunting license, shall be deemed guilty of a violation of this Act.

Effective Date

Sec. 11. This Act shall become effective on September 1, 1957.

Repealing Clause

Sec. 12. All laws or parts of laws in conflict herewith are hereby repealed.

Penalty

Sec. 13. Any person who shall violate any provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction therefor shall be fined in a sum of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). Acts 1957, 55th Leg., p. 852, ch. 370.

Effective September 1, 1957.

Art. 923b. Repealed. Acts 1957, 55th Leg., p. 355, ch. 164, § 1. Eff. May 6, 1957

Art. 923m. Fur-bearing animals defined

All fur-bearing animals of this State are hereby declared to be the property of the people of this State. For the purposes of this Act, wild beaver, wild otter, wild mink, wild ring-tail cat, wild badger, wild polecat, or skunk, wild raccoon, wild muskrat, wild o'possum, wild fox, wild civet, and coypu are hereby declared to be fur-bearing animals. As amended. Acts 1957, 55th Leg., p. 839, ch. 367, § 1.

Emergency. Effective May 31, 1957.

Section 6 of the Act of 1957 was a severability provision. Section 7 repealed all conflicting laws or parts of laws.

Art. 923m—1. Fur-bearing animals; open season

Open season

Sec. 2. It shall be unlawful for any person to take or attempt to take the pelt of any fur-bearing animal of this State at any time other than the open season provided therefor. The open season for taking pelts of fur-bearing animals shall be during the months of December and January of each year, except muskrats, the open season for which shall be from the 15th day of November to the 15th day of March, both days inclusive, and except mink, the open season for which shall be November 15th to January 15th, both days inclusive. A person may hunt, take or kill a fur-bearing animal, as defined in this Act, for purposes other than taking its pelt for sale during any month of the year.

Possession in closed season as prima facie evidence

Sec. 3. The possession of green or undried pelts of fur-bearing animals after January 31st of any year shall be prima-facie evidence of a violation of this Act.

Mink; hunting with dogs; possession

Sec. 4. No person shall hunt, take or kill or attempt to hunt, attempt to take or attempt to kill wild mink in the State of Texas with dogs, and no person shall have in his possession a mink pelt while hunting with dogs.

Penalty

Sec. 5. A person who violates this Act shall be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). Acts 1957, 55th Leg., p. 839, ch. 367.

Emergency. Effective May 31, 1957. Severability and repeal of conflicting Fur-bearing animals defined see P.C. art. 923m. laws, see note under art. 923m.

Art. 952l—11. Shrimp; classification of fish; taking nongame fish**Trawling at night in certain waters**

Sec. 1c. Provided, however, that it shall be lawful to trawl for and take shrimp at any time, during the day or night, so long as the trawling for and the taking of same shall be outside of and exclusive of any and all inland bays and waters, from those portions of the Gulf of Mexico thirteen (13) fathoms or more in depth in the territorial waters of the State of Texas lying within the following boundaries:

A line extending from the mouth of the Colorado River due southeast a distance of twenty-five (25) miles into the Gulf of Mexico and a line extending from the mouth of the Rio Grande River at the international boundary between the United States and the Republic of Mexico twenty-five (25) miles out from shore in the Gulf of Mexico; and said last named boundary to extend along the said international boundary as far out as the territorial waters of the State of Texas extend.

Provided further that it shall be lawful to trawl for and take shrimp at any time during the day or night with a bait trawl of not more than twenty (20) feet in length and not more than ten (10) feet across the mouth as measured by the length of the floatline of the trawl, and that the spreader boards be of no greater dimension than thirty-six (36) inches in length and eighteen (18) inches in height, length and height being—for descriptive purposes—length and height of the boards while in operating position while trawling, and that no device of any nature whatever shall be used in connection with or in conjunction with a trawl as prescribed above which will in any way increase the effective width of the trawl while in actual use, so long as the trawling for and taking of the same shall be for use as bait and shall be from the following waters in Jackson County and Calhoun County: the waters of Garcitas Creek; the waters of Carancahua Creek; the waters of Lavaca River from its mouth to a point where the Navidad River enters Lavaca River, and the waters of Lavaca Bay within a radius of one thousand (1000) yards from the mouth of Lavaca River and Garcitas Creek. Added Acts 1949, 51st Leg., p. 330, ch. 160, § 1, as amended Acts 1957, 55th Leg., p. 346, ch. 159, § 1.

Emergency. Effective May 6, 1957.

Section 2 of the amendatory Act of 1957 laws to the extent of conflict only. Section 3 was a severability clause.

Art. 978j. Local game and fish laws

For fish and game law applicable only to the named counties, see notes under Vernon's Ann.P.C. art. 978j.

Art. 978k. Game breeder's license**Personal consumption or use of game birds by breeder**

Sec. 11a. Notwithstanding any other provisions of law, a game breeder may slaughter for personal consumption or utilize for any other personal purposes the game birds owned by him in any number and at

any time of the year. However, such birds shall not be sold except as authorized in other sections of this Act, and shall be utilized by a purchaser only as authorized in this Act. Added Acts 1957, 55th Leg., p. 260, ch. 121, § 1.

Emergency. Effective April 30, 1957.

Art. 978k—1. Commercial game bird breeder's license

Business authorized

Section 1. Any person, firm or corporation may engage in the business of propagating pen raised game birds for commercial purposes by complying with the provisions of this law, and may thereafter sell the carcass of such pen raised game bird for any purpose, including sale for food.

Pen raised game bird defined

Sec. 1a. A pen raised game bird is one that has been hatched from an egg laid by a game bird confined in a pen or coop and has itself been wholly raised in a pen or coop.

License; duration; fee

Sec. 2. A Commercial Game Bird Breeder's License must first be obtained from the Texas Game and Fish Commission, said license to be valid for one year from the date of purchase and upon payment of Twenty-five Dollars (\$25.00) for each of said licenses. This fee shall be deposited in the State Treasury to the Game and Fish Fund to be used for the purposes provided for by law. Each Commercial Game Bird Breeder's License must be numbered by the Texas Game and Fish Commission.

Rubber stamp; requisites

Sec. 3. The holder of each Commercial Game Bird Breeder's License must keep and maintain a rubber stamp which shall have written thereon the number of the Commercial Game Bird Breeder's License issued to him by the Texas Game and Fish Commission, and in addition, the following: Texas License.

Carcass of game bird stamped before sale; method of killing; evidence; presumption

Sec. 4. Before the carcass of a dead pen raised game bird is sold, the holder of the Commercial Game Bird 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 game bird not so stamped and marked shall be a violation of this law. All pen raised game birds to be offered for sale must be killed otherwise than by shooting. The carcass of any game bird that shows that it has been killed by shooting shall be prima facie evidence that such game bird was not raised in accordance with this law; and the fact that such game bird has been stamped and marked in accordance with this law shall not alter this presumption.

Hotels, restaurants, etc., use of birds for food

Sec. 5. The keeper of a hotel, restaurant, boarding house or club may sell pen raised game birds for food to be consumed on the premises, and shall not be required to hold a license therefor.

Penalty

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 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense. Acts 1957, 55th Leg., p. 255, ch. 119.

Emergency. Effective April 30, 1957.

Section 7 of the Act of 1957 repealed all conflicting laws and parts of laws.

Title of Act:

An Act providing for the sale of pen raised game birds; defining pen raised game birds; providing for a commercial game bird breeder's license and fixing fee for same; providing for deposit of license

fees; requiring each pen raised game bird carcass to be marked for identification; prohibiting the sale of pen raised game birds that have been killed by shooting; providing for exceptions; fixing a penalty for a violation of this Act; repealing all laws in conflict herewith; and declaring an emergency. Acts 1957, 55th Leg., p. 255, ch. 119.

Art. 978n—2. 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 ELEVEN B—SALES LIMITATION ACT [NEW]****Art. 1111m. Unconstitutional**

This article, consisting of eight sections, and known as the Sales Limitation Act, was derived from Acts 1955, 54th Leg., p. 1622, ch. 524. The article applied only to grocery stores and attempted to prohibit the sale of merchandise at less than cost when a limitation was placed by the seller on the quantity which might be purchased by a single customer. The article was

held unconstitutional in the case of San Antonio Retail Grocers, Inc. v. Lafferty, Sup., 297 S.W.2d 813, on the ground that it denied equal protection of the laws in violation of U.S.C.A.Const. Amend. 14, and Vernon's Ann.St.Const. art. 1, §§ 3, 19, in that there was no reasonable basis for applying the Article to grocery stores and exempting other stores.

TITLE 17—OFFENSES AGAINST PROPERTY

CHAPTER THREE—MALICIOUS MISCHIEF

Art. 1350. 1235, 791, 683 Injury or destruction of property belonging to another or to state or political subdivisions

(1) (a) It shall be unlawful for any person to wilfully injure or destroy, or attempt to injure or destroy, any property belonging to another, of any kind whatsoever, without the consent of the owner and lienholder, if any, thereon.

(b) It shall be unlawful for any person to wilfully injure or destroy, or attempt to injure or destroy, any property belonging to the State of Texas, any county, city, town, village, school district, or any other district or political subdivision of this State or any property belonging to any department, board, commission, or agency of the State or any such county, city, town, village, district, or political subdivision, of any kind whatsoever, without the consent of the person in charge of such property. As amended Acts 1957, 55th Leg., p. 369, ch. 174, § 1.

Emergency. Effective May 6, 1957.

CHAPTER EIGHT—THEFT IN GENERAL

Art.

1435a. Storage garages; report of motor vehicles stored over 30 days, exception [New].

Art. 1435a. Storage garages; report of motor vehicles stored over 30 days; exception

Section 1. Whenever any vehicle of a type subject to registration in this state has been stored, parked or left in a garage, or any type of storage or parking lot for a period of more than thirty days, without an agreement for the storage, parking or keeping of said vehicle, the owner, operator or manager of such garage or parking lot shall report the make, year of manufacture, motor and serial number of such vehicle to the Chief of Police or City Marshal of the city, town or village wherein said garage or parking lot is situated. If said garage or parking lot is not located within the city limits of an incorporated city, town or village, then such report shall be made to the Sheriff of the county wherein such garage or parking lot is located.

Sec. 2. Such report shall be in writing setting forth the information required above and subscribed by the owner, operator or manager of such garage or parking lot.

Sec. 3. Any person who fails to submit the report required under this Act at the end of thirty days following a time that any vehicle shall have been in such garage or parking lot for a period of thirty days shall be fined not more than Twenty-five Dollars (\$25.00); each day's failure to make such a report as required hereunder shall constitute a separate offense. Acts 1957, 55th Leg., p. 1361, ch. 462.

Effective 90 days after May 23, 1957, date of adjournment.

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

Title of Act:

An Act requiring storage garages and other similar businesses to report the identity of motor vehicles remaining in storage more than thirty days where there is not a continuing contract of, or agreement

for storage, parking or keeping of vehicles, with a known individual; providing a penalty for the violation of this Act; and declaring an emergency. Acts 1957, 55th Leg., p. 1361, ch. 462.

CHAPTER THIRTEEN—PROTECTION OF STOCK RAISERS

Art. 1488. 1414, 936, 785 Counties exempted

Counties exempt from act, see, also, Vernon's Ann.Civ.St. art. 7005—1.

**Arts. 1489—1498. Repealed. Acts 1957, 55th Leg., p. 35, ch. 23, § 17.
Eff. Sept. 1, 1957**

TITLE 19—MISCELLANEOUS OFFENSES

| Chap. | Art. |
|---|------|
| 17. False Reports to State Agencies [New] | 1724 |
| 18. Fireworks [New] | 1725 |

CHAPTER THREE—TRUSTS AND CONSPIRACIES AGAINST TRADE

Art. 1632. 1454 Defining trusts

Anti-trust laws of state not repealed or impaired by Sales Limitation Act, see P.C. art. 1111m, note.

CHAPTER FOUR—AMUSEMENTS—PUBLIC HOUSE OF

| | |
|---|---|
| Art. 1648a. Permit to sell, license, etc., for public performance for profit un- | der blanket license of copyrighted dramatic or musical compositions |
|---|---|

Art. 1648a. Permit to sell, license, etc., for public performance for profit under blanket license of copyrighted dramatic or musical compositions

Permit required

Section 1. Before any person shall sell, license, or otherwise dispose of any performing rights of any copyrighted musical or dramatico-musical composition to be exercised in this state under a blanket license, such person shall first procure a permit to be known as a "Permit to Dispense Performing Rights under a Blanket License" from the State Comptroller of Public Accounts for such privilege.

Definitions

Sec. 2. As used in this Act:

(1) "Person" means any individual, resident, or nonresident, of this state, and every domestic or foreign or alien partnership, society, association or corporation;

(2) "Performing rights" mean public performance for profit, including broadcasts by radio or television of any musical or dramatico-musical composition;

(3) "User" means any person who directly or indirectly performs or causes to be performed in this state any musical or dramatico-musical composition for profit. Each member of a system or network through whom is presented to the public any performing rights is a user;

(4) "Blanket license" includes any device whereby public performance for profit is authorized of the combined copyrights of two or more owners of any musical or dramatico-musical composition;

(5) "Blanket royalty or fee" includes any device whereby prices for performing rights are not based on the separate performance of individual copyrights.

Fee for permit

Sec. 3. The fee for a Permit to Dispense Performing Rights under a Blanket License shall be \$25.00 for each user authorized to operate under such permit. The form of such permit shall be prescribed by the State Comptroller.

Copy of blanket license filed with Secretary of State

Sec. 4. Any person issuing a blanket license for performing rights shall file with the Secretary of State within thirty days from the date such blanket license is issued a true and complete copy of each such license issued or sold with respect to performing rights in this state, together with the affidavit of such person that such copy is a true and complete copy of the original and that it sets forth each and every agreement between the parties thereto with respect to such performing rights.

Non-residents; designation of agent for service of process

Sec. 5. Every nonresident person, whether incorporated or not, before issuing any blanket license for performing rights to any user to be exercised within this state, shall first file with the Secretary of State an irrevocable power of attorney designating some individual who is a resident of this state as its service agent, upon whom process may be served in all suits, proceedings, and causes of action, pending or hereafter filed in this state, in which said person is a party or is to be made a party.

Said power of attorney shall be filed and service and notice had in accordance with all other requirements and effects as is provided by law relating to foreign corporations in general who transact or do any business in this state.

Doing business in state

Sec. 6. The selling, licensing or otherwise disposing to a user of performing rights exercised by a user in this state under any blanket license providing for a blanket royalty or fee for such performing rights, as that business or occupation is defined and described in this Act, by a corporation shall constitute doing business in this state so as to require such corporation to be incorporated under the laws of this state or to have a permit or certificate of authority to do business in this state.

Obligations of existing contract unimpaired

Sec. 7. Nothing contained in this Act shall be so construed as to impair or affect the obligation or any contract or license which was lawfully entered into before the effective date of this Act.

Violations; misdemeanors; penalty

Sec. 8. Any person, as that term is herein defined, failing to comply with or who violates any provision of this Act, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00. Acts 1957, 55th Leg., p. 746, ch. 307.

Emergency. Effective May 31, 1957.

Section 9 of the Act of 1957 was a severability provision.

**CHAPTER SEVENTEEN—FALSE REPORTS TO
STATE AGENCIES [NEW]**

Art.

1724. Intent to interfere with operation of state agency; definition

Art. 1724. Intent to interfere with operation of state agency; definition

Section 1. Any person who maliciously and wilfully in writing, or orally, or by the use of any telephone, telegraph, radio, or mechanical device or contrivance whatsoever, by any name known, shall make, give, send a report, or communicate any false alarm, false report, or falsely report any act or fact situation initially and voluntarily to any governmental agency for the purpose of causing, or which report or alarm is calculated to cause, the governmental agency to respond thereto or to do or perform some act or do or render some service as a result thereof, or to mislead or malign any officer of such agency, shall be guilty of a misdemeanor and, upon conviction, fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

Sec. 2. The term "governmental agency," as used herein, means any officer, servant, agent, or employee of the State or any county, city, or political subdivision of this State. Acts 1957, 55th Leg., p. 342, ch. 156.

Emergency. Effective May 6, 1957.

Title of Act:

An Act prohibiting the making or filing of false, misleading or unfounded reports to any governmental agency in this State and for the purpose of interfering with the operation of such governmental agency

or with the intent to mislead or malign any officer of such agency; defining the term "governmental agency," and providing a penalty for violation of this Act; and declaring an emergency. Acts 1957, 55th Leg., p. 342, ch. 156.

CHAPTER EIGHTEEN—FIREWORKS [NEW]

Art.

1725. Regulation and offenses as to fireworks [New].

Art. 1725. Regulation and offenses as to fireworks

Definitions

Section 1. As used in this Act the following terms, unless otherwise clearly indicated by the context, shall have the meanings specified below:

"ICC-Class C Common Fireworks"—Those fireworks specifically defined in Section 2 of this Act and not otherwise;

"Manufacturer"—Persons, firms, corporations or associations that are engaged in the making of fireworks;

"Distributor"—Those who sell fireworks to retailers or to jobbers for resale to others;

"Jobbers"—Those who purchase fireworks for resale to retailers only;

"Retailers"—Those who purchase fireworks for resale to consumers only;

"Chief Fire Prevention Officer"—The chief of the fire department, if in a city that has a fire chief, or if in the county, the chief fire enforcement officer primarily responsible in the county for the enforcement of fire prevention acts whether same be the sheriff, the constable or any other local enforcement officer;

"Public Display"—The igniting and shooting of fireworks for public amusement for a fee;

"State Fire Marshal"—The chief law enforcement officer of the State of Texas charged with the responsibility of fire prevention;

"Importer"—Those who import fireworks from a foreign country for sale to distributors, jobbers or retailers within the State of Texas;

"Salesmen"—An individual employed by a factory, distributor or jobber who takes orders for fireworks from distributors, jobbers or retailers;

"Class A Fireworks"—Those fireworks defined in Section 10 of this Act and not otherwise;

"Class B Fireworks"—Shall include all types of dangerous fireworks excepting fireworks designated as ICC Class C Common Fireworks and Class A Fireworks.

Possession for sale or sale; permissible fireworks

Sec. 2. It shall be unlawful for any individual, firm, partnership, corporation or association to possess for sale within the state, sell or offer for sale, at retail, or use, within the State of Texas, any fireworks other than the permissible fireworks herein enumerated.

Permissible fireworks, as that term is used in this Act, shall be understood to mean ICC Class C Common Fireworks only and shall include only those fireworks enumerated as ICC Class C Common Fireworks in the regulations of the Interstate Commerce Commission, as said regulations are presently constructed, for the transportation of explosives and other dangerous articles and, more specifically, shall include and be limited to the following:

(1) Roman Candles, total pyrotechnic composition not to exceed twenty grams each in weight. (10 ball);

(2) Sky Rockets, with sticks, total pyrotechnic composition not to exceed twenty grams each in weight (6 oz.). The rocket sticks must be securely fastened to the casing;

(3) Helicopter Type Rockets, total pyrotechnic composition not to exceed twenty grams each in weight;

(4) Cylindrical Fountains, total pyrotechnic composition not to exceed seventy-five grams each in weight. The inside tube diameter shall not exceed 3/4 inch;

(5) Cone Fountains, total pyrotechnic composition not to exceed fifty grams each in weight;

(6) Wheels, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of driver tubes shall not be over 1/2 inch;

(7) Illuminating Torches and Colored Fire in any Form, total pyrotechnic composition not to exceed one hundred grams each in weight;

(8) Sparklers and Dipped Sticks, total pyrotechnic composition not to exceed one hundred grams each in weight. Pyrotechnic composition containing any chlorate shall not exceed five grams;

(9) Mines and Shells, of which the mortar is an integral part, except those designed to produce an audible effect, total pyrotechnic composition not to exceed forty grams each in weight;

(10) Firecrackers and Salutes, with casings, the external dimensions of which do not exceed one and one-half inches in length or one quarter inch in diameter, total pyrotechnic composition not to exceed two grains each in weight;

(11) Whistles without Report, total pyrotechnic composition not to exceed forty grams each in weight.

(12) Railway fuses, other fireworks used by railroads or other transportation agencies for signal purposes or illumination, truck flares, hand ship distress signals and illuminating torches. Total pyrotechnic composition of illuminating torches not to exceed one hundred grams each in weight;

(13) Items composed of combination of two or more articles or devices of the above enumerated approved items.

Retail sales prohibited; exceptions

Sec. 3. Be it further enacted, that no permissible articles of ICC Class C Common Fireworks enumerated in Section 2 shall be sold at retail, offered for sale at retail, or possessed for retail sale within the state, or used, in the State of Texas, unless same shall be properly identified to conform to the nomenclature of Section 2 hereof and unless it is certified as "ICC Class C Common Fireworks" on all shipping cases and by imprinting on the article or retail container, "ICC Class C Common Fireworks," with the exception of whistles without report, such imprint to be of sufficient size and placement as to be readily recognized by law enforcement authorities and the general public. Each manufacturer shall submit samples of all items to the State Fire Marshal for approval.

Exceptions from act

Sec. 4. Be it further enacted, that there shall not be affected by this Act the following:

Toy pistols, toy canes, toy guns or similar devices in which paper caps containing twenty-five one-hundredths (25/100ths) grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five one-hundredths (25/100ths) grains of explosive compounds, the sale and use of which shall be permitted at all times.

License Fees

Sec. 5. A. A license fee of \$500.00 per year, due and payable on or before February 1st of each and every year beginning February 1, 1958, to the State Fire Marshal subject to the provisions of Section 12 of this Act, will be charged for the permit to manufacture, possess and sell fireworks. The manufacturer may manufacture, possess and sell items other than those enumerated in Section 2, but for sale and delivery only to states where other types of fireworks are legal but may not be sold or used in the State of Texas.

The same license fee will apply to and shall be paid by any and all out-of-state manufacturers offering goods for sale in the State of Texas, as a condition to their sale in Texas.

B. A similar license fee of \$750.00 annually, due and payable on February 1st of each and every year, as provided in Section 5A above, will be charged all distributors who possess and sell the fireworks enumerated in Section 2.

The license fee provided herein shall be due and payable by all out-of-state distributors offering goods for sale within the State of Texas.

C. A license fee, due and payable as provided in Section 5A above, of \$500.00 per year, will be charged all jobbers who possess and sell the fireworks enumerated in Section 2.

The license fee provided herein shall apply to and be payable by out-of-state jobbers as a condition for selling within the State of Texas.

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

D. An annual license fee of \$2.00, due and payable, as provided in Section 5A above, on or before July 1st of each year, beginning on July 1, 1958, will be charged all retailers who possess and sell fireworks enumerated in Section 2. No person, firm or corporation shall offer fireworks for sale to individuals at retail before the 24th day of June and after the 4th day of July, or the 15th day of December of each year and after midnight of the 1st day of January of the following year.

E. An annual license fee, due and payable as provided in Section 5 A above, of \$100.00, shall be due and payable by each importer who possesses and sells the fireworks enumerated in Section 2 above to any persons, firms, corporation or association within the State of Texas.

F. An annual license fee of \$10.00, due and payable as provided in Section 5D above, shall be due and payable by all salesmen who take orders for the sale of fireworks enumerated in Section 2 above and all salesmen are prohibited from taking orders from any firm, individual, corporation, association or partnership not licensed and each order for the sale of fireworks taken must reflect the license number of the purchaser. Furthermore, salesmen are prohibited from possessing any fireworks described in Section 2.

G. The license fees provided above shall be due and payable by each retailer annually and for each separate place of business maintained.

H. A license fee of \$5.00 for each public display shall be paid at the time of obtaining the permit, as hereafter provided, being payable to and in the manner provided and prescribed in Section 5A.

I. No person, firm, corporation or association shall deliver fireworks for resale to any individual, firm, corporation or association unless consignee produces a license or evidence that consignee holds such a license.

J. No distributor, jobber or retailer shall purchase fireworks from a factory, distributor, jobber, manufacturer or salesman without first requiring proof that the license required of each herein has been obtained. No license provided for hereinabove shall be transferable nor shall a jobber or salesman be permitted to operate under a license granted to a distributor.

K. For the violation of any of the provisions of this Act, the license granted shall be revoked by order of the State Fire Marshal evidenced by a written notice of revocation furnished directly to the licensee and a copy thereof filed in the county or counties in which the licensee does business. Said notice of revocation shall set out the grounds for revocation and any licensee aggrieved thereby may, within ten (10) days from receipt of said notice, appeal from the decision of revocation to the District Court of Travis County, Texas, in which case the trial to determine the justification for said revocation shall be a trial de novo.

Licenses not issued, when

Sec. 6. No license, as provided in Section 5, shall be issued for either a manufacturer, a distributor, a jobber or a retailer unless the place of manufacture, or in case of a distributor, a jobber or a retailer, the place of storage of said fireworks, shall meet the requirements and specifications recommended from time to time by the State Fire Marshal.

Storing, locating, or display of fireworks; safety measures

Sec. 7. Be it further enacted, the placing, storing, locating, or displaying of fireworks in any window where the sun may shine through glass on the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within ten (10) feet of where the fireworks are

offered for sale, is hereby declared unlawful and prohibited. Fireworks offered for retail sale must be protected from direct contact with the public at all times. Fireworks shall not be sold at retail or displayed to the public within any building or portion thereof or any vehicle which allows for entry any persons other than employees within such building or vehicle unless such fireworks are kept where they cannot be reached or handled by such persons. At all places where fireworks are stored or sold, there must be posted signs with the words "Fireworks—No Smoking" in letters not less than four (4) inches high. No fireworks are to be sold at retail at any location where paints, oils, or varnishes are kept for use or sale, unless such paints, oils and varnishes are kept in the original unbroken containers, nor where resin, turpentine, gasoline, or other inflammable substance which may generate inflammable vapor is used, stored, or sold, or where the licensing authority or any police, fire or regulatory body having direct supervision over the establishment shall determine that any condition exists which makes the sale of fireworks at such location unusually hazardous.

Sale to children under ten years of age, intoxicated or irresponsible persons; throwing from or into motor vehicle

Sec. 8. Be it further enacted, that it shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of ten (10) years or to any intoxicated or irresponsible person. It shall be unlawful to explode or ignite fireworks within six hundred (600) feet of any church, hospital, asylum, public school, or within one hundred (100) feet of where fireworks are stored, sold, or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle.

Manufacturing, possessing or selling; permit

Sec. 9. Be it further enacted, that no person, firm, corporation or association, without securing a permit from the State Fire Marshal, shall manufacture, possess or sell any dangerous fireworks for any use or purpose, including agricultural purposes or wild life control. Before any dangerous fireworks may be manufactured, possessed, sold or used, a permit therefor specifying the uses to be made thereof must be secured from the State Fire Marshal. Any permittee, whether governmental agency or commercial manufacturer, which distributes or sells at wholesale or retail agricultural or wild life fireworks shall require good and sufficient proof of the lawful intended use of such fireworks by the purchaser. The purchaser shall be required to exhibit the permit obtained from the State Fire Marshal as a condition to such purchase; a true copy of such permit and records specifying the uses to be made shall be given to the purchaser and only thereafter shall the purchaser be permitted to use the fireworks in the manner designated in the permit. Each such permit shall be good only for the specific purposes stated therein and for the time designated therein and at the end thereof shall be surrendered to the State Fire Marshal. The State Fire Marshal shall be paid \$1.00 for each such permit.

Class A fireworks; display, etc.; application for permit; surety bond

Sec. 10. Be it further enacted, that "Class A Fireworks," as used in this part, shall include the following:

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

Colored bomb shells over 15 inches in circumference or consisting of more than one break;

Detonating shells, also known as aerial bombs, over nine inches incircumference or consisting of more than one break;

Ground bombardments, also known as detonating reports, of all sizes which explode on the ground;

Such other fireworks which may be designated for such classification by the State Fire Marshal.

Any adult person or any firm, copartnership, corporation or association planning to make a public display of fireworks shall first make written application for a permit to the chief of the fire department or the chief fire prevention officer of the city or county in which the display is to be held, or to the State Fire Marshal, or to such authorized deputy as he may designate for such purpose if there be no chief of the fire department or chief fire prevention officer in the area, at least 24 hours in advance of the date of the proposed display.

It shall be the duty of the officer to whom the application for a permit is made to make an investigation as to whether such a display as proposed shall be of such a character and so located that it may be hazardous to property or dangerous to any person, and he shall in the exercise of reasonable discretion grant or deny the application, subject to such reasonable conditions, if any, as he may prescribe.

The applicant for such display permit shall at the time of application furnish proof that he carries compensation insurance for his employees as provided by the laws of this state, and he shall file with the officer to whom the application is made, a bond issued by an authorized surety company to be approved by such officer, conditioned upon the applicant's payment of all damages to persons or property which shall or may result from or be caused by such public display of fireworks, or any negligence on the part of the applicant, or his or its agents, servants, employees, or subcontractors in the presentation thereof, or a certificate evidencing the carrying of appropriate public liability insurance issued by an insurance carrier authorized to transact business in this state for the benefit of the person named therein as assured, as evidence of ability to respond in damages in at least such amount, said policies to be similarly approved. If the permit is granted, the sale, possession, and use of fireworks for public display is lawful for that purpose only. No permit granted is transferable.

In the case of an applicant for a permit to display Class A fireworks, or a combination of Class A and Class B fireworks, the amount of such a surety bond shall be not less than Ten Thousand Dollars (\$10,000.00), and the amount of such insurance shall be not less than Twenty Thousand Dollars (\$20,000.00).

In the case of an application for a permit to display Class B fireworks exclusively, the amount of the surety bond shall be not less than One Thousand Dollars (\$1,000.00), and the amount of the insurance shall be not less than Five Thousand Dollars (\$5,000.00). Provided, that in lieu of filing a surety bond, an applicant for such a Class B permit may file a bond in the sum of at least One Thousand Dollars (\$1,000.00) with at least two good and sufficient sureties, subject to like conditions and to the approval of the officer issuing the permit.

Every public display of fireworks which includes in whole or in part "Class A Fireworks" shall be handled or supervised by a competent and experienced pyrotechnic operator approved by the chief of the fire department or the chief fire prevention officer of the city or county in which the display is to be held, or by the State Fire Marshal or his authorized deputy

therefor, if there be no chief of the fire department or chief fire prevention officer in the area.

Public display of "Class B Fireworks" may be supervised or handled by any competent adult person approved by the officer issuing the permit.

The State Fire Marshal shall adopt reasonable rules and regulations not inconsistent with the provisions of this part, for the granting of permits for, and the presentation of, public displays of fireworks.

All public displays of fireworks shall be of such a character and so located, discharged, or fired as not to be hazardous or dangerous to persons or property.

Notwithstanding the provisions of this part, any adult person, or any firm, corporation, or copartnership may secure a general license for the public display of fireworks within the State of Texas, subject to the provisions of this part relative to the securing of local permits for displaying of fireworks in any city or county, excepting that in lieu of filing such bonds or certificate of public liability insurance as hereinabove provided in this part, a surety bond similarly conditioned in the amount of Twenty-five Thousand Dollars (\$25,000.00) or a certificate evidencing public liability insurance in a like amount shall be filed with the State Fire Marshal, who shall have the authority to issue such licenses, subject to such reasonable rules and regulations, not inconsistent herewith, which he may adopt. A certificate evidencing such general license, when so obtained, shall be filed with the legislative body or officer granting a permit for the display of fireworks prior to the issuance thereof.

No permit shall be granted for the discharge of dangerous fireworks except in connection with public display of fireworks.

No person shall transport, convey or deliver any dangerous fireworks except for permittees making delivery to any other permittees, or to locations of public displays of fireworks authorized hereunder or to distributors outside of this state.

For purposes of license the sale and/or possession of "Class A" and "Class B" fireworks only, as described herein, shall require a Distributor's permit.

Violations as misdemeanors; punishment

Sec. 11. Be it further enacted, that any individual, firm, partnership, or corporation that violates any provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or imprisoned for not more than one (1) year, or both, in the discretion of the court or jury.

License fees; disposition of proceeds

Sec. 12. Be it further enacted, that all moneys derived from the license fees provided in Section 5 of this Act shall be paid into the State Treasury by the State Fire Marshal for safe keeping and shall by the State Treasurer be placed in a separate fund to be made available in such amounts as may be appropriated by the Legislature for the use of the State Fire Marshal in the administration of this Act and upon requisition by the State Fire Marshal. All such moneys so paid into the State Treasury and thus appropriated may be used by the State Fire Marshal for salaries and expenses of all persons employed for the administration and enforcement of this Act including all necessary travel expenses of the State Fire Marshal, or any assistant or appointee, and the Attorney General or persons authorized to act for either, when performing duties hereunder.

On January 1st of each year the unused portion of said funds in said special account for the past fiscal year shall be paid over and become a part of the general revenue fund.

Partial invalidity

Sec. 13. Be it further enacted, if any portion of this Act be held unconstitutional, such holding shall not invalidate the remainder thereof.

Repealer

Sec. 14. Be it further enacted, that any Acts, laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict. However, this Act shall not repeal or affect any town, city or municipal ordinance which prohibits the sale and use of fireworks within the town, city or municipal boundaries which is in effect before the effective date of this Act, or that may be enacted after the effective date of this Act. Provided, however, that nothing herein shall be construed to limit or restrict the powers of cities, towns or villages as defined and delegated by Title 28, Revised Civil Statutes of Texas, to enact ordinances prohibiting or imposing further regulations on fireworks; and provided, however, that any ordinance or ordinances heretofore enacted by any city under the authority of the above mentioned Title shall remain in full force and effect until thereafter amended by such city.

Effective date

Sec. 15. Be it further enacted, that this Act shall be and become effective on February 1st next from and after the passage of this Act, and any and all fireworks other than those defined in Section 2 above in the possession of any manufacturer, distributor, jobber or retailer for use in the State of Texas from and after the effective date of this Act shall be considered as a violation hereof and such persons, firms, corporations or associations shall be subject to the penalties herein provided. Acts 1957, 55th Leg., p. 1446, ch. 498.

Emergency. Effective Feb. 1, 1958.

THE CODE OF CRIMINAL PROCEDURE

TITLE 2—COURTS AND CRIMINAL JURISDICTION

TRAVIS COUNTY CRIMINAL DISTRICT COURT

Art.

52—61a. Criminal Judicial District and
Criminal District Court of Travis
County [New].

TRAVIS COUNTY CRIMINAL DISTRICT COURT

Art. 52—61a. Criminal Judicial District and Criminal District Court of Travis County

Section 1. Effective September 1, 1957, there is hereby created and established a Criminal Judicial District of Travis County, Texas, to be composed of the County of Travis, State of Texas, alone, and the boundaries of such district shall be co-extensive with the territorial boundaries and limits of Travis County, Texas.

Sec. 2. Effective September 1, 1957, there is hereby created and established at the City of Austin a criminal district court to be known as "Criminal District Court of Travis County," which court shall have and exercise all the criminal jurisdiction heretofore vested in and exercised by the 53rd, the 98th and 126th District Courts of Travis County. All appeals from the judgments of said criminal district court shall be to the Court of Criminal Appeals, under the same rules, laws and regulations as are now or may hereafter be provided by law for appeals in criminal cases from district courts.

Sec. 3. On September 1, 1957, it shall be the duty of the district clerk of Travis County, to transfer all the criminal cases pending in the 53rd, 98th and 126th District Courts of Travis County to the Criminal District Court of Travis County. Said latter Court shall have jurisdiction over all such criminal cases so transferred as fully and in all respects as if said cases had originated in said Court.

Sec. 4. Upon the effective date of this Act, the Governor shall appoint a Judge of the Criminal District Court of Travis County herein created, who shall have the qualifications required of Judges of District Courts of this State and who shall hold his office until the next general election and until his successor is duly elected and qualified, and he shall be compensated as provided by law. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges in criminal cases.

Sec. 5. On and after September 1, 1957, all processes issued or served before September 1, 1957, in criminal cases pending on September 1, 1957, in the district courts of the 53rd, 98th and 126th Judicial Districts of Texas shall be considered as returnable at the time there-

in prescribed as if the same originally had been made returnable to the Criminal District Court of Travis County herein created, and all such processes are hereby legalized and validated as if the same originally had been returnable to the said criminal district court; and all bail bonds and recognizances in criminal cases pending in the 53rd, 98th and 126th Judicial Districts of Texas on September 1, 1957, binding any person or persons to appear in said district courts, shall have the effect to require such person or persons to appear at the first term of the Criminal District Court of Travis County to be held in accordance with the provisions of this Act, and there to remain from day to day, and from term to term, until finally discharged under the same penalty as may be provided in such bail bonds or recognizances.

Sec. 6. The Judge of the Criminal District Court of Travis County herein created and the judge of each district court of Travis County may, in their discretion, exchange benches and hear cases for each other in the same manner as the judge of each of the district courts of Travis County may now do as provided by law; provided, however, that no criminal case shall be transferred from the Criminal District Court to any of the district courts of Travis County, nor shall any civil case be transferred from any district court to the Criminal District Court herein created.

Sec. 7. Said Criminal District Court herein created shall have a seal of like design as the seal now provided by law for district courts of this State except that the words "Criminal District Court of Travis County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which seals of district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 8. Said Criminal District Court herein created shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, such terms to be as follows: beginning on the first Monday of January and may continue until and including the last Saturday before the first Monday of April, beginning on the first Monday of April and may continue until and including the last Saturday before the first Monday of July, beginning on the first Monday of July and may continue until and including the last Saturday before the first Monday of October, beginning on the first Monday in October and may continue until and including the last Saturday before the first Monday of January of the following calendar year. A grand jury shall be impaneled in said court for each term thereof in the same manner as is now or may hereafter be required by law in district courts and under like rules and regulations. The judge of said court may also impanel other grand juries at any time as in his judgment is necessary, by an order entered in the minutes of the court.

After the effective date of this Act, the judges of the 53rd, 98th and 126th Judicial District Courts of Travis County shall be relieved of the mandatory duty of impaneling grand juries as now provided by the specific law applicable to them. The procedure for drawing juries for said Criminal District Court herein created shall be the same as is now or may hereafter be required by law in district courts and under the same rules and regulations.

Sec. 9. Whenever the Criminal District Court of Travis County shall be engaged in the trial of any cause when the time for expiration

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

of the then current term of said court shall arrive, the judge presiding shall have the power to and may, if he deems it expedient, continue the term of said court until the conclusion of such pending trial; and in such case the extension of such term shall be shown on the minutes of the court before they are signed.

Sec. 10. The sheriff, district attorney, county attorney and the clerk of the district courts of Travis County, as heretofore provided for by law, shall be the sheriff, district attorney, county attorney and clerk, respectively, of the Criminal District Court herein created under the same rules and regulations as are now or may hereafter be prescribed by law for sheriffs, district attorneys, county attorneys and clerks of the district courts of the State; and said sheriff, district attorney, county attorney and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of this State to be paid in the same manner.

Sec. 11. The trials and proceedings in said Criminal District Court herein created shall be conducted according to the laws governing the pleadings, practice, and proceedings in criminal cases in the district courts of this State.

Sec. 12. The Judge of said Criminal District Court herein created shall have the right to appoint an official court reporter who shall have the qualifications and receive the same compensation as are now, or may hereafter be, fixed by law, for court reporters in district courts. Acts 1957, 55th Leg., p. 721, ch. 299.

Effective September 1, 1957.

Section 13 of the Act of 1957 provided that partial invalidity should not affect the remaining portions of the Act, Section 14

repealed all conflicting laws and parts of laws.

TITLE 5—ARREST, COMMITMENT AND BAIL

CHAPTER FOUR—BAIL

| | |
|---|--|
| 1. GENERAL RULES AS TO BAIL | 2. RECOGNIZANCE AND BAIL BOND |
| Art. | Art. |
| 271c. Regulating business of giving bail; licenses in certain counties [New]. | 275a. Duration; original and subsequent proceedings; new bond or recognizance [New]. |

1. GENERAL RULES AS TO BAIL

Art. 271c. Regulating business of giving bail; licenses in certain counties

Engaged in business of giving bail; bondsmen; exceptions from act

Section 1. Any person, firm or corporation, in any court having criminal jurisdiction, or in any criminal or quasi-criminal action or proceeding who shall for another, deposit any cash, bonds and/or other securities, or execute as surety any bond or recognizance, who within a period of ninety (90) days prior thereto shall have, for hire or for any reward, make such a deposit or give such bail in three (3) or more cases not growing out of the same transaction, shall be deemed to be engaged in the business of giving bail.

(a) Persons actually engaged in the practice of law and who are members of the State Bar of Texas who personally execute bonds or sureties for persons they actually represent in criminal cases or secure others to execute such bonds shall not be deemed bondsmen as defined herein.

(b) This Act shall not apply to a fidelity, guaranty or surety company duly qualified to act as a surety or guarantor in the State of Texas nor any duly qualified agent thereof, when such fidelity, guaranty or surety company is duly licensed and regulated by the Board of Insurance Commissioners or the Banking Commission.

Business affected with a public interest

Sec. 2. The business of giving bail, as defined in Section 1 hereof, is hereby declared to be a business affected with a public interest and as such is subject to be regulated and controlled by the State in so far as may be necessary to protect the public interest therein.

Examination under oath of proposed bondsman

Sec. 3. Any court, judge, justice of the peace or other officer or person authorized by law to accept bail may examine under oath any proposed bondsman or depositor of security for bail, or the officer of attorney-in-fact of any company, firm, association, partnership, or corporation proposing to execute a bond or recognizance, as to the indemnity, if any, deposited or otherwise provided directly or indirectly against loss by reason of such bond or recognizance, and in its or his discretion may refuse to accept such bond or recognizance if satisfied that any portion of such security has been feloniously obtained by defendant or that the provisions of this Act have been violated.

License; requirement in certain counties; disqualifications**Application for license**

Sec. 4. No person, firm or corporation shall engage in the business of making bail within any county containing a city of three hundred and fifty thousand (350,000) inhabitants or more, according to the last preceding Federal Census, or within any county containing in whole or in part a city having a population of not less than seventy-three thousand (73,000) inhabitants, and not more than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, without first having been licensed thereto by the Administrator of the Securities Division of the office of the Secretary of State; nor shall any person, firm, or corporation be permitted to engage in such business if such person or any member of such firm, or officer or director of such corporation shall have been convicted of any felony, or of any misdemeanor involving moral turpitude, in this or any other state, or in any Federal Court. As amended Acts 1957, 55th Leg., 1st C. S., p. 51, ch. 24, § 1.

Emergency. Effective Dec. 2, 1957.

Administrator of Securities Division; powers and duties

Sec. 5. The Administrator of the Securities Division of the Office of the Secretary of State, hereinafter referred to as the Administrator of the Securities Division, is hereby empowered to administer oaths and to examine witnesses; and it shall be his duty to investigate all persons, firms and corporations subject to this Act doing business in the making of bail in this state as defined herein in order to ascertain whether they are violating any of the provisions of this Act and to keep such records and minutes as shall be necessary to an orderly dispatch of business.

Application for license

Sec. 6. Any applicant desiring to engage in the business of giving bail as defined in this Act, in any county containing a city of three hundred and fifty thousand (350,000) inhabitants or more, according to the last preceding Federal Census, or within any county containing in whole or in part a city having a population of not less than seventy-three thousand (73,000) inhabitants, and not more than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, shall file with the Administrator of the Securities Division a sworn application for a license therefor. The application shall be in such form as the Administrator of the Securities Division may prescribe, and shall set forth:

(a) The name and address of the applicant, and, if the applicant shall be a firm or corporation, the name of each officer and director thereof;

(b) The name under which the business shall be conducted;

(c) The name of the place or places, cities and counties wherein the business is to be conducted;

(d) Whether the applicant has ever been convicted of, or is at the time under indictment for a felony or any misdemeanor involving moral turpitude;

(e) A list of real property owned by the applicant, together with the legal description, the actual market value, and the amount, if any, of any incumbrances thereof.

Such application shall be accompanied by the recommendation of at least three (3) citizens not related to the applicant, or to any member of such firm, or to any officer or director of such corporation, and who have known the individual applicant, or the members of such firm or corporation for a period of three (3) years or more, and shall certify that the applicant has a reputation for honesty, truthfulness, fair dealing and competency, and shall recommend that the license be granted to the applicant.

Every application shall be accompanied by the fee or fees prescribed in this Act. As amended Acts 1957, 55th Leg., 1st C. S., p. 51, ch. 24, § 2. Emergency. Effective Dec. 2, 1957.

Fees

Sec. 7. The Administrator of the Securities Division shall collect the following fees and shall duly pay all fees so received into the State Treasury:

(a) A fee of Twenty-five Dollars (\$25) for the filing of any original or renewal application of any person, firm or corporation seeking to be licensed under the provisions of this Act.

(b) A fee of Five Dollars (\$5) for each duplicate license where the original license has been lost or destroyed and an affidavit made thereto.

Expiration date of license; renewal

Sec. 8. Every license issued to any person, firm or corporation to engage in the business of making bail shall expire on the first day of January thereafter unless an application to qualify for the renewal of such license shall be filed with the Administrator of the Securities Division for a renewal thereof, accompanied with a renewal fee of Twenty-five Dollars (\$25) for each license, on or before such date, in which case the license shall continue in full force and effect, until renewed or until renewal has been refused by the Administrator.

Administrator of Securities Division as including successor

Sec. 8a. Where this Act refers to the Administrator of the Securities Division as herein referred to such phrase also includes his successor in office or any other person who may hereafter assume the duties of the Administrator of the Securities Division of the Secretary of State.

Suspension or revocation of license; grounds; notice; hearing; appeal

Sec. 9. Any license may be suspended or revoked by the Administrator of the Securities Division for any one or more of the following causes:

(a) Violation of the provisions of this Act.

(b) For fraudulently obtaining a license under the provisions of this Act.

(c) Upon conviction of any felony or misdemeanor involving moral turpitude under the laws of this or of any other state or of the Federal Government.

(d) Upon being adjudged a bankrupt or becoming insolvent.

(e) For failing to pay within thirty (30) days any final judgment or decree rendered on any forfeited bond or recognizance in any court of competent jurisdiction within the State of Texas.

(f) For any interference or attempted interference with the administration of justice, for any fraudulent or dishonorable practice or practices, or for any material misstatement in the application to qualify for such license.

(g) For paying commissions to or dividing commissions and/or fees with any person, firm or corporation not licensed to execute bonds or recognizances in criminal cases.

The Administrator of the Securities Division shall, before suspending or revoking any license, notify in writing the licensee of any charges made against him or it in order that such licensee shall have an opportunity to be heard, which notification shall be given at least ten (10) days prior to the day set for such hearing: Provided, however, that appeal may be taken from the order of the Administrator of the Securities Division revoking, suspending, or refusing to license, thirty (30) days after written notice of the said suspension, revocation, or refusal to license to the District Court of Travis County, Texas, or to the District Court of the county of residence of the person or persons whose license was suspended, revoked or who was refused a license. Said appeal shall be a trial de novo. In such appeal and trial de novo the substantial evidence rule shall not apply and the burden of proof shall be upon the Administrator of the Securities Division.

Bond of licensee

Sec. 10. Every person, firm or corporation licensed by the Administrator of the Securities Division to make bail shall, before beginning business, deposit with said Administrator of the Securities Division a bond acceptable to said Administrator in the penal sum of Five Thousand Dollars (\$5,000), payable to the State of Texas, for the faithful performance of his or its duties and obligations as such surety.

Violations; misdemeanor; penalties

Sec. 11. Any person, firm or corporation or agent or employee thereof who shall willfully violate or fail or neglect to obey, observe or comply with any lawful order, permit, decision, demand or requirement of the Administrator of the Securities Division under this Act as herein provided shall be guilty of a misdemeanor, and upon conviction therefor shall be sentenced to pay a fine of not more than Five Hundred Dollars (\$500), or imprisonment in the county jail for not more than one (1) year, or both such fine and imprisonment.

(a) Any person, firm or corporation, or agent of any person, firm or corporation coming within the purview of this Act who solicits any other person or persons for the privilege of writing or making bond for any person charged with any criminal or quasi-criminal offense shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed One Thousand Dollars (\$1,000) or imprisoned for six (6) months in the county jail, or by both such fine and imprisonment.

(b) No person, firm or corporation or agent of such person, firm or corporation shall by any means recommend or suggest to any person, whose bail bond has been posted by such person, firm or corporation, the name of any attorney or attorneys for employment in connection with such criminal offense.

Any person, firm or corporation or agent of any such person, firm or corporation guilty of a violation of Section 11(b) hereof shall be guilty of a misdemeanor and upon conviction be punished by a fine not to exceed One Thousand Dollars (\$1,000) and the license of such person, firm or corporation or agent thereof shall be suspended for a period of not to exceed one (1) year.

Partial invalidity

Sec. 12. If any Section, Subsection or requirement of this Act shall for any reason be adjudged to be unconstitutional, such adjudication shall not affect the validity of the remaining portions of said Act. The Legisla-

ture hereby declares that it would have passed the Act and each Section, Subsection and requirement thereof irrespective of the fact that any one or more Sections, Subsections or requirements be declared unconstitutional.

New application for license after refusal

Sec. 13. No person, firm or corporation whose application for license to engage in making bail shall have been refused shall be eligible to make or renew such application for license for a period of one (1) year from the date of his or its prior rejection. Acts 1957, 55th Leg., p. 1259, ch. 420.

Effective 90 days after May 23, 1957, date of adjournment.

2. RECOGNIZANCE AND BAIL BOND

Art. 275a. Duration; original and subsequent proceedings; new bond or recognizance

Section 1. Where a defendant, in the course of a criminal action, gives a bail bond or enters into a recognizance before any court or person authorized by law to take same, for his personal appearance before a court or magistrate, to answer a charge against him, the said bond or recognizance shall be valid and binding upon the defendant and his sureties thereon, for the defendant's personal appearance before the court or magistrate designated therein, and for any and all subsequent proceedings had relative to the charge, and each such bail bond or recognizance shall be so conditioned except as hereinafter provided.

Sec. 2. When a defendant has once given a bail bond or entered into a recognizance for his appearance in answer to a criminal charge, he shall not be required to give another bond nor enter into another recognizance in the course of the same criminal action except as herein provided.

Sec. 3. Provided that whenever, during the course of the action, the judge or magistrate in whose court such action is pending finds that the bond or recognizance is defective, excessive or insufficient in amount, or that the sureties are not acceptable, or for any other good and sufficient cause, such judge or magistrate may, either in termtime or in vacation, order the accused to be rearrested, and require the accused to give another bond or enter into another recognizance, in such amount as the judge or magistrate may deem proper. When such bond is so given and approved or when such recognizance is entered into, the defendant shall be released from custody.

Sec. 4. Provided further that the existing laws governing recognizances and bail bonds given in felony and misdemeanor cases to perfect appeals from any court to the Court of Criminal Appeals shall remain unchanged and are not affected by any of the provisions of this Act.

Sec. 5. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; provided, however, that this Act shall in no way repeal or affect Articles 282, 283 or 284, of the Code of Criminal Procedure, or any other Act not in conflict herewith. Acts 1957, 55th Leg., p. 94, ch. 46.

Effective 90 days after May 23, 1957, date of adjournment.

TITLE 7—AFTER COMMITMENT OR BAIL AND BEFORE THE TRIAL

CHAPTER ONE—ORGANIZATION OF THE GRAND JURY

Art.

367j. Bailiffs in counties comprising part of two judicial districts of four counties of 136,000 or more combined population [New].

Art. 367j. Bailiffs in counties comprising part of two judicial districts of four counties of 136,000 or more combined population

In every county in this state which comprises a part of two judicial districts, each of which districts consists of four and the same four counties, which four counties have a combined population of not less than one hundred thirty-six thousand (136,000) according to the last preceding Federal Census, the District Judges of such two judicial districts shall appoint officers of the said courts to act as bailiffs for said courts. The bailiffs shall be paid a salary out of the general fund of the county of such court as set by the District Courts of such judicial districts with the approval of the Commissioners Court of the county of such court. The bailiffs shall perform any and all duties imposed upon bailiffs in this state under the General Laws. In addition thereto, bailiffs shall perform such duties as are required by the District Judges. Bailiffs thus appointed are subject to removal without cause at the will of the judge or judges appointing them. Bailiffs thus appointed shall be duly deputized by the Sheriff of such county in addition to all other deputies now authorized by law, upon the request of the District Judges. Acts 1957, 55th Leg., p. 437, ch. 211, § 1.

Emergency. Effective May 10, 1957.

CHAPTER FOUR—PROCEEDINGS PRELIMINARY TO TRIAL

Art. 494. 558, 547 Court shall appoint counsel

When the accused is brought into Court for the purpose of being arraigned, if it appears that he has no counsel and is too poor to employ counsel, the Court shall appoint one (1) or more practicing attorneys to defend him.

The counsel so appointed shall have at least ten (10) days to prepare for trial, unless such time be waived in writing by said attorney. As amended Acts 1957, 55th Leg., p. 392, ch. 193.

Emergency. Effective May 6, 1957.

Section 2 of the amendatory Act of 1957 laws to the extent of conflict only. Section repealed all conflicting laws and parts of 3 was a severability clause.

Tex.St.Supp. '58—49

TITLE 8—TRIAL AND ITS INCIDENTS

CHAPTER TWO—SPECIAL VENIRE IN CAPITAL CASES

Art. 591. 660, 647 Special venire in certain counties

In all counties having a population of at least fifty-eight thousand (58,000), or having therein a city of eighteen thousand (18,000) or more population, as shown by the preceding Federal Census, and in every county in this state which comprises a part of two (2) Judicial Districts, each of which Districts consists of four (4) and the same four (4) counties, which four (4) counties have a combined population of not less than one hundred and thirty-five thousand (135,000) according to the last preceding Federal Census, whenever a special venire is ordered the District Clerk in the presence of and under the direction of the Judge, shall draw from the wheel containing the names of the jurors the number of names required for such special venire, and prepare a list of such names in the order in which drawn from the wheel, and attach said list to the writ and deliver same to the sheriff. The cards bearing such names shall be sealed in an envelope and kept by the clerk for distribution, as herein provided. If from the names so drawn any of the men are impaneled on the jury and serve as many as four (4) days, the cards bearing their names shall be put by the clerk in the box provided for that purpose, and the cards bearing the names of the men not impaneled shall again be put by the clerk in the wheel containing the names of the eligible jurors. As amended Acts 1955, 54th Leg., p. 572, ch. 188, § 1; Acts 1957, 55th Leg., p. 327, ch. 147, § 2.

Effective 90 days after May 23, 1957, date of adjournment.

Amendment by Acts 1957, 55th Leg., p. 792, ch. 327, § 1, see art.

591, post

Section 1 of the amendatory Act of 1957 amended Vernon's Ann.Civ.St. art. 2094. Section 3 repealed all conflicting laws and parts of laws to the extent of such conflict only. Section 4 was a severability clause.

Art. 591. 660, 647. Special venire in certain counties

In all counties of this State where jurors in either civil or criminal cases are drawn from a jury wheel as is now provided or may hereafter be provided by law, whenever a special venire is ordered, the District Clerk, in the presence of, and under the direction of, the Judge, shall draw from the wheel containing the names of the jurors, the number of names required for such special venire, and prepare a list of such names in the order in which drawn from the wheel, and attach said list to the writ and deliver same to the Sheriff. The cards bearing such names shall be sealed in an envelope and kept by the Clerk for distribution, as herein provided. If from the names so drawn, any of those that are impaneled on the jury and serve as many as four (4) days, the cards bearing their names shall be put by the Clerk in the box provided for that purpose, and the cards bearing the names of the ones not impaneled shall again be put by the Clerk in the wheel containing the names of the eligible jurors. As amended Acts 1955, 54th Leg., p. 572, ch. 188, § 1; Acts 1957, 55th Leg., p. 792, ch. 327, § 1.

Emergency. Effective May 31, 1957.

Amendment by Acts 1957, 55th Leg., p. 327, ch. 147, § 2, see art.

591, ante

Section 3 of the amendatory Act of 1957, repealed all conflicting laws or parts of laws to the extent of conflict only. Section 4 was a severability provisions.

Art. 597. 668, 650 Service of writ

The officer executing the writ shall summon the men whose names are upon the list attached to the writ to be before the court at the time named in the writ to serve as veniremen. Such summons may be made in one of the following manners, as directed by the judge drawing the jury:

- (1) Verbally upon each juror in person;
- (2) By first class United States mail;
- (3) By certified United States mail; or
- (4) By registered United States mail.

As amended Acts 1951, 52nd Leg., p. 584, ch. 340, § 1; Acts 1957, 55th Leg., p. 347, ch. 160, § 1.

Emergency. Effective May 6, 1957.

Section 2 of the amendatory Act of 1957 laws to the extent of conflict only. Section 3 was a severability clause.

Art. 601—A. Special venire in certain counties

In all counties of this State where jurors in either civil or criminal cases are drawn from a jury wheel as is now provided or may hereafter be provided by law and where as many as one hundred (100) jurors have been summoned in such county for regular service for the week in which such capital case is set for trial, the Judge of the Court having jurisdiction of a capital case in which a motion for a special venire has been made, shall grant or refuse such motion for a special venire and upon such refusal require the case to be tried by regular jurors summoned for service in such county for regular service for the week in which such capital case is set for trial and such additional talesmen as may be summoned by the Sheriff upon order of the Court as provided in Article 596 of the Code of Criminal Procedure, but the Clerk of such Court shall furnish the defendant or his counsel a list of the persons summoned for jury service for such week upon application therefor. As amended Acts 1949, 51st Leg., p. 1372, ch. 623, § 1; Acts 1957, 55th Leg., p. 792, ch. 327, § 1.

Emergency. Effective May 31, 1957.

TITLE 9—PROCEEDINGS AFTER VERDICT

CHAPTER THREE—JUDGMENT AND SENTENCE

1. IN CASES OF FELONY

Art.
781d. Adult Probation and Parole Law of
1957 [New].

1. IN CASES OF FELONY

Art. 768. 855, 833 Pronouncing sentence; time; credit for time spent in jail between arrest and sentence or pending appeal

If a new trial is not granted, nor judgment arrested in felony and misdemeanor cases, the sentence shall be pronounced in the presence of the defendant at any time after the expiration of the time allowed for making the motion for a new trial or the motion in arrest of judgment; provided that in all criminal cases the judge of the court in which defendant was convicted may, within his discretion, give the defendant credit on his sentence for the time, or any part thereof, which said defendant has spent in jail in said cause, from the time of his arrest and confinement until his sentence by the trial court; and provided further, that in all cases where the defendant has been tried for any violation of the laws of the State of Texas, and has been convicted and has appealed from said judgment and/or sentence of conviction, and where said cause has been affirmed by the Court of Criminal Appeals, and after receipt of the mandate by the clerk of the trial court, the judge is authorized to again call said defendant before him; and if, pending appeal, the defendant has not made bond or entered into recognizance and has remained in jail pending the time of such appeal, said trial judge may then in his discretion re-sentence the defendant and may subtract from the original sentence pronounced upon the defendant, the length of time the defendant has lain in jail pending such appeal; provided, however, that the provisions of this Act shall not apply after conviction and sentence in felony cases in which bond or recognizance is not permitted by law. As amended Acts 1957, 55th Leg., p. 330, ch. 149, § 1.

Emergency. Effective May 6, 1957.

Art. 775a. Repealed. Acts 1957, 55th Leg., p. 466, ch. 226, § 35. Eff. 90 days after May 23, 1957, the date of adjournment

Arts. 776-781

Acts 1957, 55th Leg., p. 466, ch. 226, enacting the Adult Probation and Parole Law of 1957 (Vernon's Ann.C.C.P. art. 781d) provides in section 35 for the repeal of various specific statutes and of all conflicting laws, but saves from repeal this and other articles therein enumerated.

Art. 781b. Repealed. Acts 1957, 55th Leg., p. 466, ch. 226, § 35. Eff. 90 days after May 23, 1957, date of adjournment

Section 17 of this Article was repealed by Acts 1953, 53rd Leg., p. 489, ch. 175, § 2.

Art. 781c. Uniform Act for Out-of-State Parolee Supervision

Acts 1957, 55th Leg., p. 466, ch. 226, enacting the Adult Probation and Parole Law of 1957 (Vernon's Ann. C.C.P. art. 781d) provides in section 35 for the repeal of various specific statutes and of all conflicting laws, but saves from repeal this and other articles therein enumerated.

Art. 781d. Adult Probation and Parole Law of 1957**Article I. Purpose of Act and Definitions**

Section 1. It is the purpose of this Act to place wholly within the state courts of appropriate jurisdiction the responsibility for determining when the imposition or execution of sentence in certain cases shall be suspended, the conditions of probation, and the supervision of probationers, in consonance with the powers assigned to the judicial branch of this government by the Constitution of Texas. It is also the intent of this Act to provide for the release of persons on parole and for the method thereof, to designate the Board of Pardons and Paroles as the responsible agency of state government to recommend determination of paroles and to further designate the Board of Pardons and Paroles as responsible for the investigation and supervision of persons released on parole. It is the final purpose of this Act to remove from existing statutes the limitations, and questions of constitutionality, that have acted as barriers to effective systems of probations and paroles in the public interest.

Sec. 2. This Act may be cited as the Adult Probation and Parole Law of 1957. Unless the context otherwise requires, the following definitions shall apply to the specified words and phrases as used in this Act:

a. "Courts" shall mean the courts of record having original criminal jurisdiction of felony actions.

b. "Probation" shall mean the release of a convicted defendant by a court under conditions imposed by the court for a specified period during which the imposition or execution of sentence is suspended.

c. "Parole" shall mean the release of a prisoner from imprisonment but not from the legal custody of the state, for rehabilitation outside of prison walls under such conditions and provisions for disciplinary supervision as the Board of Pardons and Paroles may determine. "Parole" shall not be construed to mean a commutation of sentence or any other form of executive clemency.

d. "Probation officer" shall mean either a person duly appointed by one or more courts of record having original criminal jurisdiction, to supervise defendants placed on probation; or a person designated by such courts for such duties on a part-time basis.

e. "Parole officer" shall mean a person duly appointed by the Director of the Division of Parole Supervision and assigned the duties of investigating and supervising paroled prisoners to see that the conditions of parole are complied with.

f. "Board" shall mean the Board of Pardons and Paroles.

g. "Division" shall mean the Division of Parole Supervision of the Board of Pardons and Paroles.

h. "Director" shall mean the Director of the Division of Parole Supervision.

Article II. Probations

Sec. 3. The courts of the State of Texas having original jurisdiction of felony criminal actions, when it shall appear to the satisfaction of the court that the ends of justice and the best interests of the public as well

as the defendant will be subserved thereby, shall have the power, after conviction or a plea of guilty for any felony crime or offense except murder, rape, and offenses against morals, decency, and chastity; where the maximum punishment assessed the defendant does not exceed ten years imprisonment, and where the defendant has not been previously convicted of a felony, to suspend the imposition or the execution of sentence and may place the defendant on probation for the maximum period of the sentence imposed or, if no sentence has been imposed, for the maximum period for which the defendant might have been sentenced, or impose a fine applicable to the offense committed and also place the defendant on probation as hereinafter provided. Any such person placed on probation shall be under the supervision of such court.

Sec. 4. When directed by the court a probation officer shall fully investigate and report to the court in writing the circumstances of the offense, criminal record, social history and present condition of the defendant. Whenever practicable, such investigation shall include a physical and mental examination of the defendant. If a defendant is committed to any institution the probation officer shall send a report of such investigation to the institution at the time of commitment.

Sec. 5. Only the court in which the defendant was tried may grant probation, fix or alter the conditions, revoke the probation, or discharge the defendant, unless the court has transferred jurisdiction of the case to another court with the latter's consent. After a defendant has been placed on probation, jurisdiction of the case may be transferred to a court of the same rank in this state having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs. Upon transfer, the clerk of the court of original jurisdiction shall forward a transcript of such portions of the record as the transferring judge shall direct to the court accepting jurisdiction, which latter court shall thereafter proceed as if the trial and conviction had occurred in that court. Any court having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs may issue a warrant for his arrest, but the determination of action to be taken after arrest shall be only by the court having jurisdiction of the case at the time the action is taken.

Sec. 6. The court having jurisdiction of the case shall determine the terms and conditions of probation and may at any time during the period of probation alter or modify the conditions and may include, but shall not be limited to, the conditions that the probationer shall:

- a. Commit no offense against the laws of this or any other state or the United States;
- b. Avoid injurious or vicious habits;
- c. Avoid persons or places of disreputable or harmful character;
- d. Report to the probation officer as directed;
- e. Permit the probation officer to visit him at his home or elsewhere;
- f. Work faithfully at suitable employment as far as possible;
- g. Remain within a specified place;
- h. Pay his fine, if one be assessed, in one or several sums, and make restitution or reparation in any sum that the court shall determine; and
- i. Support his dependents.

Sec. 7. At any time, after the defendant has satisfactorily completed one-third of the original probationary period or two years of probation, whichever is the lesser, the period of probation may be reduced or terminated by the court. Upon the satisfactory fulfillment of the conditions of probation, and the expiration of the period of probation, the court, by

order duly entered, shall amend or modify the original sentence imposed, if necessary, to conform to the probation period and shall discharge the defendant. In case the defendant has been convicted or has entered a plea of guilty, and the court has discharged the defendant hereunder, such court may set aside the verdict or permit the defendant to withdraw his plea, and shall dismiss the accusation, complaint, information or indictment against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he has been convicted or to which he has pleaded guilty, except that proof of his said conviction or plea of guilty shall be made known to the court should the defendant again be convicted of any criminal offense.

Sec. 8. At any time during the period of probation the court may issue a warrant for violation of any of the conditions of the probation and cause the defendant to be arrested. Any probation officer, police officer or other officer with power of arrest, may arrest such defendant without a warrant upon the request of the judge of such court. A probationer so arrested may be detained in the county jail or other appropriate place of detention until he can be taken before the court. Such officer shall forthwith report such arrest and detention to such court. Thereupon, the court shall cause the defendant to be brought before it and, after a hearing without a jury, may continue or revoke the probation and shall in such case proceed to deal with the case as if there had been no probation.

Any probationer who removes himself from the State of Texas without permission of the court having jurisdiction of the case, shall be deemed and considered a fugitive from justice and shall be subject to extradition as now provided by law. No part of the time that the defendant is on probation shall be considered as any part of the time that he shall be sentenced to serve. The right of the probationer to appeal to the Court of Criminal Appeals for a review of the trial and conviction, as provided by law, shall be accorded the probationer at the time he is placed on probation. When he is notified that his probation is revoked for violation of the conditions of probation and he is called on to serve a jail or penitentiary sentence he may appeal the revocation.

Sec. 9. If, for good and sufficient reasons, probationers desire to change their residence within the state, such transfer may be effected by application to their supervising probation officer, which transfer shall be subject to the court's consent and subject to such regulations as the court may require in the absence of a probation officer in the locality to which the probationer is transferred.

Sec. 10. For the purpose of providing adequate probation services, the judge or judges having original jurisdiction of criminal actions in the county or counties, if applicable, are authorized, with the advice and consent of the Commissioners Court as hereinafter provided, to employ and designate the titles and fix the salaries of probation officers, and such administrative, supervisory, stenographic, clerical, and other personnel as may be necessary to conduct pre-sentence investigations, supervise and rehabilitate probationers, and enforce the terms and conditions of probation. Only those persons who have successfully completed education in an accredited college or university and two years full time paid employment in responsible probation or correctional work with juveniles or adults, social welfare work, teaching or personnel work; or persons who are licensed attorneys with experience in criminal law; or persons who are serving in such capacities at the time of the passage of this Act and who are not otherwise disqualified by Section 31 of this Act, shall be eligible for appointments as probation officers; provided that additional experience in any of the above work categories may be substituted year for

year for the required college education, with a maximum substitution of two years.

It is the further intent of this Act that the caseload of each probation officer not substantially exceed 75 probationers.

Where more than one probation officer is required, the judge or judges shall appoint a chief adult probation officer or director, who, with their approval, shall appoint a sufficient number of assistants and other employees to carry on the professional, clerical, and other work of the court.

Provided that the judge or judges, with the approval of the juvenile board of the county, may authorize the chief probation or chief juvenile officer to establish a separate division of adult probation and appoint adult probation officers and such other personnel as required. It is the further intent of this Act that the same person serving as a probation officer for juveniles shall not be required to serve as a probation officer for adults, and vice versa.

The judge or judges may, with the approval of the director of parole supervision, designate a parole officer or supervisor employed by the Division of Parole Supervision as a probation officer for the county or district.

Probation officers shall be furnished transportation, or alternatively, shall be entitled to an automobile allowance for use of personal automobile on official business, under the same terms and conditions as is provided for sheriffs.

The salaries of personnel, and other expenses essential to the adequate supervision of probationers, shall be paid from the funds of the county or counties comprising the judicial district or geographical area served by such probation officers. In instances where a district court has jurisdiction in two or more counties, the total expenses of such probation services shall be distributed approximately in the same proportion as the population in each county bears to the total population of all of those counties, according to the last preceding or any future federal census. In all the instances of the employment of probation officers, the responsible judges and county commissioners are authorized to accept grants or gifts from other political subdivisions of the state or associations and foundations, for the sole purpose of financing adequate and effective probationary programs in the various parts of the state. For the purposes of this Act, the municipalities of this state are specifically authorized to grant and allocate such sums of money as their respective governing bodies may approve to their appropriate county governments for the support and maintenance of effective probationary programs. All grants, gifts, and allocations of the character and purpose described in this section shall be handled and accounted for separately from other public funds of the county.

Sec. 11. For the purpose of determining when fees are to be paid to any officer or officers, the placing of the defendant on probation shall be considered a final disposition of the case, without the necessity of waiting for the termination of the period of probation or suspension of sentence.

Article III. Paroles

Sec. 12. The Board of Pardons and Paroles created by Article 4, Section 11 of the constitution of this state, shall administer the provisions of this Act respecting determinations of which prisoners shall be paroled from the Prison System of this state, the conditions of such paroles, and may recommend the revocation of paroles by the Governor.

Sec. 13. The members of the Board shall give full time to the duties of their office and shall be paid such salaries as the Legislature may de-

termine in Appropriation Acts. The members of the Board shall elect one of their number as chairman, who shall serve for a period of two years and until his successor is elected and qualified.

The Board shall meet at the call of the chairman and from time to time as may otherwise be determined by majority vote of the Board. A majority of the Board shall constitute a quorum for the transaction of all business.

The Board shall adopt an official seal of which the courts shall take judicial notice. Decisions of the Board shall be by majority vote.

The Board shall keep a record of its acts and shall notify each institution of its decision relating to the persons who are to have been confined therein. At the close of each fiscal year the Board shall submit to the Governor and to the Legislature a report with statistical and other data of its work.

All minutes of the Board and decisions relating to parole, pardon and clemency shall be matters of public record and subject to public inspection at all reasonable times.

Sec. 14. The necessary office quarters shall be provided for the Board in the manner that the same are furnished to other departments, boards, commissioners, bureaus and offices of the state.

Sec. 15. The Board is hereby authorized to release on parole with the approval of the Governor any person confined in any penal or correctional institution of this state, except persons under sentence of death, who has served one-third ($\frac{1}{3}$) of the maximum sentence imposed; provided that in any case he may be paroled after serving fifteen years; and provided further that where the maximum sentence is not four times as great as the minimum sentence, and the convict has served the minimum sentence, and where the maximum sentence is greater than four times the minimum sentence, and the convict has served one-fourth ($\frac{1}{4}$) of the maximum sentence, such convict may be paroled during good behavior for the balance of the term imposed upon him. All paroles shall issue upon order of the Board, duly adopted and approved by the Governor.

Within one year after a prisoner's admittance to the penal or correctional institution and at such intervals thereafter as it may determine, the Board shall secure and consider all pertinent information regarding each prisoner, except any under sentence of death, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made.

Before ordering the parole of any prisoner, the Board may have the prisoner appear before it and interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the Board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the institution from which he was released but shall be amenable to the orders of the Board.

The Board may adopt such other rules not inconsistent with law as it may deem proper or necessary, with respect to the eligibility of prisoners for parole, the conduct of parole hearings, or conditions to be imposed upon parolees. Whenever an order for parole is issued it shall recite the conditions thereof.

It shall be the duty of the Board at least ten days before ordering the parole of any prisoner or upon the granting of executive clemency by the Governor to notify the sheriff, the district attorney and the district judge

in the county where such person was convicted that such parole or clemency is being considered by the Board or by the Governor.

If no parole officer has been assigned to the locality where a person is to be released on parole or executive clemency the Board shall notify the chairman of the Voluntary Parole Board of such county prior to the release of such person. The Board shall request such Voluntary Parole Board, in the absence of a parole officer, for information which would herein be required of such duly appointed parole officer. This shall not, however, preclude the Board from requesting information from any public agency in such locality.

Sec. 16. It shall be the duty of any judge, district attorney, county attorney, police officer or other public official of the state, having information with reference to any prisoner eligible for parole, to send in writing such information as may be in his possession or under his control to the Board, upon request of any member or employee thereof.

Sec. 17. It shall be the duty of all prison officials to grant to the members of the Board, or its properly accredited representatives, access at all reasonable times to any prisoner, to provide for the Board or such representatives facilities for communicating with and observing such prisoner, and to furnish to the Board such reports as the Board shall require concerning the conduct and character of any prisoner in their custody and any other facts deemed by the Board pertinent in determining whether such prisoner shall be paroled.

Sec. 18. The Board shall formulate rules as to the submission and presentation of information and/or arguments to the Board for and in behalf of any parolee under the jurisdiction of the Board.

All persons presenting information or arguments to the Board shall submit their statements in writing and not otherwise, and shall submit therewith an affidavit stating whether any fee has been paid or is to be paid for their services in the case, the amount of such fee, if any, and by whom such fee is paid or to be paid.

Sec. 19. The Board shall have power to issue subpoenas requiring the attendance of such witnesses and the production of such records, books, papers, and documents as it may deem necessary for investigation of the case of any person before it. Subpoenas may be signed and oath administered by any member of the Board. Subpoenas so issued may be served by a sheriff, constable, police, parole, or probation officer, or other law enforcement officer, in the same manner as similar process in courts of record having original jurisdiction of criminal actions. Any person who testifies falsely or fails to appear when subpoenaed, or fails or refuses to produce such material pursuant to the subpoena, shall be subject to the same orders and penalties to which a person before a court is subject. Any courts of record having original jurisdiction of criminal actions upon application of the Board, may in their discretion compel the attendance of witnesses, the production of such material and the giving of testimony before the Board, by an attachment for contempt or otherwise in the same manner as production of evidence may be compelled before such courts of record having original jurisdiction of criminal actions.

Sec. 20. The Board shall have the power and duty to make rules for the conduct of persons placed on parole by the Board.

Sec. 21. Upon order by the Governor, the Board is authorized to issue a warrant for the return of any paroled prisoner to the institution from which he was paroled. Such warrant shall authorize all officers named therein to return such paroled prisoner to actual custody in the penal institution from which he was paroled. Pending hearing, as hereinafter provided, upon any charge of parole violation, the prisoner shall remain incarcerated in such institution.

Any peace officer, and any parole officer when so authorized by the stipulated conditions of parole, may arrest a parolee without a warrant when the parolee has, in the judgment of such officer, violated the conditions of his parole. The arresting officer shall present to the detaining authorities a statement in writing of the circumstances of violation. The arresting officer shall at once notify the Board of the arrest and detention of the parolee and shall submit in writing a report showing in what manner the parolee has violated the conditions of the parole.

A parolee for whose return a warrant has been issued by the Board shall, after the issuance of such warrant, be deemed a fugitive from justice and if it shall appear that he has violated the provisions of his parole, then the time from the issuing of such warrant to the date of his arrest shall not be counted as any part of the time to be served under his sentence. The law now in effect concerning the right of the State of Texas to extradite persons and return fugitives from justice, from other states to this state, shall not be impaired by this Act and shall remain in full force and effect.

Sec. 22. Any prisoner who commits a felony while at large upon parole and who is convicted and sentenced therefor, may be required by the Board to serve such sentence after the original sentence has been completed unless the court in imposing sentence shall have otherwise directed.

Whenever a paroled prisoner is accused of a violation of his parole on information and complaint by a law enforcement officer or parole officer, he shall be entitled to be heard on such charges before the Board under such rules and regulations as the Board may adopt; providing, however, said hearing shall be held within forty-five days of the date of arrest and at a time and place set by the Board. When the Board has heard the facts, it may recommend to the Governor that the parole be continued, or revoked, or modified in any manner the evidence may warrant. When the Governor revokes a prisoner's parole, he may be required to serve the portion remaining of the sentence on which he was released on parole, such portion remaining to be calculated without audit for the time from the date of his release on parole to the date of his arrest or charge of parole violation.

Sec. 23. A parolee shall be required to serve out the whole term for which he was sentenced, subject to the deduction of the time he had served prior to his parole and to any diminution of sentence earned for good behavior while imprisoned. This provision, however, shall not be construed so as to interfere with the Constitutional power conferred upon the Governor to grant pardons and to commute sentences.

When any paroled prisoner has fulfilled the obligations of his parole and has served out his term as conditioned in the preceding paragraph, the Board shall make a final order of discharge and issue to the parolee a certificate of such discharge.

Sec. 24. Whenever any prisoner serving an indeterminate sentence, as provided by law, shall have served for twelve months on parole in a manner acceptable to the Board, it shall review the prisoner's record and make a determination whether to recommend to the Governor that the prisoner be pardoned and finally discharged from the sentence under which he is serving.

When any prisoner who has been paroled has complied with the rules and conditions governing his parole until the end of the term to which he was sentenced, and without a revocation of his parole, the Board shall report such fact to the Governor prior to the issuance of the final order of discharge, together with its recommendation as to whether the prisoner should be restored to citizenship.

Sec. 25. On request of the Governor the Board shall investigate and report to the Governor with respect to any person being considered by the Governor for pardon, commutation of sentence, reprieve, or remission of fine or forfeiture, and make recommendations thereon.

Article IV. Supervision of Parolees

Sec. 26. The Board of Pardons and Paroles shall have general responsibility for the investigation and supervision of all prisoners released on parole. For the discharge of this responsibility, there is hereby created with the Board of Pardons and Paroles a Division of Parole Supervision. Subject to the general direction of the Board of Pardons and Paroles, the Division of Parole Supervision including its field staff shall be responsible for obtaining and assembling any facts the Board of Pardons and Paroles may desire in considering parole eligibility, and for investigating and supervising paroled prisoners to see that the conditions of parole are complied with, and for making such periodic reports on the progress of parolees as the Board may desire.

Sec. 27. All information obtained in connection with prison inmates applying for parole or individuals who may be on parole and under the supervision of the Division, or persons directly identified in any proposed plan of release for a parolee, shall be privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the Governor and the Board of Pardons and Paroles upon request. It is further provided that statistical and general information respecting the parole program and system, including the names of paroled prisoners and data recorded in connection with parole services, shall be subject to public inspection at any reasonable time.

Sec. 28. Salaries of all employees of the Division of Parole Supervision shall be governed by Appropriation Acts of the Legislature. The Board of Pardons and Paroles shall appoint a Director of the Division, and all other employees shall be selected by the Director, subject to such general policies and regulations as the Board may approve.

It is expressly provided, however, that no person may be employed as a parole officer or supervisor, or be responsible for the investigations, surveillance, or supervision of persons on parole, unless he meets the following qualifications together with any other qualifications that may be specified by the Director of the Division, with the approval of the Board of Pardons and Paroles: 26 to 55 years of age, with four years of successfully completed education in an accredited college or university, and two years of full time paid employment in responsible correctional work with adults or juveniles, social welfare work, teaching, or personnel work. Additional experience in the above categories may be substituted year for year for the required college education, with a maximum substitution of two years.

Sec. 29. Any parole officer or supervisor employed by the Division of Parole Supervision may, with the approval of the Director, be designated as a probation officer by the judge of a court of the state having original jurisdiction of criminal actions. Any proportional part of the salary paid to a parole officer or supervisor so designated, however, in compensation for his service as a probation officer, shall be only with the prior written approval of the Director; and all such proportional salary payments shall be periodically reported to the Governor and the Legislature by the Director.

Sec. 30. In order to provide supervision of parolees or of persons granted executive clemency who reside in sparsely settled areas of the state and in localities not served by regularly employed parole officers, the Governor of this state is authorized to appoint chairmen of Voluntary

Parole Boards for such areas or localities. The appointed chairman may, with the advice and approval of the Director of the Division of Parole Supervision, appoint additional members of such Voluntary Parole Boards. The term of service by such appointed chairmen of Voluntary Parole Boards shall not exceed the term of office of the appointing Governor; and the terms of service of locally appointed additional members of such Voluntary Parole Boards shall not exceed the terms of office of the Director. However, it is expressly provided that the terms of service by such chairmen and additional members of Voluntary Parole Boards may be continued by appropriate reappointments. The chairman of the Voluntary Parole Board shall be responsible for assigning supervision of parolees to the members of such Board.

Sec. 31. No person who is serving as a sheriff, deputy sheriff, constable, deputy constable, city policeman, Texas Ranger, state highway patrolman, or similar law enforcement officer, or as a prosecuting attorney, assistant prosecuting attorney or investigator for a prosecuting attorney, shall act as a parole officer or be responsible for the supervision of persons on parole.

Sec. 32. Any parole officer or supervisor employed by the Division of Parole Supervision may, upon request of the Governor or the Board of Pardons and Paroles and by direction of the Director, be responsible for supervising persons placed on conditional pardon or furlough.

Article V. General Provisions

Sec. 33. The provisions of this Act shall not be construed to prevent or limit the exercise by the Governor of powers of executive clemency vested in him by the constitution of this state.

Sec. 34. The provisions of this Act shall not apply to parole from institutions for juveniles.

Sec. 35. The following statutes are hereby repealed: Chapter 452, Acts 50th Legislature, Regular Session, 1947, (Adult Probation and Parole Law of 1947, codified as Article 781b of Vernon's Texas Code of Criminal Procedure);⁷⁸ Article 775a, Code of Criminal Procedure;⁷⁹ Articles 959 through 966, Code of Criminal Procedure;⁸⁰ all statutes authorizing appointment of adult probation and parole officers where a probation and parole officer had not been assigned in accordance with the provisions of Chapter 452, Acts of the 50th Legislature. All other laws or parts of laws in conflict herewith are hereby repealed in so far only as they conflict with the provisions of this Act. However, nothing in this Act shall be construed as repealing Articles 776 through 781 of the Texas Code of Criminal Procedure, 1925, as heretofore amended, or Section 4 of Chapter 43, General Laws, 42nd Legislature, 1931 (Article 776a of Vernon's Texas Code of Criminal Procedure), which statutes are commonly known as the Suspended Sentence Law; or as repealing Chapter 440, Acts of the 52nd Legislature, 1951, (Uniform Act for Out-of-State Parole Supervision).

Sec. 36. This Act shall not be deemed to alter or invalidate any probationary period fixed under statutes in force prior to the effective date of this Act or to limit the jurisdiction or power of a court to modify or terminate such probationary period. In other respects, persons placed on probation or parole prior to the effective date of this Act shall be amenable to the provisions of this Act in so far as it may be made applicable to them. All other actions pertaining to probations and paroles granted prior to the effective date of this Act shall be regulated according to the law in force at the time the probation or parole was granted. Acts 1957, 55th Leg., p. 466, ch. 226.

Effective 90 days after May 23, 1957, date of adjournment.

Section 37 of the Act of 1957 was a severability clause.

TITLE 12—MISCELLANEOUS PROCEEDINGS**CHAPTER ONE—INSANITY AFTER CONVICTION**

Art.

932—1. Mental illness after conviction
[New].

932—2. Savings Clause [New].

Arts. 921—932. Repealed. Acts 1957, 55th Leg., p. 1413, ch. 486, § 22.
Eff. Jan. 1, 1958

Art. 932—1. Mental illness after conviction**Persons not Charged with a Criminal Offense**

Sec. 10. A person who has been convicted of a criminal offense and sentenced to a term in the penitentiary or the county jail and whose sentence has been probated, suspended or served or who is on parole, is not by reason of that offense a person charged with a criminal offense as that phrase is used in Article 1, Sections 15 and 15a of the Constitution of the State of Texas, and such a person who is mentally ill may be hospitalized under the same procedures provided for other persons who are mentally ill.

Transfer from Penitentiary to Mental Hospital

Sec. 11. (a) The General Manager of the Texas Prison System may transfer a prisoner not under death sentence who is confined in the State Penitentiary to a State mental hospital if a prison physician is of the opinion that the prisoner is mentally ill and would benefit from treatment in a mental hospital and if he is advised by the head of a State mental hospital that facilities are available for treatment of the prisoner.

(b) A prisoner so transferred remains under the jurisdiction of the Texas Prison System.

(c) The General Manager shall transport the prisoner to and from the State mental hospital.

Transfer from County Jail to Mental Hospital

Sec. 12. (a) The county judge may transfer a prisoner who is serving a sentence in a county jail to a State mental hospital if the county health officer certifies that the prisoner is mentally ill and would benefit from treatment in a mental hospital and if the judge is advised by the head of a State mental hospital that facilities are available for treatment of the prisoner.

(b) A prisoner so transferred remains under the jurisdiction of the sheriff of the county.

(c) The county from which a prisoner is so transferred shall transport the prisoner to and from the State mental hospital, and shall pay the costs of his support, treatment and maintenance while in the State mental hospital as a prisoner.

Confinement in Mental Hospital

Sec. 13. The head of the State mental hospital in which a prisoner is being treated shall take reasonable precaution to prevent the escape of the prisoner and shall not discharge or furlough the prisoner or transfer him to any mental hospital other than a State mental hospital during the term of his sentence.

Escape from Mental Hospital

Sec. 14. The General Manager of the Texas Prison System or the sheriff from whose custody the prisoner was transferred is responsible for regaining custody of a prisoner who escapes from a State mental hospital.

Recovery before Expiration of Sentence

Sec. 15. When the head of the State mental hospital determines that a prisoner whose sentence has not expired no longer requires hospitalization for mental illness or will not benefit from continued hospitalization, he shall so notify the General Manager of the Texas Prison System or the county judge who transferred the prisoner to the State mental hospital. Upon receiving this notice the General Manager or the county judge shall immediately transport the prisoner from the State mental hospital to the penitentiary or county jail to serve the unexpired portion of his sentence.

Examination prior to Expiration of Sentence

Sec. 16. Prior to the date of the expiration of the sentence of a prisoner who is being treated in a State mental hospital, the head of the mental hospital shall have the prisoner examined and shall determine whether he requires further hospitalization as a mentally ill person and whether because of his mental illness he is likely to cause injury to himself or others if not restrained.

(a) The head of the mental hospital shall release the prisoner upon receiving notice of his discharge from the penitentiary or from jail, unless he determines that the prisoner requires further hospitalization as a mentally ill person and because of his mental illness is likely to cause injury to himself or others if not restrained.

(b) If the head of the hospital determines that the prisoner requires further hospitalization as a mentally ill person and because of his mental illness is likely to cause injury to himself or others if not restrained, he shall cause to be filed in the county court of the county in which the hospital is located a Certificate of Examination for Mental Illness and An Application for Temporary Hospitalization or Petition for Indefinite Commitment and may detain the person as a patient after his discharge from prison pending order of the court.

(c) If the head of the hospital determines that the prisoner requires further hospitalization as a mentally ill person, he shall so inform a responsible relative of the patient, and may cause an Application for Temporary Hospitalization or Petition for Indefinite Commitment to be filed in the county court of the proper county.

Time Credited

Sec. 17. The time a prisoner is confined in a State mental hospital for treatment shall be considered time served and shall be credited to the term of his sentence, but he shall not be entitled to any commutation of sentence for good conduct while he is under treatment in a mental hospital.

Discharge from Prison

Sec. 18. Upon the expiration of the sentence of a prisoner who is being treated in a State mental hospital, he shall receive a discharge from the penitentiary or the county jail as in all other cases. Acts 1957, 55th Leg., p. 1413, ch. 486.

Effective Jan. 1, 1958.

Sections 1-9 of the 1957 Act, see art. 932b; Section 19, see Vernon's Ann.P.C. art. 34; Section 20, see art. 932—2.

Section 22 of the Act of 1957 provided that the following Statutes and Acts, together with all laws or parts of laws in conflict herewith, are hereby repealed:

Articles 923, 924, 925, 926, 927, 929, 930, 931, 932 of the Code of Criminal Procedure of the State of Texas, 1925; Articles 921 and 922 of the Code of Criminal Procedure of the State of Texas, 1925, as amended by

Acts 1931, Forty-second Legislature, Chapter 54; Article 928 of the Code of Criminal Procedure of the State of Texas, 1925, as amended by Acts 1935, Forty-fourth Legislature, Chapter 239; Article 3186 of the Revised Civil Statutes of Texas, 1925; Acts 1931, Forty-second Legislature, Chapter 21 (compiled as Texas Civil Statutes, Article 3186a, Vernon's 1948), and Acts 1937, Forty-fifth Legislature, Chapter 466 (compiled as Article 932a, Code of Criminal Procedure, Vernon's 1948).

Art. 932—2. Savings Clause

The repeal of any law by this Act shall not affect or impair any act done or right, obligation or penalty existing or accrued under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such act, right, obligation or penalty. Acts 1957, 55th Leg., p. 1413, ch. 486, § 20.

CHAPTER ONE A—INSANITY AS DEFENSE

Art.

932b. Insanity in defense or in bar [New].

Art. 932a. Repealed. Acts 1957, 55th Leg., p. 1413, ch. 486, § 22. Eff. Jan. 1, 1958

Art. 932b. Insanity in defense or in bar

Insanity as a Defense

Section 1. In any case where the question of the insanity of a defendant is raised and that issue is tried alone before the main charge or is tried in connection with the main charge, the jury shall state in their verdict whether the defendant was sane or insane at the time the offense is alleged to have been committed and whether the defendant is sane or insane at the time of the trial.

(a) If the jury finds the defendant to have been insane at the time the offense is alleged to have been committed, the defendant shall stand acquitted of the alleged offense.

(b) If the jury finds the defendant to be insane at the time of trial, the court shall enter an order committing the defendant to a State mental hospital and placing him in the custody of the sheriff for transportation to a State mental hospital to be confined therein until he becomes sane. If the defendant is acquitted of the alleged offense the court shall so state in the commitment order.

Status of Patient Acquitted

Sec. 2. A person committed to a State mental hospital under this Act upon a jury finding of insanity at the time of trial who has been acquitted of the alleged offense is not by reason of that offense a person charged with a criminal offense, and therefore the head of the mental hospital to which he is committed may transfer, furlough and discharge him and shall treat him as any other patient committed for an indefinite period.

Insanity as Bar to Proceedings

Sec. 3. If the question of the sanity of the defendant is raised after his conviction and prior to the pronouncement of sentence in a felony

case or while an appeal from that conviction is pending, and sufficient proof is shown to satisfy the judge of the convicting court that a reasonable doubt exists as to the sanity of the defendant, the judge shall impanel a jury to determine whether the defendant is sane or insane. If the jury finds the defendant is insane, the court shall enter an order committing the defendant to a State mental hospital and placing him in the custody of the sheriff for transportation to a State mental hospital to be confined therein as a person charged with a criminal offense until he becomes sane. If the jury finds the defendant is sane, the proceedings in the case against him shall continue.

Insanity as Bar to Execution of Death Sentence

Sec. 4. If the question of the sanity of a person under death sentence is raised and sufficient proof is shown to satisfy the judge of the convicting court or the judge of the district court of the county in which the person is confined that reasonable doubt exists as to his sanity, the judge shall impanel a jury to determine whether the person is sane or insane. If the jury finds the person is insane, the court shall enter an order committing him to a State mental hospital to be confined therein as a person charged with a criminal offense until he becomes sane. If the jury finds the person is sane, the court shall remand him to the proper authority for disposition according to law.

Suspension of Proceedings

Sec. 5. When a defendant is found to be insane and committed to a State mental hospital under this Chapter, all further proceedings in the case against him shall be suspended until he becomes sane, except that upon motion of a defendant's counsel an appeal from a conviction may be prosecuted.

Trial on Recovery of Sanity

Sec. 6. (a) If the head of a State mental hospital in which a person charged with a criminal offense is confined under this Chapter is of the opinion that the person is sane, he shall so notify the court which committed the person to the State mental hospital.

(b) Upon receiving this notice, the judge of the committing court shall impanel a jury to determine whether the person is sane or insane. If the jury finds the person is sane, the proceedings in the case against him shall continue. If the jury finds the person is insane, the court shall order his return to the State mental hospital until he becomes sane.

Trial on Issue of Insanity

Sec. 7. In a trial under this Chapter, the counsel for the defense has the right to open and conclude the argument on the issue of insanity. If the defendant has no counsel, the court shall appoint counsel to conduct the trial for him.

Medical Testimony Required

Sec. 8. No person shall be committed to a mental hospital under this Chapter except on competent medical or psychiatric testimony.

Time Credited

Sec. 9. The time a person charged with or convicted of a criminal offense is confined in a State mental hospital under this Chapter pending

trial, sentencing or appeal may in the discretion of the court be credited to the term of his sentence upon subsequent sentencing or resentencing. Acts 1957, 55th Leg., p. 1413, ch. 486.

CHAPTER FOUR—PARDON AND PAROLE

Arts. 959-966. Repealed. Acts 1957, 55th Leg., p. 466, ch. 266, § 35.
Eff. 90 days after May 23, 1957, date of adjournment

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| 482 | 1993 | 20 - - - - - | 5221b-18 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Ch. | P. | Sec. | Art. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 268 | 542 | 1-7 - - - - - | 3193o-1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Page | Sec. | Art. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| 376 | 2(e) - - - - - | 4476a, § 2e | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Ch. | P. | Sec. | Art. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 226 | 347 | 1-5 - - - - - | 3193o-2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 203 | 274 | 1-14 - - - - - | 118c-2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 106 | 169 | 1 - - - - - | 634¼ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| 289 | 492 | 2 - - - - - | 666-1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 325 | 550 | 25 - - - - - | 1269m, § 25 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| 406 | 756 | 1-11 - - - - - | 3232a | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 435 | 810 | 1-4 - - - - - | 5561b | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 375 | 641 | - - - - - | P.C. 978j note | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 386 | 669 | 1 - - - - - | 6819a-9 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 386 | 669 | 2 - - - - - | 6819a-6 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Ch. | P. | Art. | Code | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 491 | 868 | 1(3.43) - - - - - | Ins.Code 3.42 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 491 | 868 | 1(21.46) - - - - - | Ins.Code 21.46 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Ch. | P. | Sec. | Art. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 49 | 62 | 2 - - - - - | 7047a-19a | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 49 | 62 | 3 - - - - - | 7047a-19b | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 405 | 961 | - - - - - | P.C. 978j note | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| 38 | 52 | 1 - - - - - | 3174b-1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 55 | 88 | 219 - - - - - | Prob.Code § 219 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 67 | 322 | 1-42 - - - - - | 579-1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| | | | 579-42 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| 197 | 589 | - - - - - | P.C. 978j note | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 266 | 736 | 1, 2 - - - - - | 3912e-5a | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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