

# Texas Historical Statutes Project

1966 SUPPLEMENT  
TO  
VERNON'S TEXAS STATUTES 1948



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VERNON'S  
TEXAS STATUTES  
1966 SUPPLEMENT

Including General and Permanent Laws  
of the  
59th Legislature, Regular Session

TABLES and INDEX

Supplementing  
Vernon's Texas Statutes 1948  
and  
1950-1964 Supplements

KANSAS CITY, MO.  
VERNON LAW BOOK COMPANY

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## 1966 SUPPLEMENT

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This Supplement to Vernon's Texas Statutes includes the laws of a general and permanent nature enacted at the Regular Session of the 59th Legislature. The session convened January 12, 1965, and adjourned May 31, 1965.

This volume supplements the 1948 edition of Vernon's Texas Statutes and the 1950, 1952, 1954, 1956, 1958, 1960, 1962 and the 1964 Supplements.

The latest constitutional amendments, approved by the voters on November 2, 1965, are also included.

To assist the user in readily locating any article or section affected by legislation from 1949 through 1965, a special Table has been prepared and is printed on the colored pages herein.

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

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

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

VERNON LAW BOOK COMPANY

March, 1966

## Cite This Book by Article

- Vernon's Texas Civ. St., 1966 Supp. Art. —.
- Vernon's Texas P. C., 1966 Supp. Art. —.
- Vernon's Texas C. C. P., 1966 Supp. Art. —.
- Vernon's Texas Prob. Code, § —.
- Vernon's Texas Bus. Corp. Act, Art. —.
- Vernon's Texas Elec. Code, Art. —.
- Vernon's Texas Ins. Code, Art. —.
- Vernon's Texas Tax.Gen., Art. —.
- Vernon's Texas U. C. C., § —.

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### Civil Statutes

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
1a	New	1961	46c-7 (former-ly 46c-8)	Am.	1961
1b	New	1965	46c-8	New	1961
17	Am.	1964	46e-1	Am.	1952
23	Am.	1958	(1)	Am.	1966
23a	Am.	1964	(2)	Am.	1966
29	Am.	1961	46e-3(2)	Am.	1961
29b	New	1958		Am.	1964
29c	New	1958	46e-13	Am.	1952
29d	New	1964	52	Rep.	1954
41a	Am.	1960	57	Am.	1954
§§ 2, 3	Am.	1961		Am.	1960
§ 4	Am.	1952		Am.	1961
§ 4(a)	New	1961	69	Am.	1958
§ 5	Am.	1952	82a	New	1956
§ 8	Am.	1952		Am.	1958
§ 8	Am.	1961	93b,		
§§ 9, 10	Am.	1961	§ 2	Am.	1956
§ 12	Am.	1961	§ 2(e)	Am.	1958
§ 13	Am.	1961	§ 3	Am.	1954
§ 15	Am.	1952	§ 3	Am.	1956
§ 15	Am.	1961	§ 3	Am.	1958
§§ 16, 18	Am.	1961	§ 3	Am.	1956
§ 20	Rep.	1961	§ 4	Am.	1956
§ 22	Am.	1961	§ 7	Am.	1954
§ 23	Am.	1961	§ 10	Am.	1954
§ 24	Am.	1961	93c	New	1954
46a,			94		
§ 1a	Am.	1952	to		
§§ 1b, 1c	New	1952	96	Rep.	1961
§ 5	Am.	1952	97	Am.	1950
§ 6	Am.	1952		Rep.	1961
§ 6	Am.	1961	98		
§ 6	Am.	1964	to		
§ 9	Am.	1952	108	Rep.	1961
§ 10	Am.	1966	108a	New	1961
46b	Am.	1952	117, § 3	Am.	1956
46c-1	Am.	1961	117a	Rep.	1954
46c-3	Am.	1961	118a,		
46c-4	Am.	1961	§ 3	Am.	1956
46c-6	Am.	1961	§ 9	Am.	1956
Subd. 10	Added	1966	§ 12	Am.	1954
46c-7	Rep.	1961	§ 12	Am.	1956



**VERNON'S TEXAS STATUTES**

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
118b.			149j	New	1952
§ 1	Am.	1964	149k	New	1952
§ 3	Am.	1964	165-9	New	1964
§ 4	Am.	1964	165a-4,		
§ 6	Am.	1966	§ 3(5)	Rep.	1966
§ 11	Am.	1964	§ 4, Subsec. B	Rep.	1966
§ 24	Am.	1956	§ 4, Subsec. C	Am.	1966
§ 24A	New	1956	§ 5(H)	Am.	1960
§ 25	Am.	1964	§ 6	Am.	1966
§ 27	Rep.	1964	§ 7	Am.	1960
118c-1,			165a-4a	New	1961
§ 2	Am.	1956	165a-8	New	1950
§ 10	Am.	1954	165a-9	New	1952
§ 10	Am.	1956	Rep.	1954	
118c-2,			165a-10	New	1954
§ 2	Am.	1956	§ 1	Am.	1956
§ 10	Am.	1954	§ 9A	Added	1966
§ 10	Am.	1956	165-3a	New	1961
118c-2	Rep.	1958	165-4a	Am.	1950
118c-3	New	1956	§ 2	Am.	1952
§ 2	Am.	1958	§ 2	Am.	1960
§§ 5, 6	Rep.	1958	165-4b	New	1950
118d	New	1950	165-6	New	1950
§ 6	Am.	1952	165-7	New	1950
§ 9	Am.	1952	Rep.	1954	
§§ 14-16	Am.	1952	165-8	New	1958
note	New	1954	§ 9	Am.	1960
118e	New	1950	§ 9	Am.	1961
119	Am.	1960	§ 15	Am.	1961
120	Rep.	1960	§ 16	Am.	1961
121	Am.	1960	§ 17	Am.	1961
122	Am.	1960	§ 17a	New	1961
123	Am.	1960	§ 18	Am.	1961
124	Am.	1960	166	Rep.	1966
125	Am.	1960	166a	New	1966
126	Am.	1960	167		
127	Am.	1960	to		
128	Am.	1960	173	Rep.	1966
128a	New	1961	174	Am.	1961
129	Am.	1960	Rep.	1966	
130	Am.	1960	175	Rep.	1966
131	Am.	1960	176	Rep.	1966
131a	New	1960	176B	New	1950
132	Am.	1960	177	Rep.	1966
133	Am.	1960	179a	New	1958
134	Rep.	1960	179b	New	1958
135	Am.	1960	179c	New	1964
Am.	1964		190a-2	New	1958
135b-1	Am.	1956	190d-1	New	1960
Am.	1958		190j	New	1960
Rep.	1964		192b	Am.	1952
135b-2	New	1950	§ 1	Am.	1961
Rep.	1952		193	Am.	1952
135b-3	New	1952	Am.	1961	
Rep.	1954		Rep.	1966	
135b-4	New	1954	193a	New	1966
Am.	1958		194a	Rep.	1964
§ 17	Am.	1966	195	Am.	1952
135b-5	New	1964	Rep.	1966	
135c	New	1956	§ 1	Am.	1961
§ 1	Am.	1961	§ 2	Am.	1961
139,			§ 2	Rep.	1964
Subsec. 2	Am.	1966	195a	New	1966
			197a	New	1958

ARTICLES AFFECTED FROM 1949 TO 1965

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
197a	New	1958	199(105)	Am.	1952
	Rep.	1966	199(106)	Am.	1960
197b	New	1966	199(107)	Am.	1950
198	Am.	1964	§ 5a	Rep.	1966
199(5)	Am.	1952	§ 7	Am.	1966
	Am.	1954	199(109)	Am.	1956
	Am.	1961		Am.	1961
199(6)	New	1958	199(112)	Am.	1956
199(7)	Am.	1950	199(114)		
	Am.	1954	Subd. (l)	New	1954
199(9)	Am.	1954	199(115)	New	1950
	Am.	1956	199(117),		
§ 9	Am.	1950	§ 4	Rep.	1950
§ 10A	Added	1966	199(118)	New	1950
199(10)	Am.	1960	199(120)	New	1958
199(11)	Am.	1950	199(121)	New	1960
	Am.	1952	199(122)	New	1958
	Am.	1956	199(128)	New	1950
	Am.	1958	199(131)	New	1958
	Am.	1960	199(132)	New	1952
	Am.	1964		Am.	1956
199(14)	Am.	1952	§ 6	Am.	1960
	Am.	1956	199(134)	New	1950
199(19),			199(135)	New	1952
§§ 8-12	New	1950		Am.	1954
	Rep.	1952	§ 1	Am.	1958
199(20)	New	1966	§ 3	Am.	1958
199(25)		1956	§ 5	Am.	1958
199(32)	New	1952	§§ 7-9	Am.	1958
	New	1961	199(136)	New	1956
199(33)	Am.	1956	199(137)	New	1966
199(36)	Am.	1950	199(138)	New	1956
199(37)	Am.	1956		Am.	1956
	Am.	1964	199(139)	Am.	1956
199(38)	Am.	1956	199(140)	New	1956
199(42)	New	1961	199(142)	New	1956
199(43),				Am.	1956
§ 5	Am.	1960	199(143)	New	1956
199(51)	Am.	1950	199(144)	New	1961
§ 2	Am.	1954	199(145)	New	1956
199(58)	Am.	1956	199(146)	New	1960
199(62)	Am.	1956	199(150)	New	1958
199(63)	Am.	1952	§ 16	Rep.	1964
199(64)	New	1958	199(153)	New	1956
199(70)	Am.	1950	199(154)	New	1958
199(72)	Am.	1960	199(155)	New	1958
199(75)	Am.	1950	§ 5	Am.	1964
	Am.	1956	199(156)	New	1958
199(76)	Am.	1950	199(160)	New	1958
199(77)	Am.	1950	199(161)	New	1960
199(79)	Am.	1950	§ 6	Am.	1964
199(83)	Am.	1954	199(162)	New	1964
199(84)	Am.	1964	Subsec. (D)	Am.	1966
199(85)	Am.	1950	199(163)	New	1964
	Am.	1966	199(164)	New	1964
199(87)	Am.	1950	199(165)	New	1964
199(88)	New	1952	199(166)	New	1964
	Am.	1956	199(167)	New	1964
199(90)	New	1961	199(171)	New	1966
199(102)	Am.	1954	200a,		
	Am.	1956	§ 1	Am.	1960
	Am.	1961	§ 2	Am.	1966
199(104)	New	1961	§ 2a	New	1961
199(105)	Am.	1950			

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
200a,			326k-28	New	1956
§ 5a	New	1958	§ 5	Am.	1961
§ 10a	Added	1966		Am.	1964
224			326k-29	New	1956
to				Am.	1966
238	New	1966	326k-30	New	1956
238-1			326k-30a	New	1960
to			326k-31		
238-6	New	1966	to		
249a,			326k-36	New	1956
§§ 2-5	Am.	1952	326k-36a	New	1961
§§ 3-14	Am.	1956	326k-37	New	1958
§§ 7-10	Am.	1952	326k-38	New	1958
§§ 12, 13	Am.	1952		Rep.	1961
§ 14	Rep.	1952	326k-38a	New	1961
260-1	Am.	1956		Am.	1966
	Am.	1958	326k-39	New	1958
	Rep.	1966		Rep.	1961
279	Am.	1966	326k-40	New	1958
279a	Am.	1958	§ 1	Am.	1961
306	Am.	1956	§ 2	Am.	1961
306a,			326k-41	New	1960
§ 2	Am.	1966	326k-41a	New	1960
307A	Am.	1958		Am.	1961
307B	Am.	1961	326k-42	New	1960
319	Am.	1952	326k-43	New	1960
320a-1	Am.	1950	326k-43a	New	1964
§ 2	Am.	1966	326k-44	New	1961
322	Am.	1964	326k-45	New	1961
322c	New	1950	326k-46	New	1961
325b	New	1961	326k-47	New	1961
326k-12	Am.	1950	326k-48	New	1964
	Am.	1954	326k-49	New	1964
§ 1a	New	1958	326k-50	New	1964
§ 2-a	New	1952	§ 4	Am.	1966
§ 2b	New	1960	326k-51	New	1964
326k-13	New	1950	326k-52		
326k-14	New	1952	to		
326k-14	Am.	1958	326k-56	New	1966
326k-14	Am.	1964	326l-1	New	1966
326k-15	New	1952	331d	Am.	1950
326k-15	Am.	1958	331e	New	1950
326k-16	New	1952	331f	New	1950
326k-17	New	1952	331g	New	1952
326k-17	Rep.	1958	331g-1	New	1956
326k-18	New	1952	§ 2a	New	1960
326k-19	New	1952	331h	New	1954
	Am.	1961	331i	New	1960
326k-20	New	1952	331j	New	1961
326k-21	New	1952	342-101A	New	1952
326k-21	Am.	1960	342-104	Am.	1961
326k-22	New	1954	342-109	Am.	1960
326k-23	New	1954	342-112	Am.	1952
§ 4	Am.	1965	342-112A	New	1952
326k-24	New	1954	342-115	Am.	1964
326k-25	New	1954	342-201	Am.	1952
§§ 1, 2	Am.	1964	342-202	Am.	1952
326k-26	New	1954	342-203	Am.	1952
326k-27	New	1956	342-204	Am.	1952
	Am.	1962		Am.	1964
326k-28	New	1956	342-205	Am.	1952
§ 4	Am.	1961		Am.	1961
	Am.	1964	342-208	Am.	1952
			342-208A	New	1952
				Rep.	1960

ARTICLES AFFECTED FROM 1949 TO 1965

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
342-301	Am.	1958	581-7	New	1958
	Am.	1961	Subs. A	Am.	1964
	Am.	1961	Subs. D	Added	1964
342-303	Am.	1960	581-8	New	1958
342-304	Am.	1964	581-9	New	1958
342-305	Am.	1964	Subsec. B	Am.	1964
342-314	New	1956	581-10		
342-402	Am.	1960	to		
342-404	Am.	1960	581-12	New	1958
342-406	Am.	1960	581-13	New	1958
342-408	Am.	1960		Am.	1964
342-501A	New	1958	581-14	New	1958
342-502	Am.	1960	Subsec. (G)	Added	1964
342-504	Am.	1960	581-15		
	Am.	1964	to		
§ 2	Am.	1962	581-21		
342-505a	New	1956	581-22	New	1958
342-507	Am.	1950	Par. A	Am.	1961
	Am.	1960	581-23		
342-509a	New	1964	to		
342-606	Am.	1960	581-28	New	1958
342-701			581-29	New	1958
to				Am.	1961
342-703	Rep.	1966	Subsec. G	Rep.	1964
342-704	Am.	1958	581-30		
	Rep.	1966	to		
342-705	Rep.	1966	581-32	New	1958
342-706	Rep.	1966	581-33	New	1958
342-707a	Am.	1950		Am.	1964
342-709	Am.	1964	581-34	New	1958
342-711	Rep.	1966	581-35	New	1958
342-712	Rep.	1966	G	Am.	1960
342-902	Am.	1958	M	Am.	1960
342-903	Am.	1958	581-36		
	Am.	1960	to		
	Am.	1964	581-39	New	1958
342-908	Am.	1964	582-1	New	1960
	Am.	1966	§ 3a	Am.	1964
489d	New	1964	600a	Am.	1950
548b	New	1956		Am.	1952
§ 1	Am.	1964		Am.	1954
§ 1a	Am.	1964		Rep.	1956
§ 3	Am.	1964	601	New	1954
§ 5	Am.	1964	602	Am.	1954
567			603-605	Rep.	1958
to			607-629	Rep.	1964
571	Rep.	1966	613	Am.	1956
575	Rep.	1966	630	Am.	1962
576	Rep.	1966	631-633	Rep.	1958
579-1 to 579-42	New	1956	634	Am.	1950
	Rep.	1958		Am.	1952
580-1 to 580-39	New	1956		Am.	1956
	Rep.	1957		Rep.	1958
581-1			634½	Rep.	1958
to			634a	Rep.	1958
581-4	New	1958	636-648	Rep.	1958
581-5	New	1958	649	Am.	1956
Subs. E	Am.	1964		Rep.	1958
Subs. G-I	Am.	1964	650-652	Rep.	1958
Subs. O	Am.	1964	653	Am.	1956
Subs. Q	New	1960		Rep.	1958
Subs. R	Added	1964	654	Rep.	1958
581-6	New	1958			

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
655	Am.	1956	695c,		
656	Rep.	1956	§ 2(3)	Am.	1961
659-664	Rep.	1958	§ 4(7)	Am.	1952
664-2	New	1958		Am.	1964
664-3	New	1958	§ 6-A	Added	1966
§ 13	Am.	1966	§ 7A	New	1954
666	Am.	1950	§ 8	New	1950
	Am.	1958	§ 8(a)	Am.	1954
666-1	Am.	1950	§ 8(a), subsec.		
	Rep.	1958	2(e)	Am.	1966
666-2	New	1950	§ 14	Am.	1961
	Rep.	1958	§ 15	Am.	1952
666a-1	Rep.	1958	§ 16-A	Added	1958
666a-2	New	1958	§ 16-B	Added	1958
670-672	Rep.	1966		Am.	1966
677	Rep.	1950	§ 16-C	Added	1958
678	Am.	1952	§ 17	Am.	1964
678a	Abolished	1966	§ 17A	New	1964
678d	Am.	1961	§ 18	Am.	1964
	Rep.	1966	§ 18A	Added	1964
678d-1	New	1966	§ 18B	Added	1964
678e	New	1964	§ 19	Am.	1964
678f	New	1966	§ 27(1)	Am.	1958
678m	New	1956	§ 27(1)	Am.	1960
§ 1	Am.	1964	§ 28	Am.	1958
§ 15	Am.	1964	§ 29	Am.	1954
§ 16A	New	1964	§ 29-A	New	1960
678m-1	New	1958	§ 41	Am.	1964
678m-2	New	1958	695c note	Am.	1958
§ 1	Am.	1958	695c-1	New	1964
678m-3	New	1958	695c-2	New	1966
678m-4	New	1960	695g	New	1952
679	Rep.	1966	§ 1	Am.	1954
680	Rep.	1966	§ 1	Am.	1956
681	Am.	1950	§ 1(b)	Am.	1964
	Rep.	1966	§§ 2-12	Am.	1954
682	Rep.	1966	§ 3	Am.	1956
683	Rep.	1966	§ 4	Am.	1956
684-687	Rep.	1960	§ 7	Am.	1956
688	Am.	1952	§ 13a	New	1954
688a	New	1952	695h	New	1956
689	Am.	1952	§ 1(c)	Am.	1958
689a-2	Am.	1952	§ 1(c)	Am.	1961
689a-3	Rep.	1958	695i	New	1958
689a-4	Am.	1952	695j	New	1961
689a-4a	New	1952	§ 1(g)	Am.	1966
689a-5	Am.	1958	§ 1(j)	Added	1966
	Am.	1958	§ 3	Am.	1966
689a-6	Am.	1952	695k	New	1966
689a-7	Am.	1958	702	Am.	1954
689a-8a	New	1958	703a	New	1956
689a-9a	New	1954	703b	New	1958
689a-17	Rep.	1958	708b-1	Am.	1950
689a-17a	New	1958	709a	New	1954
689a-18	Rep.	1958	709b	New	1961
689a-19a	New	1958	709c	New	1961
691	Am.	1952	715a	New	1966
692	Am.	1952	717	Am.	1952
694	Am.	1950	717f	New	1950
695			717g	New	1952
§ 19A	Added	1964	717h	New	1952
695c,			717i	New	1954
§ 1	Am.	1964	717j	New	1956
§ 2(1) a	New	1958		Rep.	1961

ARTICLES AFFECTED FROM 1949 TO 1965

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
717j-1	New	1961	881a-26		
717k	New	1956	to		
717l	New	1958	881a-36	Rep.	1964
717m	New	1960	881a-37	Am.	1950
717n	New	1961		Rep.	1964
718	Am.	1964	881a-38		
725b	New	1961	to		
726c	New	1964	881a-43	Rep.	1964
752a	Am.	1956	881a-44	Am.	1950
752y-4	New	1958		Rep.	1964
752y-5	New	1960	881a-45		
784a.			to		
§ 4	Am.	1960	881a-56	Rep.	1964
795a	New	1964	881a-57	Am.	1950
802g	New	1956		Rep.	1964
802h	New	1961	881a-58		
822	Rep.	1954	to		
835h	New	1950	881a-60	Rep.	1964
835i	New	1952	881a-61	Am.	1950
835j	New	1950		Rep.	1964
835k	New	1950	881a-62	Rep.	1964
835l	New	1952	881a-63	Am.	1950
835m	New	1954		Rep.	1964
835n	New	1960	881a-64		
835o	New	1964	to		
836	Am.	1950	881a-69	Rep.	1964
838	Rep.	1964	881b	New	1950
840	Am.	1964		Rep.	1964
842a	Am.	1961	883	Am.	1966
842b-842f	Rep.	1952	890-898	Rep.	1966
842g	New	1952	911a,		
843	New	1964	§ 15	Am.	1961
851-C	New	1964	§ 16	Rep.	1961
852	Rep.	1964	911b,		
852a	New	1964	§ 1a(1)	Am.	1966
§ 5.05	Am.	1966	§ 1a(1) (e)	New	1956
§ 6.08	Am.	1966		Am.	1958
853			§ 1c	Added	1964
to			§ 1(g)	Am.	1966
881	Rep.	1964	§ 1(i)	Am.	1961
881a-1			§ 1j	Added	1964
to			§ 1¼	New	1964
881a-7	Rep.	1964	§ 13aa	Added	1966
881a-8	Am.	1952	911f	New	1966
	Rep.	1964	912a-2	Am.	1952
881a-9	Am.	1950	912a-3	Am.	1952
	Am.	1952		Am.	1956
	Rep.	1964		Am.	1964
881a-10	Am.	1950	912a-4	Am.	1952
	Rep.	1964	912a-5	Am.	1964
881a-11	Rep.	1964	912a-15	Am.	1964
881a-12	Am.	1952	912a-24	Am.	1956
	Rep.	1964	912a-28		
881a-13			to		
to			912a-30	New	1956
881a-21	Rep.	1964	912a-31	New	1956
881a-23	Am.	1954		Am.	1964
	Am.	1958	912a-32	New	1956
	Rep.	1964	912a-33	New	1956
881a-24	Am.	1950	932	Rep.	1956
	Rep.	1964	966b	New	1952
881a-25	Am.	1950	966c	New	1954
	Rep.	1964	§ 4	Am.	1956
	Am.	1964	966d	New	1956

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
966d—1	New	1964	1011m	New	1956
966e	New	1958	1015c—1	New	1956
966f	New	1960	1015c—2	New	1966
§ 4	Am.	1960	1015g,		
966g	New	1960	§ 1	Am.	1956
966h	New	1961	§ 5	Am.	1956
969a—1	New	1954	§ 13	Am.	1956
969d	New	1954	§ 13(a)	Added	1956
970a	New	1964	§ 13(b)	Added	1956
§ 6	Am.	1966		Am.	1966
971a	New	1950	§ 13(c)	Added	1956
973	Am.	1954		Am.	1966
973a	New	1950	1015g—1	New	1961
973b	New	1960	1015g—2	New	1966
974a,			1015h	New	1950
§ 1	Am.	1950	1015i	New	1954
§ 3	Am.	1956	1015j	New	1956
§ 10	Rep.	1950	1015k	New	1960
974a—1	New	1966	1016	Am.	1961
974a—2	New	1966	1027c—1	New	1964
974c—2	New	1950	1060a	Am.	1964
974c—3	New	1950	1066b,		
974c—4	New	1950	§ 1	Am.	1952
974c—5	New	1961		Am.	1960
974c—6	New	1961	§ 1a	New	1964
974d—2	New	1950	§ 2	Am.	1952
974d—3	New	1954		Am.	1960
974d—4	New	1956	§ 2a	New	1952
974d—5	New	1956		Am.	1960
974d—6	New	1958		Am.	1964
974d—7	New	1958	1085a	Am.	1950
974d—8	New	1961		Am.	1952
974d—9	New	1961	§ 2a	Added	1966
974d—10	New	1964	1093	Am.	1964
974d—11	New	1966	1098	Am.	1964
974e—7	New	1950	1105b,		
974e—8	New	1952	§ 1	Am.	1952
974g	New	1950	§ 9	Am.	1964
§ 1	Am.	1954	1105c	New	1961
974—1	New	1950	1109a,		
974—2	New	1950	§ 2	Am.	1954
976a	New	1950	§ 6	Am.	1954
976b	New	1950	§ 7	Am.	1954
976c	New	1966	1109a—3	New	1964
977	Am.	1950	1109e	New	1950
978a	New	1966	1109f	New	1956
980	Am.	1964	1109f—1	New	1960
980a	New	1966	1109g	New	1956
981	Rep.	1964	1109h	New	1958
982	Rep.	1964	§ 4	Am.	1960
984	Rep.	1964		Am.	1961
985	Rep.	1964	§ 5(d)	Am.	1960
986	Rep.	1964	1109i	New	1958
989	Am.	1964	§ 1	Am.	1960
	Am.	1966	§ 3a	New	1960
999a	New	1950	1109i—1	New	1961
1011	Am.	1950	1109j	New	1960
1011a	Am.	1960	1109k	New	1960
1011f	Am.	1950	1110b	New	1950
	Am.	1954	1110c	New	1964
	Am.	1961	1110d	New	1966
1011g	Am.	1960	1111a	New	1950
	Am.	1961	1111b	New	1950
1011l	New	1958	§ 1	Am.	1952

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
1111c	New	1952	1211	Am.	1964
1112	Am.	1954	1266	Am.	1960
1113a	New	1950		Am.	1961
	Am.	1954	1268a	New	1960
	Am.	1966	1268b	New	1964
1118n-5	New	1950	1269h-2	New	1960
§ 1a	New	1956	1269j-4	New	1952
1118n-6	New	1956	1269j-4.1	New	1966
1118n-7	New	1956	1269j-5	New	1956
1118n-8	New	1958	§ 1	Am.	1958
1118n-9	New	1961	§ 4(a)	New	1961
1118n-10	New	1964	1269j-5.1	New	1964
1118q	New	1950	1269j-6	New	1956
1118r	New	1952	1269j-7	New	1958
1118s	New	1952	1269l,		
1118t	New	1954	§ 7-a	New	1952
1118u	New	1954	1269l-1	New	1950
1118v	New	1958	1269l-2	New	1958
1118w	New	1958	§ 1	Am.	1961
1153a	New	1961	1269l-3	New	1958
1154	New	1950	1269m,		
1161	Am.	1954	§ 2	Am.	1958
1170	Am.	1961	§ 5a	New	1950
1170a	New	1952	§ 8	Am.	1950
1171	Rep.	1961	§ 9	Am.	1950
1174a-1	New	1952		Am.	1958
1174a-2	New	1954	§ 12	Am.	1958
1174a-3	New	1956	§ 13	Am.	1958
1174a-4	New	1960	§ 14	Am.	1950
1174a-5	New	1961		Am.	1958
1174a-6	New	1961	§ 14D	Am.	1956
1174a-7	New	1966		Am.	1964
1174a-8	New	1966	§ 16	Am.	1952
1174e	New	1961		Am.	1956
1175,			§ 16a	New	1950
Subd. 2	Am.	1964	§ 18	Am.	1956
1176a	Am.	1966	§ 20	Am.	1956
1176b-3	New	1961	§ 21	Am.	1956
1182c-1	Am.	1950	§ 22	New	1950
	Am.	1958	§ 22a	New	1952
§ 2a	New	1954	§ 23	Am.	1952
§ 2b	New	1961	§ 25	Rep.	1958
§ 4	Am.	1960	§ 26	Am.	1956
1182c-2	New	1958		Am.	1958
1182c-3	New	1958	§ 26(a)	New	1958
	Rep.	1960	§ 27(a)	Am.	1958
1182c-4	New	1958	§ 27(b)	Am.	1952
1182c-5	New	1960		Am.	1956
1182c-6	New	1960	§ 28(a)	New	1952
1182d-1	New	1960	1273a	Rep.	1952
1187a-2	New	1956	1273b	New	1952
1187c	New	1950	1287a,		
§ 7	Am.	1958	§ 3	Am.	1954
1187e	Am.	1960	§ 3a	New	1950
1187f	New	1961		New	1954
1188	Am.	1958	§ 3b	New	1950
1191	Am.	1958	1287-1	Am.	1950
1191a	New	1958	§§ 1-7	Rep.	1964
1196(a)	New	1950	§ 8	Am.	1958
1197a	New	1954		Rep.	1964
1200c	New	1950	§ 9	Rep.	1964
	Am.	1961	§ 10	New	1958
1200d	New	1956			



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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
1287-2	Am.	1964	1327a	New	1950
1287-3	New	1964		Rep.	1961
§ 6	Am.	1966	1328-1333	Rep.	1961
1291a	New	1964	1334a	Rep.	1956
1299	Rep.	1964	1334b	New	1956
1301a	New	1964		Rep.	1961
1302	Am.	1950	1335-1347	Rep.	1961
	Am.	1952	1348	Rep.	1964
	Am.	1954	1352	Rep.	1961
	Rep.	1961	1357	Rep.	1961
1302-1.01			1358	Rep.	1961
to			1358a	New	1964
1302-2.05	New	1961	1358-1, 1359	Rep.	1961
1302-2.06	New	1961	1360	Am.	1960
§ A	Am.	1964		Rep.	1961
§ B	Added	1964	1361-1379	Rep.	1961
1302-2.07			1380-1382	Rep.	1961
to			1383	Rep.	1961
1302-5.19	New	1961	1384-1395	Rep.	1961
1302-6.01	New	1961	1395a	New	1950
	Rep.	1966	1396-1398	Rep.	1961
1302-6.02	New	1961	1396-1.01	New	1960
	Am.	1966	1396-1.02	New	1960
	Rep.	1966	1396-2.01	New	1960
1302-6.03	New	1961	Subsec. (A) (1)	Added	1961
	Rep.	1966	1396-2.02		
1302-6.04	New	1961	to		
	Am.	1964	1396-2.07	New	1960
	Am.	1966	1396-2.08	New	1960
	Rep.	1966	§ E	Added	1961
1302-6.05			1396-2.09		
to			to		
1302-6.24	Rep.	1966	1396-3.01	New	1960
1302a	Rep.	1952	1396-3.02	New	1960
1302b			§ A	Am.	1966
to			1396-3.03		
1302d	Rep.	1961	to		
1302d-1	New	1956	1396-6.06	New	1960
	Rep.	1961	1396-7.01	New	1960
1302e	Rep.	1961	§ A	Am.	1966
1302f	Rep.	1961	§ B	Added	1966
1302g	New	1950	1396-7.02	New	1960
	Rep.	1961	§ A	Am.	1966
1302h	New	1950	1396-7.03		
	Rep.	1961	to		
1302i	New	1954	1396-8.14	New	1960
	Rep.	1961	1396-8.15	New	1960
1303, 1304	Rep.	1961	§ A	Am.	1966
1304a	Rep.	1961	§ B	Added	1966
1305	Rep.	1961	1396-8.16		
1306	Rep.	1961	to		
1307	Rep.	1961	1396-9.01	New	1960
1308-1313	Rep.	1961	1396-9.02	New	1960
1314	Am.	1952	§ C	Am.	1966
	Rep.	1961	§ E	Am.	1966
1314a	New	1960	§ F	Added	1966
	Rep.	1961	§ G	Added	1966
1315-1317	Rep.	1961	1396-9.03	New	1960
1318-1320	Rep.	1961		Am.	1961
1321a	Rep.	1961	1396-9.04		
1322-1326	Rep.	1961	to		
1327	Am.	1952	1396-10.03	New	1960
			1396-10.04	New	1960

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.
1396—10.04		
§ G	Added	1961
1396—10.05		
to		
1396—11.01	New	1960
1408	Rep.	1961
1409	Rep.	1961
1410	Rep.	1961
1411	Rep.	1961
1412—1415	Rep.	1961
1433	Am.	1950
1433a	New	1950
1434a,		
§ 3	Am.	1960
	Am.	1961
§ 5	Am.	1961
§ 6	Am.	1961
§ 8	Am.	1961
§ 9	New	1961
1436a	New	1950
1436b	New	1952
1438a	New	1952
	Am.	1966
1440	Am.	1964
1446.1		
to		
1446.3	New	1966
1478—1494	Rep.	1961
1499a	New	1952
1513a	New	1958
1524a,		
§ 2	Am.	1952
§ 4	Am.	1950
§ 7	Am.	1952
§ 14	New	1960
1524a—1	New	1952
	Rep.	1964
1528b,		
§ 3	Am.	1958
§ 12	Am.	1958
1528c	New	1950
§ 2(7)	Am.	1954
§ 4(5)	Am.	1954
1528d	New	1964
1529	Am.	1954
	Rep.	1961
1530	Rep.	1961
1531	Rep.	1961
1532—1538g	Rep.	1961
1538h	Am.	1956
1538i—1538m	Rep.	1961
1538n	New	1952
	Am.	1954
	Rep.	1961
1577	Am.	1950
	Am.	1954
1577a	New	1952
1577b	New	1961
1577c	New	1966
1578a	New	1966
1580 note	Am.	1950
	Am.	1956
	Am.	1958
	Am.	1960

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1581d	New	1950
1581d—1	New	1964
1581e	New	1950
1581f	New	1964
1581g	New	1966
1605	Am.	1954
1605a		
§ 2	Am.	1964
1605a—1	New	1958
1605a—2	New	1961
1605a—3	New	1961
1606 note	New	1960
1606b	New	1952
1606c	New	1952
§ 1	Am.	1954
1630b	New	1954
1630c	New	1958
1641	Am.	1956
1641c	New	1958
1641d	New	1960
1641e	New	1961
1644a—1	New	1956
1644c—1	New	1961
1645	Am.	1950
	Am.	1956
1645a—1	Am.	1950
1645a—5	Am.	1950
1645a—8	New	1952
	Am.	1954
1646b	New	1950
1649	Am.	1956
1650	Am.	1964
1651	Am.	1960
1659	Am.	1964
	Am.	1966
1659a	New	1960
1665	Am.	1956
1679	Am.	1960
1689	Am.	1964
1696a	New	1956
1702a—1	Am.	1958
1702b—6	Rep.	1950
1702e	New	1950
1702f	New	1950
1702g	New	1950
1702h	New	1952
1702i	New	1954
1728	Am.	1954
1738	Am.	1964
1817	Am.	1958
	Am.	1964
1817a	New	1958
1819	Am.	1958
1821	Am.	1954
1827	Am.	1958
1903	Am.	1964
1919	Am.	1952
	Am.	1956
1934a—10	Am.	1958
1934a—12	New	1950
1934a—13	New	1950
1934a—14	New	1950
1934a—15	New	1954

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1934a-15			1970-311a	New	1956
§ 1(b)	Am.	1961	1970-314	Rep.	1966
§ 1(c)	Am.	1966	1970-314a	New	1966
	Am.	1958	1970-318a	New	1952
1934a-16	New	1960	1970-324	Am.	1950
1934a-17	New	1964		Am.	1964
1934a-18	New	1964	§ 5	Am.	1966
1937	Am.	1966	§ 6	Am.	1966
1969a-2	New	1952	§ 9	Am.	1964
§ 1	Am.	1961	§ 17	Am.	1966
1969a-3	New	1956	1970-324a	New	1964
1970-31.1	New	1964	§ 6	Am.	1966
1970-31a	New	1952	§ 17	Am.	1966
1970-31b	New	1964	1970-324b	New	1966
1970-62a	New	1954	1970-325	New	1950
1970-62b	New	1961	1970-330		
§ 13	Am.	1961	§ 1	Am.	1964
1970-62c	New	1964	§ 2	Am.	1964
1970-75a	New	1966	1970-331	Rep.	1966
1970-77	Am.	1961	1970-331a	New	1966
1970-77 note	New	1961	1970-333a	New	1956
1970-95	Am.	1961	1970-336	New	1950
1970-96	Am.	1961	1970-337	New	1950
1970-110a	New	1950	1970-338	New	1950
§ 9	Am.	1964	1970-338A	New	1960
§ 11	Am.	1964	1970-339	New	1950
1970-110b	New	1952	§ 5	Am.	1954
§ 1	Am.	1961		Am.	1956
§ 2	Am.	1961	§ 8	Am.	1956
1970-110c	New	1958	§ 15	Am.	1956
§ 1	Am.	1961	§ 17	Am.	1952
§ 2A	Rep.	1961		Am.	1956
1970-110c.1	New	1964	1970-339A	New	1956
1970-110d	New	1961	§ 8	Am.	1956
1970-113	Am.	1964	§ 18	Am.	1956
1970-114	Am.	1950	1970-340	New	1950
1970-115	Am.	1950	§ 1a	Added	1964
1970-122	Am.	1950	1970-340.1	New	1958
	Am.	1952	1970-341	New	1952
	Am.	1956	§ 11	Am.	1966
	Am.	1964	1970-342	New	1954
1970-126a	New	1966		Am.	1961
1970-127a	New	1966		Am.	1964
1970-138	Am.	1956	§ 9	Am.	1966
1970-141.1	New	1956	1970-342a	New	1966
1970-141a	New	1952	1970-343	New	1956
1970-298b	New	1952	1970-344	New	1958
§ 10	Am.	1966	1970-345	New	1958
1970-298c	New	1966	§ 3	Am.	1960
1970-300a	New	1950	§ 11	Am.	1960
1970-301a	New	1952	§§ 14, 15	Am.	1961
1970-301b	New	1952	§ 15a	New	1960
1970-301c	New	1954	1970-346	New	1960
1970-301d	New	1958	1970-347	New	1960
1970-301e	New	1961	1970-348	New	1964
1970-301f	New	1964	§ 2	Am.	1966
1970-305,			§ 18a	Added	1966
§ 7	Am.	1956	1970-349	New	1966
	Am.	1960	1970a-1	New	1958
1970-305a	New	1952	1983	Am.	1966
1970-305b	New	1954	1984	Rep.	1966
1970-310 note	Am.	1958	1985	Am.	1966
	Am.	1960	1994	Am.	1961

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
1995			2326j-6	New	1960
(9)	Am.	1954		Am.	1966
(9a)	New	1954	2326j-7	New	1960
(17a)	New	1956		Am.	1964
2031b	New	1960	2326j-8	New	1961
2039a	Am.	1950	2326j-9	New	1961
§ 1	Am.	1954	2326j-10	New	1961
	Am.	1960	2326j-11	New	1961
§ 2	Am.	1954	2326j-12	New	1961
§ 4	Am.	1954	2326j-13	New	1961
2039c	Am.	1950	2326j-14	New	1961
2075	Am.	1956	2326j-15	New	1964
2093e	New	1950	2326j-16	New	1964
2094	Am.	1950	2326j-17	New	1964
	Am.	1958	2326j-18	New	1964
	Am.	1964	2326j-19	New	1964
	Am.	1966	2326j-20		
2095	Am.	1950	§§ 1, 2	New	1964
	Am.	1960	2326j-21		
	Am.	1964	§§ 1, 2	New	1964
2096	Am.	1960	2326j-22	New	1964
2097	Am.	1960	2326j-23	New	1964
2099	Am.	1960	2326j-24	New	1964
2101,			2326j-25	New	1964
§ 4	New	1961	2326j-26	New	1964
2102	Am.	1961	2326j-27	New	1964
2103b	New	1964	2326j-28	New	1964
§ 1	Am.	1966	2326j-29	New	1964
2122	Am.	1954	2326j-30	New	1964
	Am.	1966	2326j-31	New	1964
2133	Am.	1957	2326j-32	New	1964
2135	Am.	1956	2326j-33	New	1964
	Am.	1966	2326j-34	New	1964
(4)	Am.	1954	2326j-35	New	1964
(17)	New	1958	2326j-36	New	1964
2168a	Am.	1950	2326j-37	New	1964
2194a	New	1964	2326j-38		
2226	Am.	1950	to		
	Am.	1954	2326j-53	New	1966
2226a	New	1966	2326k	New	1952
2268a	New	1950	2326k combined with 2326		1954
2292a	New	1964	2326l	New	1958
2320b	Am.	1966	2326l-1	New	1966
§ 4	Rep.	1952	2326l-2	New	1966
2320c	New	1950	2326m	New	1960
2323a	New	1952	2326n	New	1960
2324	Am.	1956	§ 1	Am.	1964
	Am.	1961	2327c	New	1950
2325	Rep.	1956	2327d	New	1952
2326	Am.	1950		Am.	1956
	Am.	1954	2328a,		
2326a	Am.	1958	§ 3	Am.	1954
2326i	New	1950	2328b-1	New	1952
2326j	New	1950		Am.	1954
	Am.	1958		Rep.	1966
2326j-1	New	1958	2328b-2	New	1952
	Am.	1958		Rep.	1966
	Am.	1964	2328b-3	New	1952
2326j-2	New	1958		Am.	1954
2326j-3	New	1960		Rep.	1966
2326j-4	New	1960	2328b-4	New	1966
2326j-5	New	1960	2329	Rep.	1950

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2332a	Added	1966	2350,		
2335	Am.	1964	§ 2a	New	1950
2338-1	Am.	1950	§ 2b	New	1952
§ 3	Am.	1966	2350(6)	Am.	1950
§ 4	Am.	1952		Am.	1954
	Am.	1954	2350m,		
§ 5	Am.	1966	§ 3a	New	1956
§ 6	Am.	1966	§ 3b	New	1956
§ 12	Am.	1966	2350n	New	1952
§ 13	Am.	1966		Rep.	1960
§ 13-B	New	1960	2350o	New	1960
§ 14	Am.	1966	2351	Am.	1950
§ 17	Am.	1966	2351½	Added	1966
2338-2	New	1950	2351a-1	Am.	1961
§ 1	Am.	1960	2351a-4	New	1950
2338-2a	New	1958	2351a-5	New	1952
	Rep.	1966		Am.	1966
2338-2b	New	1966	2351a-6	New	1958
2338-3	New	1950	§ 12	Am.	1960
§§ 2-4	Am.	1952	2351d	New	1950
§§ 6-9	Am.	1952	2351e	New	1950
§§ 12-14	Am.	1952	2351f	New	1952
2338-3a	New	1958	2351g	New	1956
§ 1	Am.	1966		Rep.	1966
2338-4	New	1952	2351g-1	New	1966
2338-5	New	1954	2351h	New	1958
2338-6	New	1954	2352d	Am.	1956
2338-7	New	1956	§ 1	Am.	1952
2338-7a	New	1958	2352e	New	1961
2338-8	New	1958	2367a	New	1960
§ 2	Am.	1958	§ 2	Am.	1960
§ 6	Am.	1958	2368a,		
§ 9	Am.	1958	§ 2	Am.	1950
2338-9	New	1958		Am.	1966
§ 21	New	1960	§ 2a	New	1954
§ 22	New	1960	§ 2b	New	1954
2338-9a	New	1960	§§ 5, 6	Am.	1952
2338-10	New	1960	2368a-1	New	1950
§ 2	Am.	1964	2368a-2	New	1954
2338-11	New	1960	2368a-3	New	1954
§ 16-A	New	1960	2368a-4	New	1956
2338-11a	New	1964	2368a-5	New	1958
2338-12	New	1960	2368a-6	New	1960
2338-13	New	1960	2368a-7	New	1961
2338-14	New	1961	2368a-8	New	1961
§ 6	Am.	1964	2368a-9	New	1964
2338-15	New	1964	2368a-10	New	1966
§ 1a	Added	1966	2368f	New	1950
§ 3	Am.	1966	2370a	New	1950
§ 9	Am.	1964		Expired	1952
§ 11	Am.	1966	2370b	New	1958
2338-15a	New	1966	2370c	New	1964
2338-16	New	1964	2370d	New	1966
§ 2	Am.	1964	2371	Am.	1952
§ 4	Am.	1964	2372a-1	New	1954
§ 7	Am.	1964	2372d-2	New	1950
2338-17	New	1964	§ 1	Am.	1960
2338-18	New	1966	2372d-3	New	1952
2338-19	New	1966	2372f-1	New	1961
2338-20	New	1966	2372f-2	New	1964
2343	Am.	1966	2372f-3	New	1964
			2372f-4	New	1964
			2372f-5	New	1966
			2372f-6	New	1966

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
2372h,			2484b	Am.	1964
§ 6	Am.	1950	2484c	Am.	1964
2372h—1	New	1960	2484d	Added	1966
2372h—2	New	1960	2525	Am.	1964
2372h—3	New	1966	2529	Am.	1956
2372i	New	1950	2530a	New	1954
2372j	New	1950	2543c	Am.	1952
2372k	New	1952	2553	Am.	1950
2372l	New	1954	2558a,		
2372m	New	1956	§ 4a	Am.	1960
	Am.	1956	2570-2583	Rep.	1956
2372n	New	1956	2583a	New	1952
2372o	New	1960		Rep.	1956
2372p	New	1961	2585b	New	1966
2372q	New	1961	2589d	New	1954
2372r	New	1964	2589e	New	1954
2372s	New	1966	2589f	New	1960
2372s—1	New	1966	2592a	New	1950
2428	Am.	1956	2597	Am.	1950
2460a	New	1954	2603a,		
§ 2	Am.	1964	§ 4	Am.	1958
§ 5	Am.	1956	§ 5	Am.	1958
	Am.	1964		Am.	1966
§ 5a	New	1956	§ 8	Am.	1956
	Am.	1964	2603a—1	New	1966
2461	Am.	1950	2603b—2	New	1961
2462	Am.	1950	2603b—3	New	1961
	Am.	1964	2603f—1	New	1960
§ 7	Am.	1966	2603f—2	New	1964
§ 8	Am.	1966	2603g	New	1954
2464	Am.	1950	2603h	New	1958
2465	Am.	1950	2603i	New	1960
	Am.	1952	2603j	New	1961
	Am.	1954	2605	Rep.	1952
	Am.	1960	2606b	New	1950
	Am.	1961	2606c	New	1960
	Am.	1964	2606c—1	New	1964
§ 7	Added	1966	2607a		
2466	Am.	1964	§§ 1-3	New	1964
2468	Am.	1950	2613	Am.	1952
2469	Am.	1950	2613a—3	Am.	1954
	Am.	1964	§ 1	Am.	1958
	Am.	1966	2613a—4		
2470	Am.	1950	§ 1a	Added	1966
	Am.	1961	§ 4	Am.	1966
	Am.	1964	§ 13	Added	1966
2471	Am.	1950	2613a—7	New	1956
	Am.	1961	2613a—8	New	1958
2477	Am.	1950	2613a—9	New	1966
	Am.	1954	2613a—10	New	1966
§ 2, Subsec. 2	Am.	1966	2613c	New	1956
2480	Am.	1964	2614	Am.	1960
2481	Am.	1958	2615b,		
2482	Am.	1958	§ 4A	Rep.	1960
	Am.	1961	2615d	New	1950
	Am.	1964		Am.	1958
	Am.	1966	2615e	New	1950
2483	Am.	1954	2615f	New	1955
	Am.	1964	2615f—1	New	1966
2484	Am.	1950	2615f—2	New	1966
	Am.	1954	2615g	New	1961
2484a	Am.	1964	§ 7a	Am.	1964
2484b	New	1950	§ 10	Am.	1964

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2615g			2654.1	New	1960
§ 10a	Added	1964	2654.2	New	1964
§ 11	Am.	1964	2654a	Am.	1960
2616a	New	1950	§ 2	Am.	1964
2618	Am.	1954	2654b-1,		
	Am.	1960	§ 1	Am.	1960
2619a	New	1964	§ 2	Am.	1966
§ 3a	Added	1966	§ 3	Am.	1966
2620	Am.	1950	§ 5	New	1954
2620a	New	1950	2654c	Am.	1958
§ 2	Am.	1966	§ 1	Am.	1961
2621a	New	1960	§ 1(6)	Am.	1954
2623c-1	New	1960	§ 1(h)	Am.	1966
2623c-2	New	1960	2654d-1	New	1950
2623c-3	New	1960		Am.	1958
2623c-4	New	1960	2654e	Am.	1964
2623c-5	New	1960		Am.	1966
	Am.	1966	2654f	New	1950
2623c-6	New	1960	2654f-1	New	1966
2623c-7	New	1960	2654f-2	New	1966
2623c-8	New	1961	2654g	New	1966
2623c-9	New	1966	2654-1	New	1950
2624	Am.	1958	§ 4	Added	1952
2624b	New	1958	§ 4a	Added	1954
2624c	New	1958	2654-1a	New	1960
2628a-10	New	1964	2654-1b	New	1960
2628a-11	New	1966	2654-2	New	1950
2628d	New	1956	2654-3	New	1950
2632c	Am.	1964	2654-3a	New	1952
2632d	New	1954	§ 1	Am.	1956
2632e	New	1958		Am.	1964
§ 1	Am.	1958	2654-3b	New	1961
2632f	New	1961	2654-3c	New	1964
2633a	New	1950	2654-3d	New	1966
2637j	New	1952	2654-4	New	1950
2643b-1	New	1952	2654-5	New	1950
2643d	New	1950	2654-6	New	1950
§ 1	Am.	1956	2654-7	New	1950
2643d-1	New	1961	2663b-2	New	1956
2643e	New	1950	2668a	New	1961
2643f	New	1952	2668b	New	1964
2643f-1	New	1956	2668c	New	1964
2643g	New	1954	2668d	New	1964
	Am.	1956	2668e	New	1966
2643g-1	New	1961	2669	Am.	1961
2644a	New	1966	2671	Am.	1956
2647	Am.	1950	2673	Am.	1956
2647c	Am.	1950		Am.	1961
2647d	New	1950	2673a-2673i	New	1950
	Am.	1964	2675-1,		
2647d-1	New	1964	§ 3	New	1961
2647d-2	New	1966		Am.	1966
2647e	New	1950	2675-1 note	New	1950
2647f	New	1950	2675c-1	New	1956
2647g	New	1950		Rep.	1960
2647h	New	1958	2675c-2	New	1960
	Am.	1966	§ 2	Am.	1966
2647i	New	1961	2675k	New	1964
2648a	New	1966	2676	Am.	1958
2650	Rep.	1954	2676a	New	1964
2651a	New	1950	2676b	New	1966
	Am.	1961	2676c	New	1966
2651b	New	1961	2681a	New	1964
2652	Rep.	1954			

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2688c	New	1950	2774d	New	1958
	Am.	1952	2775a	New	1954
	Am.	1954	2775a-1	New	1956
	Am.	1958		Am.	1964
	Am.	1961		Am.	1966
	Rep.	1961	2775a-2	New	1960
2688d	New	1961	2775a-3	New	1964
2688e	New	1961	2775a-4	New	1964
2688f,			2775a-5	New	1966
§ 1-3	New	1961	2775a-6	New	1966
2688g	New	1964	2775a-7	New	1966
2688h	New	1964	2775b	New	1960
2688i	New	1964	2775c	New	1960
2688i-1	New	1966	2775c-1	New	1966
2688j	New	1964	2775d	New	1961
2688k	New	1964	2775e	New	1964
2688l to 2688o	New	1966	2775f	New	1966
2696	Am.	1954	2776a	New	1966
2698	Am.	1954	2777d	Am.	1950
2700	Am.	1950	§ 4a	New	1960
2700e	New	1966	2777d-1	New	1960
2701	Am.	1954	2777d-2	New	1961
2741a	New	1960	2777d-3	New	1966
2742f-2	New	1964	2777d-4	New	1966
2742o	New	1950	2777f	New	1961
2744a-1	New	1950	2779b	New	1954
2744e-4,			§ 1	Am.	1956
§ 5	Am.	1952	2783c,		
§ 7	Am.	1952	§ 1	Am.	1952
2744e-5	New	1950	§ 2	Am.	1952
2744e-6	New	1950	§§ 4-6	Am.	1952
2745b	New	1950	§ 8	Am.	1952
	Am.	1960	2783d,		
2745c	New	1958	§ 5	Am.	1954
	Am.	1960	§ 6	Am.	1950
§ 1	Am.	1964	§ 6a	New	1961
§ 1a	Am.	1961	2783e	New	1950
	Rep.	1964	2783f	New	1954
2746	Am.	1950	2783g	New	1961
2746a	Am.	1958	2784e-1	New	1956
2746c	New	1960		Am.	1958
2750a-2	New	1954	2784e-2	New	1960
	Am.	1956	2784e-3	New	1960
2752a	New	1964		Am.	1961
2756c	New	1954	2784e-4	New	1960
§ 2a	New	1958	2784e-5	New	1964
§ 3	Am.	1964	2784e-6	New	1964
2756d	New	1964	2784e-7	New	1966
2757	Am.	1960	2784f	New	1950
	Am.	1961	2784g	New	1954
2763	Am.	1952	§ 4	Rep.	1960
2763a	Am.	1961	2784g-1	New	1964
2766a	New	1956	2784h	New	1964
2766b	New	1961	2785	Am.	1954
2766c	New	1964	2786	Am.	1958
2767	Am.	1956		Am.	1964
2767h	New	1964	2786c	New	1952
2767-1	New	1956	2786d	New	1954
2773	Am.	1954		Am.	1958
2774b	New	1952	2786e	New	1954
	Am.	1966	§ 1	Am.	1964
2774c	New	1954	2786f	New	1954
2774c-1	New	1966	2788a	New	1950



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2788a			2815g-53	New	1961
§ 1	Am.	1958	2815g-54	New	1961
2789	Am.	1950	2815g-55	New	1961
2789d	New	1952	2815g-56	New	1964
2789e	New	1958	2815g-57	New	1964
2790a-6	New	1950	2815g-58	New	1966
2790d-8	New	1950	2815h,		
2790d-9	New	1960	§ 7a(1)	New	1952
2790d-10	New	1966	§ 7b	Am.	1950
2790e,			§ 17	Am.	1958
§ 11	Am.	1956		Am.	1960
2790l	New	1950	§ 17(a)	Am.	1950
2790m	New	1950		Am.	1958
2790n	New	1960	§ 18	Am.	1960
2792	Am.	1966	§ 19	Am.	1960
2795	Am.	1966	§ 19a	Added	1966
2802-1	New	1956	§ 21	Am.	1960
2802e-1	Am.	1950		Am.	1966
	Am.	1952	§ 21a	New	1961
	Am.	1956		Rep.	1966
2802f-3	New	1954	§ 21b	Added	1966
2802i-28	New	1950	§ 21c	Added	1966
2802i-29	New	1952	2815h-6	New	1950
2802i-30	New	1958	2815h-7	New	1952
2802i-31	New	1960	2815h-8	New	1958
2802i-32	New	1966	2815h-9	New	1960
2802j	New	1952	2815h-10	New	1961
2802k	New	1966	2815h-11	New	1964
2803c	New	1950	2815j-2	New	1950
2803d	New	1960	§ 4a	Rep.	1964
2804a	New	1954	2815k,		
2805a	New	1950	§ 6	Am.	1950
2806	Am.	1966	§ 8(1)	New	1950
2806d	New	1950	2815k-1	Am.	1952
2806d-1	New	1960	2815k-2	New	1960
2806e	New	1950		Rep.	1966
	Am.	1956	2815k-3	New	1961
2815-2	New	1950	2815m-1	New	1950
	Rep.	1952	2815m-2	New	1966
2815-3	New	1961	2815n	New	1950
§ 1a	Am.	1961	§ 1(a)	New	1961
2815-4	New	1964	§ 2a	New	1958
§ 1, Subsec. A	Am.	1966	§ 2(a)	New	1961
2815a	Rep.	1966	§ 3	Am.	1961
2815a-1	New	1964	§ 5	Am.	1961
2815b to 2815g	Rep.	1966	§ 7	Am.	1961
2815g-1a	Am.	1952	2815n-1	New	1966
2815g-1b	New	1958	2815o	New	1950
2815g-1c	New	1964	2815o-1	New	1952
§ 1	Am.	1966	2815o-1a	New	1960
2815g-1d	New	1966	2815o-1b	New	1964
2815g-39			2815p	New	1950
to			2815p-1	New	1964
2815g-43	New	1950	2815q	New	1950
2815g-44			2815q-1	New	1964
to			2815q-2	New	1966
2815g-46	New	1952	2815r	New	1950
2815g-47	New	1954	§ 1	Am.	1964
2815g-48	New	1956	§ 2	Am.	1964
2815g-49	New	1956		Am.	1966
2815g-50	New	1956	§ 3	Am.	1952
2815g-51	New	1958		Am.	1964
2815g-52	New	1960	§ 4	Am.	1952

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2815r			2905b	New	1966
§ 5	Am.	1964	2906	Am.	1958
§ 6	Am.	1964	2906-1	New	1958
2815r-1	New	1956	2906-2	New	1958
§ 1	Am.	1961	2906-3	New	1958
§ 5a	New	1958	2908b	New	1950
§ 6a	New	1958	§§ 2, 3	Am.	1952
2815r-2	New	1966	2909b	New	1956
2815s	New	1966	2909c	New	1956
2815s-1	New	1956	§ 8(a)	New	1960
2815t	New	1952	§ 8b	Added	1966
§ 15a	New	1961	2909d	New	1958
2815t-1	New	1960	2911	Am.	1956
2815t-2	New	1966	2919	Am.	1961
2816	Am.	1954	2919c	New	1950
2816a	Am.	1954	2919d	New	1952
2817	Am.	1954	§ 2	Am.	1960
2817a	Am.	1954	§ 5a	New	1956
2819	Am.	1954	2919e	New	1954
2820	Am.	1954		Rep.	1966
2821	Am.	1950	2919e-1	New	1956
	Am.	1954	2919e-2	New	1956
2822a	Am.	1954		Am.	1966
2827b	New	1960	§ 18	New	1960
2827b-1	New	1966	2919f	New	1956
2827c	New	1964	2919g	New	1958
2827d	New	1966	2919g-1	New	1964
2827e	New	1966	2919h	New	1960
2832	Am.	1960	2919i	New	1966
2833	Am.	1956	2922a	New	1950
2835c	New	1954	2922f	Am.	1950
2843	Am.	1950		Am.	1958
	Am.	1960	2922l		
	Am.	1961	(3)	New	1950
2844	Rep.	1950	(3.1)	New	1964
2844a	Rep.	1950	(4)	New	1950
2851	Am.	1954	(5)	New	1952
2859	Rep.	1954	(6)	New	1952
2874	Am.	1954	(6), § 1	Am.	1956
2875	Am.	1956	(7)	New	1956
	Am.	1958	(8)	New	1956
2876c	Am.	1954		Am.	1958
2876k	New	1958	2922-1	Am.	1950
	Am.	1960		Am.	1956
	Am.	1966	§ 1(18)	Am.	1961
2876l	New	1964	§ 1(19)	Am.	1952
2877	Am.	1954	§ 4(4)	Am.	1961
2880a	Rep.	1956	§ 4(5)	Am.	1958
2882	Rep.	1956	§ 5	Am.	1952
2883	Rep.	1956	§ 5(1)	Am.	1954
2890	Rep.	1956	§ 5(2)	Am.	1954
2891	Rep.	1956	§ 5(4)	Am.	1954
2891b	New	1956	§ 5(7)	Am.	1954
§ 4	Am.	1964	§ 6(2b)	Am.	1960
§ 13(b)	Am.	1964	§ 7(4)	Am.	1961
2892	Am.	1964	§ 8	Am.	1954
	Am.	1966	§ 10(5b)	Am.	1960
2892a	Rep.	1964	2922-1a	New	1954
2892b	Rep.	1964	2922-1b	New	1960
2893	Am.	1966		Am.	1961
2898-1	Rep.	1952	2922-1c	New	1960
2900a	New	1958	2922-1d	New	1964
2901a	New	1958	2922-1e	New	1964
			2922-1f	New	1964

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2922-2 to 2922-8	Rep.	1952	2978	Rep.	1952
2922-11	New	1950	2978a	Am.	1950
2922-12	New	1950		Rep.	1952
2922-13	New	1950	2978b	New	1950
§ 1(4)	Am.	1952		Rep.	1952
	Am.	1954	2980	Am.	1950
§ 1(4) a	Am.	1958		Rep.	1952
	Am.	1964	2981-2997c	Rep.	1952
	Am.	1966	2997d	New	1950
§ 1(4A)	Added	1966		Rep.	1952
2922-13a	New	1960	2998-3007	Rep.	1958
2922-13b	New	1961	3008	Am.	1950
2922-13c	New	1961		Rep.	1952
2922-13d	New	1966	3009-3011	Rep.	1952
2922-14	New	1950	3012	Am.	1950
	Am.	1958		Rep.	1952
§ 1	Am.	1961	3013-3026	Rep.	1952
§ 1, Subsec. 1	Am.	1966	3026a	Am.	1950
§ 1-a	New	1956		Am.	1952
§ 1-b	New	1956	3027	Rep.	1952
§ 1-c	New	1956	3028	Am.	1950
§ 2	Am.	1961		Rep.	1952
2922-14a	New	1966	3029-3040	Rep.	1952
2922-14b	New	1964	3040a	New	1950
2922-14c	New	1966		Rep.	1952
§ 1	Am.	1954	3041-3083	Rep.	1952
	Am.	1961	3084	Am.	1950
	Am.	1966		Rep.	1952
§ 2	Am.	1952	3085-3105	Rep.	1952
	Am.	1958	3106	Am.	1950
§ 2(2) (a) (b)	Am.	1961		Rep.	1952
§ 2A	Added	1966	3107, 3108	Rep.	1952
2922-16,			3109	Am.	1950
§ 1	Am.	1961		Rep.	1952
§ 2	Am.	1956	3110-3116f	Rep.	1952
	Am.	1961	3116g	New	1952
	Am.	1966	3117-3121	Rep.	1952
§ 3	Am.	1954	3122	Am.	1950
§ 4	Am.	1956		Rep.	1952
	Am.	1961	3123	Am.	1950
	Am.	1966		Rep.	1952
§ 4A	New	1961	3124	Am.	1950
§ 5	Am.	1956		Rep.	1952
	Am.	1961	3125-3127	Rep.	1952
	Am.	1964	3128	Am.	1950
2922-16a	New	1958		Rep.	1952
2922-16b	New	1961	3129-3153	Rep.	1952
2922-16c	New	1961	3153a	New	1950
2922-16d	New	1961		Rep.	1952
2922-16e	New	1966	3154	Rep.	1952
2922-21a	New	1961	3154(a)	New	1952
2922-21b	New	1961	3155-3158	Rep.	1952
2922-23	New	1952	3158a	New	1952
2922-24	New	1958		Am.	1960
2922-25	New	1966	3159-3173	Rep.	1952
2923-2942a	Rep.	1952	3174a	New	1950
2943	Am.	1952	3174a note	New	1961
2944-2956	Rep.	1952	3174b	New	1950
2956a	New	1950	§ 8	Am.	1960
	Rep.	1952	3174b-1	New	1956
2957-2977	Rep.	1952		Rep.	1958
2977a	Inoperative	1950	3174b-2	New	1956
			3174b-3	New	1956

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3174b-3	Am.	1966	3232a	New	1950
3174b-4	New	1958		Rep.	1958
§ 8	Am.	1961	3232b	New	1958
	Am.	1964	3232c	New	1961
	Am.	1966		Am.	1964
3174b-5	New	1961	3233-3238	Rep.	1956
§ 1	Am.	1964	3238b	New	1952
3174b-6	New	1961		Rep.	1960
3174b-7	New	1966	3238c	New	1956
3174c	New	1960		Rep.	1960
3177	Am.	1952	3239	Rep.	1960
3179a	New	1960	3240	Rep.	1960
3183a	Am.	1950	3241	Am.	1954
§ 1	Am.	1964		Rep.	1960
3183b-1	New	1960	3242-3246	Rep.	1960
3183c	New	1952	3248-3251a	Rep.	1960
3183d	New	1954	3252-3254	Rep.	1954
	Rep.	1960	3254a	Rep.	1960
3183e	New	1956	3254a-1	Am.	1950
3183f	New	1961		Rep.	1960
3186	Rep.	1958	3254c	Am.	1950
3186a	Rep.	1958	3254c-1	New	1952
3193	Rep.	1958	3254c-2	New	1966
3193-1	New	1956	3254d	Am.	1950
	Rep.	1958		Rep.	1960
3194-3196	Rep.	1958	3254d-1	New	1952
3196b	New	1950		Rep.	1960
3196c	New	1952	3255b	New	1952
3196c-1	New	1958	3259a	Rep.	1966
3196d	New	1952	3259a-1	New	1966
	Rep.	1958	3263a	Rep.	1954
3201a	New	1954	3263c	New	1950
3201a-1	New	1966	3263d	New	1961
3201b	New	1954	3263e	New	1964
	Rep.	1964	3264,		
3201b-1	New	1956	subd. 6	Am.	1961
	Rep.	1964	3266(3)	Am.	1956
3201b-2	New	1964		Am.	1960
3202-a	Am.	1954	(6)	Am.	1961
3202-c	New	1950		Am.	1966
§ 1	Am.	1966	(7)	Am.	1961
3205a	New	1950	(8)	New	1961
3206	Rep.	1954	3271a,		
3207a	Am.	1950	§ 1	Am.	1966
	Am.	1958	§ 1.1	Added	1966
§ 1	Am.	1958	§ 1.2	Added	1966
§ 2	Am.	1966	§ 1.3	Added	1966
§ 2a	Added	1966	§ 2	Am.	1966
	Am.	1966	§ 8	Am.	1966
3207b	New	1950	§ 8a	Added	1966
3207c,			§ 12a	New	1961
§ 1(n)	Added	1966	§ 16	Am.	1966
	Am.	1966	§ 18	Am.	1966
3213a	New	1966	§ 20	Am.	1966
3220-1	Rep.	1954	3272a	New	1961
3221c	New	1964	§ 3	Am.	1966
	Am.	1966	§ 4	Am.	1966
3222a	New	1958	§ 6	Am.	1966
3222b	New	1961	§ 7	Am.	1966
§ 1	Am.	1964	§ 16	Added	1966
§ 1a	New	1964	3272b	New	1966
3222b-1	New	1966	3273	Am.	1961
3223-3232	Rep.	1950	3284	Am.	1961

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3290-3582	Rep.	1956	3888	Am.	1954
3582a	New	1952	3888b	New	1954
	Rep.	1956	3899b		
3583-3597	Rep.	1956	§ 1a	New	1964
3597a	New	1950	§ 3	Am.	1954
	Rep.	1956		Am.	1964
3598-3703	Rep.	1956	3899b-1	Added	1966
3726a	New	1958	3902f-1	New	1954
	Am.	1966	3902f-2	New	1961
3731a	New	1952	3902h-2	New	1956
	Am.	1961	3902i	New	1950
§ 7	Am.	1954	3902j	New	1952
3731b	New	1958		Am.	1958
3731c	New	1960	3903e	New	1950
3737d	New	1950	3903f	New	1966
	Rep.	1956	3912c-1	New	1966
3737d-1	New	1956	3912e,		
§ 1	Am.	1960	§ 1	Am.	1960
3737e	New	1952	§ 3	Am.	1960
3867-3871	Rep.	1956	§ 13	Am.	1950
3871a	New	1956	§ 13(b)	Am.	1964
3871b	New	1956	§ 15	Am.	1950
§ 14	Am.	1964	§ 15(a)	Rep.	1964
3871c	New	1958	§ 17	Am.	1950
3871d	New	1961	§ 19(q)	Am.	1956
3871e	New	1964	3912e-4b	New	1950
3871f	New	1966	3912e-4c	New	1952
3872	Am.	1954	3912e-4d	New	1954
3875	Am.	1954		Am.	1956
3881a-3881d	New	1954	3912e-5a	New	1956
3881e	New	1958		Rep.	1958
3883f-1	New	1961	3912e-5b	New	1956
3883h	New	1956	3912e-5c	New	1958
3883i	New	1956	3912e-5d	New	1961
	Am.	1958	3912e-5e	New	1966
§ 1(a)	Am.	1961	3912e-14		
§ 1A	Added	1966	to		
§ 1½	Added	1966	3912e-16	New	1950
§ 4(a)	New	1961	3912e-17	New	1961
§ 4(b)	Added	1966	3912e-18	New	1961
§ 5	Am.	1960	3912e-19	New	1961
§ 7a	New	1960	3912e-20	New	1964
§ 8	Am.	1960	3912e-21	New	1964
§ 8(a)	Am.	1966	3912f-4	New	1950
§ 8(b)	New	1961	3912g	New	1950
	Am.	1966	3912h	New	1950
§ 8a	Added	1966	3912i	New	1958
§ 18	Added	1966	§ 9	Am.	1966
3883i-1	New	1966	3912j	New	1964
3886b-1	New	1966	3913	Am.	1961
3886f	Am.	1950		Am.	1966
§ 1	Am.	1956	3914	Am.	1961
§ 3a	New	1956	3918	Am.	1956
3886g	New	1952		Am.	1961
§ 1	Am.	1966	3919	Rep.	1961
§ 2	Am.	1966	3920	Rep.	1952
3886h	New	1954	3921	Am.	1952
	Am.	1958	3921a	New	1952
	Am.	1960	3924	Am.	1950
	Am.	1964	3927	Am.	1958
3886i	New	1961	3927a	New	1958
3887b	New	1954	3927b	New	1966
3888	Am.	1952	3930	Am.	1958

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3930a	New	1961	4192b	Rep.	1956
3930a note	New	1961	4193-4284	Rep.	1956
3933a	New	1966	4285	Am.	1954
3936f-1	New	1961		Rep.	1956
3936g	New	1950	4286-4329	Rep.	1956
3936g-1	New	1952	4331,		
3936h	New	1950	§ 8	Rep.	1952
	Am.	1952	4335	Am.	1952
3936i	New	1952	4336	Am.	1952
3936j	New	1954	4341a	New	1952
3936k	New	1954	4344b	New	1960
3937	Am.	1950	4346	Am.	1954
	Am.	1952	4346a	New	1960
3939	Am.	1950	4348a	New	1960
	Am.	1952	4353	Am.	1952
3943d	New	1952	4357	Am.	1954
3943e	New	1952		Am.	1958
3945	Am.	1960		Am.	1960
3946a	New	1964	4358	Am.	1954
3959	Am.	1950	4359	Am.	1954
3959a	New	1950	4365	Am.	1954
3972a	Inoperative	1952	4379b,		
3975a	New	1958	§ 3	Am.	1954
3975b	New	1966	4382	Am.	1954
4000	Am.	1950		Am.	1966
	Rep.	1966	4382a	New	1954
4001	Am.	1961	4386c	New	1954
	Rep.	1966	§ 1	Am.	1956
4002	Rep.	1966	4386d	New	1954
4003	Rep.	1966	4393b	New	1954
4025a	New	1952	4405	Am.	1964
4025b	New	1958	4412	Am.	1964
4026b	New	1956	4412a	New	1960
4032	Rep.	1952	4413		
4032a	Rep.	1950	(4a)	New	1958
4032b	New	1950	(18a)	New	1958
4032b-1	New	1958	(29a)	New	1950
4032c	New	1956	(29aa)	New	1966
4050c	New	1950	(29b)	New	1958
4050c-1	New	1958	(31), § 1	Am.	1952
4050d	New	1952	(32)	New	1954
4050e	New	1966	(32) § 3	Am.	1966
4050f	New	1966	(33)	New	1958
4053	Am.	1964	4413a	New	1964
4075a	New	1950	4413b-1	New	1950
4075b	New	1960		Am.	1964
	Am.	1964	4413c-1	New	1961
§ 11A	Added	1964	4413d-1	New	1966
	Am.	1966	4417a	Am.	1960
4075c	New	1966	4418b	Am.	1958
4101-2			4418b-1	New	1956
§ 4	Am.	1966	4419c,		
4102-4123a	Rep.	1956	§ 1	Am.	1961
4123a-1	Am.	1950	§ 2	Am.	1966
	Rep.	1956	§ 3	Am.	1961
4123a-2 to 4167	Rep.	1956	§ 4	Am.	1966
4168	Am.	1950	4436	Am.	1960
	Rep.	1956		Am.	1966
4169-4191	Rep.	1956	4436a-1, § 1	Am.	1958
4192	Am.	1952	4436a-4	New	1960
	Rep.	1956	4437a,		
4192a	Rep.	1950	§ 3	Am.	1952
4192b	New	1950	§ 6A(e)	Am.	1956

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4437c-1	New	1954	4477,		
4437d			rule 40a	Am.	1952
§ 5	Am.	1966	rule 43a	Am.	1952
4437e	New	1958	rule 47a	Am.	1952
§ 8a	Added	1964		Am.	1958
4437f	New	1960	rule 47b	New	1960
§ 2	Am.	1966	rule 50b	Added	1966
4440	Rep.	1960	rule 51a	Am.	1952
4442	Rep.	1960		Am.	1958
4442b	Rep.	1954		Am.	1960
4442c	New	1954	rule 53a	Am.	1952
§ 2(a)	Am.	1960	rule 54a	Am.	1950
	Am.	1966		Am.	1952
4444	Rep.	1961		Am.	1958
4445,				Am.	1961
§ 3	Am.	1950	rules 77-86	Rep.	1952
§ 4	Am.	1950	4477a	New	1952
4445a	New	1950	4477-1,		
4447a	New	1950	§ 5(c)	Am.	1952
	Am.	1960	§ 15(a)	Am.	1961
4447b	New	1960	4477-2	New	1950
4447c	New	1960	§ 1	Am.	1961
4447d	New	1964	§ 2	Am.	1961
4447e	New	1966	§ 4	Am.	1961
4469	Am.	1961	§ 6A	New	1956
4470-4472	Rep.	1961	4477-3	New	1966
4473	Am.	1952	4477-4	New	1966
	Rep.	1961	4477-11	New	1960
4476-3,			4477-12	New	1966
§ 3(a, b, c)	Am.	1958	4478a	New	1954
§ 8	Am.	1958	4479	Am.	1961
§ 14a	New	1956	4492	Am.	1954
4476-4	New	1960	4494c-1	New	1966
4476-5	New	1961	4494h	Am.	1950
§ 22A	New	1964	4494i-1	New	1966
§ 23	Added	1964	4494k	New	1950
4476-6	New	1966	4494l	New	1950
4476a,			§ 4	Am.	1956
§ 1	Am.	1950	4494m	New	1950
§ 2	Am.	1950	4494n	New	1954
	Am.	1956		Am.	1956
	Am.	1960	§ 2a	Am.	1966
§ 2(e)	Rep.	1958	§ 5a	New	1960
§ 4	Am.	1950	§ 5b	Added	1964
§ 4(c)	Am.	1956	4494n-1	New	1960
§ 5	Am.	1950	4494o	New	1958
	Am.	1960	4494p	New	1958
§ 6	Am.	1961	4494q	New	1960
§ 7	Am.	1956	§ 1	Am.	1961
§ 9	Am.	1950	§ 2	Am.	1961
4477,			4494q-1	New	1960
rule 3	Am.	1960	4494q-2	New	1960
rule 4	Am.	1960	4494q-3	New	1960
rule 14	Am.	1960	§ 1	Am.	
rule 20	Am.	1960	§ 2	Am.	1961
rule 23	Am.	1960	§ 3	Am.	1961
rule 25	Am.	1960	§ 4	Am.	1961
rule 34a	Am.	1952	§ 5(d)	Am.	1961
rule 35a	Am.	1950	4494q-4	New	1961
rule 36a	Am.	1952	§ 1	Am.	1964
rule 38a	Am.	1952	4494q-4a	New	1966
rule 39a	Am.	1952	4494q-5	New	1961
	Am.	1958	§§ 3-6	Am.	1964
			4494q-6	New	1961

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<b>Art.</b>	<b>Effect</b>	<b>Texas</b>	<b>Art.</b>	<b>Effect</b>	<b>Texas</b>
		<b>St.Supp.</b>			<b>St.Supp.</b>
4494q-6a	New	1964	4528c		
4494q-7	New	1961	§ 13	Am.	1956
§ 1	Am.	1966	4542a	Am.	1954
§ 5(a)	Added	1966	§ 3	Am.	1960
4494q-8	New	1964	§ 4	Am.	1952
4494q-9	New	1964	§ 7	Am.	1958
§ 2	Am.	1964	§ 8	Am.	1952
§ 12	Am.	1964		Am.	1960
§ 13	Am.	1964	§ 9	Am.	1952
4494q-10	New	1964		Am.	1960
4494q-11	New	1964	§ 11	Am.	1960
4494q-12	New	1964	§ 12	Am.	1958
4494q-13	New	1964		Am.	1960
4494q-14	New	1964	§ 13	Am.	1958
4494q-15	New	1964	§ 14	Am.	1952
4494q-16	New	1964		Am.	1960
4494q-17	New	1964	§ 16	Am.	1960
4494q-18	New	1964	§ 17	Am.	1952
4494q-19	New	1964		Am.	1958
4494q-20	New	1964		Am.	1960
4494q-21	New	1964	§ 17(d) (4, 5)	Added	1964
4494q-22			§ 17(f)	Am.	1964
to			§ 19	Am.	1952
4494q-44	New	1966	§ 20	Am.	1958
4494r	New	1964	4542b	New	1958
4494s	New	1966	4544	Am.	1961
4498a	New	1954	4549	Am.	1952
§ 1	Am.	1966	4550a,		
4499	Am.	1954	par. 1	Am.	1961
4499a	New	1954	pars. 3, 4	Am.	1961
4500	Am.	1954	4551	Am.	1958
4501	Am.	1952	4551a	Am.	1952
	Am.	1954		Am.	1954
4502	Am.	1954	(5)	New	1956
	Am.	1964	(6)	New	1960
4504	Am.	1950	(7)	New	1960
4506	Am.	1954	4551b	Am.	1952
4507	Rep.	1954		Am.	1954
4508	Rep.	1954		Am.	1958
4509	Am	1954	(8)	New	1961
4510	Am.	1950	4551c	Am.	1954
	Am.	1954	4551d	New	1952
4512b	New	1950	4551e	New	1952
§§ 4a, 4b	New	1958	§ 1	Am.	1958
§§ 8a, 8b	New	1958	§ 3	Am.	1958
§ 11	Am.	1958	§ 5	Am.	1961
§ 14	Am.	1958	§ 10(g)	Am.	1958
§ 14a	New	1958	§ 10(h)	Am.	1958
4518	Am.	1960	§ 15	Am.	1958
4518a	Rep.	1960	4551f	New	1960
4521	Am.	1961	4551g	New	1960
4526	Am.	1950	4561	Am.	1952
4528b	New	1950	4562	Am.	1952
4528c	New	1952	4565	Am.	1952
§ 3a	New	1958	4565-a	Am.	1952
§ 4(c)	Am.	1958	4565d(1)	Am.	1958
§ 4(d)	Am.	1964	4565g	Am.	1958
§ 4½	Am.	1958	4567	Am.	1952
§ 5	Am.	1958	4569	Am.	1952
§ 8	Am.	1958	4570	Am.	1952
§ 9	Am.	1956		Am.	1964
	Am.	1958	4571	Am.	1952
§ 10	Am.	1958	4572	Rep.	1952
			4575	Am.	1952



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4576a-4581	Rep.	1954	4639b	New	1956
4582a	Rep.	1954	4639c	New	1960
4582b	New	1954	4646b	Am.	1964
	Am.	1964	4668	Rep.	1964
4584	Am.	1954	4679-4682a	Rep.	1952
	Am.	1961	4682b	Rep.	1952
4590-1	New	1960	§ 1A	Added	1950
§ 2	Am.	1961	4682c-4698a	Rep.	1952
4590a	Rep.	1952	4698b	New	1950
4590c	New	1950	4698b-4704	Rep.	1952
§ 4	Am.	1956	4705	Am.	1950
	Am.	1960		Rep.	1952
§ 5	Am.	1953	4706-4724	Rep.	1952
	Am.	1960	4725	Am.	1950
§ 7	Am.	1952		Rep.	1952
§ 8	Am.	1956	4726-4764b	Rep.	1952
4590d	New	1950	4764c	New	1950
	Rep.	1961		Rep.	1952
§ 10	Am.	1954	4765	Rep.	1952
§ 11(1)	Am.	1952	4766	Am.	1950
§ 19a	New	1954		Rep.	1952
4590e	New	1952	4767, 4768	Rep.	1952
§ 3(6)	Am.	1964	4769	Am.	1950
	Am.	1966		Am.	1952
4590f	New	1961	4769½	New	1952
4590g	New	1964	4769a	New	1952
4591	Am.	1952	4770 to 4860a-19	Rep.	1952
	Am.	1958	4860a-20	Am.	1950
4591d,				Rep.	1952
§ 1a	New	1956	4861 to 4928	Rep.	1952
§ 1b	New	1956	4929	Am.	1950
§ 1c	New	1956		Rep.	1952
	Am.	1958	4929a	New	1950
4591e	New	1956		Rep.	1962
4594	Am.	1956	4930, 4931	Rep.	1952
4597-4601	Rep.	1954	4932	Am.	1950
4602	Am.	1958		Rep.	1952
	Am.	1966	4933-5012	Rep.	1952
4605	Am.	1960	5012a	Am.	1950
	Am.	1966		Rep.	1952
4612a	New	1950	5013-5068a	Rep.	1952
4614	Am.	1958	5068b	Rep.	1952
	Am.	1964	§ 7	Am.	1950
(d)	Am.	1961	5068c, 5068d	Rep.	1952
4616	Am.	1958	5068e	New	1950
4617	Am.	1958		Rep.	1952
4618	Am.	1964	5068-1 to 5068-7	Rep.	1952
4619,			5069	Am.	1964
§ 6	New	1960	5071	Am.	1964
4621	Am.	1964	5073	Am.	1964
4623	Am.	1958	5074a	New	1952
	Am.	1964	5115	Am.	1958
	Rep.	1964	5115a	New	1961
4624	Am.	1964	5118a	New	1956
4624a	New	1950		Am.	1964
4626	Am.	1964	5138b	New	1961
4629	Am.	1954	5139	Am.	1950
	Am.	1966		Am.	1954
4631	Am.	1958	5139A	New	1952
4632	Am.	1956		Am.	1958
4639a	Am.	1954	5139B	New	1952
§ 1	Am.	1961	5139D	New	1950
4639a-1	New	1961	5139(E)	New	1950

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5139(E)	Am.	1952	5142b,		
5139E—1	New	1961	§ 15	Am.	1956
5139E—2	New	1966	§ 17	Am.	1950
5139F	New	1952	5142c	New	1950
	Am.	1958	§ 5	Am.	1956
5139G	New	1952	5142c—1	New	1950
	Am.	1956	5142c—2	New	1956
5139H	New	1952	5142c—3	New	1964
5139H—1	New	1956	5142c—4	New	1966
5139H—2	New	1956	5142d	New	1950
5139H—3	New	1958	5143c	New	1950
5139H—4	New	1960	§ 4	Am.	1956
5139H—5	New	1961	§ 5	Am.	1956
5139I	New	1954	5143d	New	1958
5139J	New	1956	5143e	New	1966
§ 3	Am.	1960	5154g	New	1956
§ 3a	New	1960	5155	Am.	1958
§ 3b	New	1960	5159c	New	1956
5139K			5160	Am.	1960
to			5161—5164	Rep.	1960
5139O	New	1956	5165a	New	1954
5139P			§§ 1, 2	Am.	1964
to			5167a	New	1964
5139R	New	1958	5172a,		
5139S	New	1958	§ 5	Am.	1954
§ 2	Am.	1966		Am.	1961
5139T			§ 5a	Am.	1961
to			5181	Rep.	1964
5139X	New	1958	5183	Am.	1960
5139Y	New	1960	5190½	New	1958
5139Z	New	1960		Am.	1960
5139AA to 5139FF	New	1960	5221a—4	Rep.	1950
5139GG	New	1961	5221a—5	New	1950
5139HH	New	1961	§ 9	Am.	1961
5139II	New	1961	5221a—6	New	1950
5139JJ	New	1961	§ 8	Am.	1964
5139KK	New	1961	§ 17	Am.	1961
5139LL	New	1961	5221b—1	Am.	1950
	Rep.	1966	5221b—1(b)	Am.	1956
5139MM	New	1961		Am.	1961
5139NN	New	1961	5221b—1(c)	Am.	1958
5139OO			5221b—1(d)	Am.	1956
§§ 1, 2	New	1966		Am.	1958
§ 2A	New	1964		Am.	1961
5139PP	New	1964	5221b—1(e)	New	1961
5139QQ			5221b—1a	Rep.	1956
to			5221b—2	Am.	1950
5139WW	New	1966		Am.	1956
5142	Am.	1950	(f)	New	1961
5142a,			5221b—3	Am.	1950
§ 1	Am.	1950		Am.	1956
§§ 3—5	Am.	1950	(a, b)	Am.	1958
§ 6	Am.	1958	(a-c)	Am.	1961
5142a—1	New	1956	(g)	Added	1964
5142a—2	New	1958	5221b—4	Am.	1950
§ 10	Am.	1966		Am.	1956
§ 10a	Added	1966	(b)	Am.	1958
5142b,			(h)	Am.	1958
§ 1	Am.	1950	5221b—5	Am.	1950
	Am.	1956		Am.	1956
§ 5	Am.	1950	(c)	Am.	1958
§ 7	Am.	1950	(c) (2A)	Am.	1961
§ 15	Am.	1950	(c) (6)	Am.	1961
			(c) (7)	Am.	1954

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5221b-5			5244a-3	New	1961
(d)	Am.	1958	5248	Am.	1950
5221b-6	Am.	1950	5248c-1	New	1961
(c)	Am.	1956	5248c-2	New	1961
(c) (1)	Am.	1958	5248d-1	New	1961
5221b-7(c)	Am.	1958	5248g	New	1950
5221b-8(c)	Am.	1956		Am.	1966
5221b-8(f)	Rep.	1958	§ 1	Am.	1956
5221b-9			5248h, 5248i	New	1950
(a)	Am.	1956	5254a,		
(e)	Am.	1956	§ 1	Am.	1958
(f)	Am.	1966		Am.	1960
(g)	Am.	1958	§ 2	Am.	1958
(h)	Am.	1956	5282a	New	1956
5221b-9b	Am.	1956	5320a	New	1952
5221b-11	Am.	1950	5326	Am.	1952
5221b-12			5326h	New	1950
(a)	Am.	1956	5326i	New	1950
	Am.	1966	5326j	New	1952
(b)	Am.	1956	5330a,		
	Am.	1966	§ 2	Am.	1952
(c)	Am.	1966	5337-1	New	1958
(d)	Am.	1956	5337-2	New	1960
(e)	Am.	1958	5344c	Am.	1964
(f)	Am.	1966	§ 2	Am.	1966
(j)	Am.	1956	5366	Am.	1956
(l)	Added	1966	5368b	Rep.	1950
(m)	Added	1966	5370	Am.	1950
5221b-13(a)	Am.	1956	5371	Am.	1958
5221b-14			5382a	Rep.	1954
(a)	Am.	1956	5382b	New	1950
	Am.	1958	§ 7	Am.	1952
	Am.	1961	5382b-1	New	1954
(e)	Am.	1956	5382c	New	1952
5221b-15			5382d	New	1952
(c)	Added	1966	§ 1	Am.	1964
5221b-17	Am.	1950	§ 13a	New	1956
	Am.	1956	5382d-1	New	1956
	Am.	1958	5382e	New	1954
(g) (5)	Am.	1961	5399a-5399f	Rep.	1954
(g) (5) (J)	Deleted	1966	5414a-1	New	1956
g(E.F.)	Am.	1961	5415c	New	1958
(k)	Am.	1961	5415d	New	1960
5221b-18	Rep.	1958	§ 7	Am.	1964
5221b-22a	Am.	1950	§ 8	Am.	1966
5221b-22aa	New	1958	§ 9	Added	1966
5221c,			§ 10	Added	1966
§ 1	Am.	1960	5415e	New	1961
§ 2	Am.	1960	5421b-1	New	1956
§ 3	Am.	1956	5421c,		
	Am.	1960	§ 8	Am.	1954
	Am.	1966		Am.	1958
§ 3a	Added	1966	§ 8-A(5)	Am.	1964
§ 4a	New	1964	5421c-3	Am.	1964
§ 5	Am.	1952	§ 3	Am.	1966
	Am.	1958	5421c-7	New	1956
§ 12	Am.	1952	§ 1	Am.	1958
	Am.	1958		Am.	1964
	Am.	1961	§ 2	Am.	1958
§ 17	Am.	1961		Am.	1964
§ 18	Rep.	1961	§ 3	Am.	1958
5221d	New	1956	§§ 7, 8	New	1958
5221e	New	1958	5421c-8	New	1958
	Rep.	1966			

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5421c—9	New	1961	5429e	Am.	1961
5421h—2	New	1961	5429f	New	1961
5421i	Am.	1952	5433a	New	1954
5421j—1	New	1958	5434	Am.	1954
5421j—2	New	1961	5435	Am.	1961
5421k—2	New	1958	5436		
5421k—3	New	1961	(c)	Added	1966
§ 4	Am.	1966	(d)	Added	1966
§ 5	Am.	1966	5436a	New	1966
5421m	New	1950	5438d	New	1956
§ 2	Am.	1958	5440	Rep.	1961
§§ 2(A) to 2(C)	New	1958	5441a	Am.	1964
§ 3	Am.	1952	§ 6a	Added	1966
	Am.	1958	5441b	New	1960
§ 6	Am.	1958	5441c	New	1966
§ 9	Am.	1952	5441d	New	1966
§ 9(a)	Am.	1958	5442a	New	1964
§ 10	Am.	1952	5452	Am.	1952
	Am.	1958		Am.	1961
§ 10(A)	New	1956	5452—1	Added	1966
§ 11	Am.	1952	5453	Am.	1961
	Am.	1956	5454	Am.	1961
§ 12	Am.	1958	5455	Am.	1961
§ 13	Am.	1958	5456	Am.	1961
§ 14	Am.	1952	5457	Rep.	1961
	Am.	1954	5461	Rep.	1961
§ 15	Am.	1956	5462	Rep.	1961
§ 16	Am.	1952	5463	Am.	1961
	Am.	1956	5465	Rep.	1961
§ 16(A)	New	1956	5467	Am.	1961
§ 16(B)	Added	1964	5468	Am.	1961
	Am.	1964	5469	Am.	1961
§ 17	Am.	1952	5472a	Am.	1960
	Am.	1956	5472d	New	1961
	Am.	1958	5473	Am.	1958
	Am.	1961	5476	Am.	1954
§ 18	Am.	1952		Am.	1958
	Am.	1956	5476a	New	1954
§ 19	Am.	1956		Am.	1958
	Am.	1958	5476b	New	1954
§ 19(A)	New	1956		Am.	1958
	Am.	1958	5476c	New	1958
	Am.	1961	5476d	New	1958
§ 21	Am.	1956	5489		
	Am.	1958	to		
	Am.	1961	5499	Rep.	1966
§ 21(A)	New	1956	5499a	New	1954
§ 23	Am.	1952	5499a—51	New	1960
§ 24	Am.	1956		Rep.	1966
§ 25	Am.	1956	5500	Am.	1950
§ 30	New	1952	5504	Am.	1966
§ 31	New	1952	5506a	Am.	1954
§ 32	New	1956	5506c	Rep.	1966
5421n	New	1954	§ 2	Am.	1956
5421o	New	1956	§ 7	Am.	1956
5421z	New	1966	5517	Am.	1954
5429	Am.	1961	5526b	New	1960
5429a	Rep.	1961	5541	Am.	1952
5429b	New	1950	5546	Am.	1964
5429b—1	New	1964	5547—1		
5429c	New	1950	to		
5429d	New	1952	5547—3	New	1958
5429e	New	1954	5547—4	New	1958

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5547-4	Am.	1961	5561b-1	Rep.	1958
5547-5			5561c	New	1954
to			§ 4(c)	Am.	1966
5547-12	New	1958	§ 18	Am.	1958
5547-12a	Added	1966		Am.	1960
5547-13			5561d	New	1966
to			5575	Rep.	1966
5547-26	New	1958	5576	Rep.	1966
5547-27	New	1958	5577a	New	1954
	Am.	1961	5604-5607	Rep.	1966
5547-28	New	1958	5609	Rep.	1966
	Am.	1961	5612-5665	Rep.	1966
5547-29	New	1958	5670-5674	Rep.	1952
5547-30	New	1958	5682	Am.	1964
	Am.	1961	5692	Am.	1954
5547-31			5695	Am.	1961
to			5697	Am.	1961
5547-35	New	1958	5728	Am.	1961
5547-36	Am.	1964	5765	Am.	1966
5547-37			5766	Am.	1958
to				Am.	1966
5547-48	New	1958	5767	Am.	1966
5547-49	New	1958	5768	Am.	1966
	Am.	1964	5769	Rep.	1966
5547-50			5769a	Rep.	1966
to			5769b	New	1950
5547-62	New	1958		Rep.	1954
5547-63	New	1958	5769b-1	New	1954
	Am.	1966		Rep.	1966
5547-64			5769c	New	1950
to				Rep.	1966
5547-82	New	1958	5770-5779	Rep.	1966
5547-83	New	1958	5780		
	Am.	1960	to		
5547-84	New	1958	5785	New	1964
5547-85	New	1958	5786	New	1964
5547-86	New	1958	§ 7	Rep.	1966
(c)	Added	1966	§ 8	Rep.	1966
5547-87			5787	New	1964
to			§ 3(b)	Am.	1966
5547-91	New	1958	5788	New	1964
5547-92	New	1958	5789	New	1964
	Am.	1961	5790-5798a-1	Rep.	1964
5547-93				Rep.	1966
to			5798a-2	Rep.	1964
5547-104	New	1958		Rep.	1966
5547-201			§ 1	Am.	1950
§§ 1.01, 1.02	New	1966	§ 2	Am.	1952
5547-202				Am.	1960
§§ 2.01, 2.02	New	1966	5798a-3-5844	Rep.	1964
5547-203				Rep.	1966
§§ 3.01, 3.02	New	1966	5845	Am.	1950
5547-204				Am.	1958
§§ 4.01, 4.02	New	1966		Rep.	1964
5547a-39a to 5547a-				Rep.	1966
39d	New	1964	5845a	New	1958
5550-5554	Rep.	1958		Rep.	1964
5557-5561	Rep.	1958		Rep.	1966
5561a, §§ 1-5	Rep.	1958	5846-5890	Rep.	1964
5561b	New	1950		Rep.	1966
	Am.	1952	5890a	Rep.	1954
	Rep.	1958		Rep.	1964
5561b-1	New	1956		Rep.	1966

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5890b	Rep.	1964	6049a,		
	Rep.	1966	§ 11d	Am.	1966
§ 1	Am.	1958	§ 11dd	Added	1966
	Am.	1960	6050,		
§ 5	New	1950	§ 4	New	1956
5890c	Rep.	1964	§ 4a	New	1956
	Rep.	1966	6052a	New	1952
5890d	New	1964		Rep.	1960
	Rep.	1966	6053		
5891	Rep.	1954	§§ 3-5	Rep.	1960
5891a	Rep.	1966	§ 6	Am.	1950
5891c	Rep.	1966		Am.	1952
§§ 1-4	Am.	1952		Rep.	1960
§ 5(a)	New	1952	§ 7	Am.	1950
§ 5(b)	New	1952		Rep.	1960
§ 7	Am.	1952	§ 8	Am.	1950
5892	Am.	1954		Rep.	1960
5893-5900	Rep.	1954	§ 9	Rep.	1960
5916	Rep.	1954	§ 10	Am.	1950
5921	Am.	1966		Am.	1952
5921a	Am.	1950		Rep.	1960
	Rep.	1966	§ 11	Am.	1950
5921b	New	1954		Am.	1952
5922a	New	1954		Rep.	1960
5923a	New	1954	§ 12	Am.	1952
5923-1	New	1958		Rep.	1960
	Am.	1966	§§ 13-17	Rep.	1960
5923-101	New	1958	§ 18	Am.	1952
§ 1(e) (1)	Am.	1966		Rep.	1960
§ 1(o)	Added	1966	§ 19	Rep.	1960
§ 2(a)	Am.	1966	6065	Am.	1960
§ 3(a)	Am.	1966	6066	Am.	1960
§ 4(f)	Am.	1966		Am.	1961
§ 4(j)	Added	1966	6066a		
5924(a)	New	1961	§ 1(d)	Am.	1966
5932	Rep.	1966	§ 10(c)	Am.	1966
§ 9	Am.	1961	6066b	New	1950
5933 to 5948	Rep.	1966	6066c	New	1954
5949	Am.	1966	6066d	New	1960
6003b	New	1960	• § 3D	Am.	1961
6005	Am.	1966	§ 5	Am.	1961
6008,			§ 6	Am.	1961
§ 2(k)	Am.	1950	6067a	New	1950
§ 3	Am.	1950	6069b	New	1960
§ 7	Am.	1950	6070e	New	1950
§ 14	Am.	1964	6070f	New	1956
§ 21	Rep.	1950	6070g	New	1961
6008-1,			6071	Rep.	1966
§ 5	Am.	1950	6071a	New	1964
6008a,			6071b	New	1966
§ 3(h)	Am.	1950	6071c	New	1966
§ 3(i)	Am.	1950	6072, 6073	Rep.	1966
6008a-1	New	1950	6074-6077a	Rep.	1950
6008b	New	1950	6077h-1	New	1952
§ 3	Rep.	1956	6077h-2	New	1954
6008c	New	1966	6077h-3	New	1960
6020a	Am.	1956	6077i	Rep.	1950
6029a	New	1956	6077i		
6032c-2	Rep.	1963	§ 5(a)	Added	1966
6036c	Added	1966	6077j-1	New	1961
6049a			6077m	Rep.	1966
§ 8aa	Am.	1966	6077m-1	New	1964
§ 8aaa	Added	1966	6077m-2	New	1966
			6077n-1	New	1966

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6077o	New	1950	6145-2,		
	Am.	1964	§ 13	Am.	1959
6077p	New	1950	6145-3	New	1958
6077q	New	1958	6145-4	New	1966
6077r	New	1958	§ 3	Am.	1964
6077s	New	1961	§ 6(A)	Am.	1964
6077t	New	1964	§ 10	Am.	1964
6079b	Am.	1956	§ 11	Am.	1964
	Am.	1958	§ 13	Am.	1964
6079c	New	1950	6145-5	New	1966
	Am.	1952	6165a	Rep.	1964
§ 3	Am.	1958	6165b	New	1964
§ 12a	New	1958	6166a-1	New	1958
6079c-1	New	1956	6166d	Am.	1952
6079d	New	1954	6166g note	New	1960
6079d-1	New	1961	6166g-1	New	1966
6079d-2	New	1964	6166m	Am.	1952
6079e	New	1958	6166q	Rep.	1952
	Am.	1960	6166y	Am.	1956
6079f	New	1960	6166z1	Am.	1954
§ 2	Am.	1961	6184l	Am.	1950
§ 6	Am.	1961	6196	Rep.	1954
§ 11	Am.	1961	6203a		
§ 12	Am.	1961	§ 1	Am.	1964
§ 13	Am.	1961	6203c		
§ 15	Am.	1961	§ 9	Am.	1950
§ 16	Am.	1961		Am.	1964
§ 17	Am.	1961	6203c-1	New	1956
6079f-1	New	1961	6203d	Am.	1956
6081e	Am.	1964	6203d-1	New	1964
6081f	New	1966	6205	Am.	1952
6081g,			6221	Am.	1950
§§ 1, 2	Am.	1961		Am.	1954
§ 4	Am.	1961		Am.	1958
	Am.	1966	6227a	New	1950
§ 4a	New	1961	6228a	Am.	1954
6081g-1	New	1966		Am.	1964
6081g-2	New	1964		Am.	1958
6081i	New	1952	§ 1	Am.	1950
6081j	New	1964	§ 1(L), (M)	Rep.	1964
	Am.	1966	§ 1(P.R.)	Am.	1952
6081r	New	1966	§ 3	Am.	1950
6110-6132	Rep.	1956	§ 3(B4)	Added	1966
6132a	New	1956	§ 3(E)	Am.	1952
6132b	New	1961	§ 4(A)	Am.	1952
6138A	New	1961	§ 4(E)	Am.	1961
6142a			§ 5	Am.	1950
§ 3	Am.	1966	§ 5(A)	Am.	1956
6142b	New	1956	§ 5(B)	Am.	1952
6144	New	1954	§ 5(B4)	Am.	1966
6144e	New	1960	§ 5(C3)	Am.	1964
§§ 1, 2	Rep.	1964	§ 5(D1)	Am.	1961
6144f	New	1964	§ 5(D3)	Am.	1964
6144g	New	1966	§ 5(G)	Am.	1956
6145	Rep.	1952	§ 5(I)	Am.	1952
	New	1958	§ 5(J)	New	1958
§ 9	Am.	1964	§ 6	Am.	1950
§ 9a	New	1964	§ 6(A)	Am.	1964
§ 9b	Added	1966	§ 7(B)	Am.	1964
§ 12	Am.	1964	§ 7(F)	New	1960
6145.1	New	1964	§ 9(A)	Am.	1964
6145-2,			§ 9a	New	1952
§ 6	Am.	1952	6228a-1	New	1954
			6228a-2	New	1956

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6228a-2	Am.	1960	6243e,		
6228a-3	New	1958	§ 12B	Added	1966
6228a-4	New	1961	§ 21	Am.	1956
6228a-5	New	1966		Am.	1958
6228b	New	1950	§ 23	Am.	1956
§ 2	Am.	1964	§ 23A	New	1958
§ 4	Am.	1952		Am.	1964
§ 6A	Added	1966	§ 23A-1	Added	1964
§ 8	Am.	1956		Am.	1966
§ 8a	New	1956	§ 23B	New	1958
6228c	New	1950		Am.	1964
6228c-1	New	1952	§ 23C	New	1964
6228d	New	1950	§ 23D	New	1964
	Am.	1952	§ 25A	New	1961
6228e	New	1960	§ 27A	New	1958
6243a,			6243e-1	Rep.	1950
§ 1	Am.	1952	6243e-2	New	1964
§ 6	Am.	1954	6243f,		
§ 7	Am.	1954	§ 1	Am.	1952
§ 9	Am.	1954		Am.	1960
§ 10	Am.	1954		Am.	1964
§ 11	Am.	1954	§ 2	Am.	1960
6243b,			§ 3	Rep.	1960
§§ 1-3	Am.	1964	§ 4	Am.	1960
§§ 6, 7	Am.	1964		Am.	1964
§§ 13, 14	Am.	1964	§ 5	Am.	1960
§ 18	New	1960	§ 7	Am.	1952
	Am.	1961		Am.	1958
	Am.	1964		Am.	1960
6243e,			§ 8	Am.	1952
§ 3A	New	1958		Am.	1958
§ 6	Am.	1950		Am.	1960
	Am.	1954	§ 9	Rep.	1960
	Am.	1958	§ 10	Am.	1952
§ 6A	New	1958		Am.	1960
§ 6B	New	1958	§ 11	Am.	1952
	Am.	1966		Am.	1960
§ 6C	Added	1966	§ 12	Rep.	1960
§ 7	Am.	1954	§ 13	Am.	1960
	Am.	1958	§ 14	Am.	1960
§ 7A	New	1954	§ 15	Am.	1960
	Am.	1958	§ 17	Am.	1956
§ 7B	New	1958		Am.	1960
	Am.	1966		Am.	1964
§ 7C	New	1958	§ 19	Am.	1960
	Am.	1966	§ 23	Am.	1960
§ 7D	Added	1966	§ 24	New	1960
§ 7G	Added	1966	§ 25	Added	1964
§ 9	Am.	1958	6243g	Am.	1958
§ 10	Am.	1958		Am.	1966
§ 10A	Am.	1956	§ 3(c)	Rep.	1960
	Am.	1958	§ 3A	Am.	1952
	Am.	1964	§ 3A(b)	Am.	1954
§ 10B	New	1958	§ 3A(d)	New	1954
§ 10C	New	1960	§ 4(f)	New	1960
§ 10D	Added	1964	§ 5(b)	Am.	1960
	Am.	1966	§ 10	Am.	1960
§ 10E	Added	1964	§ 12	Am.	1952
§ 10E(d)	Am.	1966		Am.	1954
§ 12	Am.	1956		Am.	1960
	Am.	1958	§ 13	Am.	1961
§ 12A	New	1958		Am.	1954
	Am.	1966		Am.	1960
				Am.	1961



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6243g,			6377	Rep.	1966
§ 13A	New	1952	6378	Rep.	1966
	Am.	1961	6478a	New	1960
§ 14	Am.	1961	6519b		
§ 15	Am.	1961	§§ 1-8	New	1964
§ 16	Am.	1952	6550a	Rep.	1954
	Am.	1954	6550(a)	New	1954
	Am.	1960	6550b	Rep.	1954
	Am.	1961	6560-6573	Rep.	1954
§ 21	Am.	1961	6573a	Am.	1950
6243g-1	Am.	1956		Am.	1956
	Am.	1964	§ 10	Am.	1964
	Am.	1966	§ 16	Am.	1964
§ 9	Am.	1961	§ 19	Am.	1960
§ [9a]	New	1961		Am.	1964
6243h	Am.	1950	§ 21(a)	Am.	1964
§ II(12)	Am.	1956	§ 23	Am.	1964
§ II(16)	Am.	1960	6602(4)	Am.	1956
§ II(25)	Am.	1960	6626	Am.	1952
§ II(26)	Am.	1960	6626a	New	1958
§ IV	Am.	1956		Am.	1961
§ IV(1)	Am.	1960	6636	Am.	1956
§ IV(1h)	Rep.	1966	6640	Am.	1960
§ IV(1i)	Am.	1966	6644	Am.	1954
§ IV(2a)	Am.	1960	6663a		
	Am.	1966	§ 2a	Am.	1966
§ V(1a)	Am.	1960	6669	Am.	1966
§ V(6)	Am.	1960	6673a	Am.	1954
§ V(7)	Am.	1960	6673e-1	New	1958
§ V(7) par. (c)	Am.	1964	6673e-2	New	1958
§ VI(8)	Am.	1964	6674c-1	Am.	1966
	Am.	1966	6674m	Am.	1960
§ VII	Am.	1960		Am.	1964
§ VIII(6)	Am.	1964	6674n	Am.	1956
§ XIII	New	1960	6674n-1	New	1952
§ XIV	Added	1966	6674n-2	New	1960
6243h-1	New	1950	6674n-3	New	1964
6243h-2	New	1952	6674q-5	Rep.	1952
6243i	New	1950	6674s,		
	Rep.	1952	§ 7	Am.	1960
6243j	New	1952	6674t	New	1952
6252-2	New	1950	6674t-1	New	1958
6252-3	New	1950	6674u	New	1954
6252-4	New	1952	6674u-1	New	1966
6252-5	New	1952	6674v	New	1954
6252-6	New	1952	6674w to 6674w-5	New	1958
§ 4(c)	Am.	1954	6675a-1		
§ 4(d)	Am.	1961	(q)	Am.	1964
§ 5(g)	Am.	1954	(t)	New	1964
6252-6a	New	1960	6675a-2	Am.	1954
6252-7	New	1954		Am.	1958
6252-8	New	1954		Am.	1961
6252-9	New	1958	(c)	Am.	1964
6252-10	New	1960	(c-1)	Added	1966
6252-10a	New	1964	(e)	Am.	1966
6252-11	New	1961	(e-1)	New	1964
6252-12	New	1961	(h)	New	1964
6252-12a	New	1966	6675a-3	Am.	1956
6252-13	New	1961		Am.	1961
	Am.	1966	(e)	Added	1966
6252-14	New	1964	(f)	Relettered	1966
6252-15	New	1966	6675a-3aa	Am.	1956
6258	Am.	1954		Am.	1966
6268	Am.	1950			

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6675a-5	Am.	1952	6701d,		
	Am.	1958	§ 69	Am.	1952
6675a-5a	New	1958	§ 93(a)	Am.	1960
6675a-5b	New	1960	§ 104	Am.	1954
6675a-5c	Added	1960	§ 104(a)	Am.	1956
6675a-5d	New	1966	§ 104(d)	New	1958
6675a-6	Am.	1958	§ 105	Am.	1954
6675a-6a	Am.	1958		Am.	1964
6675a-6b	New	1960	§ 106	Am.	1950
6675a-6c	New	1964	§ 106(a)	Am.	1956
6675a-6d	New	1966	§ 106(d)	New	1956
6675a-7	Am.	1958	§ 108A	New	1956
6675a-8	Am.	1958	§ 108B	New	1956
6675a-8a	Am.	1956	§ 108B(c)	Am.	1961
	Am.	1958	§ 112(b)	Am.	1961
	Am.	1960	§ 121	Am.	1960
6675a-8b	Am.	1950	§ 125	Am.	1960
	Rep.	1956	§ 126	Am.	1956
6675a-8c	Am.	1958	§ 127	Am.	1956
6675a-10	Am.	1958	§ 131	Am.	1954
6675a-11	Am.	1952		Am.	1960
6675a-12a	Am.	1952	§ 132(3)	Am.	1961
6675a-13	Am.	1952	§ 132(3a)	Added	1966
6686	Am.	1964	§ 136	Am.	1952
6686(a)	Am.	1961	§ 139	New	1952
6687b,			§ 139a	Am.	1960
§ 1	Am.	1966	§ 140	Am.	1952
§ 3(4a)	New	1952		Am.	1954
	Am.	1966	§ 141	Am.	1952
§ 4	Am.	1958		Am.	1954
§ 4a	New	1958	§ 142	Am.	1952
§ 5	Am.	1954		Am.	1954
§ 5a	New	1954	§ 148	Am.	1954
§ 15	Am.	1952	§§ 158-165	New	1954
	Am.	1956	§ 166	New	1964
	Am.	1958	§ 166(a) 4	Am.	1966
	Am.	1960	§ 166(a) 5b	Am.	1966
	Am.	1961	§ 166(a) 5c	Am.	1966
§ 15a	New	1954	§§ 167-172	New	1964
§ 19	Am.	1952	6701d-1	New	1954
	Am.	1956	6701d-2	New	1954
	Am.	1961	6701d-3	New	1961
§ 21	Am.	1960	6701e	New	1952
§ 22	Am.	1960	6701f	New	1952
§ 22(a)	Am.	1966	6701g	New	1952
§ 22(c)	Am.	1966	§ 1	Am.	1954
6687b note	Am.	1960		Am.	1956
6701a,			§ 3	Am.	1954
§ 1	Am.	1954		Am.	1956
§ 3	Am.	1950	§ 4	Am.	1954
6701c	Rep.	1956		Am.	1956
6701c-1	New	1954	6701h	New	1952
§ 2	Am.	1956	§ 1(10)	Am.	1964
	Am.	1964	§ 2(b)	Am.	1964
§ 4	Am.	1956	§ 2(d)	Added	1964
§ 5	Am.	1956	§§ 4-7	Am.	1964
§ 9	Am.	1964	§ 7A	New	1964
6701c-2	New	1954	§ 8(c)	Am.	1964
6701d,			§§ 9-11	Am.	1964
§ 2	Am.	1954	§ 13	Am.	1964
§ 2(d)	Am.	1966	§ 15	Am.	1964
§ 44	Am.	1954	§ 17	Am.	1964
§ 68(d)	Added	1966	§ 21(a, b)	Am.	1964
			§ 25	Am.	1964

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6701h,			6819a-10	New	1956
§ 28	Am.	1964		Rep.	1958
§ 29	Am.	1964	6819a-11	New	1956
§ 31	Am.	1964	6819a-12	New	1958
	Am.	1966	6819a-12a	New	1960
§ 32(b)	Am.	1964		Am.	1964
§ 32(d)	Am.	1966	6819a-13	New	1958
§ 32(f)	Am.	1964		Am.	1966
§ 32(g)	Am.	1964	6819a-14		
§ 33	Am.	1966	to		
6701i	New	1958	6819a-18	New	1958
6701j	New	1958	6819a-19	New	1960
§ 4	Am.	1964	6819a-19a	New	1961
6701k	New	1964	6819a-19b	New	1961
6701½	New	1958	6819a-19c	New	1964
6703a	New	1956	6819a-20		
6704	Am.	1954	to		
§ 4	Am.	1966	6819a-23	New	1960
6711	Am.	1954	6819a-23a	New	1964
6716-1,			6819a-24	New	1960
§ 5	Am.	1958	6819a-25	New	1960
§ 6	Am.	1958	6819a-25a	New	1961
§ 15	Am.	1958		Am.	1966
6717-6728	Rep.	1966	6819a-26	New	1961
6731-6735	Rep.	1966	6819a-27	New	1961
6745	Am.	1952	6819a-28	New	1961
6749	Rep.	1966		Am.	1964
6755, 6756	Rep.	1966	6819a-29	New	1961
6758	Rep.	1966	6819a-30	New	1961
6762	Am.	1958	6819a-31	New	1964
6765	Rep.	1966	6819a-32	New	1964
6767, 6768	Rep.	1966	6819a-33	New	1964
6770a	Rep.	1966	6819a-34	New	1964
6770a-2	Rep.	1966	6819a-35	New	1964
6770a-4	Rep.	1966	6819a-36	New	1964
6795b,			6819a-37		
§ 1	Am.	1960	to		
6795b-1,			6819a-41	New	1966
§ 1	Am.	1956	6820	Am.	1950
§ 2	Am.	1950		Am.	1956
§ 5a	New	1950	6822a	New	1960
§ 7	Am.	1950	6823	Am.	1950
§ 7(a)	New	1950		Am.	1954
§ 7(b)	New	1950	6823a	New	1960
6795c	New	1956	§ 6(c)	Am.	1964
6812b	New	1952	6824 note	New	1950
6812c	New	1954	6839e	New	1950
6812d	New	1966	6839f	New	1952
6813 note	New	1960	6839g	New	1956
6813b	Am.	1961	6851a	New	1952
	Am.	1964	6877-1	Am.	1961
	Am.	1966	6877-2	New	1954
6819a	Rep.	1952	6889b	New	1950
6819a-3	Am.	1952	6889c	New	1952
6819a-4	Rep.	1950		Rep.	1961
6819a-5	New	1950	6889d	New	1954
6819a-6	New	1950		Am.	1961
	Rep.	1952	6889e	New	1956
	Rep.	1958	6889-3	New	1952
6819a-7	New	1958	6889-3A	New	1956
6819a-8	New	1958	6889-4	New	1952
6819a-9	New	1952	§ 5	Am.	1954
	Rep.	1958	6889-5	New	1952
6819a-9(a)	Rep.	1956			

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6899d	Superseded	1956	7047c-1,		
6899d-1	New	1956	§ 30a	New	1950
6899d-2	New	1966	7047c-2	Rep.	1960
6930	Am.	1954	7047d,		
6935	Am.	1956	§ 3	Am.	1954
6937	Am.	1956	7047f	Rep.	1960
6954	Am.	1950	7047h-7047j	Rep.	1960
	Am.	1954	7047k,		
	Am.	1956	§ 1	Am.	1952
	Am.	1958	§ 3(c)	Am.	1952
	Am.	1960	§ 5a	Am.	1952
6965	Am.	1954	§ 6	Am.	1952
	Am.	1961	7047k-1	New	1950
6967	Am.	1954	§ 2	Am.	1952
	Am.	1961	7047l,		
7005-1	New	1958	§ 1	Am.	1952
7009	Am.	1956	§ 1½	New	1950
	Am.	1966	7047l-1	New	1956
7009a	New	1960	7047m,		
7044a	New	1966	§ 1	Am.	1952
7047			§ 1½	New	1950
(24)	Am.	1952	7047n	New	1950
(40b)	Am.	1952	7047o	New	1950
(41a)	New	1950	7048a	New	1950
	Am.	1952	§ 10(a) (4)	Am.	1952
(46)	Am.	1952	7048b	New	1952
(46f)	Am.	1950		Am.	1956
7047a-2	Am.	1952	7057	Rep.	1960
7047a-3	Am.	1950	7057a,		
	Am.	1952	§ 2(1)	Am.	1952
7047a-4	Am.	1952	§ 2A	New	1950
7047a-5	Rep.	1960	7057b,		
7047a-6			§ 2a	Am.	1961
to			7057c		
7047a-15	Am.	1952	§ 2	Am.	1966
7047a-15a	New	1952	7057e	New	1950
7047a-16	Am.	1952		Rep.	1960
7047a-19	Am.	1954	7057f	New	1952
	Am.	1958	7058	Rep.	1960
(1)	Am.	1960	7059	Rep.	1960
7047a-19a	New	1954	7060	Am.	1952
	Rep.	1958	7060½	New	1950
7047a-19b	New	1954	7060a	Am.	1952
	Rep.	1958	§ 1	Am.	1956
7047b,			7060b	New	1950
§ 1	Am.	1952	7061	Rep.	1960
§ 1(1)	Am.	1956	7062	Rep.	1960
§ 1(3)	Am.	1954	7063	Am.	1954
	Am.	1956	7064	Am.	1952
§ 1½	New	1950	7064½	New	1950
§ 2(12)	Am.	1950	7064a	New	1950
§ 3-a	Rep.	1952		Am.	1952
7047c-1,			7064a-1	New	1950
§ 1(a)	Am.	1960	7065	Rep.	1960
§ 2	Am.	1950	7065b-1	Am.	1952
	Am.	1956	(a)	Am.	1958
§ 2(e)	Am.	1960	(c)	Am.	1958
§ 2a	New	1950	(g)	Am.	1958
§ 2½	New	1956	(n)	Am.	1958
§ 3	Am.	1950	(q)	New	1958
	Am.	1956	7065b-2	Am.	1952
	Am.	1960	(a)	Am.	1956
§ 3a	Am.	1960	(b)	Am.	1954
				Am.	1958

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7065b-3	Am.	1952	7083a,		
7065b-4	Rep.	1960	§ 2(4)	Am.	1960
7065b-5	Am.	1958		Am.	1962
(a)	Am.	1956		Am.	1966
7065b-6	Rep.	1960	§ 2(4-a)	Am.	1950
7065b-7(a)	Am.	1958	§ 2(4-b)	New	1950
7065b-8	Am.	1956		Am.	1960
7065b-9				Am.	1966
to			§ 2(4-c)	New	1956
7065b-12	Rep.	1960		Am.	1960
7065b-13	Am.	1952	§ 2(5)	Am.	1962
	Am.	1954	§ 2(6)	Am.	1960
7065b-14	Am.	1952	§ 2(7)	New	1962
(a)	Am.	1956	§ 2(8)	Added	1966
(g)	Am.	1956	7083a.2	New	1961
7065b-14a	New	1956	7084	Am.	1950
7065b-14b	New	1956		Am.	1952
7065b-14c				Am.	1956
to			(2)	Am.	1958
7065b-17	Rep.	1960	7084b	New	1960
7065b-18	Am.	1952	7084½	New	1950
7065b-19				Rep.	1960
to			7085	Am.	1950
7065b-21	Rep.	1960		Rep.	1960
7065b-22	Am.	1952	7086	Am.	1950
7065b-23	Rep.	1960	(1)	Am.	1956
7065b-24	Rep.	1960	7087	Am.	1950
7065b-25	Am.	1952		Rep.	1960
	Am.	1960	7089	Am.	1950
7065b-26	Am.	1952	(1)	Am.	1956
7065b-27	Am.	1952	7089a-7089h	Rep.	1950
7065b-28	Rep.	1960	7090	Am.	1950
7065b-29	Rep.	1960		Rep.	1960
7066	Rep.	1960	7091	Am.	1950
7066b(aa)	New	1956		Am.	1956
7066b	Am.	1952	7092	Am.	1950
7066b-1	Rep.	1960		Am.	1956
7066c	New	1950	7092a	New	1950
7068	Rep.	1960		Rep.	1960
7069	Rep.	1960	7093	Am.	1950
7070	Am.	1952		Rep.	1960
7070a	New	1950	7094	Am.	1950
7071	Rep.	1960		Am.	1952
7072	Rep.	1954		Am.	1956
7076	Rep.	1960		Am.	1958
7078	Rep.	1960		Am.	1960
7080	Am.	1952	7095	Am.	1950
7081	Am.	1952		Rep.	1960
7082	Am.	1952	7096	Am.	1952
7083a			7097	Am.	1950
§ 2	Am.	1958		Rep.	1960
§ 2(1)	Am.	1956	7098	Am.	1964
	Am.	1960	7105a	New	1956
	Am.	1962	7117-7121	Rep.	1960
	Am.	1966	7122	Am.	1956
§ 2(2)	Am.	1956		Am.	1960
	Am.	1960	7122-a	New	1958
	Am.	1962	7123-7139	Rep.	1960
	Am.	1966	7141	Rep.	1960
§ 2(3)	Am.	1960	7143	Rep.	1960
	Am.	1962	7144	Rep.	1960
§ 2(3A)	New	1961	7144a	Rep.	1960
§ 2(4)	Am.	1956	7150,		
			7	Am.	1961

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7150,			7470b	New	1954
20	New	1955	7472d-1	New	1958
21	New	1960	7472e	New	1956
7150b	Am.	1961	7477	Am.	1954
7150f	New	1964		Am.	1966
7151	Am.	1952	Subsec. (1)		
7152	Am.	1966	to		
7212	Am.	1950	(11)	Am.	1964
	Am.	1964	Subsec. (15),		
7228-7241	Rep.	1952	(16)	Am.	1964
7258a	Am.	1954	7477a	New	1954
7260,			7477b	New	1966
§ 8	New	1961	7478-7487	Rep.	1954
7264b	Rep.	1952	7488	Rep.	1954
7298	Am.	1952	7490	Rep.	1954
	Am.	1954	7491	Rep.	1954
7298a	New	1958	7492	Am.	1954
7321a	Am.	1952	7492a	New	1954
7331	Am.	1954	7493	Am.	1954
7332	Am.	1952	7500a	Am.	1954
	Am.	1961		Am.	1960
	Am.	1966	7512	Rep.	1954
7333	Am.	1952	7515	Am.	1954
7335b	New	1952	7515a	New	1954
7336f	Am.	1952	7519a	New	1954
§ 1	Am.	1966		Am.	1958
§ 2	Am.	1956	7519b	New	1954
7345b	New	1952		Am.	1958
§ 8	Am.	1954	7531	Am.	1954
7345b-2	New	1956	7531a	New	1954
7345e	New	1950	7537a	Am.	1961
7425b-10	Am.	1964	7537b	New	1957
7425b-12	Am.	1966	7550a	New	1957
7425b-14	Am.	1966	7564	Rep.	1954
7425b-25,			7569	Rep.	1954
par. L	Am.	1961	7577	Rep.	1961
par. M	Added	1966	7583	Am.	1950
par. N	Added	1966	7589b	New	1958
7425b-36	Am.	1966	§ 1	Am.	1966
7425c	New	1952	§ 9	Added	1966
7425d	New	1956	§ 10	Added	1966
7428-1	New	1952	§ 11	Added	1966
7428-2	New	1952	§ 12	Added	1966
7436a	New	1958	§ 13	Added	1966
7448-7465	Rep.	1954	§ 14	Added	1966
7465a	New	1954	§ 15	Added	1966
§ 8	Am.	1960	7612	Am.	1956
§ 13	Am.	1960	7612a	Am.	1956
§ 14	Am.	1960	7612b	New	1956
§ 16	Am.	1958	7621a	New	1954
§ 16(b)	Am.	1960		Rep.	1961
§ 17	Am.	1966	7621b	New	1961
7466f	New	1950	§ 1(e)	Am.	1966
§ 2	Am.	1966	7621c	New	1961
7466g	New	1950		Rep.	1966
7466h	New	1952	7621d	New	1961
7466i	New	1954	§ 3	Am.	1966
§ 1 art. VII(c)	Am.	1961	§ 10(c)	Am.	1966
§ 2	Am.	1961	§ 10(d)	Added	1966
7467b	New	1950	7621e	New	1966
7467c	New	1954	7621f	New	1966
7470	Am.	1954	7622b-1	New	1958
	Am.	1958	7641-b	Am.	1961
7470a	Rep.	1954			

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7652a			7880-147c11	New	1966
Subsec. 6	Added	1966	7880-147z1	New	1952
7652b	New	1956		Rep.	1958
7656a	New	1960	7880-147z2	New	1956
7661	Am.	1950	7880-147z3	New	1958
7718	Am.	1960	7880-147z4	New	1958
7718c	New	1954	7880-147z5	New	1958
	Rep.	1960	7880-147z6	New	1958
7723a	New	1961	7893a	New	1952
7807d			7897	Am.	1961
§ 10	Am.	1964	7922	Am.	1956
§ 21	Am.	1966	7930-4	Am.	1958
7807n	New	1957	7930-5	Am.	1956
7880-1 notes	New	1958	7941b	New	1952
	New	1960	7941c	New	1952
7880-1a	New	1961	7987	Am.	1954
7880-3c	New	1950		Am.	1958
(A5)	Am.	1956	7987-1	New	1960
(A6e)	New	1956	8097 notes	New	1960
(A9)	Am.	1956	8120	Am.	1956
(B3)	Am.	1956		Am.	1958
(B4)	Am.	1956		Am.	1961
(B10)	New	1956	8120a	New	1950
(B11)	New	1961	8152a	New	1952
(D4a)	Am.	1956	8161b,		
(D5)	New	1956	§ 7	Am.	1961
(I)	Added	1966	8161d	New	1950
7880-16	Am.	1958	8176b	New	1956
7880-19	Am.	1958	8176b-1	New	1958
7880-20a	New	1956	8176b-2	New	1960
7880-21	Am.	1961	8176c	New	1958
7880-23	Am.	1958	8176d	New	1960
7880-38a			8197g	New	1966
§ 1	Am.	1956	8217a	New	1954
§ 1A	Added	1966	8224	Am.	1958
7880-43	Am.	1958	8225	Am.	1952
7880-74a	New	1952	8227a	New	1956
7880-75c	New	1950	8235a,		
7880-76	Am.	1958	§ 3	Am.	1956
7880-76c,				Am.	1958
§ 01	New	1961	§ 4	Am.	1956
§ 1	Am.	1952	§ 9	Am.	1956
	Am.	1961	8244a	New	1956
§ 2	Am.	1952	8247b,		
	Am.	1961	§ 1(b, c)	Am.	1958
§ 5	Am.	1961	§ 7a	New	1952
§ 6	Am.	1961	§ 18a	New	1952
§ 7	Am.	1952	§ 18b	New	1952
§ 8	Am.	1952	§ 18c	New	1952
§ 11	Am.	1952	8247b-1	New	1961
§ 17a	New	1952	§ 1	Am.	1966
7880-90a	Am.	1952	8247e	New	1950
7880-101	Am.	1961		Am.	1958
7880-107	Am.	1961	§ 2	Am.	1954
7880-111(c)	New	1958	§ 3	Am.	1954
7880-117	Am.	1958	8247f	New	1956
7880-123a	Am.	1961	8263a,		
7880-139	Am.	1961	§ 3a	New	1952
7880-147c1	Am.	1958	§ 5	Am.	1961
7880-147c6a	New	1958	8263e,		
7880-147c8	New	1952	§ 18-a	New	1950
7880-147c9	New	1956	§ 66	Am.	1964
7880-147c10	New	1958	§ 78	Am.	1960
			§ 84	Am.	1960

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8263f-1	New	1952	8280-119,		
8263h,			§ 7	Rep.	1961
§ 3	Am.	1961	§ 9	Am.	1961
§§ 51, 52	New	1950	§ 10	New	1961
8263i	Am.	1954		Rep.	1961
8263j	New	1950	§§ 11, 12	Am.	1961
8263k	New	1950	§§ 13, 14	Am.	1961
8264	Am.	1964	§ 14-a	Am.	1961
8270	Am.	1964	§ 15-a	Am.	1961
8274	Am.	1952	§ 15-b	Am.	1961
	Am.	1954	§ 16	Am.	1961
	Am.	1956	§ 16-a	Rep.	1961
	Am.	1960	§ 17-a	New	1960
	Am.	1961	§ 18	Am.	1961
	Am.	1964	§§ 21-a, 22	Am.	1961
8276	Am.	1966	§ 25	Am.	1961
8280-2	New	1950	8280-120a	New	1964
8280-3	New	1950	8280-120b	New	1966
8280-3.5	New	1960	8280-122	Am.	1966
8280-4	New	1950	8280-124	Am.	1966
8280-5	New	1954	§ 10(a)	Added	1958
8280-6	New	1954	8280-126,		
8280-7	New	1956	§ 8(e)	Am.	1958
8280-8	New	1958	8280-128	Rep.	1960
8280-9	New	1958	8280-131	Am.	1960
§ 2(c)	Am.	1966	§ 11a	Added	1964
§ 2(f)	Am.	1966	8280-135,		
§ 2(i)	Added	1966	§ 12	Am.	1958
§ 3	Am.	1966	8280-137,		
§ 4	Am.	1960	§ 28	New	1961
	Am.	1966	8280-138		
§ 7	Am.	1966	§ 1	Am.	1964
§ 10-B	Am.	1961	§ 3	Am.	1964
§ 10-D	Am.	1960	§ 9	Am.	1964
	Am.	1961	§ 14	Am.	1964
§ 12	Am.	1966	8280-146		
§ 14	Am.	1961	§ 1a	Added	1964
	Am.	1966	8280-147,		
§ 15	Am.	1961	§ 7(a)	New	1960
§ 18	Am.	1966	§ 7-a	New	1960
§ 21	Am.	1966	§ 7-b	New	1960
§ 21-a	New	1964	§ 21(b)	New	1960
	Am.	1966	8280-147a	New	1961
§ 23	Added	1966	8280-154	Am.	1958
§ 24	Added	1966	§ 5(a)	Am.	1961
8280-9a	New	1966	§ 13(o)	Am.	1961
8280-10	New	1961	§ 13(p)	Am.	1961
§ 1	Am.	1961	§ 15(l)	Am.	1961
§ 3	Am.	1964	8280-155		
8280-11	New	1961	§ 2	Am.	1966
8280-107			§ 3	Am.	1966
§ 10	Am.	1960	§ 5	Am.	1966
	Am.	1964	§ 6a	Added	1966
	Am.	1966	§ 14	Am.	1966
8280-119,			§ 16	Am.	1966
§ 1(h)	Am.	1961	§ 20	Am.	1966
§ 2	Am.	1961	8280-157,		
§ 2-a	Am.	1961	§ 2	Am.	1960
§ 3	Am.	1961	§ 3	Am.	1958
§ 3(e)	Am.	1958	8280-160,		
§ 4	Rep.	1961	§ 1	Am.	1966
§ 4-a	Am.	1961	§ 2	Am.	1966
§ 5	Rep.	1961	§ 3	Am.	1960
				Am.	1966



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8280-160,			8280-196	New	1958
§ 6(d)	Am.	1958	§ 2	Am.	1962
§ 6(f)	Am.	1958	8280-197	New	1958
§ 7	Am.	1961	8280-198	New	1958
§ 8	Am.	1966	§ 5(L)	Added	1962
§ 13	Am.	1958	8280-198a	New	1961
§ 15	Am.	1966	8280-199	New	1958
§ 15(a)	Am.	1958	8280-200	New	1958
	Am.	1960	§ 2	Am.	1961
§ 15(e)	Am.	1958	§ 3	Am.	1961
§ 17	Am.	1966	§ 6	Am.	1961
§ 23	Rep.	1966	§ 9	Am.	1961
§ 24-A	New	1960	8280-201	New	1958
	Am.	1960	8280-202	New	1958
8280-161,			§ 1	Am.	1966
§ 4	Rep. in part	1960	§ 2	Am.	1966
§ 4-A	New	1960	§ 3	Am.	1966
8280-162,			§ 6	Am.	1966
§ 1	Am.	1958	§ 9	Am.	1966
§ 5(L)	New	1960	§ 14	Am.	1966
§ 7	Am.	1961	8280-203		
§ 12(g)	Am.	1961	to		
§ 22	Rep.	1960	8280-205	New	1958
	Am.	1961	8280-206	New	1958
§ 23	Am.	1964	§ 2	Am.	1960
8280-163				Am.	1961
§ 21	Added	1966	§ 3(b)	Am.	1961
8280-167,			§ 5(j)	Am.	1961
§ 2	Am.	1960	8280-207	New	1958
§ 3-A	New	1958	§ 2	Am.	1966
§ 12(a)	New	1958	8280-207a	New	1961
8280-172,			8280-207b	New	1961
§ 4(a)	New	1958	8280-208	New	1958
8280-173,			8280-209	New	1958
§ 1	Am.	1961	8280-210	New	1958
§ 2	Am.	1961	8280-211	New	1958
§ 6	Am.	1960	§ 2	Am.	1961
	Am.	1961	§ 3	Am.	1961
§ 8	Am.	1961	§ 6	Am.	1961
8280-174,			§ 9	Am.	1961
§ 3	Am.	1960	8280-212	New	1958
8280-176			§ 15(a)	New	1961
§ 1	Am.	1964	8280-213	New	1958
8280-177,			§ 15(a)	New	1961
§ 2	Am.	1961	8280-214	New	1958
§ 3(a)	Am.	1961	8280-215	New	1958
§ 3(c)	Am.	1961	§ 2	Am.	1966
	Am.	1966	8280-216	New	1960
§ 3(d)	Am.	1961	8280-217	New	1960
8280-187,			§ 6	Am.	1960
§ 1	Am.	1958	8280-218		
	Am.	1960	to		
	Am.	1961	8280-220	New	1960
8280-188,			8280-221	New	1960
§ 2a-1	New	1958	§ 2	Am.	1964
§ 5(f)	Am.	1960	8280-222		
§ 8(d)	Am.	1960	to		
§ 8-A	New	1958	8280-226	New	1960
§ 8-B	Added	1966	8280-227	New	1960
§ 8-C	Added	1966	§ 6	Rep. in part	1960
8280-191			§ 6-A	New	1960
to			8280-228	New	1960
8280-195	New	1958	§ 16a	New	1961
			§ 19	Am.	1961

ARTICLES AFFECTED FROM 1949 TO 1965

Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8280-229		
to		
8280-237	New	1960
8280-238	New	1960
§ 2	Am.	1961
§ 3	Am.	1961
§ 5	Am.	1966
8280-239		
to		
8280-242	New	1960
8280-243	New	1960
	Rep.	1964
§ 17	Am.	1961
§ 23(a)	Am.	1961
§ 27	Am.	1961
8280-244	New	1960
8280-245		
to		
8280-247	New	1962
8280-248	New	1962
§ 19	Am.	1964
8280-249	New	1962
8280-250	New	1962
8280-251	New	1962
§ 2-A	Added	1964
§ 2-B	Added	1964
§ 2-C	Added	1964
8280-252	New	1962
8280-253	New	1962
	Rep.	1962
8280-254	New	1962
	Am.	1966
8280-255	New	1962
8280-256	New	1962
8280-257	New	1962
§ 17	Am.	1966
8280-258		
to		
8280-264	New	1962
8280-265	New	1962
§ 18a	Added	1964
§ 24	Am.	1964
8280-266		
to		
8280-269	New	1962
8280-270		
to		
8280-273	New	1964
8280-274	Rep.	1964
8280-275	Rep.	1964
8280-276	New	1964
8280-277	New	1964
8280-278	New	1964
8280-279	New	1964
8280-280	New	1964
8280-281	New	1964
§ 2	Am.	1966
§ 5	Am.	1966
8280-282	New	1964
8280-283	New	1964
8280-284	New	1964
8280-285	New	1964
8280-286	New	1964

Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8280-287	New	1964
8280-288	New	1964
8280-289	New	1964
8280-290	New	1964
8280-291	New	1964
8280-292	New	1964
8280-293	New	1964
§ 2	Am.	1966
§ 3	Am.	1966
§ 5	Am.	1966
§ 17(a)	Added	1966
§ 19	Am.	1966
8280-294	New	1964
8280-295	New	1964
8280-296	New	1964
8280-297		
to		
8280-341	New	1966
8293	Am.	1950
8306,		
§ 2	Am.	1964
§ 2a	Added	1964
§ 3	Am.	1964
§ 6	Am.	1954
§ 7	Am.	1954
	Am.	1958
§ 7a	Am.	1954
§ 7b	Am.	1954
§ 7c	Am.	1958
§ 7d	Am.	1958
	Am.	1960
§ 8	Am.	1958
§ 9	Am.	1961
	Am.	1966
§§ 10-12	Am.	1958
§ 12c-2	Am.	1958
§ 12f	Am.	1954
§ 15	Am.	1960
§ 15a	Am.	1952
	Am.	1956
§ 20	Am.	1956
§ 25	Am.	1960
§ 26(d)	Am.	1958
§ 28	New	1958
8306a	Am.	1952
	Am.	1956
8307,		
§ 4	Am.	1954
§ 5	New	1958
8308,		
§ 1A	New	1954
§ 16	Am.	1954
§ 18	Rep.	1954
8309,		
§ 1	Am.	1960
§ 1a	Am.	1966
§ 1b	New	1958
§ 2	Am.	1954
8309a	Am.	1954
8309b,		
§ 2	Am.	1950
	Am.	1958
§ 3	Am.	1958

**VERNON'S TEXAS STATUTES**

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8309b,			8309c		
§ 4	Am.	1950	§ 6	Am.	1954
§ 7	Am.	1950	§ 9	Am.	1954
	Am.	1954	§ 10	Am.	1956
	Am.	1960	§ 15	Am.	1954
§ 10	Am.	1954	§ 17	Am.	1950
§ 13	Am.	1954	8309d	New	1952
§ 14	Am.	1954	§ 7	Am.	1960
	Am.	1958	8309e	New	1954
§ 15	Am.	1958	8309e-1	New	1966
§ 18	Am.	1954	8309f	New	1958
8309c	New	1950	§ 7	Am.	1964
§ 3	Am.	1956	8310-8324	Rep.	1954
	Am.	1958			

**Business Corporation Act  
(Page 425)**

Bus. Corp.Act Art.	Effect	Vernon's Texas St.Supp.	Bus. Corp.Act Art.	Effect	Vernon's Texas St.Supp.
1.01	New	1956	4.08		
1.02	New	1956	to		
2.01			4.13	New	1956
to			4.14	New	1961
2.17	New	1956	5.01		
2.18	New	1956	to		
§ A	Am.	1958	5.08	New	1956
2.19	New	1956	5.09	New	1956
§ A	Am.	1958		Am.	1958
§§ E, F	New	1958	5.10	New	1956
2.20	New	1956		Am.	1958
2.21	New	1956	5.11	New	1956
2.22	New	1956	§ A	Am.	1958
§ A	Am.	1958	5.12	New	1956
§ C	Am.	1958	5.13	New	1956
2.23			5.14	Added	1966
to			5.15	Renumbered from art. 5.14	1966
2.28	New	1956	6.01		
2.29	New	1956	to		
(C)	Am.	1961	6.12	New	1956
D	Am.	1958	7.01		
D(1)-D(3)	Am.	1961	to		
2.30	New	1956	7.04	New	1956
(B)	Added	1961	7.05	New	1956
2.31			Subsec. A(1)		
to			(e)	Am.	1961
2.44	New	1956	7.06		
3.01	New	1956	to		
3.02	New	1956	7.12	New	1956
§ A	Am.	1958	8.01	New	1956
3.03	New	1956	§ B	Am.	1958
3.04	New	1956	8.02	New	1956
3.05	New	1956	8.03	New	1956
§ A	Am.	1958		Am.	1964
3.06	New	1956		Am.	1961
4.01			8.04		
to			to		
4.06	New	1956	8.13	New	1956
4.07	New	1956	8.14	New	1956
§ B	Am.	1958	§ A	Am.	1958
§ C(2)	Am.	1958			

## ARTICLES AFFECTED FROM 1949 TO 1965

Bus. Corp. Act	Effect	Vernon's Texas St. Supp.	Bus. Corp. Act	Effect	Vernon's Texas St. Supp.
8.15			9.14		
to			§ F	New	1960
8.18	New	1956	9.15	New	1956
9.01			9.16	New	1956
to			10.01	New	1956
9.13	New	1956		Am.	1961
9.14	New	1956	§ A(13)	Am.	1958
§ A	Am.	1960	11.01	New	1956
§ E	Am.	1960			

### Code of Criminal Procedure—1965 (Pages 1865 to 1956)

*Code of Criminal Procedure—1965 adopted by Laws 1965, 59th Leg., vol. 2, p. 317, ch. 722, effective Jan. 1, 1966.  
Cross Reference Table, see page 1855.*

### Election Code (Pages 660 to 674)

Elec. Code	Effect	Vernon's Texas St. Supp.	Elec. Code	Effect	Vernon's Texas St. Supp.
1.01	New	1952	3.08	New	1952
1.01a	New	1964		Am.	1964
1.02	New	1952		Am.	1966
1.03	New	1952	3.09	New	1952
	Am.	1964	4.01		
1.04	New	1952	to		
1.05	New	1952	4.06	New	1952
	Am.	1964	4.07	New	1952
1.06	New	1952		Rep.	1964
1.07	New	1952	4.08	New	1952
1.08	New	1952	4.09	New	1952
	Rep.	1964	4.10	New	1952
2.01	New	1952		Am.	1961
	Am.	1961	4.11	New	1961
	Am.	1964	4.12	Added	1966
2.02	New	1952	5.01	New	1952
	Am.	1964		Am.	1964
2.03	New	1952	5.02	New	1952
	Am.	1966		Am.	1964
2.04	New	1952		Am.	1966
	Am.	1964	5.02a	Added	1964
	Am.	1966		Am.	1966
2.05	New	1952	5.03	New	1952
	Am.	1964		Am.	1957
2.06	New	1952	5.04	New	1952
3.01	New	1952	5.05	New	1952
	Am.	1964		Am.	1960
	Am.	1966	Subd. 1	Am.	1964
3.02	New	1952		Am.	1964
	Am.	1964	Subd. 1a	Am.	1960
3.03	New	1952		Am.	1964
	Am.	1964		Am.	1966
3.04	New	1952	Subd. 2	Am.	1960
	Am.	1964		Am.	1964
3.05	New	1952	Subd. 2a	Am.	1960
	Am.	1964		Am.	1964
3.06	New	1952		Am.	1966
	Am.	1964	Subd. 3	Am.	1960
3.07	New	1952		Am.	1964
	Am.	1964	Subd. 3a	Am.	1960
				Am.	1964

**VERNON'S TEXAS STATUTES**

<b>Elec. Code</b>	<b>Effect</b>	<b>Vernon's Texas St. Supp.</b>	<b>Elec. Code</b>	<b>Effect</b>	<b>Vernon's Texas St. Supp.</b>
5.05			6.03	New	1952
Subd. 3b	Am.	1960	6.04	New	1952
	Am.	1964		Am.	1964
Subd. 3c	Added	1966	6.05	New	1952
Subd. 4	Am.	1964		Am.	1958
Subd. 4a	Added	1966		Am.	1966
Subd. 4b	Renumbered and		6.05a	New	1964
Am. from Subd. 16		1966	6.05b	New	1964
Subd. 5	Am.	1964	6.05c	New	1964
Subd. 6	Am.	1958	6.05d	New	1964
	Am.	1960	6.05e	New	1964
	Am.	1964	6.06	New	1952
Subd. 7	Am.	1960		Am.	1958
	Am.	1964		Am.	1964
Subd. 8	Am.	1960	6.07	New	1952
	Am.	1964		Am.	1956
Subd. 14	Am.	1964	6.08		
Subd. 15	Added	1960	to		
	Am.	1964	6.10	New	1952
Subd. 16	Added	1960	7.01		
	Am.	1964	to		
	Renumbered		7.05	New	1952
	Subd. 4b	1966	7.06	New	1952
Subd. 17	Added	1960		Am.	1964
Subd. 18	New	1964	7.07		
5.06	New	1952	to		
	Am.	1960	7.09	New	1952
5.07	New	1952	7.10	New	1952
5.08	New	1952		Am.	1964
	Am.	1964	7.14	New	1952
5.09	New	1952	§§ 2, 3	Am.	1964
	Am.	1960	§ 5	Am.	1964
	Am.	1964	§ 7	Am.	1964
5.10	New	1952	§ 7a	New	1958
	Am.	1964		Am.	1964
5.11	New	1952	§ 7b	New	1960
	Am.	1958	§ 8	Am.	1964
	Am.	1964	§ 8a	New	1964
5.12	New	1952	§ 10	Am.	1964
	Am.	1964	§ 10a	Added	1956
5.13	New	1952	§§ 12, 13	Am.	1964
5.14	New	1952	§ 15	Am.	1958
	Am.	1960	§ 16a	New	1960
	Am.	1964	§§ 17-19	Am.	1964
5.14a	Added	1966	§ 20	Am.	1961
5.15	New	1952		Am.	1964
	Am.	1964	§ 22	Rep.	1964
5.16	New	1952	§§ 24, 25	Am.	1964
	Am.	1964	7.15	New	1952
5.16a	Added	1966		Rep.	1964
5.17	New	1952	7.16	New	1952
	Am.	1961			
5.18			§ 3	Added	1961
to			7.17	New	1952
5.21	New	1952		Am.	1961
5.22	New	1952	8.01	New	1952
	Am.	1964		Am.	1964
5.23	New	1952	8.02	New	1952
5.24	New	1952		Am.	1964
6.01	New	1952	8.03		
	Am.	1956	to		
	Am.	1960	8.08	New	1952
6.01a	Added	1964	8.09	New	1952
6.02	New	1952		Am.	1964
	Am.	1964			

ARTICLES AFFECTED FROM 1949 TO 1965

Elec. Code Art.	Effect	Vernon's Texas St.Supp.	Elec. Code Art.	Effect	Vernon's Texas St.Supp.
8.10	New	1952	9.20	New	1952
	Rep.	1964		Am.	1964
8.11	New	1952		Am.	1966
8.12	New	1952	9.21		
8.13	New	1952	to		
	Am.	1964	9.28	New	1952
	Am.	1958	9.29	New	1952
	Am.	1964	9.30		
8.13a	New	1964	to		
8.14	New	1952	9.38	New	1952
8.15	New	1952	10.01		
	Am.	1964	to		
8.16	New	1952	10.03	New	1952
8.17	New	1952	11.01	New	1952
8.18	New	1952	11.01a	New	1964
	Am.	1964	11.02	New	1952
8.19	New	1952		Am.	1964
	Am.	1964	11.03	New	1952
8.20	New	1952	11.04	New	1952
8.21	New	1952		Am.	1964
8.22	New	1952	11.05	New	1952
	Am.	1964	11.06	New	1952
8.23	New	1952	12.01	New	1952
	Am.	1964	12.02	New	1952
8.24	New	1952		Am.	1958
8.25	New	1952	Pars. 3, 4	Am.	1964
§ 5	Rep.	1964	12.03	New	1952
8.26			13.01	New	1952
to			13.01a	New	1960
8.28	New	1952	Par. (2)	Am.	1964
8.29	New	1952	13.02	New	1952
	Am.	1964	13.03	New	1952
8.29a	New	1964		Am.	1960
8.29b	New	1964	13.04	New	1952
8.30	New	1952	13.04A	New	1956
	Am.	1964		Am.	1966
8.31	New	1952	13.04b	Added	1966
	Am.	1964	13.05	New	1952
8.32	New	1952		Rep.	1964
	Rep.	1964	13.06	New	1952
8.33	New	1952	13.07	New	1952
	Am.	1964	13.07a	New	1964
8.34	New	1952	13.08	New	1952
8.35	New	1952		Am.	1956
8.36	New	1952		Am.	1960
	Am.	1964		Am.	1964
8.37	New	1952	13.08a	New	1958
8.38	New	1952		Am.	1964
	Am.	1964	13.08a-1	Added	1966
8.39	New	1952	13.08b	New	1964
8.40	New	1952	13.08c	New	1964
8.41	New	1952	13.09	New	1952
	Am.	1964		Am.	1958
	Am.	1966		Am.	1964
8.42	New	1952	13.10	New	1952
	Am.	1964		Rep.	1964
8.43	New	1952	13.11	New	1952
8.44	New	1952	13.11a	New	1964
	Rep.	1964	13.12	New	1952
8.45	New	1952		Am.	1960
8.46	New	1952		Am.	1964
9.01			13.12a	New	1964
to					
9.19	New	1952			

**VERNON'S TEXAS STATUTES**

<b>Elec. Code Art.</b>	<b>Effect</b>	<b>Vernon's Texas St.Supp.</b>	<b>Elec. Code Art.</b>	<b>Effect</b>	<b>Vernon's Texas St.Supp.</b>
13.13	New	1952	13.38	New	1952
	Am.	1964		Am.	1964
13.14	New	1952	13.39		
	Am.	1960	to		
13.15	New	1952	13.43	New	1952
	Am.	1956	13.43a	New	1958
	Am.	1964		Am.	1964
(b)	Am.	1961	13.44	New	1952
13.16	New	1952	13.45	New	1952
13.17	New	1952		Am.	1960
	Am.	1960		Am.	1964
13.18	New	1952	13.46	New	1952
	Am.	1964		Am.	1960
13.18a	New	1964		Am.	1964
13.18b	Added	1966	13.47	New	1952
13.19	New	1952		Am.	1960
13.20	New	1952		Am.	1964
13.21	New	1952	13.47a	New	1961
	Am.	1964	13.48	New	1952
13.22	New	1952		Am.	1964
13.23	New	1952	13.49	New	1952
	Am.	1964	13.50	New	1952
13.24	New	1952		Am.	1964
	Am.	1960	13.51	New	1952
	Am.	1964		Am.	1964
13.25	New	1952	13.52	New	1952
	Am.	1964		Am.	1964
13.26	New	1952	13.53	New	1952
13.26a	Added	1964		Am.	1964
13.27	New	1952	13.54	New	1952
	Am.	1960	13.55	New	1952
	Am.	1964	13.56	New	1952
13.28	New	1952		Am.	1964
	Rep.	1964	13.57	New	1952
13.29			13.58	New	1952
to				Am.	1960
13.32	New	1952	13.59	New	1952
13.33	New	1952	14.01	New	1952
	Am.	1964		Am.	1964
13.34	New	1952	14.02		
	Am.	1958	to		
	Am.	1960	14.06	New	1952
	Am.	1964	14.07	New	1952
13.34a	Added	1964		Am.	1964
13.35	New	1952	14.08	New	1952
	Am.	1960		Am.	1956
13.36	New	1952	Par. (f)	Am.	1964
	Am.	1960	14.09	New	1952
	Rep.	1964	14.10	New	1952
13.37	New	1952		Am.	1964
			14.11	New	1952
			14.12	New	1952

**Insurance Code  
(Pages 941 to 976)**

<b>Ins. Code Art.</b>	<b>Effect</b>	<b>Vernon's Texas St.Supp.</b>	<b>Ins. Code Art.</b>	<b>Effect</b>	<b>Vernon's Texas St.Supp.</b>
1.01	New	1952	1.03	New	1952
1.02	New	1952		Am.	1956
	Am.	1956		Am.	1958
	Am.	1958			

ARTICLES AFFECTED FROM 1949 TO 1965

Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
1.04	New	1952	2.08	New	1952
	Am.	1956		Am.	1956
	Am.	1958		Am.	1960
(e)	Rep.	1961		Am.	1961
1.04 note	Am.	1961	2.09	New	1952
1.05	New	1952	2.10	New	1952
	Am.	1958		Am.	1956
(b)	Am.	1961		Am.	1961
1.06	New	1952	(3)	Am.	1960
	Am.	1958	2.11	New	1952
1.07	New	1952		Am.	1961
	Am.	1958		Am.	1966
1.08	New	1952	2.12	New	1952
	Am.	1956	2.13	New	1952
	Am.	1958	2.14	New	1952
1.09	New	1952		Am.	1960
	Am.	1958	2.15		
1.09-1	New	1958	to		
1.09-2	New	1958	2.17	New	1952
1.09-3	New	1958	2.18	New	1952
	Am.	1961		Am.	1956
1.10	New	1952	2.19	New	1952
(4)	Am.	1960	2.20	New	1952
(5)	Am.	1956		New	1956
(17)	New	1960	2.21	New	1952
1.11				New	1956
to			3.01	New	1952
1.13	New	1952		Am.	1961
1.14	New	1952	§ 10	Am.	1964
	Am.	1956	3.02	New	1952
§ 1	Am.	1960		Am.	1956
1.15	New	1952	3.02a	New	1956
	Am.	1956		Am.	1961
	Am.	1966	3.03	New	1952
1.16	New	1962		Rep.	1956
	Am.	1956	3.04	New	1952
1.17	New	1952		Am.	1956
	Am.	1956		Am.	1958
1.18	New	1952		Am.	1966
	Am.	1956	§ 1(3)	Am.	1960
1.19	New	1952	3.05	New	1952
	Am.	1956	3.06	New	1952
1.20				Am.	1956
to			3.07		
1.25	New	1952	to		
1.26	New	1964	3.09	New	1952
2.01	New	1952	3.10	New	1952
	Am.	1956		Am.	1961
2.02	New	1952	3.11	New	1952
	Am.	1956		Am.	1956
2.03	New	1952		Am.	1964
	Am.	1956	3.12	New	1952
2.03-1	New	1956		Am.	1958
2.04	New	1952	3.13	New	1952
	Am.	1956	3.14	New	1952
2.05	New	1952	3.15	New	1952
	Am.	1956		Am.	1958
2.06	New	1952	3.16	New	1952
2.07	New	1952		Am.	1958
§ 1	Am.	1958		Am.	1961
	Am.	1961	3.17	New	1952
§ 5	Am.	1961		Am.	1961
§ 6	Am.	1956	3.18	New	1952



VERNON'S TEXAS STATUTES

Ins. Code Art.	Effect	Vernon's Texas St. Supp.	Ins. Code Art.	Effect	Vernon's Texas St. Supp.
3.18	Am.	1961	3.39a	New	1961
3.19	New	1952	3.40	New	1952
	Rep.	1961		Am.	1956
3.20	New	1952		Am.	1960
3.21	New	1952		Am.	1961
3.22	New	1952	(5)	Am.	1961
	Am.	1956	3.41	New	1952
3.23			3.42	New	1952
to				Am.	1958
3.27	New	1952	3.43	New	1965
3.28	New	1952		Rep.	1958
	Am.	1960	3.44	New	1965
	Am.	1964	§ 3	Am.	1964
3.29	New	1952	§ 7	Am.	1960
3.30	New	1952		Am.	1964
	Am.	1956	§ 8	Am.	1964
	Rep.	1964	§ 12	Am.	1964
3.31	New	1952	3.44a	New	1964
3.32	New	1952	3.45	New	1952
	Am.	1956	3.46	New	1952
3.33	New	1952		Am.	1964
	Rep.	1964	3.47		
3.34	New	1952	to		
	Am.	1954	3.49	New	1952
	Am.	1960	3.49-1	New	1954
	Am.	1961	3.49-2	New	1960
(as amended by			3.50	New	1952
ch. 168, § 1)	Rep.	1961		Am.	1958
3.35	New	1952	§ 1	Am.	1966
	Rep.	1964	§ 1(1) (d)	Am.	1956
3.36	New	1952		Am.	1960
3.37	New	1952	§ 1(3)	Am.	1954
	Rep.	1964		Am.	1956
3.38	New	1952		Am.	1961
3.39	New	1952	§ 1(4)	Am.	1956
	Am.	1961		Am.	1960
(1)	Am.	1960	§ 1(5,6)	New	1961
(2)	Am.	1960	§ 3	Am.	1964
(6)	Am.	1960	§§ 4, 5	Rep.	1964
(9)	Am.	1956	3.50-1	Added	1966
(10)	New	1960	3.51	New	1952
Part I,			§ 1	Am.	1961
Par. A.4	Am.	1966	3.51-1	New	1964
Part I,			§ 2(c)	Am.	1964
Par. A.5	Am.	1966	§ 2(e-g)	Am.	1964
Part I,			3.52	New	1952
Par. A.6	Am.	1966	3.53	New	1952
Part I,				Am.	1964
Par. A.7	Am.	1966	3.54		
Part I,			to		
Par. A.8	Am.	1966	3.59	New	1952
Part I,			3.60	New	1952
Par. A.10	Am.	1966		Am.	1956
Part I,			3.61	New	1952
Par. A.11	Am.	1966	3.62	New	1952
Part I,			3.62-1	New	1958
Par. A.15	Am.	1966		Am.	1961
Part I, Par. C. 3	Am.	1964	3.63		
	Am.	1966	to		
Part II, Par. A. 8	Am.	1964	3.68	New	1952
Part II,			3.69	New	1956
Par. B.1	Am.	1966	3.70-1	New	1956
Part III	Added	1966	3.70-2	New	1956
			(A)	Am.	1966

**ARTICLES AFFECTED FROM 1949 TO 1965**

<b>Ins. Code Art.</b>	<b>Effect</b>	<b>Vernon's Texas St.Supp.</b>	<b>Ins. Code Art.</b>	<b>Effect</b>	<b>Vernon's Texas St.Supp.</b>
3.70—3 to 3.70—10	New	1956	5.76	New	1954
3.71	New	1964		New	1956
§ 1	Am.	1966	5.77		
4.01	New	1952	to		
	Am.	1958	5.79	New	1954
4.02			6.01	New	1952
to				Am.	1960
4.06	New	1952	6.02	New	1952
4.07	New	1952		Am.	1960
	Am.	1966	6.03	New	1952
4.08	New	1964	6.04	New	1952
4.09	Added	1966		Am.	1956
5.01	New	1952	6.05	New	1952
	Am.	1954		Am.	1956
5.02	New	1952	6.06	New	1952
5.03	New	1952		Am.	1956
5.04	New	1952	6.07	New	1952
	Am.	1954		Am.	1956
5.05	New	1952	6.08	New	1952
	Am.	1954		Am.	1956
5.06				Am.	1961
to			6.09	New	1952
5.08	New	1952		Rep.	1964
5.09	New	1952	6.10	New	1952
	Am.	1954		Rep.	1964
5.10	New	1952	6.11	New	1952
5.11	New	1952	6.12	New	1952
	Am.	1954		Am.	1966
5.12	New	1952	§ 6	Am.	1960
5.13	New	1952	6.13		
	Am.	1956	to		
5.14			6.16	New	1952
to			7.01	New	1952
5.25	New	1952		Rep.	1958
5.26	New	1952		Added	1960
	Am.	1956	7.02	New	1952
5.27				Rep.	1958
to			7.03	New	1952
5.49	New	1952		Rep.	1958
5.50	New	1952	7.04	New	1952
	Am.	1956		Rep.	1958
5.51			7.05	New	1952
to				Rep.	1958
5.53	New	1952	7.06	New	1952
5.54	New	1952		Rep.	1958
	Am.	1956	7.07	New	1952
5.55	New	1965		Rep.	1958
	Am.	1954	7.08	New	1952
5.56	New	1952		Rep.	1958
5.57	New	1952	7.09	New	1952
5.58	New	1952		Rep.	1958
	Am.	1954	7.10	New	1952
5.59	New	1952		Rep.	1958
5.60	New	1952	7.11	New	1952
	Am.	1954		Rep.	1958
5.61			7.12	New	1952
to				Rep.	1958
5.64	New	1952	7.13	New	1952
5.65	New	1952		Rep.	1958
	Am.	1954	7.14	New	1952
5.66				Rep.	1958
to			7.15	New	1952
5.75	New	1952		Rep.	1958
			7.16	New	1952

VERNON'S TEXAS STATUTES

Ins. Code Art.	Effect	Vernon's Texas St. Supp.	Ins. Code Art.	Effect	Vernon's Texas St. Supp.
7.16	Rep.	1958	10.01		
7.17	New	1952	to		
	Rep.	1958	10.04	New	1952
7.18	New	1952	10.05	New	1952
	Rep.	1958		Am.	1960
7.19-1	New	1960	10.06	New	1952
8.01			10.07	New	1952
to			10.08	New	1952
8.04	New	1952		Am.	1956
8.05	New	1952	10.09		
	Am.	1956	to		
8.06	New	1952	10.17	New	1952
8.07	New	1952	10.18	New	1952
	Am.	1966		Am.	1960
8.08	New	1952	10.19	New	1952
8.09	New	1952		Am.	1966
8.10	New	1952	10.20		
	Am.	1956	to		
8.11			10.39	New	1952
to			10.40	New	1952
8.13	New	1952	§ 3	Am.	1956
8.14	New	1952	11.01	New	1952
	Am.	1960		Am.	1956
8.15			11.02	New	1952
to				Am.	1954
8.17	New	1952		Am.	1956
8.18	New	1952	11.03	New	1952
	Am.	1956	11.04	New	1952
	Am.	1961		Am.	1966
8.19	New	1952	11.05	New	1952
	Am.	1961	11.06	New	1952
8.20			11.07	New	1952
to			11.08	New	1952
8.24	New	1952	11.09	New	1952
9.01	New	1952		Am.	1960
	Am.	1956		Rep.	1964
9.01a	New	1958	11.10	New	1952
9.01-1	New	1961		Am.	1954
9.02	New	1952		Am.	1956
	Am.	1956	11.11	New	1952
9.03	New	1952		Am.	1956
	Am.	1956	11.12	New	1952
9.04	New	1952		Am.	1954
9.05	New	1952		Am.	1956
9.06	New	1952		Am.	1956
	Am.	1956	11.13		
9.07	New	1952	to		
	Am.	1956	11.16	New	1952
9.08	New	1952	11.17	New	1952
9.09	New	1952		Am.	1954
	Am.	1958		Am.	1956
9.10	New	1952	11.18	New	1952
9.11	New	1952	11.19	New	1952
	Am.	1956		Am.	1956
	Am.	1960		Am.	1964
9.12			12.01		
to			to		
9.24	New	1952	12.18	New	1952
9.25	New	1952			
	Am.	1956	13.01		
	Am.	1964	to		
9.26	New	1952	13.09	New	1952
9.27	New	1952			

**ARTICLES AFFECTED FROM 1949 TO 1965**

<b>Ins. Code Art.</b>	<b>Effect</b>	<b>Vernon's Texas St.Supp.</b>	<b>Ins. Code Art.</b>	<b>Effect</b>	<b>Vernon's Texas St.Supp.</b>
14.01			16.12		
to			to		
14.14	New	1952	16.28	New	1952
14.14a	New	1964	17.01	New	1952
14.15	New	1952	17.02	New	1952
	Am.	1966		Am.	1956
14.16	New	1952	17.03	New	1952
14.17	New	1952		Am.	1956
	Am.	1960	17.04	New	1952
14.18			17.05	New	1952
to				Am.	1954
14.22	New	1952	17.06	New	1952
14.23	New	1952		Am.	1954
	Am.	1961		Am.	1956
	Am.	1966	17.07	New	1952
14.24	New	1952	17.08	New	1952
14.25	New	1952	17.09	New	1952
	Am.	1966		Am.	1956
14.26			17.10	New	1952
to			17.11	New	1952
14.32	New	1952		Am.	1954
14.33	New	1952		Am.	1956
	Am.	1966	17.12		
14.34			to		
to			17.15	New	1952
14.61	New	1952	17.16	New	1952
§ 1(c)	Am.	1956		Am.	1954
14.62	New	1952		Am.	1956
14.63	New	1956	17.17	New	1952
15.01				Am.	1954
to			17.18		
15.03	New	1952	to		
15.04	New	1952	17.21	New	1952
	Am.	1956	17.22	New	1952
15.05	New	1952		Am.	1956
15.06	New	1952	17.23	New	1952
	Am.	1956	17.24	New	1952
15.07	New	1952	17.25	New	1952
15.08	New	1952	§ 1	Am.	1956
	Am.	1956	§ 4	Am.	1954
15.09	New	1952	§ 5	Am.	1956
15.10	New	1952	§ 7	Am.	1954
15.11	New	1952		Rep.	1956
	Am.	1956	§ 9	Am.	1954
15.12				Am.	1956
to			§ 20	Am.	1956
15.20	New	1952	§ 22	New	1954
16.01	New	1952		Rep.	1956
§ 2	Am.	1956	18.01		
16.02			to		
to			18.03	New	1952
16.05	New	1952	18.04	New	1952
16.06	New	1952		Am.	1956
	Am.	1954	18.05	New	1952
	Am.	1956		Am.	1956
16.07	New	1952	18.06	New	1952
	Am.	1954	18.07	New	1952
16.08				Am.	1956
to			18.08	New	1952
16.10	New	1952	18.09	New	1952
16.11	New	1952		Am.	1956
	Am.	1954	18.10	New	1952
			18.11	New	1952
				Am.	1956

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Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
18.12			21.13	New	1952
to			21.14	New	1952
18.22	New	1952	§ 3a	New	1964
18.23	New	1952	§ 8	Am.	1960
	Am.	1956	§ 12	Am.	1960
18.24	New	1952	21.15		
19.01	New	1952	to		
19.02	New	1952	21.20	New	1952
	Am.	1960	21.21	New	1952
19.03	New	1952		Am.	1958
	Am.	1956	21.21-1	New	1961
19.04	New	1952	21.22		
19.05	New	1952	to		
19.06	New	1952	21.24	New	1952
	Am.	1956	21.25	New	1952
19.07				Am.	1961
to			21.26	New	1952
19.09	New	1952		Am.	1960
19.10	New	1952		Am.	1961
	Am.	1956	21.27	New	1952
	Am.	1960	21.28	New	1952
19.11	New	1952		Am.	1956
	Am.	1956	§ 8A	New	1964
19.12	New	1952	§§ 8(e)-8(h)	Am.	1961
	Am.	1956	§ 12A	Added	1966
20.01			21.29		
to			to		
20.09	New	1952	21.31	New	1952
20.10	New	1952	21.32	New	1952
	Am.	1960		Am.	1960
20.11	New	1952	21.33		
20.12	New	1952	to		
	Am.	1960	21.37	New	1952
20.13			21.38	New	1952
to			§ 2	Am.	1958
20.15	New	1952	§§ 5-7	Am.	1958
20.16	New	1952	21.39	New	1952
	Am.	1960		Am.	1956
20.17	New	1952	21.40		
20.18	New	1952	to		
20.19	New	1952	21.42	New	1952
	Am.	1960	21.43	New	1952
20.20	New	1952		Am.	1960
20.21	New	1952		Am.	1964
21.01			21.44	New	1956
to			21.45	New	1956
21.06	New	1952	21.46	New	1958
21.07	New	1952	21.47	New	1958
§ 2	Am.	1960		Am.	1961
§ 3	Am.	1960	21.48	New	1958
§ 6	Am.	1956		Rep.	1961
§ 7	Am.	1960		Added	1966
21.07-1	New	1956	21.48A	Added	1966
§ 8	Am.	1960	22.01		
§ 9	Am.	1960	to		
21.07-2	New	1956	22.14	New	1961
21.08	New	1952	22.15	New	1961
21.09	New	1952	§ 9	Am.	1966
	Am.	1964	22.16		
21.10	New	1952	to		
21.11	New	1952	22.21	New	1961
	Am.	1956	22.22	Added	1966
21.12	New	1952			

ARTICLES AFFECTED FROM 1949 TO 1965

**TEXAS NON-PROFIT CORPORATION ACT**

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

**Penal Code**  
(Pages 1561 to 1597)

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
34	Am.	1958	480	Am.	1952
101a	Rep.	1952	480a	Am.	1966
105	Am.	1956	483	Am.	1952
107a, 107b	Rep.	1966		Am.	1958
131c—1,			489	Am.	1961
§ 26a	New	1950	489c	New	1950
140	Rep.	1966	§ 1	Am.	1958
147b—1	New	1964	519	Am.	1960
147b—2	New	1964	527	Am.	1956
157a	New	1956		Am.	1958
158	Am.	1958		Am.	1961
159	Am.	1958	527a	Am.	1956
160—a	New	1950	527b	Am.	1956
160—b	New	1950	532, 533	Rep.	1966
179—183	Rep.	1958	534	Am.	1950
183—1	New	1958	534a	New	1950
183—2	New	1958		Am.	1954
200a	New	1964	535b	New	1950
200a—2	Rep.	1964	§ 2	Am.	1956
211	Rep.	1964	535c	New	1950
212	Am.	1964	§ 2	Am.	1956
213			535d	New	1950
Par. (d)	Am.	1964	§ 3	Am.	1956
214	Rep.	1964	567b	Am.	1952
217	Am.	1964		Am.	1964
224	Rep.	1964	§ 1a	New	1958
225	Am.	1964	§ 2	Am.	1966
240	Am.	1964	§ 4(a)	Am.	1966
244	Am.	1964	590a	Rep.	1952
250	Am.	1964	599	Rep.	1964
251	Rep.	1964	600	Rep.	1964
252	Rep.	1960	602	Am.	1960
259	Am.	1964	602—A	New	1960
262—269	Rep.	1960	614	Am.	1960
285	Am.	1964		Am.	1966
286a	New	1961	614—2	Am.	1961
	Am.	1964	630	Am.	1966
296	Am.	1954	642a	New	1952
297	Am.	1964	642b	New	1952
	Am.	1966	642c	New	1952
301d	Am.	1950	653	Rep.	1964
302	Am.	1961	666—3a	Am.	1950
306	Am.	1961	(7)	Am.	1960
353b	New	1950	666—8	Am.	1958
	Am.	1966	666—11		
353c	New	1958	to		
353d	New	1966	666—13	Am.	1950
405	Added	1966	666—15	Am.	1952
427a	Rep.	1958		Am.	1961
430a	Rep.	1950	(1a)	Am.	1961
432	Am.	1950	(7)	Am.	1961
	Am.	1952	(7a)	New	1961
438c	Am.	1952	(7b)	New	1964
438d	New	1952	(13)	Am.	1958
474	Am.	1950	(17)	Am.	1956
476	Am.	1966	666—15a1	Am.	1950

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P.C. Art.	Effect	Vernon's Texas St. Supp.	P.C. Art.	Effect	Vernon's Texas St. Supp.
666-15(e)	New	1961	667-17	Am.	1950
666-17	Am.	1950	667-19	Am.	1950
(1)	Am.	1952		Am.	1954
	Am.	1954	667-19B	Am.	1950
(2)	Am.	1952		Am.	1954
(3) (g)	New	1956	667-19C	New	1952
(14) (a)	Am.	1956	667-19D	New	1954
(14) (b)	Added	1966	667-20	Am.	1950
(14) (c)	Added	1966	667-23	Am.	1950
(15)	Am.	1952		Am.	1952
(22)	Am.	1954		Am.	1956
666-21	Am.	1952	667-23 $\frac{1}{8}$	New	1960
	Am.	1960	667-23 $\frac{1}{4}$	New	1950
666-21a	Am.	1950		Am.	1954
	Am.	1952	667-23 $\frac{1}{2}$	Am.	1954
666-21 $\frac{1}{4}$	New	1956	667-23a	New	1950
666-21 $\frac{1}{2}$	New	1952	667-24a	Am.	1950
666-21 $\frac{1}{2}$	New	1950	667-24 $\frac{1}{4}$	New	1952
666-23a			667-25	Am.	1954
(4)	Am.	1958	667-28	New	1950
666-25b	New	1956		Am.	1961
666-27 $\frac{1}{2}$	New	1952	667-29		
666-30	Am.	1950	to		
666-32	Am.	1954	667-31	New	1950
	Am.	1956	667-32	New	1954
	Am.	1964	696a		
666-33	Am.	1954	§ 1(a, b)	Am.	1958
666-36	Am.	1954	§ 2	Am.	1964
666-36 $\frac{1}{2}$	New	1950	698b	Rep.	1961
666-37	Am.	1954	700b		
	Am.	1964	§ 2	Am.	1952
666-39	Am.	1954	701b	Rep.	1954
666-40	Am.	1954	705b-1	Am.	1952
666-41a	Am.	1950	705c	Rep.	1956
666-42	Am.	1950	§ 3a	Added	1952
666-44	Rep.	1950	705d	New	1956
666-45			706-708	Rep.	1961
(d)	Am.	1960	709	Am.	1952
666-49a	New	1950		Rep.	1961
666-50	New	1950	712	Am.	1956
666-51a	New	1950	717	Rep.	1961
666-52	New	1950	719e	New	1950
	Am.	1954	725b	Am.	1956
666-53				Am.	1964
to			§ 1	Am.	1954
666-56	New	1950	§ 4	Rep.	1954
666-57	New	1961	§ 5	Am.	1954
667-2a	New	1958	§ 9	Am.	1954
667-3	Am.	1950	§ 18a	New	1954
(a)	Am.	1960	§ 23	Am.	1954
(a-1)	Am.	1961	§ 23(1)	Am.	1961
(b)	Am.	1960	§ 23(2)	Am.	1958
(c)	Am.	1960	§ 24a	Rep.	1954
(k)	New	1961	725c	New	1954
667-5	Am.	1950	§ 1	Am.	1961
	Am.	1954	§§ 3, 4	Am.	1956
(1)	Am.	1961	725d	New	1956
667-5A	Rep.	1950	726	Rep.	1958
	New	1961	726-1	New	1958
667-5B	New	1961	726-2	New	1958
667-6	Am.	1958	726b	New	1950
667-7	Am.	1954		Rep.	1960
667-9	Am.	1954	§ 2	Am.	1956
667-10 $\frac{1}{2}$	Am.	1958	726c	New	1952

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P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
726	Rep.	1960	827a,		
§ 2(g)	Am.	1956	§ 3(c)	Am.	1950
§ 3(2) (b)	Am.	1956		Am.	1954
§ 3(2) (d)	Rep.	1956		Am.	1956
§ 6	Am.	1956		Am.	1966
§ 13	Am.	1956	§ 5	Am.	1952
726d	New	1960		Am.	1960
§ 2(a)	Am.	1966	§ 5c	New	1958
734a,			§ 5½	New	1952
§ 9	Am.	1961		Am.	1960
§ 20	Am.	1952	§ 6	Am.	1952
	Am.	1961		Am.	1954
§ 20a	New	1952	§ 7(a)	Rep.	1966
§ 22-A	Am.	1958	§ 8	Am.	1952
§ 26	Am.	1952		Am.	1956
§ 27	Am.	1961		Am.	1961
734b	Am.	1954		Rep.	1964
§ 4(a)	Am.	1966	827a-1	New	1952
§ 13(f)	Added	1966		Rep.	1960
§ 19	Am.	1964	827a-2	New	1954
735	Am.	1952		Am.	1956
740	Am.	1950	827a-3	New	1956
741	Am.	1950		Am.	1966
	Am.	1954	827a-4	New	1960
742-a to 742-c	New	1950	827a-5	New	1964
743	Am.	1954	827a-6		
744-a	New	1950	§§ 1-7	New	1964
744-b	New	1950	827b,		
747	Am.	1954	§ 2A	New	1950
751a	New	1961		Am.	1954
752c,				Am.	1958
§ 4	Am.	1950		Am.	1966
	Am.	1952	§ 3	Am.	1958
753	Am.	1952	827c-1	New	1964
	Am.	1954	827e-1	New	1958
	Am.	1958	827g	New	1964
(8)	New	1961	828		
754	Am.	1954	to		
754a	Am.	1952	830	Rep.	1966
(2)	Am.	1954	834	Rep.	1960
(5)	New	1956	835, 835a	Rep.	1966
(6)	New	1960	861b	New	1958
(7)	New	1960	872	Am.	1961
754b	New	1950	872f	New	1950
	Am.	1952	879f-6	New	1952
754c	New	1960	879g-2a	Am.	1950
759-762a	Rep.	1954	879g-2a	Am.	1960
778	Am.	1952	879g-4	New	1960
778a	Am.	1952	879h-1	New	1960
779	Am.	1952	879h-2		
782b	New	1960	to		
782c	New	1964	879h-5	New	1960
782d	New	1964	879h-6	New	1966
799a	New	1966	879h-1 note	Am.	1961
802	Am.	1954	880	Am.	1950
802a-1	New	1956		Am.	1954
802b	Am.	1952		Am.	1958
802d	New	1952	§ 1	Am.	1961
802e	New	1958	880a	New	1958
821a	New	1960		Am.	1961
827a,			880b	New	1958
§ 2	Am.	1950	880c	New	1960
§ 3(a)	Am.	1954	881b,		
	Am.	1956	§ 1	Am.	1961
			882a	New	1954



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P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
888	Am.	1958	978f—5	New	1956
892	Am.	1964	978f—6	New	1960
	Am.	1966	978f—7	New	1966
893	Am.	1954	978h, § 2	Am.	1956
895a	New	1950	978k		
895b	New	1952	§ 9	Am.	1964
§ 2	Am.	1954	§ 11a	New	1958
895c	New	1958	978k—1	New	1958
§ 6	Am.	1961	978l—2,		
§ 8	Am.	1966	§ 4	Am.	1964
896	Am.	1964	§§ 16, 17	Rep.	1960
901	Am.	1961	§ 19	Am.	1960
908	Am.	1954	978l—5	New	1950
	Am.	1956	§ 4	Am.	1952
	Am.	1960	978l—6	New	1950
(g)	Am.	1964	978l—7	New	1961
912	Am.	1952	978l—8	New	1964
923b	Rep.	1958	978n—1	New	1950
923f—1	New	1961	§ 1	Am.	1960
923u—1	Am.	1950		Am.	1961
923m	Am.	1958	§ 7	Am.	1960
§ 1	Am.	1964	978o	New	1954
§ 4	Am.	1960	1034	Am.	1966
	Am.	1966	1042b		
923x	New	1961	§ 3	Am.	1954
924a	New	1956	§ 4	Am.	1966
933a	Rep.	1964	1054	Am.	1964
934a,			1058	Am.	1964
§ 3(1)	Am.	1964	1083a	Am.	1952
§ 3, subs. 5				Rep.*	1956
(a, b)	Rep.	1960	1106		
934b—1	Rep.	1950	(b)	Am.	1956
934b—2	New	1950	(c)	New	1952
§ 2	Am.	1964	1106a	Am.	1961
§ 3	Am.	1964	1111a	Rep.	1960
934b—3	New	1964	1111d	Rep.	1960
934c	New	1952	§ 2	Am.	1952
§ 5	Am.	1960	§ 4	Am.	1952
937b	New	1966	§ 5	Am.	1952
941b	New	1950	§ 5½	New	1950
	Am.	1961	§ 7a	New	1954
941—2	New	1960	1111m	New	1956
§ 1	Am.	1960	1112a	Rep.	1954
952aa—4	New	1960	1129a	Rep.	1964
§ 5	Rep.	1966	1134—1136	Rep.	1964
§ 8	Rep.	1966	1136a—1 to		
952aa—5	New	1966	1136a—9	Rep.	1964
952aa—6	New	1966	1137b—1	New	1964
952l—7	Am.	1950	1137e—1	New	1961
952l—11,			1137m	New	1956
§ 1(3)	Rep.	1960		Rep.	1960
§ 1(5)	Rep.	1960	1137n	New	1960
§ 1c	New	1950	1137o	New	1964
	Am.	1958	1137p	New	1966
952l—12	New	1964	1145	Am.	1966
954	Am.	1961	1146a	New	1950
965	Rep.	1966	1147	Am.	1950
972	Rep.	1966		Am.	1956
978d—1	New	1964	1148	Am.	1950
978e—1	New	1964	1160,		
978f—3	New	1952	§ 1	Am.	1961
978f—3a	New	1964	1167a	New	1966
978f—3b	New	1964	1176a	New	1966
978f—4	New	1954	1260a	New	1950

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

ARTICLES AFFECTED FROM 1949 TO 1965

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
1318	Am.	1964	1525b,		
1321a	New	1952	§ 9	Am.	1961
1321b	New	1952	§ 10	Am.	1961
1325	Am.	1966	§ 11	Am.	1961
1333A	New	1950	§ 13	Am.	1961
1334	Am.	1961	§ 22	Am.	1960
1334a	New	1961	§ 22a	New	1954
1341	Am.	1960		Am.	1960
1344-1346	Rep.	1952		Am.	1966
1350	Am.	1952	§ 22b	New	1954
subd. 1	Am.	1958	§ 23A	New	1960
1351a,			1525b-1	New	1960
§ 1-b	New	1954	1525b-2	New	1960
1370	Am.	1950	1525b-3	New	1961
1370a	Am.	1960	1525g	New	1961
1377	Am.	1950	1526-1532	Rep.	1954
	Rep.	1960	1538	Am.	1960
1377b	New	1960	1545	Am.	1960
§ 4	Am.	1964	1546a		
1378a,			§ 2	Added	1966
§§ 11-13	Am.	1952	1550	Am.	1966
1379	Am.	1954	1551	Am.	1964
	Am.	1961		Am.	1966
1398	Am.	1952	1554a	New	1960
1402a	New	1956	1555b	New	1960
1402b	New	1964	§§ 1-4	Am.	1964
1404b	New	1952	§ 5	New	1964
	Am.	1956	1577	Am.	1964
1429	Am.	1964	1578a	Am.	1964
1435a	New	1958	1578b	New	1964
1436-1,			1583	Rep.	1960
§ 1	Am.	1960	(6)	Rep.	1956
§ 2b	New	1960	1583-1,		
§ 2c	New	1960	§ 3a	New	1952
§§ 7-9	Am.	1952	§ 6	Am.	1956
§ 24	Am.	1966		Am.	1960
§ 30(a)	New	1956	§ 6A	New	1960
§ 35	Am.	1966	§ 6B	New	1960
§ 49(e)	Am.	1960	§ 7	Am.	1952
§ 57	Am.	1952	1583-2	Am.	1950
	Am.	1956	§ 1	Am.	1952
§ 57a	New	1956		Am.	1954
1436-2	New	1961	§ 1-a	Rep.	1952
1436b			1593a	Rep.	1950
§ 3	Am.	1964	1648a	New	1958
§ 3(a)	Am.	1964	§ 1	Am.	1961
§ 3(b)	Am.	1964	§§ 3, 4	Am.	1961
1436c	New	1952	§§ 5, 6	Am.	1961
1436d	New	1954	§ 8	Am.	1961
1436e	New	1960	1690b,		
	Am.	1966	(d)	Am.	1956
1436f	New	1961	(j)	Am.	1956
1442c	New	1961	(k)	Am.	1956
1456a	New	1956	1690e	New	1961
§ 1	Am.	1961	1693	Am.	1954
§ [5]	New	1961	1700	New	1954
1477	Am.	1952	1700a-3	Am.	1964
1489	Am.	1954	1709		
1492	Am.	1954	to		
1493	Am.	1954	1711	Rep.	1961
1505a	New	1960	1712	Am.	1950
1505b	New	1964		Rep.	1961
1522	Am.	1964	1713		
1525b,			to		
§ 1(a)	New	1964	1715	Rep.	1961
			1716	Rep.	1961

## VERNON'S TEXAS STATUTES

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
1716			1722a		
(1)	Am.	1952	§ 4(f)	Am.	1960
1717			§ 15	Am.	1964
to			§ 15(a)	Am.	1961
1720	Rep.	1961	1723	New	1952
1721	New	1950	1723a	New	1964
1721A	New	1956	1724	New	1958
1722	New	1952	1725	New	1958
1722a	New	1960	§ 5, par. D	Am.	1964
	Am.	1966			

### Probate Code (Pages 1118 to 1120)

Prob. Code Sec.	Effect	Vernon's Texas St.Supp.	Prob. Code Sec.	Effect	Vernon's Texas St.Supp.
1	New	1956	110		
2	New	1956	to		
3	New	1956	123	New	1956
(d)	Am.	1961	124	New	1956
(aa)	Am.	1958		Am.	1958
4			125		
to			to		
32	New	1956	136	New	1956
33	New	1956	137	New	1956
	Am.	1958	(d)	Am.	1958
34			138		
to			to		
45	New	1956	143	New	1956
46	New	1956	144	New	1956
	Am.	1961	(d)	Added	1958
47	New	1956	145	New	1956
(b)	Am.	1966		Am.	1958
(e)	Am.	1966	146	New	1956
48				Am.	1958
to			147		
58	New	1956	to		
58a	New	1961	156	New	1956
59	New	1956	157	New	1956
	Am.	1961		Am.	1958
60			158		
to			to		
71	New	1956	164	New	1956
72	New	1956	165	New	1956
	Am.	1960		Am.	1966
73			166		
to			to		
77	New	1956	192	New	1956
78	New	1956	193	New	1956
(c)	Am.	1958		Am.	1958
79			194	New	1956
to				Am.	1958
88	New	1956	195		
89	New	1956	to		
	Am.	1961	200	New	1956
90			201	New	1956
to				Am.	1958
105	New	1956	202	New	1956
105a	Added	1961		Am.	1958
106			203		
to			to		
108	New	1956	218	New	1956
109	New	1956			
(a)	Am.	1966			

**ARTICLES AFFECTED FROM 1949 TO 1965**

Prob. Code	Effect	Vernon's Texas St.Supp.	Prob. Code	Effect	Vernon's Texas St.Supp.
219	New	1956	368	New	1956
	Rep.	1958	(b)	Am.	1958
220			369	New	1956
to			(a) (2)	Am.	1961
227	New	1956	370	New	1956
228	New	1956		Am.	1958
	Am.	1958	371		
229			to		
to			388	New	1956
235	New	1956	389	New	1956
236	New	1956	(g)	Added	1961
	Am.	1964	390	New	1956
237				Am.	1960
to			(b)	Am.	1966
240	New	1956	(c)	Am.	1966
241	New	1956	391		
	Am.	1958	to		
242			398	New	1956
to			399	New	1956
252	New	1956		Am.	1958
253	New	1956	400	New	1956
	Am.	1958		Am.	1958
254			401	New	1956
to				Am.	1958
347	New	1956	402		
348	New	1956	to		
(a)	Am.	1960	404	New	1956
349			404A	New	1964
to			405	New	1956
366	New	1956	406	New	1956
367	New	1956	407	New	1956
(c) 7	Am.	1958		Am.	1960
	Am.	1961	408		
(c) (7a)	New	1961	to		
(c) (8)	New	1961	435	New	1956

**Taxation—General**  
(Pages 1146 to 1173)

Taxation—General Art.	Effect	Vernon's Texas St.Supp.	Taxation—General Art.	Effect	Vernon's Texas St.Supp.
1.01			3.02	New	1960
to			3.03	New	1960
1.03	New	1960	(1)	Am.	1961
1.032	Added	1966	(3)	Am.	1961
1.04			(4)	Am.	1961
to			3.04		
1.06	New	1960	to		
1.07	New	1960	3.07	New	1960
	Am.	1961	3.08	New	1960
1.07A	New	1961		Am.	1961
1.07B	New	1961	3.09	New	1960
1.08			3.10	New	1960
to			3.11	New	1961
1.10	New	1960	4.01	New	1960
1.11	New	1960		Am.	1964
	Am.	1966	4.02	New	1960
1.12	New	1961		Am.	1964
1.13	New	1961	4.03	New	1960
2.01	New	1960	(7)	Am.	1961
	Am.	1964	(10)	Am.	1961
3.01	New	1960	4.04	New	1960

## VERNON'S TEXAS STATUTES

Taxation— General	Effect	Vernon's Texas St.Supp.	Taxation— General	Effect	Vernon's Texas St.Supp.
4.05	New	1960	7.24		
4.06	New	1960	to		
	Am.	1961	7.41	New	1960
4.07			8.01	New	1960
to			8.02	New	1960
4.14	New	1960	8.03	New	1960
5.01	New	1960		Am.	1961
	Am.	1964	8.04		
5.02	New	1960	to		
5.03	New	1960	8.31	New	1960
	Am.	1961	9.01	New	1960
6.01	New	1960	9.02	New	1960
	Am.	1964	(2)	Am.	1964
6.02	New	1960	9.03	New	1960
	Am.	1964	(3)	Am.	1961
6.03	New	1960	(5)	Added	1961
	Am.	1964	9.04		
6.04	New	1960	to		
	Am.	1964	9.12	New	1960
6.05	New	1960	9.13	New	1960
	Am.	1964	(5)	Am.	1961
6.06	New	1960	(6)	Am.	1961
	Am.	1964	(6a)	Added	1961
6.07	New	1960		Am.	1966
	Am.	1964	(13)	Am.	1961
6.08	New	1960		Am.	1966
	Am.	1964	(14)	Am.	1961
6.09	New	1960		Am.	1966
	Rep.	1964	9.14		
	Added	1966	to		
6.10	New	1960	9.24	New	1960
	Rep.	1964	9.25	New	1960
6.11	New	1960		Am.	1961
	Rep.	1964	9.26	New	1960
6.12	New	1960	9.27	New	1960
	Rep.	1964	10.01	New	1960
7.01	New	1960	10.02	New	1960
(13)	Am.	1966		Am.	1966
(15)	Am.	1966	10.03	New	1960
7.02	New	1960	(3)	Am.	1966
(3)	Added	1961	(6)	Am.	1966
7.03			10.04	New	1960
to			10.05	New	1960
7.05	New	1960	(2)	Am.	1966
7.06	New	1960	10.06	New	1960
	Am.	1963		Am.	1966
7.07	New	1956	10.07		
7.08	New	1956	to		
7.09	New	1956	10.10	New	1960
	Am.	1966	10.11	New	1960
7.10			(1)	Am.	1966
to			10.12	New	1960
7.14	New	1960	(2)	Am.	1966
7.15	New	1960	10.13	New	1960
	Am.	1961	(5a)	Added	1966
7.16			10.14		
to			to		
7.20	New	1960	10.17	New	1960
7.21	New	1960	10.18	New	1960
	Am.	1966	(1)	Am.	1966
7.22	New	1960	10.19		
7.23	New	1960	to		
(1)	Am.	1966	10.25	New	1960
(2)	Rep.	1966			

**ARTICLES AFFECTED FROM 1949 TO 1965**

<b>Taxation— General Art.</b>	<b>Effect</b>	<b>Vernon's Texas St.Supp.</b>	<b>Taxation— General Art.</b>	<b>Effect</b>	<b>Vernon's Texas St.Supp.</b>
11.01				Am.	1966
to			14.12	New	1960
11.10	New	1960		Am.	1966
11.11	New	1960	14.13	New	1960
	Am.	1961		Am.	1966
12.01	New	1960	14.14	New	1960
	Am.	1961		Am.	1966
12.02	New	1960	14.15	New	1960
	Am.	1961		Am.	1966
12.03	New	1960	14.16	New	1960
	Am.	1961		Am.	1966
	Am.	1966	14.17	New	1960
12.04				Am.	1966
to			14.18	New	1960
12.07	New	1960		Am.	1966
12.08	New	1960	14.19	New	1960
	Am.	1961		Am.	1966
12.09	New	1960	14.20	New	1960
	Am.	1961		Am.	1966
12.10	New	1960	14.21	New	1960
	Am.	1961		Am.	1966
12.11			14.22	New	1960
to				Am.	1966
12.13	New	1960	14.23	New	1960
12.14	New	1960		Rep.	1966
	Am.	1961	14.24	New	1960
12.15	New	1960		Rep.	1966
	Am.	1961	14.25	New	1960
12.16	New	1960			1966
12.17	New	1960	14.26	New	1960
	Am.	1966		Rep.	1966
12.18	New	1960	14.27	New	1960
12.19	New	1960		Rep.	1966
(3)	Am.	1961	14.28	New	1964
12.20	New	1960		Rep.	1966
12.21	New	1960	15.01	New	1960
	Am.	1961		Rep.	1966
	Am.	1964	15.02	New	1960
12.22	New	1960		Rep.	1966
13.01	New	1960	15.03	New	1960
13.02	New	1960		Rep.	1966
	Am.	1961	15.04	New	1960
13.03	New	1960		Rep.	1966
	Am.	1961	15.05	New	1960
13.04				Rep.	1966
to			15.06	New	1960
13.07	New	1960		Rep.	1966
13.08	New	1960	15.07	New	1960
	Am.	1961		Rep.	1966
14.00A	Added	1966	15.08	New	1960
14.01	New	1960		Rep.	1966
14.015	Added	1966	15.09	New	1960
14.02				Rep.	1966
to			15.10	New	1960
14.05	New	1960		Rep.	1966
14.06	New	1960	15.11	New	1960
	Am.	1964		Rep.	1966
	Am.	1966	15.12	New	1960
14.07	New	1960		Rep.	1966
	Am.	1966	15.13	New	1960
14.08				Rep.	1966
to			15.14	New	1960
14.10	New	1960		Rep.	1966
14.11	New	1960	15.15	New	1960

**VERNON'S TEXAS STATUTES**

Taxation— General— Art.	Effect	Vernon's Texas St.Supp.	Taxation— General— Art.	Effect	Vernon's Texas St.Supp.
15.16	Rep.	1966	20.06	New	1960
	New	1960		Am.	1961
	Rep.	1966		Am.	1964
16.01	New	1960	20.07	New	1960
	Am.	1964		Am.	1961
16.02				Am.	1964
to			20.08	New	1960
16.09	New	1960		Am.	1961
16.10	Added	1966		Am.	1964
17.01			20.09	New	1960
to				Am.	1961
17.03	New	1960		Am.	1964
17.04	New	1960	20.10	New	1960
	Am.	1961		Am.	1961
17.05	New	1960		Am.	1964
(a)	Am.	1961	20.11	New	1960
(c)	Am.	1961		Am.	1961
	Am.	1964		Am.	1964
17.06			20.12	New	1960
to				Am.	1961
17.10	New	1960		Am.	1964
17.11	New	1964	20.13	New	1960
18.01	New	1960		Am.	1961
18.02	New	1960		Am.	1964
18.03	New	1960	20.14	New	1960
	Am.	1961		Am.	1961
18.04	New	1960		Am.	1964
19.01	New	1960	20.15	New	1960
Subd. (2)	Am.	1962		Am.	1961
Subds. (5), (6)	Rep.	1964		Am.	1964
Subd. (10)	New	1964	20.16	New	1960
19.02	New	1960		Am.	1961
(3)	Am.	1961		Am.	1964
(5)	Am.	1961	20.17	New	1960
19.03	New	1960		Am.	1961
19.04	New	1960		Am.	1964
20.01	New	1960	20.18		
	Am.	1961	to		
	Am.	1964	20.20	New	1960
20.02	New	1960	21.01		
	Am.	1961	to		
	Am.	1964	21.03	New	1960
20.03	New	1960	21.04	New	1960
	Am.	1961	(1)	Am.	1961
	Am.	1964	22.01		
20.04	New	1960	to		
	Am.	1961	22.09	New	1960
	Am.	1964	23.01		
20.05	New	1960	to		
	Am.	1961	23.06	New	1960
	Am.	1964	23.07	New	1961

**Uniform Commercial Code**

(Pages 127 to 293)

*Uniform Commercial Code adopted by Laws 1965, 59th Leg., Vol. 2, p. 1, ch. 721, effective June 30, 1966.*

*Disposition Table, see page 295.*

# JUDGES AND OFFICERS

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## SUPREME COURT

ROBERT W. CALVERT, CHIEF JUSTICE  
MEADE F. GRIFFIN, ASSOCIATE JUSTICE    JOE R. GREENHILL, ASSOCIATE JUSTICE  
CLYDE E. SMITH, ASSOCIATE JUSTICE    ROBERT W. HAMILTON, ASSOCIATE JUSTICE  
RUEL C. WALKER, ASSOCIATE JUSTICE    ZOLLIE STEAKLEY, ASSOCIATE JUSTICE  
JAMES R. NORVELL, ASSOCIATE JUSTICE    JACK POPE, ASSOCIATE JUSTICE  
GEORGE H. TEMPLIN, CLERK  
H. L. CLAMP, DEPUTY CLERK

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## COURT OF CRIMINAL APPEALS

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

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## COURTS OF CIVIL APPEALS

### *First District—Houston*

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

### *Second District—Fort Worth*

FRANK A. MASSEY, CHIEF JUSTICE  
THOMAS J. RENFRO, ASSOCIATE JUSTICE    JACK M. LANGDON, ASSOCIATE JUSTICE  
LIDA SWANSON, CLERK

### *Third District—Austin*

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

### *Fourth District—San Antonio*

W. O. MURRAY, CHIEF JUSTICE  
CHARLES W. BARROW, ASSOCIATE JUSTICE    CARLOS C. CODENA, ASSOCIATE JUSTICE  
ROBERT L. COOK, CLERK



JUDGES AND OFFICERS  
COURTS OF CIVIL APPEALS—Cont'd.

*Fifth District—Dallas*

DICK DIXON, CHIEF JUSTICE  
CLAUDE WILLIAMS, ASSOCIATE JUSTICE      HAROLD A. BATEMAN, ASSOCIATE JUSTICE  
JUSTIN G. BURT, CLERK  
MRS. UNA HOLLIDAY, DEPUTY CLERK

*Sixth District—Texarkana*

T. C. CHADICK, CHIEF JUSTICE  
WILLIAM J. FANNING, ASSOCIATE JUSTICE      MATT DAVIS, ASSOCIATE JUSTICE  
LOUISE GILMER, CLERK

*Seventh District—Amarillo*

JAMES G. DENTON, CHIEF JUSTICE  
ERNEST O. NORTHCUTT, ASSOCIATE JUSTICE  
ALTON B. CHAPMAN, ASSOCIATE JUSTICE  
ELMO PAYNE, CLERK

*Eighth District—El Paso*

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

*Ninth District—Beaumont*

L. B. HIGHTOWER, CHIEF JUSTICE  
HOMER E. STEPHENSON, ASSOCIATE JUSTICE  
JAMES F. PARKER, Sr., ASSOCIATE JUSTICE  
ELIZABETH LE BLANC, CLERK

*Tenth District—Waco*

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

*Eleventh District—Eastland*

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

*Twelfth District—Tyler*

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

*Thirteenth District—Corpus Christi*

HOWARD P. GREEN, CHIEF JUSTICE  
T. GILBERT SHARPE, ASSOCIATE JUSTICE      PAUL W. NYE, ASSOCIATE JUSTICE  
MRS. MARGARET M. BLACKMON, CLERK  
WAGGONER CARR, ATTORNEY GENERAL

**OFFICIALS  
OF  
THE STATE OF TEXAS**

---

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

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# SENATE

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

<i>Name</i>	<i>Dist.</i>
Aikin, A. M., Jr. ----- Box 385 ----- Paris -----	1
Bates, Jim ----- Box 117 ----- Edinburg -----	27
Blanchard, H. J. (Doc) --- 501 Great Plains Life Bldg. ----- Lubbock -----	28
Calhoun, Galloway, Jr. --- Box 296 ----- Tyler -----	7
Cole, Criss ----- Melrose Bldg. ----- Houston -----	6
Colson, Mrs. Neveille H. --- 202 Brewer ----- Navasota -----	5
Creighton, Tom ----- Box 546 ----- Mineral Wells -----	22
Crump, Louis ----- Box 417 ----- San Saba -----	16
Dies, Martin, Jr. ----- Box 1196 ----- Lufkin -----	3
Hall, Ralph M. ----- Cain-Hall Bank Bldg. Rockwall -----	9
Hardeman, Dorsey B. ----- P. O. Drawer 1588 --- San Angelo -----	25
Harrington, D. Roy ----- 4720 Twin City High- way ----- Port Arthur -----	4
Hazlewood, Grady ----- Senate Chamber --- Austin -----	31
Herring, Charles F. ----- 906 Perry-Brooks Bldg. ----- Austin -----	14
Hightower, Jack ----- Herring Bank Bldg. --- Vernon -----	23
Kazen, Abraham, Jr. ----- Raymond Bldg. ----- Laredo -----	21
Kennard, Don ----- 2000 Continental Bk. Bldg. ----- Ft. Worth -----	10
Krueger, Culp ----- Box 1390 ----- El Campo -----	15
Moore, William T. ----- Box 1187 ----- Bryan -----	11
Parkhouse, George ----- 3505 Turtle Creek Rd. ----- Dallas -----	8
Patman, William N. (Bill) --- Box 665 ----- Ganado -----	18
Ratliff, David ----- Box 1123 ----- Stamford -----	24
Reagan, Bruce A. ----- 318 Wilson Bldg. --- Corpus Christi -----	20
Richter, Walter H. ----- Box 23 ----- Gonzales -----	19
Rogers, Andy ----- 200 N. Main ----- Childress -----	30
Schwartz, A. R. ----- 102 National Hotel Bldg. ----- Galveston -----	17
Snelson, W. E. (Pete) --- Patio Bldg. ----- Midland -----	29
Spears, Franklin S. ----- 625 Natl. Bk. of Com- merce Bldg. ----- San Antonio -----	26
Strong, Jack ----- 322 Petroleum Bldg. --- Longview -----	2
Watson, Murray, Jr. ----- 1202 Amicable Bldg. --- Waco -----	13
Word, J. P. ----- 120 South Erath --- Meridian -----	12



# HOUSE OF REPRESENTATIVES

SPEAKER ----- Ben Barnes

CHIEF CLERK ----- Mrs. Dorothy Hallman

<i>Name</i>	<i>Dist.</i>
Alaniz, John C. ----- 801 Tower Life Bldg. San Antonio -----	68-7
Allen, John ----- KFRO Radio Station Longview -----	13
Arledge, Roy ----- Box 568 ----- Stamford -----	83
Armstrong, Bob ----- Brown Bldg. ----- Austin -----	55-4
Atwell, Ben ----- 1002 Dallas Fed. Savings Bldg. ----- Dallas -----	51-2
Atwood, A. C. ----- 412 E. Champion ----- Edinburg -----	38-3
Barnes, Ben ----- House of Representa- tives (Austin) ----- De Leon ----- (Home Town) -----	64
Bass, R. W. (Bob) ----- De Kalb -----	1
Bass, Tom ----- 3437 N. Parkwood ----- Houston -----	22-7
Beckham, Vernon ----- 112 S. Rusk Ave. ----- Denison -----	48
Bernal, Joe J. ----- 2154 W. Summitt ----- San Antonio -----	68-2
Berry, V. E. (Red) ----- 856 Gembler Road ----- San Antonio -----	68-4
Birkner, Otha ----- 2215 Tenth St. ----- Bay City -----	32
Blaine, John E. (Ned) ----- 4855 Vista Del Monte ----- El Paso -----	74-2
Blankenship, Cooper ----- 2720 Daniels Ave. ----- Dallas -----	51-1
Bonilla, Tony ----- Box 907 ----- Corpus Christi -----	36-1
Brooks, Chet ----- Box 630 ----- Pasadena -----	22-12
Brown, Raleigh ----- Box 59 ----- Abilene -----	84-2
Brown, Roger Dale ----- Box 761 ----- Big Spring -----	78
Burgess, Steve ----- Route 1, Box 98 ----- Nacogdoches -----	5
Cahoon, Frank ----- Box 4052 ----- Midland -----	77
Cain, Pat ----- 819 Brown Bldg. ----- Austin -----	55-2
Caldwell, Neil ----- Angleton Savings An- nex ----- Angleton -----	23
Canales, Amando F. ----- Box 298 ----- San Diego -----	70
Cavness, Don W. ----- Box 975 ----- Austin -----	55-3
Cherry, Dick ----- 4112 N. 27th St. ----- Waco -----	43-3
Clayton, Bill ----- Box 38 ----- Springlake -----	91
Cole, James D. ----- Box 1096 ----- Greenville -----	24
Connally, Wayne W. ----- Route 3, Box 120 ----- Floresville -----	58
Cory, R. H. (Dick) ----- 112 W. Forrest St. ----- Victoria -----	33
Cowden, George M. ----- 823 Washington ----- Waco -----	43-2
Cowles, Nelson ----- Box 167 ----- Hallsville -----	3
Crain, Jack ----- Box 367 ----- Nocona -----	61
Crews, David ----- 310 S. 1st St. ----- Conroe -----	18
Dickson, Temple ----- Box 638 ----- Sweetwater -----	80

## HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>Dist.</i>
Doke, Maurice ----- 206 Austin Nat. Bank Bldg. (Austin) --- Wichita Falls -----	81-2 (Home Town)
Duggan, F. Lee, Jr. ----- 1314 Fannin Bank Bldg. ----- Houston -----	22-9
Dungan, W. T. (Bill) ---- Box 369 ----- McKinney -----	50
Eckhardt, Bob ----- 1402 American Inves- tors Bldg. ----- Houston -----	22-2
Edwards, E. M. (Mack) -- Route 1 ----- Pattonville -----	10
Field, John ----- 3720 Caruth ----- Dallas -----	51-4
Finney, Dave ----- 2800 N. W. 30th St. -- Fort Worth -----	60-7
Fletcher, Henry ----- Box 566 ----- Lockhart -----	56
Floyd, Paul ----- 2406 Blue Water Lane ----- Houston -----	22-1
Fondren, Gene ----- Box 192 ----- Taylor -----	54
Foreman, Wilson ----- Route 4, Box 218-A -- Austin -----	55-1
Garrison, Don ----- 210 Southwest Tower Houston -----	22-4
Gates, Josh ----- Richmond -----	30
George, Jesse T. ----- 1210 Tahoka Road -- Brownfield -----	90
Gibbens, Wayne ----- House of Representa- tives (Austin) --- Breckenridge -----	63 (Home Town)
Green, Howard ----- Box 13214 ----- Fort Worth -----	60-6
Grover, Henry C. (Hank) -- Ho. of Rep. (Austin) -- Houston -----	22-3 (Home Town)
Guffey, Lloyd M. ----- Ho. of Rep. (Austin) -- El Campo -----	31 (Home Town)
Haines, David G. ----- 406 Woodson Drive -- Bryan -----	28
Hale, L. DeWitt ----- 709 Wilson Bldg. ---- Corpus Christi -----	36-4
Hallmark, A. C. ----- 1302 Keeler Ave. ---- Dalhart -----	92
Harding, Forrest A. ----- 201 Central Nat. Bank Bldg. ----- San Angelo -----	79
Haring, Paul B. ----- Ho. of Rep. (Austin) -- Goliad -----	34 (Home Town)
Harris, Ed J. ----- 405 U. S. Nat. Bank Bldg. ----- Galveston -----	21-1
Harrison, John Ray ----- 240 N. Crescent ----- Pasadena -----	22-11
Hawkins, Jack R. ----- Box 309 ----- Groesbeck -----	27
Haynes, Clyde, Jr. ----- Box 1235 ----- Vidor -----	8
Heatly, W. S. (Bill) ----- Drawer 1 ----- Paducah -----	82
Hefton, Don ----- 900 W. College ----- Sherman -----	49-F
Hendryx, Gene ----- Box 779 ----- Alpine -----	72
Hightower, Cameron ----- Box 328 ----- Liberty -----	20
Hinson, George T. ----- Box 387 ----- Mineola -----	12
Hollowell, Bill ----- Ho. of Rep. (Austin) -- Grand Saline -----	26 (Home Town)
Holmes, Tom ----- 607 Crestview ----- Granbury -----	62

## HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>Dist.</i>
Howard, David C. .... 248 Martin .....	Uvalde ..... 67
Isaacks, Maud (Miss) .... 3021 Federal Ave. ....	El Paso ..... 74-1
Ivy, David M. .... 923 Meadow Heath Lane .....	Dallas ..... 51-6
Jamison, Alonzo W. .... 616 W. Oak St. ....	Denton ..... 59
Johnson, Glenn A. .... Box 128 .....	Temple ..... 44-2
Johnson, Jake .....	Route 7, Box 219 .... San Antonio ..... 68-1
Johnson, J. E. (Jake) .... 507 Shawnee .....	Houston ..... 22-6
Jones, Delwin .....	2129-54th St. .... Lubbock ..... 88-2
Jones, Grant .....	502 Cedar St. .... Abilene ..... 84-1
Jungmichel, Charles H. .... Box 328 .....	La Grange ..... 46
Kilpatrick, Rufus U. .... Box 968 .....	Beaumont ..... 9-1
Klager, James E. (Jim) .. 323 Wilson Bldg. ....	Corpus Christi ..... 36-3
Knapp, Walter L. .... 419 W. 10th St. ....	Amarillo ..... 93-1
Kothmann, Glenn H. .... 4610 Seabreeze .....	San Antonio ..... 68-5
Lack, Emmett .....	Route 2, Box 15 .... Kountze ..... 19
Lee, Tom .....	1607 W. Ashby .... San Antonio ..... 68-3
Lewis, Ben .....	307 Nottingham Dr. Richardson ..... 51-5
Ligarde, Honore .....	Box 497 .....
Longoria, Raul L. .... Box 173 .....	Pharr ..... 37-F
McClinton, Travis V. ....	Oglesby ..... 53
McDonald, Felix L. .... Box 330 .....	Edinburg ..... 38-1
McDonald, Guy V. .... Box 1198 .....	Henderson ..... 4
McIlhany, Grainger W. .... Box 276 .....	Wheeler ..... 87
McKissack, Dick .....	10536 Marquis Lane Dallas ..... 51-8
McLaughlin, Jack .....	4817 Green Oak Dr. Fort Worth ..... 60-1
Mann, Dudley R., Jr. .... 608 Southwest Cen- ter .....	El Paso ..... 74-3
Markgraf, Jim .....	Scurry ..... 25
Miller, J. E., Jr. .... Box 85 .....	Burkeville ..... 7
Miller, W. H. .... 6018 Spellman .....	Houston ..... 22-5
Mobley, John .....	c/o Oil Field Service Co. .... Kilgore ..... 15-F
Montoya, Gregory .....	General Delivery .... Elsa ..... 38-2
Moyer, Hudson .....	Suite 412, Petroleum Bldg. .... Amarillo ..... 93-2
Muniz, Raul .....	7871 Lilac Way .... El Paso ..... 74-4
Murray, Menton J. .... 320 E. Van Buren ..	Harlingen ..... 39-1
Mutscher, G. F. (Gus) .... 307 N. Ross .....	Brenham ..... 29
Neugent, Dean .....	Box 2789 .....
Newman, J. T. .... Box 391 .....	Texas City ..... 21-2
Newman, J. T. .... Box 391 .....	Cuero ..... 47
Nugent, James E. (Jim) .. 703½ Water St. ....	Kerrville ..... 66
Parker, Carl A. .... 449 Stadium Road ..	Port Arthur ..... 9-3
Parsley, Bill J. .... 1707 Great Plains Bldg. ....	Lubbock ..... 88-3



HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>Dist.</i>
Peeler, Travis A. .... Suite 210, Vaughn Plaza ..... Corpus Christi	36-2
Pendleton, R. G. (Randy) 817 E. 31st St. (Austin) ..... Andrews	75
	(Home Town)
Pickens, Ace ..... 2201 Walnut	Odessa ..... 76
Pipkin, Maurice S. .... 401 First Nat. Bank	Brownsville ..... 39-2
Price, Rayford ..... Box 377	Palestine ..... 16
Quilliam, W. Reed, Jr. ... 2217-50th St.	Lubbock ..... 88-1
Rapp, Bill ..... Box 897	Raymondville ..... 40-F
Richards, George H. .... Box 168	Huntsville ..... 17
Richardson, George (Skeet) ..... Route 1, Box 236-A	Keller ..... 60-4
Roberts, Ronald E. .... 627 E. Elm St.	Hillsboro ..... 42
Rosson, Renal B. .... West Texas State Bank Bldg. .... Snyder	85
Satterwhite, W. T. (Bill) .. Box 296	Ennis ..... 41
Schiller, Milton J. .... Box 108	Cameron ..... 45
Scoggins, Ralph Wm. .... 2909 Aurora Ave.	El Paso ..... 74-5
Shannon, Joe, Jr. .... 3508 Pinto Trail	Fort Worth ..... 60-2
Shannon, Tommy ..... Box 3098	Fort Worth ..... 60-5
Sherman, W. C. (Bud) ... 5004 Stadium Drive	Fort Worth ..... 60-3
Simpson, J. M. .... 2215 Bowie	Amarillo ..... 94-F
Slack, Richard C. .... Box 808	Pecos ..... 73
Slider, James L. .... Box 184	Naples ..... 2
Smith, Will L. .... 336 Bowie St.	Beaumont ..... 9-4
Solomon, Neal ..... Box 517	Mt. Vernon ..... 11
Stewart, Vernon J. .... 1634 Victory	Wichita Falls ..... 81-1
Stroud, James W. .... 5507 McCommas Blvd. .... Dallas	86
Thompson, Fritz ..... Box 1205	Borger ..... 86
Thurmond, Roger H., Jr. .. Box 1268	Del Rio ..... 71
Townsend, Terry .....	Brady ..... 65
Traeger, John A. .... 503 S. Austin St.	Seguin ..... 57
Vale, R. L. (Bob) ..... 358 Springwood St.	San Antonio ..... 68-6
Wade, Jim ..... 3909 Shenandoah	Dallas ..... 51-7
Ward, J. E. .... Box 458	Glen Rose ..... 52
Wayne, Ralph ..... 2000 W. 5th St.	Plainview ..... 89
Weldon, J. D. .... 3412-8th St.	Port Arthur ..... 9-2
Whatley, Willis J. .... 708 Houston First Federal ..... Houston	22-10
Wheeler, Charles A., Jr. .. Box 37	Temple ..... 44-1
Whitfield, J. Charles, Jr. (Whit) ..... 901 State Nat. Bldg.	Houston ..... 22-8

## HOUSE OF REPRESENTATIVES

<i>Name</i>			<i>Dist.</i>
Wieting, Leroy J. ....	Box 546 .....	Portland .....	35
Williamson, Billy H. ....	1520 Crescent Dr. ....	Tyler .....	14
Wilson, Charles N. ....	1306 Esther .....	Lufkin .....	6
Woods, Jack .....	704 N. Fourth St. ....	Waco .....	43-1
Wright, John .....	801 British .....	Grand Prairie .....	51-3



# CONSTITUTION OF THE STATE OF TEXAS

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## ADOPTED

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### ARTICLE III

#### LEGISLATIVE DEPARTMENT

##### § 3. Election and term of office of Senators

*Proposed amendment of this section by H.J.R. No. 1, see page XCIII.*

##### § 4. Election and term of members of House of Representatives

*Proposed amendment of this section by H.J.R. No. 1, see page XCIII.*

##### § 48b. Teacher Retirement System of Texas

Sec. 48b. There is hereby created as an agency of the State of Texas the Teacher Retirement System of Texas, the rights of membership in which, the retirement privileges and benefits thereunder, and the management and operations of which shall be governed by the provisions herein contained and by present or hereafter enacted Acts of the Legislature not inconsistent herewith. The general administration and responsibility for the proper operation of said system are hereby vested in a State Board of Trustees, to be known as the State Board of Trustees of the Teacher Retirement System of Texas, which Board shall be constituted and shall serve as may now or hereafter be provided by the Legislature. Said Board shall exercise such powers as are herein provided together with such other powers and duties not inconsistent herewith as may be prescribed by the Legislature. All moneys from whatever source coming into the Fund to provide retirement, disability, and death benefits for persons employed in the public schools, colleges, and universities supported wholly or partly by the state and all other securities, moneys, and assets of the Teacher Retirement System of Texas shall be administered by said Board and said Board shall be the trustees thereof. The Treasurer of the State of Texas shall be custodian of said moneys and securities. Said Board is hereby authorized and empowered to acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any securities, evidences of debt, and other investments in which said securities, moneys, and assets have been or may hereafter be invested by said Board. Said Board is hereby authorized and empowered to invest and reinvest any of said moneys, securities, and assets, as well as the proceeds of any of such investments, in bonds, notes, or other evidences of indebtedness issued, or assumed or guaranteed in whole or in part, by the United States or any agency of the United States, or by the State of Texas, or by any county, city, school district, municipal corporation, or other political subdivision of the State of Texas, both general and special obligations; or in home office facilities to be used in administering the Teacher Retirement System including land, equipment, and office building; or in such corporation bonds, notes, other evidences of indebtedness, and corporation stocks, including common and preferred stocks, of any

## CONSTITUTION—ADOPTED AMENDMENTS

corporation created or existing under the laws of the United States or of any of the states of the United States, as said Board may deem to be proper investments; provided that in making each and all of such investments said Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as probable safety of their capital; and further provided, that a sufficient sum shall be kept on hand to meet payments as they become due each year under such retirement plan, as may now or hereafter be provided by law. Unless investments authorized herein are hereafter further restricted by an Act of the Legislature, no more than one per cent (1%) of the book value of the total assets of the Teacher Retirement System shall be invested in the stock of any one (1) corporation, nor shall more than five per cent (5%) of the voting stock of any one (1) corporation be owned; and provided further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid cash dividends for ten (10) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors; and provided further, that so long as less than \$500,000,000 of said Fund is invested in the government and municipal securities enumerated above, not more than thirty-three and one-third per cent (33 $\frac{1}{3}$ %) of the Fund shall be invested at any given time in common stocks. This Amendment shall be self-enacting and shall become effective immediately upon its adoption without any enabling legislation. This Section shall not alter, amend or repeal the first paragraph of Section 48a of Article III of the Constitution of Texas as amended November 6, 1956, or any legislation passed pursuant thereto. This Section shall not alter, amend or repeal the second paragraph of Section 48a of Article III of the Constitution of Texas as amended November 6, 1956, or any legislation passed pursuant thereto, except insofar as the provisions of the second paragraph of Section 48a and any legislation passed pursuant thereto, may limit or restrict the provisions hereof and only to the extent of such limitation or restriction. Adopted Nov. 2, 1965.

Amendment adopted in 1965 was proposed by S.J.R. No. 27, Acts 1965, 59th Leg., p. 2201.

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

*Proposed amendment of this section by S.J.R. No. 19, see page XCIII.*

### § 50b. Student Loans

Sec. 50b. (a) The Legislature may provide that the Coordinating Board, Texas College and University System, or its successor or successors, shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount not to exceed Eighty-five Million Dollars (\$85,000,000). The bonds authorized herein shall be called Texas College Student Loan Bonds, shall be executed in such form, denominations and upon such terms as may be prescribed by law, provided, however, that the bonds shall not bear more than four per cent (4%) interest per annum; they may be issued in such installments as the Board finds feasible and practical in accomplishing the purposes of this Section.

## CONSTITUTION—ADOPTED AMENDMENTS

(b) All moneys received from the sale of such bonds shall be deposited in a fund hereby created in the State Treasury to be known as the Texas Opportunity Plan Fund to be administered by the Coordinating Board, Texas College and University System, or its successor or successors to make loans to students who have been admitted to attend any institution of higher education within the State of Texas, public or private, including Junior Colleges, which are recognized or accredited under terms and conditions prescribed by the Legislature, and to pay interest and principal on such bonds and provide a sinking fund therefor under such conditions as the Legislature may prescribe.

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

(d) The Legislature may provide for the investment of moneys available in the Texas Opportunity Plan Fund, and the interest and sinking funds established for the payment of bonds issued by the Coordinating Board, Texas College and University System, or its successor or successors. Income from such investment shall be used for the purposes prescribed by the Legislature.

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

(f) Should the Legislature enact enabling laws in anticipation of the adoption of this Amendment, such acts shall not be void because of their anticipatory nature. Adopted Nov. 2, 1965.

Amendment adopted in 1965 was proposed  
by H.J.R. No. 11, Acts 1965, 59th Leg., p.  
2217.

### § 51—a. Assistance and medical care for needy aged, needy disabled, and needy blind persons and children

Section 51—a. The Legislature shall have the power, by General Laws, to provide, subject to limitations herein contained, and such other limitations, restrictions and regulations as may by the Legislature be deemed expedient, for assistance to and/or medical care for, and for rehabilitation and any other services included in the Federal legislation providing matching funds to help such families and individuals attain or retain capability for independence or self-care, and for the payment of assistance to and/or medical care for, and for rehabilitation and other services for:

(1) Needy aged persons who are citizens of the United States or noncitizens who shall have resided within the boundaries of the United States for at least twenty-five (25) years and are over the age of sixty-five (65) years;

(2) Needy individuals who are citizens of the United States who shall have passed their eighteenth (18th) birthday but have not passed their sixty-fifth (65th) birthday and who are totally and permanently disabled by reason of a mental or physical handicap or a combination of physical and mental handicaps;

(3) Needy blind persons who are citizens of the United States and who are over the age of eighteen (18) years;

## CONSTITUTION—ADOPTED AMENDMENTS

(4) Needy children who are citizens of the United States and who are under the age of twenty-one (21) years, and to the caretakers of such children.

The Legislature may define the residence requirements, if any, for participation in these programs.

The Legislature shall have authority to enact appropriate legislation which will enable the State of Texas to cooperate with the Government of the United States in providing assistance to and/or medical care on behalf of needy persons, and in providing rehabilitation and any other services included in the Federal legislation providing matching funds to help such families and individuals attain or retain capability for independence or self-care, and to accept and expend funds from the Government of the United States for such purposes in accordance with the laws of the United States as they now are or as they may hereafter be amended, and to make appropriations out of State funds for such purposes; provided that the maximum amount paid out of State funds to or on behalf of any individual recipient shall not exceed the amount that is matchable out of Federal funds; provided that the total amount of such assistance payments and/or medical assistance payments out of State funds on behalf of such recipients shall not exceed the amount that is matchable out of Federal funds; provided that if the limitations and restrictions herein contained are found to be in conflict with the provisions of appropriate Federal statutes as they now are or as they may be amended, to the extent that Federal matching money is not available to the State for these purposes, then and in that event the Legislature is specifically authorized and empowered to prescribe such limitations and restrictions and enact such laws as may be necessary in order that such Federal matching money will be available for assistance and/or medical care for or on behalf of needy persons; and provided further that the total amount of money to be expended per fiscal year out of State funds for assistance payments only to recipients of Old Age Assistance, Aid to the Permanently and Totally Disabled, Aid to the Blind, and Aid to Families with Dependent Children shall never exceed Sixty Million Dollars (\$60,000,000).

Nothing in this Section shall be construed to amend, modify or repeal Section 31 of Article XVI of this Constitution; provided further, however, that such medical care, services or assistance shall also include the employment of objective or subjective means, without the use of drugs, for the purpose of ascertaining and measuring the powers of vision of the human eye, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. Nothing herein shall be construed to permit optometrists to treat the eyes for any defect whatsoever in any manner nor to administer nor to prescribe any drug or physical treatment whatsoever, unless such optometrist is a regularly licensed physician or surgeon under the Laws of this State. As amended Nov. 5, 1957; Nov. 6, 1962; Nov. 9, 1963; Nov. 2, 1965.

Amendment adopted in 1965 was proposed by H.J.R. No. 81, Acts 1965, 59th Leg., p. 2234.

§ 51—d. Payment of assistance to survivors of law enforcement officers

*Proposed addition of this section by H.J.R. No. 37, see page XCV.*

§ 63. Consolidation of governmental functions of political subdivisions in counties of 1,200,000 or more

*Proposed addition of this section by H.J.R. No. 69, see page XCV.*

# CONSTITUTION—ADOPTED AMENDMENTS

## ARTICLE V

### JUDICIAL DEPARTMENT

#### § 1—a. Retirement and compensation of justices and judges; state judicial qualifications commission

Sec. 1—a. (1) Subject to the further provisions of this Section, the Legislature shall provide for the retirement and compensation of Justices and Judges of the Appellate Courts and District and Criminal District Courts on account of length of service, age and disability, and for their reassignment to active duty where and when needed. The office of every such Justice and Judge shall become vacant when the incumbent reaches the age of seventy-five (75) years or such earlier age, not less than seventy (70) years, as the Legislature may prescribe; but, in the case of an incumbent whose term of office includes the effective date of this Amendment, this provision shall not prevent him from serving the remainder of said term nor be applicable to him before his period or periods of judicial service shall have reached a total of ten (10) years.

(2) There is hereby created the State Judicial Qualifications Commission, to consist of nine (9) members, to wit: (i) two (2) Justices of Courts of Civil Appeals; (ii) two (2) District Judges; (iii) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (iiii) three (3) citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; provided that no person shall be or remain a member of the Commission, who does not maintain physical residence within this State, or who resides in, or holds a judgeship within or for, the same Supreme Judicial District as another member of the Commission, or who shall have ceased to retain the qualifications above specified for his respective class of membership. Commissioners of classes (i) and (ii) above shall be chosen by the Supreme Court with advice and consent of the Senate, those of class (iii) by the Board of Directors of the State Bar under regulations to be prescribed by the Supreme Court with advice and consent of the Senate, and those of class (iiii) by appointment of the Governor with advice and consent of the Senate.

(3) The regular term of office of Commissioners shall be six (6) years; but the initial members of each of classes (i), (ii) and (iii) shall respectively be chosen for terms of four (4) and six (6) years, and the initial members of class (iiii) for respective terms of two (2), four (4) and six (6) years. Interim vacancies shall be filled in the same manner as vacancies due to expiration of a full term, but only for the unexpired portion of the term in question. Commissioners may succeed themselves in office only if having served less than three (3) consecutive years.

(4) Commissioners shall receive no compensation for their services as such. The Legislature shall provide for the payment of the necessary expense for the operation of the Commission.

(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall annually select one of its members as Chairman. A quorum shall consist of five (5) members. Proceedings shall be by majority vote of those present, except that recommendations for retirement or removal of Justices or Judges shall be by affirmative vote of at least five (5) members.

(6) Any Justice or Judge within the scope of this Section 1—a may, subject to the other provisions hereof, be removed from office for willful or persistent conduct, which is clearly inconsistent with the proper performance of his said duties or casts public discredit upon the judiciary or ad-



## CONSTITUTION—ADOPTED AMENDMENTS

ministration of justice; or any such Justice or Judge may be involuntarily retired for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.

(7) The Commission shall keep itself informed as fully as may be of circumstances relating to misconduct or disability of particular Justices or Judges, receive complaints or reports, formal or informal, from any source in this behalf and make such preliminary investigations as it may determine. Its orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court.

(8) The Commission may, after such investigation as it deems necessary, order a hearing to be held before it concerning the removal or retirement of a Justice or Judge, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Civil Appeals as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. If, after hearing, or after considering the record and report of a Master, the Commission finds good cause therefore, it shall recommend to the Supreme Court the removal or retirement, as the case may be, of the Justice or Judge in question and shall thereupon file with the Clerk of the Supreme Court the entire record before the Commission.

(9) The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence and shall order removal or retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary.

(10) All papers filed with and proceedings before the Commission or a Master shall be confidential, and the filing of papers with, and the giving of testimony before, the Commission, Master or the Supreme Court shall be privileged; provided that upon being filed in the Supreme Court the record loses its confidential character.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters and the Supreme Court. Such rule shall afford to any judge against whom a proceeding is instituted to cause his retirement due process of law for the procedure before the Commission, Masters and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the judge in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No Justice or Judge shall sit as a member of the Commission or Supreme Court in any proceeding involving his own retirement or removal.

(13) This Section 1—a is alternative to, and cumulative of, the methods of removal of Justices and Judges provided elsewhere in this Constitution. As amended Nov. 2, 1965.

Amendment adopted in 1965 was proposed by H.J.R. No. 57, Acts 1965, 59th Leg., p. 2227.

### § 4. Court of Criminal Appeals; judges

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

## CONSTITUTION—ADOPTED AMENDMENTS

- § 5. Jurisdiction of Court of Criminal Appeals; terms of court; clerk  
*Proposed amendment of this section by S.J.R. No. 26, see page XCVI.*

### ARTICLE VI

#### SUFFRAGE

- § 2. Persons qualified to vote; poll tax; absentee voting; members of Armed Forces  
*Proposed amendments of this section by H.J.R. Nos. 13 and 38 see page XCVI.*
- § 2a. Voting for Presidential and Vice Presidential electors and state-wide offices; qualified persons except for residence requirements  
*Proposed addition of this section by H.J.R. No. 24, see page XCVIII.*
- § 4. Elections by ballot; numbering, fraud and purity of elections; registration of voters  
*Proposed amendment of this section by H.J.R. No. 13, see page XCVIII.*

### ARTICLE VII

#### EDUCATION

- § 3—b. Independent school districts within Dallas County; change in boundaries; taxes and bonds  
*Proposed amendment of this section by H.J.R. No. 65, see page XCIX.*

#### UNIVERSITY

- § 17. State ad valorem tax for pensions and for permanent improvements at institutions of higher learning

Sec. 17. In lieu of the state ad valorem tax on property of Seven Cents (7¢) on the One Hundred Dollars (\$100.00) valuation heretofore permitted to be levied by Section 51 of Article III, as amended, there is hereby levied, in addition to all other taxes permitted by the Constitution of Texas, a state ad valorem tax on property of Two Cents (2¢) on the One Hundred Dollars (\$100.00) valuation for the purpose of creating a special fund for the continuing payment of Confederate pensions as provided under Section 51, Article III, and for the establishment and continued maintenance of the State Building Fund as provided in Section 51b, Article III, of the Constitution.

Also, there is hereby levied, in addition to all other taxes permitted by the Constitution of Texas, a state ad valorem tax on property of Ten Cents (10¢) on the One Hundred Dollars (\$100.00) valuation for the purpose of creating a special fund for the purpose of acquiring, constructing and initially equipping buildings or other permanent improvements at the designated institutions of higher learning provided that none of the proceeds of this tax shall be used for auxiliary enterprises; and the governing board of each such institution of higher learning is fully authorized to pledge all or any part of said funds allotted to such institution as hereinafter provided, to secure bonds or notes issued for the pur-

## CONSTITUTION—ADOPTED AMENDMENTS

pose of acquiring, constructing and initially equipping such buildings or other permanent improvements at said respective institutions. Such bonds or notes shall be issued in such amounts as may be determined by the governing boards of said respective institutions, shall bear interest not to exceed four per cent (4%) per annum and shall mature serially or otherwise in not more than ten (10) years; provided further, that the state tax on property as heretofore permitted to be levied by Section 9 of Article VIII, as amended, exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of the public free schools, shall never exceed Thirty Cents (30¢) on the One Hundred Dollars (\$100.00) valuation. All bonds shall be examined and approved by the Attorney General of the State of Texas, and when so approved shall be incontestable; and all approved bonds shall be registered in the office of the Comptroller of Public Accounts of the State of Texas. Said bonds shall be sold only through competitive bids and shall never be sold for less than their par value and accrued interest.

The following state institutions then in existence shall be eligible to receive funds raised from said Ten Cent (10¢) tax levy for the twelve-year period beginning January 1, 1966, and for the succeeding ten-year period:

Arlington State College at Arlington  
Texas Technological College at Lubbock  
North Texas State University at Denton  
Lamar State College of Technology at Beaumont  
Texas College of Arts and Industries at Kingsville  
Texas Woman's University at Denton  
Texas Southern University at Houston  
Midwestern University at Wichita Falls  
University of Houston at Houston  
Pan American College at Edinburg  
East Texas State College at Commerce  
Sam Houston State Teachers College at Huntsville  
Southwest Texas State College at San Marcos  
West Texas State University at Canyon  
Stephen F. Austin State College at Nacogdoches  
Sul Ross State College at Alpine  
'Angelo State College at San Angelo.

Eighty-five per cent (85%) of such funds shall be allocated by the Comptroller of Public Accounts of the State of Texas on June 1, 1966, and fifteen per cent (15%) of such funds shall be allocated by said Comptroller on June 1, 1972, based on the following determinations:

(1) Ninety per cent (90%) of the funds allocated on June 1, 1966, shall be allocated to state institutions based on projected enrollment increases published by the Coordinating Board, Texas College and University System for fall 1966 to fall 1978.

(2) Ten per cent (10%) of the funds allocated on June 1, 1966 shall be allocated to certain of the eligible state institutions based on the number of additional square feet needed in educational and general facilities by such eligible state institution to meet the average square feet per full time equivalent student of all state senior institutions (currently numbering twenty-two).

(3) All of the funds allocated on June 1, 1972, shall be allocated to certain of the eligible state institutions based on determinations used in the June 1, 1966, allocations except that the allocation of fifty per cent (50%) of the funds allocated on June 1, 1972, shall be based on projected enrollment increases for fall 1972 to fall 1978, and fifty per cent (50%) of such funds allocated on June 1, 1972, shall be based on the need for additional square feet of educational and general facilities.

## CONSTITUTION—ADOPTED AMENDMENTS

Not later than June first of the beginning year of each succeeding ten-year period the Comptroller of Public Accounts of the State of Texas shall reallocate eighty-five per cent (85%) of the funds to be derived from said Ten Cent (10¢) ad valorem tax for said ten-year period and not later than June first of the sixth year of each succeeding ten-year period said Comptroller shall reallocate fifteen per cent (15%) of such funds to the eligible state institutions then in existence based on determinations for the said ten-year period that are similar to the determinations used in allocating funds during the twelve-year period beginning January 1, 1966, except that enrollment projections for succeeding ten-year periods will be from the fall semester of the first year to the fall semester of the tenth year. All such designated institutions of higher learning shall not thereafter receive any general revenue funds for the acquiring or constructing of buildings or other permanent improvements for which said Ten Cent (10¢) ad valorem tax is herein provided, except in case of fire, flood, storm, or earthquake occurring at any such institution, in which case an appropriation in an amount sufficient to replace the uninsured loss so incurred may be made by the Legislature out of any General Revenue Funds. The State Comptroller of Public Accounts shall draw all necessary and proper warrants upon the State Treasury in order to carry out the purpose of this Amendment, and the State Treasurer shall pay warrants so issued out of the special fund hereby created for said purpose. This Amendment shall be self-enacting. It shall become operative or effective upon its adoption so as to supersede and repeal the former provisions of this Section; provided further, that nothing herein shall be construed as impairing the obligation incurred by any outstanding notes or bonds heretofore issued by any state institution of higher learning under this Section prior to the adoption of this Amendment but such notes or bonds shall be paid, both as to principal and interest, from the fund as allocated to any such institution. As amended Nov. 16, 1956; Nov. 2, 1965.

Amendment adopted in 1965 was proposed by S.J.R. No. 24, Acts 1965, 59th Leg., p. 2197.

### Library references

Colleges and Universities ⇨6(1).

Taxation ⇨22, 38, 61 et seq.

C.J.S. Colleges and Universities § 10.

C.J.S. Taxation §§ 14, 15, 18, 66 et seq.

- § 18. Texas A & M University System; University of Texas System; bonds or notes payable from income of Permanent University Fund  
*Proposed amendment of this section by S.J.R. No. 39, see page C.*

## ARTICLE VIII

### TAXATION AND REVENUE

- § 1—d. Assessment of lands designated for agricultural purposes  
*Proposed addition of this section by H.J.R. No. 79, see page CI.*

## ARTICLE IX

### COUNTIES

- § 9. Hospital districts; creation, operation, powers and duties  
*Proposed amendment of this section by H.J.R. No. 48, see page CII.*

## CONSTITUTION—ADOPTED AMENDMENTS

### § 12. Airport Authorities

*Proposed amendment of this article by the addition of this section by S.J.R. No. 1, see page CIII.*

## ARTICLE XVI

### GENERAL PROVISIONS

### § 6. Appropriations for private purposes; statements and accounts of receipts and expenditures

*Proposed amendment of this section by S.J.R. No. 33, see page CIV.*

### § 30c. Directors of conservation and reclamation districts; terms of office

*Proposed addition of this section by H.J.R. No. 21, see page CV.*

### § 62. State and county retirement, disability and death compensation benefits

*Proposed amendment of this section by S.J.R. No. 4, see page CV.*

# PROPOSED AMENDMENTS

## ARTICLE III

### LEGISLATIVE DEPARTMENT

#### § 3. Election and term of office of Senators

Sec. 3. The Senators shall be chosen by the qualified electors for the term of four years; but a new Senate shall be chosen after every apportionment, and the Senators elected after each apportionment shall be divided by lot into two classes. The seats of the Senators of the first class shall be vacated at the expiration of the first two years, and those of the second class at the expiration of four years, so that one half of the Senators shall be chosen biennially thereafter. Senators shall take office following their election, on the day set by law for the convening of the Regular Session of the Legislature, and shall serve thereafter for the full term of years to which elected and until their successors shall have been elected and qualified.

Proposed by House Joint Resolution No. 1, Acts 1965, 59th Leg., 2210. For submission to the people Nov. 8, 1966.

Senate Joint Resolution No. 47, Acts 1965, 59th Leg., p. 2208, proposing an amend-

ment to Const. art. 3, § 4 to provide four-year terms of office for State Representatives, was rejected by the voters at the election held on November 2, 1965.

#### § 4. Election and term of members of House of Representatives

Sec. 4. The Members of the House of Representatives shall be chosen by the qualified electors for the term of two years. Representatives shall take office following their election, on the day set by law for the convening of the Regular Session of the Legislature, and shall serve thereafter for the full term of years to which elected and until their successors shall have been elected and qualified.

Proposed by House Joint Resolution No. 1, Acts 1965, 59th Leg., p. 2210. For submission to the people Nov. 8, 1966.

Senate Joint Resolution No. 47, Acts 1965, 59th Leg., p. 2208, proposing an amend-

ment to this section to provide four-year terms of office for State Representatives, was rejected by the voters at the election held on November 2, 1965.

#### § 49—d. Acquisition and development of storage facilities; filtration, treatment and transportation of water; enlargement of reservoirs

Sec. 49—d. It is hereby declared to be the policy of the State of Texas to encourage the optimum development of the limited number of feasible sites available for the construction or enlargement of dams and reservoirs for conservation of the public waters of the state, which waters are held in trust for the use and benefit of the public. The proceeds from the sale of the additional bonds authorized hereunder deposited in the Texas Water Development Fund and the proceeds of bonds previously authorized by Article III, Section 49—c of this Constitution, may be used by the Texas Water Development Board, under such provisions as the Legislature may prescribe by General Law, including the requirement of a permit for storage or beneficial use, for the additional purposes of acquiring and developing storage facilities, and any system or works necessary for the filtration, treatment and transportation of water from storage to points of treatment, filtration and/or distribution, including facilities for transporting water therefrom to wholesale purchasers, or for any one or more of such purposes or methods; provided, however, the Texas Water Development Fund or any other state fund provided for water development, transmission, transfer or filtration shall not be used to finance any project which contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably

## CONSTITUTION—PROPOSED AMENDMENTS

foreseeable future water requirements for the next ensuing fifty-year period within the river basin of origin, except on a temporary, interim basis.

Under such provisions as the Legislature may prescribe by General Law the Texas Water Development Fund may be used for the conservation and development of water for useful purposes by construction or reconstruction or enlargement of reservoirs constructed or to be constructed or enlarged within the State of Texas or on any stream constituting a boundary of the State of Texas, together with any system or works necessary for the filtration, treatment and/or transportation of water, by any one or more of the following governmental agencies: by the United States of America or any agency, department or instrumentality thereof; by the State of Texas or any agency, department or instrumentality thereof; by political subdivisions or bodies politic and corporate of the state; by interstate compact commissions to which the State of Texas is a party; and by municipal corporations. The Legislature shall provide terms and conditions under which the Texas Water Development Board may sell, transfer or lease, in whole or in part, any reservoir and associated system or works which the Texas Water Development Board has financed in whole or in part.

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

The aggregate of the bonds authorized hereunder shall not exceed \$200,000,000 and shall be in addition to the aggregate of the bonds previously authorized by said Section 49-c of Article III of this Constitution. The Legislature upon two-thirds ( $\frac{2}{3}$ ) vote of the elected members of each House, may authorize the Board to issue all or any portion of such \$200,000,000 in additional bonds herein authorized.

The Legislature shall provide terms and conditions for the Texas Water Development Board to sell, transfer or lease, in whole or in part, any acquired storage facilities or the right to use such storage facilities together with any associated system or works necessary for the filtration, treatment or transportation of water at a price not less than the direct cost of the Board in acquiring same; and the Legislature may provide terms and conditions for the Board to sell any unappropriated public waters of the state that might be stored in such facilities. As a prerequisite to the purchase of such storage or water, the applicant therefor shall have secured a valid permit from the Texas Water Commission or its successor authorizing the acquisition of such storage facilities or the water impounded therein. The money received from any sale, transfer or lease of storage facilities or associated system or works shall be used to pay principal and interest on state bonds issued or contractual obligations incurred by the Texas Water Development Board, provided that when moneys are sufficient to pay the full amount of indebtedness then outstanding and the full amount of interest to accrue thereon, any further sums received from the sale, transfer or lease of such storage facilities or associated system or works may be used for the acquisition of additional storage facilities or associated system or works or for providing financial

## CONSTITUTION—PROPOSED AMENDMENTS

assistance as authorized by said Section 49-c. Money received from the sale of water, which shall include standby service, may be used for the operation and maintenance of acquired facilities, and for the payment of principal and interest on debt incurred.

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

Proposed by Senate Joint Resolution No. 19, Acts 1965, 59 Leg., p. 2195. For submission to the people Nov. 8, 1966.

### § 51—d. Payment of assistance to survivors of law enforcement officers

Sec. 51—d. The Legislature shall have the power, by general law, to provide for the payment of assistance by the State of Texas to the surviving spouse and minor children of law enforcement officers, custodial personnel of the Texas Department of Corrections or of full-paid firemen who suffer violent death in the course of the performance of their duties as law enforcement officers, custodial personnel of the Texas Department of Corrections or as full-paid firemen.

Proposed by House Joint Resolution No. 37, Acts 1965, 59th Leg., p. 2223. For submission to the people Nov. 8, 1966.

### § 63. Consolidation of governmental functions of political subdivisions in counties of 1,200,000 or more

#### Sec. 63

(1) The Legislature may by statute provide for the consolidation of some functions of government of any one or more political subdivisions comprising or located within any county in this State having one million, two hundred thousand (1,200,000) or more inhabitants. Any such statute shall require an election to be held within the political subdivisions affected thereby with approval by a majority of the voters in each of these political subdivisions, under such terms and conditions as the Legislature may require.

(2) The county government, or any political subdivision(s) comprising or located therein, may contract one with another for the performance of governmental functions required or authorized by this Constitution or the Laws of this State, under such terms and conditions as the Legislature may prescribe. The term "governmental functions," as it relates to counties, includes all duties, activities and operations of state-wide importance in which the county acts for the State, as well as of local importance, whether required or authorized by this Constitution or the Laws of this State.

Proposed by House Joint Resolution No. 69, Acts 1965, 59th Leg., p. 2231. For submission to the people Nov. 8, 1966.

## ARTICLE V

### JUDICIAL DEPARTMENT

#### § 4. Court of Criminal Appeals; judges

Sec. 4. The Court of Criminal Appeals shall consist of five Judges, one of whom shall be Presiding Judge, a majority of whom shall constitute a quorum, and the concurrence of three Judges shall be necessary to a decision of said court. Said Judges shall have the same qualifications and receive the same salaries as the Associate Justices of the Supreme Court. They shall be elected by the qualified voters of the state at a general election and shall hold their offices for a term of six



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years. In case of a vacancy in the office of a Judge of the Court of Criminal Appeals, the Governor shall, with the advice and consent of the Senate, fill said vacancy by appointment until the next succeeding general election.

The Judges of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall become Judges of the Court of Criminal Appeals and continue in office until the expiration of the term of office for which each has been elected or appointed under the present Constitution and laws of this state, and until his successor shall have been elected and qualified.

The two members of the Commission of Appeals in aid of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall become Judges of the Court of Criminal Appeals and shall hold their offices, one for a term of two years and the other for a term of four years, beginning the first day of January following the adoption of this Amendment and until their successors are elected and qualified. Said Judges shall by agreement or otherwise designate the incumbent for each of the terms mentioned.

The Governor shall designate one of the five Judges as Presiding Judge and at the expiration of his term and each six years thereafter a Presiding Judge shall be elected.

Proposed by Senate Joint Resolution No. 26, Acts 1965, 59th Leg., p. 2200, § 1. For submission to the people Nov. 8, 1966.

### § 5. Jurisdiction of Court of Criminal Appeals; terms of court; clerk

Sec. 5. The Court of Criminal Appeals shall have appellate jurisdiction coextensive with the limits of the state in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law.

The Court of Criminal Appeals and the Judges thereof shall have the power to issue the writ of habeas corpus, and under such regulations as may be prescribed by law, issue such writs as may be necessary to enforce its own jurisdiction. The Court of Criminal Appeals shall have power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

The Court of Criminal Appeals may sit for the transaction of business at any time from the first Monday in October to the last Saturday in September in each year, at the State Capitol. The Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

The Clerk of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall continue in office for the term of his appointment.

Proposed by Senate Joint Resolution No. 26, Acts 1965, 59th Leg., p. 2200, § 2. For submission to the people Nov. 8, 1966.

## ARTICLE VI

### SUFFRAGE

### § 2. Persons qualified to vote; annual registration; absentee voting; members of Armed Forces

Sec. 2. Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one (21) years and

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who shall be a citizen of the United States and who shall have resided in this State one (1) year next preceding an election and the last six (6) months within the district or county in which such person offers to vote, shall be deemed a qualified elector; and provided further, that any voter who is subject to pay a poll tax under the laws of the State of Texas shall have paid said tax before offering to vote at any election in this State and hold a receipt showing that said poll tax was paid before the first day of February next preceding such election. Or if said voter shall have lost or misplaced said tax receipt, he or she, as the case may be, shall be entitled to vote upon making affidavit before any officer authorized to administer oaths that such tax receipt has been lost. Such affidavit shall be made in writing and left with the judge of the election. The husband may pay the poll tax of his wife and receive the receipt therefor. In like manner, the wife may pay the poll tax of her husband and receive the receipt therefor. provided, however, that before offering to vote at an election a voter shall have registered annually, but such requirement for registration shall not be considered a qualification of an elector within the meaning of the term 'qualified elector' as used in any other Article of this Constitution in respect to any matter except qualification and eligibility to vote at an election. Any legislation enacted in anticipation of the adoption of this Amendment shall not be invalid because of its anticipatory nature. The Legislature may authorize absentee voting. And this provision of the Constitution shall be self-enacting without the necessity of further legislation. Any member of the Armed Forces of the United States or component branches thereof, or in the military service of the United States, may vote only in the county in which he or she resided at the time of entering such service so long as he or she is a member of the Armed Forces.

*Amendment proposed by H.J.R. No. 38, see § 2, post.*

Proposed by House Joint Resolution No. 13, Acts 1965, 59th Leg., p. 2218. For submission to the people Nov. 8, 1966.

House Joint Resolution No. 13, Acts 1965, 59th Leg., p. 2218, proposing to amend this section and section 4 of Article 6 so as to repeal the provision making payment of the poll tax a requirement for voting and so as to authorize the Legislature to provide for the registration of all voters provided in section 3: "If any other

Amendment to Sections 2 or 4 of Article VI of the Constitution of the State of Texas, being for a different purpose, is adopted at an earlier election or at the same election, the adoption of this Amendment shall not be construed as nullifying any change made by such other Amendment." See amendment proposed by House Joint Resolution No. 38, Acts 1965, 59th Leg., p. 2224.

### § 2. Persons qualified to vote; poll tax; absentee voting

Sec. 2. Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one (21) years and who shall be a citizen of the United States and who shall have resided in this State one (1) year next preceding an election and the last six (6) months within the district or county in which such person offers to vote, shall be deemed a qualified elector; and provided further, that any voter who is subject to pay a poll tax under the laws of the State of Texas shall have paid said tax before offering to vote at any election in this State and hold a receipt showing that said poll tax was paid before the first day of February next preceding such election. Or if said voter shall have lost or misplaced said tax receipt, he or she, as the case may be, shall be entitled to vote upon making affidavit before any officer authorized to administer oaths that such tax receipt has been lost. Such affidavit shall be made in writing and left with the judge of the election. The husband may pay the poll tax of his wife and receive the receipt therefor. In like manner, the wife may pay the poll tax of her husband and receive the receipt therefor. The

## CONSTITUTION—PROPOSED AMENDMENTS

Legislature may authorize absentee voting. And this provision of the Constitution shall be self-enacting without the necessity of further legislation. Any member of the Armed Forces of the United States or component branches thereof, or in the military service of the United States, may vote only in the county in which he or she resided at the time of entering such service so long as he or she is a member of the Armed Forces.

### *Amendment proposed by H.J.R. No. 13, see § 2, ante.*

Proposed by House Joint Resolution No. 38, Acts 1965, 59th Leg., p. 2224. For submission to the people Nov. 8, 1966.

House Joint Resolution No. 38, Acts 1965, 59th Leg., p. 2224, proposing an amendment to this section to omit the requirement that members of the armed services vote only in the county in which they resided at the time of entering the service, provides in section 2 thereof: "The only purpose of the amendment proposed in this Resolution is to make the aforesaid dele-

tion. The adoption of this amendment shall not be deemed to have the effect of readopting the remainder of the Section, and if any other amendment to this Section, being for a different purpose, is adopted at an earlier election or at the same election, the adoption of this amendment shall not be construed as nullifying the change made by such other amendment." See amendment proposed by House Joint Resolution No. 13, Acts 1965, 59th Leg., p. 2218.

### § 2a. Voting for Presidential and Vice Presidential electors and statewide offices; qualified persons except for residence requirements

Sec. 2a. (a) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide a method of registration, including the time of such registration, permitting any person who is qualified to vote in this State except for the residence requirements within a county or district, as set forth in Section 2 of this Article, to vote for (1) electors for President and Vice President of the United States and (2) all offices, questions or propositions to be voted on by all electors throughout this State.

(b) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide for a method of registration, including the time for such registration, permitting any person (1) who is qualified to vote in this State except for the residence requirements of Section 2 of this Article, and (2) who shall have resided anywhere within this State at least thirty (30) days next preceding a General Election in a presidential election year, and (3) who shall have been a qualified elector in another state immediately prior to his removal to this State or would have been eligible to vote in such other state had he remained there until such election, to vote for electors for President and Vice President of the United States in that election.

(c) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide for a method of registration, including the time for such registration, permitting absentee voting for electors for President and Vice President of the United States in this State by former residents of this State (1) who have removed to another state, and (2) who meet all qualifications, except residence requirements, for voting for electors for President and Vice President in this State at the time of the election, but the privileges of suffrage so granted shall be only for such period of time as would permit a former resident of this State to meet the residence requirements for voting in his new state of residence, and in no case for more than twenty-four (24) months.

Proposed by House Joint Resolution No. 24, Acts 1965, 59th Leg., p. 2221. For submission to the people Nov. 8, 1966.

### § 4. Elections by ballot; numbering, fraud and purity of elections; registration of voters

Sec. 4. In all elections by the people, the vote shall be by ballot, and the Legislature shall provide for the numbering of tickets and make

## CONSTITUTION—PROPOSED AMENDMENTS

such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot box; and the Legislature ~~may~~ shall provide by law for the registration of all voters in all cities containing a population of ~~ten thousand inhabitants or more.~~

Proposed by House Joint Resolution No. 13, Acts 1965, 59th Leg., p. 2218. For submission to the people Nov. 8, 1966.

House Joint Resolution No. 13, Acts 1965, 59th Leg., p. 2218, proposing to amend section 2 and this section of Article 6 so as to repeal the provision making payment of the poll tax a requirement for voting and so as to authorize the Legislature to pro-

vide for the registration of all voters, provided in section 3: "If any other Amendment to Sections 2 or 4 of Article VI of the Constitution of the State of Texas, being for a different purpose, is adopted at an earlier election or at the same election, the adoption of this Amendment shall not be construed as nullifying any change made by such other Amendment."

### ARTICLE VII

#### EDUCATION

##### § 3—b. Independent school districts and junior college districts; taxes and bonds; changes in boundaries

Sec. 3—b. No tax for the maintenance of public free schools voted in any independent school district and no tax for the maintenance of a junior college voted by a junior college district, nor any bonds voted in any such district, but unissued, shall be abrogated, cancelled or invalidated by change of any kind in the boundaries thereof. After any change in boundaries, the governing body of any such district, without the necessity of an additional election, shall have the power to assess, levy and collect ad valorem taxes on all taxable property within the boundaries of the district as changed, for the purposes of the maintenance of public free schools or the maintenance of a junior college, as the case may be, and the payment of principal of and interest on all bonded indebtedness outstanding against, or attributable, adjusted or allocated to, such district or any territory therein, in the amount, at the rate, or not to exceed the rate, and in the manner authorized in the district prior to the change in its boundaries, and further in accordance with the laws under which all such bonds, respectively, were voted; and such governing body also shall have the power, without the necessity of an additional election, to sell and deliver any unissued bonds voted in the district prior to any such change in boundaries, and to assess, levy and collect ad valorem taxes on all taxable property in the district as changed, for the payment of principal of and interest on such bonds in the manner permitted by the laws under which such bonds were voted. In those instances where the boundaries of any such independent school district are changed by the annexation of, or consolidation with, one or more whole school districts, the taxes to be levied for the purposes hereinabove authorized may be in the amount or at not to exceed the rate theretofore voted in the district having at the time of such change the greatest scholastic population according to the latest scholastic census and only the unissued bonds of such district voted prior to such change, may be subsequently sold and delivered and any voted, but unissued, bonds of other school districts involved in such annexation or consolidation shall not thereafter be issued.

Proposed by House Joint Resolution No. 65, Acts 1965, 59th Leg., p. 2230. For submission to the people Nov. 8, 1966.

##### § 18. Texas A & M University System; University of Texas System; bonds and notes for permanent improvements

Sec. 18. For the purpose of constructing, equipping, or acquiring buildings or other permanent improvements for the Texas A & M

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

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

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

All bonds or notes issued pursuant hereto shall be approved by the Attorney General of Texas and when so approved shall be incontestable.

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This Amendment shall be self-enacting; provided, however, that nothing herein shall be construed as impairing any obligation heretofore created by the issuance of any outstanding notes or bonds under this Section by the respective Boards prior to the adoption of this Amendment but any such outstanding notes or bonds shall be paid in full, both principal and interest, in accordance with the terms of such contracts.

Proposed by Senate Joint Resolution No. 39, Acts 1965, 59th Leg., p. 2205. For submission to the people Nov. 8, 1966.

### ARTICLE VIII

#### TAXATION AND REVENUE

##### § 1-d. Assessment of lands designated for agricultural use

Sec. 1-d. (a) All land owned by natural persons which is designated for agricultural use in accordance with the provisions of this Section shall be assessed for all tax purposes on the consideration of only those factors relative to such agricultural use. "Agricultural use" means the raising of livestock or growing of crops, fruit, flowers, and other products of the soil under natural conditions as a business venture for profit, which business is the primary occupation and source of income of the owner.

(b) For each assessment year the owner wishes to qualify his land under provisions of this Section as designated for agricultural use he shall file with the local tax assessor a sworn statement in writing describing the use to which the land is devoted.

(c) Upon receipt of the sworn statement in writing the local tax assessor shall determine whether or not such land qualifies for the designation as to agricultural use as defined herein and in the event it so qualifies he shall designate such land as being for agricultural use and assess the land accordingly.

(d) Such local tax assessor may inspect the land and require such evidence of use and source of income as may be necessary or useful in determining whether or not the agricultural use provision of this article applies.

(e) No land may qualify for the designation provided for in this Act unless for at least three (3) successive years immediately preceding the assessment date the land has been devoted exclusively for agricultural use, or unless the land has been continuously developed for agriculture during such time.

(f) Each year during which the land is designated for agricultural use, the local tax assessor shall note on his records the valuation which would have been made had the land not qualified for such designation under this Section. If designated land is subsequently diverted to a purpose other than that of agricultural use, or is sold, the land shall be subject to an additional tax. The additional tax shall equal the difference between taxes paid or payable, hereunder, and the amount of tax payable for the preceding three years had the land been otherwise assessed. Until paid, there shall be a lien for additional taxes and interest on land assessed under the provisions of this Section.

(g) The valuation and assessment of any minerals or subsurface rights to minerals shall not come within the provisions of this Section.

Proposed by House Joint Resolution No. 79, Acts 1965, 59th Leg., p. 2232. For submission to the people Nov. 8, 1966.

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## ARTICLE IX

### COUNTIES

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

Sec. 9. The Legislature may by law provide for the creation, establishment, maintenance and operation of hospital districts composed of one or more counties or all or any part of one or more counties with power to issue bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same, for hospital purposes; providing for the transfer to the hospital district of the title to any land, buildings, improvements and equipment located wholly within the district which may be jointly or separately owned by any city, town or county, providing that any district so created shall assume full responsibility for providing medical and hospital care for its needy inhabitants and assume the outstanding indebtedness incurred by cities, towns and counties for hospital purposes prior to the creation of the district, if same are located wholly within its boundaries, and a pro rata portion of such indebtedness based upon the then last approved tax assessment rolls of the included cities, towns and counties if less than all the territory thereof is included within the district boundaries; providing that after its creation no other municipality or political subdivision shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of the district; providing for the levy of annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such district for the purpose of meeting the requirements of the district's bonds, the indebtedness assumed by it and its maintenance and operating expenses, providing that such district shall not be created or such tax authorized unless approved by a majority of the qualified property taxpaying electors thereof voting at an election called for the purpose; and providing further that the support and maintenance of the district's hospital system shall never become a charge against or obligation of the State of Texas nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such district.

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

The Legislature may also provide for the dissolution of hospital districts provided that a process is afforded by statute for:

(1) determining the desire of a majority of the qualified voters within the district to dissolve it;

(2) disposing of or transferring the assets, if any, of the district; and

(3) satisfying the debts and bond obligations, if any, of the district, in such manner as to protect the interests of the citizens within the district, including their collective property rights in the assets and property of the district, provided, however, that any grant from federal funds, however dispensed, shall be considered an obligation to be repaid in satisfaction and provided that no election to dissolve shall be held more often than once each year. In such connection, the statute shall provide against disposal or transfer of the assets of the district except for due compensation unless such assets are transferred to another governmental

## CONSTITUTION—PROPOSED AMENDMENTS

agency, such as a county, embracing such district and using such transferred assets in such a way as to benefit citizens formerly within the district.

Proposed by House Joint Resolution No. 48, Acts 1965, 59th Leg., p. 2225. For submission to the people Nov. 8, 1966.

### § 12. Airport Authorities

Sec. 12. The Legislature may by law provide for the creation, establishment, maintenance and operation of Airport Authorities composed of one or more counties, with power to issue general obligation bonds, revenue bonds, either or both of them, for the purchase, acquisition by the exercise of the power of eminent domain or otherwise, construction, reconstruction, repair or renovation of any airport or airports, landing fields and runways, airport buildings, hangars, facilities, equipment, fixtures, and any and all property, real or personal, necessary to operate, equip and maintain an airport; shall provide for the option by the governing body of the city or cities whose airport facilities are served by certificated airlines and whose facility or some interest therein, is proposed to be or has been acquired by the Authority, to either appoint or elect a Board of Directors of said Authority; if the Directors are appointed such appointment shall be made by the County Commissioners Court after consultation with and consent of the governing body or bodies of such city or cities, and if the Board of Directors is elected they shall be elected by the qualified taxpaying voters of the county which chooses to elect the Directors to represent that county, such Directors shall serve without compensation for a term fixed by the Legislature not to exceed six (6) years, and shall be selected on the basis of the proportionate population of each county based upon the last preceding Federal Census, and shall be a resident or residents of such county; provide that no county shall have less than one (1) member on the Board of Directors; provide for the holding of an election in each county proposing the creation of an Authority to be called by the Commissioners Court or Commissioners Courts, as the case may be, upon petition of five per cent (5%) of the qualified taxpaying voters within the county or counties, said elections to be held on the same day if more than one county is included, provided that no more than one (1) such election may be called in a county until after the expiration of one (1) year; in the event such an election has failed, and thereafter only upon a petition of ten per cent (10%) of the qualified taxpaying voters being presented to the Commissioners Court or Commissioners Courts of the county or counties in which such an election has failed, and in the event that two or more counties vote on the proposition of the creation of an Authority therein, the proposition shall not be deemed to carry unless the majority of the qualified taxpaying voters in each county voting thereon vote in favor thereof; provided, however, that an Airport Authority may be created and be composed of the county or counties that vote in favor of its creation if separate propositions are submitted to the voters of each county so that they may vote for a two or more county Authority or a single county Authority; provide for the appointment by the Board of Directors of an Assessor and Collector of Taxes in the Authority, whether constituted of one or more counties, whose duty it shall be to assess all taxable property, both real and personal, and collect the taxes thereon, based upon the tax rolls approved by the Board of Directors, the tax to be levied not to exceed Seventy-Five Cents (75¢) per One Hundred Dollars (\$100) assessed valuation of the property, provided, however, that the property of state regulated common carriers required by law to pay a tax upon intangible assets shall not be subject to taxation by the Authority, said taxable property shall be assessed on a valuation not to exceed the market value and shall be equal and uniform throughout the Authority as is otherwise provided by the Constitution; the Legislature



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shall authorize the purchase or acquisition by the Authority of any existing airport facility publicly owned and financed and served by certificated airlines, in fee or of any interest therein, or to enter into any lease agreement therefor, upon such terms and conditions as may be mutually agreeable to the Authority and the owner of such facilities, or authorize the acquisition of same through the exercise of the power of eminent domain, and in the event of such acquisition, if there are any general obligation bonds that the owner of the publicly owned airport facility has outstanding, the same shall be fully assumed by the Authority and sufficient taxes levied by the Authority to discharge said outstanding indebtedness; and likewise any city or owner that has outstanding revenue bonds where the revenues of the airport have been pledged or said bonds constitute a lien against the airport facilities, the Authority shall assume and discharge all the obligations of the city under the ordinances and bond indentures under which said revenue bonds have been issued and sold. Any city which owns airport facilities not serving certificated airlines which are not purchased or acquired or taken over as herein provided by such Authority, shall have the power to operate the same under the existing laws or as the same may hereafter be amended. Any such Authority when created may be granted the power and authority to promulgate, adopt and enforce appropriate zoning regulations to protect the airport from hazards and obstructions which would interfere with the use of the airport and its facilities for landing and take-off; an additional county or counties may be added to an existing Authority if a petition of five per cent (5%) of the qualified taxpaying voters is filed with and an election is called by the Commissioners Court of the county or counties seeking admission to an Authority and the vote is favorable, then admission may be granted to such county or counties by the Board of Directors of the then existing Authority upon such terms and conditions as they may agree upon and evidenced by a resolution approved by two-thirds ( $\frac{2}{3}$ rds) of the then existing Board of Directors, provided, however, the county or counties that may be so added to the then existing Authority shall be given representation on the Board of Directors by adding additional directors in proportion to their population according to the last preceding Federal Census.

Proposed by Senate Joint Resolution No. 1, Acts 1965, 59th Leg., p. 2187. For submission to the people Nov. 8, 1966.

### ARTICLE XVI

#### GENERAL PROVISIONS

§ 6. Appropriations for private purposes; state participation in programs financed with private or federal funds for rehabilitation of blind, crippled, physically or mentally handicapped persons

Sec. 6. (a) No appropriation for private or individual purposes shall be made, unless authorized by this Constitution. A regular statement, under oath, and an account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law.

(b) State agencies charged with the responsibility of providing services to those who are blind, crippled, or otherwise physically or mentally handicapped may accept money from private or federal sources, designated by the private or federal source as money to be used in and establishing and equipping facilities for assisting those who are blind, crippled, or otherwise physically or mentally handicapped in becoming gainfully employed, in rehabilitating and restoring the handicapped, and in providing other services determined by the state agency to be essential

## CONSTITUTION—PROPOSED AMENDMENTS

for the better care and treatment of the handicapped. Money accepted under this subsection is state money. State agencies may spend money accepted under this subsection, and no other money, for specific programs and projects to be conducted by local level or other private, nonsectarian associations, groups; and nonprofit organizations, in establishing and equipping facilities for assisting those who are blind, crippled, or otherwise physically or mentally handicapped in becoming gainfully employed, in rehabilitating and restoring the handicapped, and in providing other services determined by the state agency to be essential for the better care or treatment of the handicapped.

The state agencies may deposit money accepted under this subsection either in the state treasury or in other secure depositories. The money may not be expended for any purpose other than the purpose for which it was given. Notwithstanding any other provision of this Constitution, the state agencies may expend money accepted under this subsection without the necessity of an appropriation, unless the Legislature, by law, requires that the money be expended only on appropriation. The Legislature may prohibit state agencies from accepting money under this subsection or may regulate the amount of money accepted, the way the acceptance and expenditure of the money is administered, and the purposes for which the state agencies may expend the money. Money accepted under this subsection for a purpose prohibited by the Legislature shall be returned to the entity that gave the money.

This subsection does not prohibit state agencies authorized to render services to the handicapped from contracting with privately-owned or local facilities for necessary and essential services, subject to such conditions, standards, and procedures as may be prescribed by law.

Proposed by Senate Joint Resolution No. 33, Acts 1965, 59th Leg., p. 2204. For submission to the people Nov. 8, 1966.

### § 30c. Directors of conservation and reclamation districts; terms of office

Sec. 30c. (a) The terms of office of persons serving on the governing body of a political subdivision of the State created to further the purposes of Section 52, Article III, or Section 59, Article XVI, of this Constitution, shall never exceed six years.

(b) Statutory provisions enacted before the first Tuesday after the first Monday in November, 1966, relating to the terms of office of governing bodies of political subdivisions created to further the purposes of Section 52, Article III, or Section 59, Article XVI, are validated, so long as the provisions do not provide for a term of office which exceeds six years.

Proposed by House Joint Resolution No. 21, Acts 1965, 59th Leg., p. 2220. For submission to the people Nov. 8, 1966.

### § 62. State-wide system of retirement, disability and death compensation benefits

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(c) The Texas Legislature is authorized to enact appropriate laws to provide for a System of Retirement, Disability and Death Benefits for all the officers and employees of a county or other political subdivision of the state; or a political subdivision of a county; providing that when the Texas Legislature has passed the necessary enabling legislation pursuant to the Constitutional authorization, then the governing body of the county, or other political subdivision of the state, or political subdivision of the county shall make the determination as to whether a particular county or other political subdivision of the state, or subdivision of the county

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participates in this System; providing further that such System shall be operated at the expense of the county or other political subdivision of the state or political subdivision of the county electing to participate therein and the officers and employees covered by the System; and providing that the Legislature of the State of Texas shall never make an appropriation to pay the costs of this Retirement, Disability and Death Compensation System.

The Legislature may provide for a voluntary merger into the System herein authorized by this Constitutional Amendment of any System of Retirement, Disability and Death Compensation Benefits which may now exist or that may hereafter be established under subsection (b) of Section 62 of Article XVI of the Texas Constitution; providing further that the Texas Legislature in the enabling statute will make the determination as to the amount of money that will be contributed by the county or other political subdivision of the state or political subdivision of the county to the State-wide System of Retirement, Disability and Death Benefits, and the Legislature shall further provide that the amount of money contributed by the county or other political subdivision of the state or subdivision of the county shall equal the amount paid for the same purpose from the income of each officer and employee covered by this State-wide System.

It is the further intention of the Legislature, in submitting this Constitutional Amendment, that the officers and employees of the county or other political subdivision of the state or political subdivision of a county may be included in these systems regardless of whether the county or other political subdivision of the state or political subdivision of the county participates in the Retirement, Disability and Death Benefit System authorized by this Constitutional Amendment, or whether they participate in a System under the provisions of subsection (b) of Section 62 of Article XVI of the Texas Constitution as the same is herein amended.

Proposed by Senate Joint Resolution No. 4, Acts 1965, 59th Leg., p. 2190. For submission to the people on Nov. 8, 1966.

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# CONSTITUTION OF UNITED STATES

## PROPOSED AMENDMENTS

### [PRESIDENTIAL SUCCESSION AND INABILITY]

#### ARTICLE—

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Sec. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Sec. 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Sec. 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

#### Historical Note

Passed by Congress on July 6, 1965 and submitted to the Legislatures of the States for ratification under U.S.C.A. Const. art. 5.

This article shall be valid to all intents and purposes as part of the Constitution of the United States when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress.

#### RATIFICATION BY THE STATES

Nebraska .....	July 12, 1965
Oklahoma .....	July 16, 1965
Wisconsin .....	July 21, 1965
Massachusetts .....	August 9, 1965
Pennsylvania .....	August 18, 1965
Kentucky .....	September 15, 1965
Arizona .....	September 22, 1965
Michigan .....	October 5, 1965
California .....	October 21, 1965
Indiana .....	October 21, 1965
Arkansas .....	November 5, 1965



# TITLES AND CODES

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

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**TITLE 1—GENERAL PROVISIONS**

**Art.**

**1b.** Liability of real property owner permitting persons to enter to hunt, fish or camp [New].

**Art. 1b.** Liability of real property owner permitting persons to enter to hunt, fish or camp

Section 1. If any owner, lessee or occupant of real property gives permission to another to enter the premises for purposes of hunting, fishing and/or camping, he does not thereby

(1) extend any assurance that the premises are safe for such purposes, or

(2) constitute the person to whom permission is granted one to whom a greater degree of care is owed than that owed to a trespasser on the premises, or

(3) assume responsibility for or incur liability for any injury to persons or property caused by any act of persons to whom permission is granted.

Sec. 2. The provisions of this Act shall not relieve any owner, lessee or occupant of real property of any liability which would otherwise exist for deliberate, willful or malicious injury to persons or property, nor does it create any liability where such liability does not now exist.

Sec. 3. The provisions of this Act shall not modify, extend or change in any way the doctrine of attractive nuisance as interpreted and applied by the courts of Texas.

Sec. 4. The provisions of this Act shall not be interpreted to limit, restrict, modify or change in any way the liability which would otherwise apply to any owner, lessee or occupant of real property who

(1) uses the premises or any part thereof, or permits the use of the premises or any part thereof, as a commercial recreational enterprise for purposes of profit, or

(2) makes a charge for permission to enter the premises, other than that levied against those who remove game from the premises in such sum as may reasonably be required for the replacement of such game.

Sec. 5. The provisions of this Act shall not be interpreted to create any liability where such liability does not now exist.

Sec. 6. The word "premises," as used in this Act, shall include lands, roads, waters, water courses, and private ways, together with all buildings, structures, machinery or equipment attached thereto or located thereon. Acts 1965, 59th Leg., p. 1551, ch. 677.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act to define and limit, under certain circumstances, the liability of any owner, lessee or occupant of real property who gives permission to another to enter his premises for purposes of hunting, fishing and/or camping; providing certain exceptions; preserving unchanged the doctrine of attractive nuisance; maintaining unchanged the liability of those who operate commercial recreational enterprises or who charge for permission to enter, with certain exceptions; defining the word "premises" as used in this Act; repealing all laws or parts of laws in conflict herewith; and declaring an emergency. Acts 1965, 59th Leg., p. 1551, ch. 677.

## TITLE 3—ADOPTION

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

## Inspection of files and records; disclosing information concerning adoptions; custody, use and preservation of files and records

Sec. 10. Files and records of adoptions are confidential and are subject to inspection only as hereinafter provided:

(a) The files and records of the court in adoption proceedings shall not be open to the inspection or copy by persons other than parties interested and their attorneys, except upon order of the court especially permitting inspection of the records except that all judgments, orders and decrees of the court may be open to inspection by any person, and certified copies may be obtained from the clerk of the court.

(b) The files and records in adoption proceedings which are filed with the State Department of Public Welfare, in compliance with the provisions of this Act, shall not be open to the inspection and/or copy by any person except upon the order of the court directing the Department to permit the inspection and/or copy of the records.

(c) The files and records in adoption proceedings which are filed with and maintained by Child-Placing Agencies that are licensed by the State Department of Public Welfare in accordance with the Public Welfare Act of 1941, as amended, shall not be open to the inspection and/or copy by any person except upon the order of the court directing the Child-Placing Agency to permit the inspection and/or copy of the records.

The State Department of Public Welfare, licensed Child-Placing Agency, or any person or persons having access to the adoption files in the State Department of Public Welfare, or any licensed Child-Placing Agency is prohibited from disclosing information concerning such adoptions from the files and records of said Department or licensed Child-Placing Agency except as hereinafter provided.

It shall be unlawful, except for purposes as hereinafter defined, for the State Department of Public Welfare, any licensed Child-Placing Agency, or any person or persons having access to the files, to disclose, receive, make use of, any list of, or names of, or to authorize, knowingly permit, participate in, or acquiesce in the use of any information concerning said adoptions, directly or indirectly derived from the records, papers, files, or communications of the said Department or licensed Child-Placing Agency or acquired in the course of the performance of official duties.

The State Department of Public Welfare shall establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the State Department and its local offices pertaining to adoption proceedings. Nothing herein contained shall prohibit the State Department of Public Welfare from disclosing and/or using such information as it deems appropriate and necessary in order for the Department to carry out its responsibilities in relation to adoption proceedings as prescribed in this Act and which will serve the best interests of the child or children to be adopted or who shall have been adopted.

Nothing contained in this Act shall prohibit the licensed Agency from disclosing and/or using such information as it deems appropriate and necessary in order for the licensed Agency to carry out its responsibilities in relation to adoption proceedings as prescribed in this Act and/or for purposes which the licensed Agency considers to be in the best interest of the child or children to be adopted or who shall have been adopted.

Nothing in this Act is intended to limit or restrict the authority of the State Department of Public Welfare to inspect the records and files of Child-Placing Agencies or to obtain whatever information the Department deems necessary in carrying out its responsibility as the standard setting authority of Child-Placing Agencies as provided in Article 695c, Section 8(a), Vernon's Texas Civil Statutes. As amended Acts 1965, 59th Leg., p. 322, ch. 151, § 1, emerg. eff. May 13, 1965.



TITLE 3A—AERONAUTICS

AERONAUTICS COMMISSION AND DIRECTOR  
 OF AERONAUTICS

Art. 46c—6. Commission Powers and Duties

Subdivision 10. When in the discretion of the Commission the public interest will best be served; and the governmental function of the State or its political subdivisions relative to aeronautics will best be discharged, it may grant or loan funds, appropriated to it for that purpose by the Legislature, to any incorporated city, town or village in this State for the establishment, construction, reconstruction, enlargement or repair of airports, airstrips or air navigational facilities. Provided that any such funds must be expended by the city, town or village for the purpose provided herein and in conformity with the laws of this State and with the rules and regulations which the Commission is hereby authorized to promulgate.

Prior to approving any loan or grant under this Act the Commission shall hold a public hearing at which all interested parties shall have an opportunity to be heard. No such loan shall be made without a majority vote of the entire Commission in favor thereof and no such grant shall be made without a two-thirds vote of the entire Commission in favor thereof. In determining whether or not a grant or loan shall be made, the Commission shall consider the following:

(1) The need for an airport or facility or improvement of existing facility in the locality in the light of existing airports or facilities in the area and in light of the overall needs of the State, and

(2) The financial needs of the community with priority given to areas of greatest need.

(3) Loans shall be made in lieu of grants whenever feasible.

Prior to approving any loan or grant the Commission shall require that:

(1) The airport or facility remain in the control of the political subdivision or political subdivisions involved for at least twenty (20) years, and

(2) The political subdivision disclose the source of all funds for the project and its ability to finance and operate the project, and

(3) All loans shall bear interest at the rate of at least three per cent (3%) per annum and have a term of not longer than twenty (20) years, and

(4) At least fifty per cent (50%) of the total project cost be provided from sources other than the State of Texas, and

(5) The project be adequately planned. As amended Acts 1961, 57th Leg., p. 850, ch. 379, § 4; Acts 1965, 59th Leg., p. 397, ch. 196, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

AIRPORT ZONING REGULATIONS

Art. 46e—1. Definitions

(1) "Airport" means any area of land or water, whether of public or private ownership, designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for

such purposes. The term "Airport" shall also include any area having installations relating to flight and particularly including installations, facilities and base of operations for tracking and/or data acquisition concerning flight. Such areas shall be deemed to be "utilized in the interest of the public" when the owner thereof by contract, license or otherwise permits the use of such areas by others. Such areas also shall be deemed to be "utilized in the interest of the public" when utilized by the Government of the State of Texas or an agency thereof or by the Government of the United States or any agency thereof in furtherance of the National Defense or any National Government Program relating to flight.

(2) "Airport Hazard" means any structure or tree or use of land which obstructs the air space required for the flight of aircraft or which obstructs or interferes with the control or tracking and/or data acquisition in the landing, taking off or flight at an airport, or at any installation or facility relating to flight, and tracking and/or data acquisition of flight craft; hazardous, interfering with or obstructing such landing, taking off or flight of aircraft or which is hazardous to or interferes with tracking and/or data acquisition pertaining to flight and flight vehicles. As amended Acts 1965, 59th Leg., p. 295, ch. 128, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**TITLE 4—AGRICULTURE AND HORTICULTURE**

**CHAPTER SIX—FRUITS AND VEGETABLES**

**Art. 118b. Citrus fruit growers act**

**License fees; surety bond**

Sec. 4. (a) All applications for license under this Act shall be accompanied by a tender of payment in full of the fee for such license required; on receipt of said application duly executed, together with required fee, it shall be the duty of the Commissioner or his agents and/or employees thereunto duly authorized to immediately issue such license, provided that no license shall issue to any person when the application for license filed by such person shall indicate that such person is a suspended licensee within the State of Texas, or that such person's license to do business in Texas has been revoked until the Commissioner is furnished with satisfactory proof that the applicant is, on the date of the filing of such application, qualified to receive the license applied for; the issuance of license to persons who have suffered prior suspension or revocation of license in this State shall be discretionary with the Commissioner; in the exercise of such discretion, the Commissioner is authorized to take into consideration the facts and circumstances pertaining to the prior suspension and/or revocation; the financial condition of the applicant, as of the date of this application, and the obligations due and owing by the applicant to growers and producers of citrus fruits and/or perishable agricultural commodities; "obligation," as the term is used in this Section, shall be construed to mean any judgment of any court within this State outstanding against the applicant or certified claims as of the date of the application under consideration by the Commissioner; prior to refusal of license by the Commissioner, any applicant for license shall be entitled to an open hearing on the facts pertaining to such application, said hearing to be conducted by the Commissioner, or his agent thereunto duly authorized; if, after such hearing, the Commissioner, in the exercise of his discretion, refuses the license applied for, the applicant shall, within ten (10) days from and after the denial of such license by the Commissioner and not thereafter, file his appeal from the order of the Commissioner denying such license, in any court of competent jurisdiction within this State; if the Commissioner shall determine that the license applied for shall not be granted, the Commissioner shall deduct from the license fee tendered with such application the sum of Five Dollars (\$5), said Five Dollars (\$5) to be retained by the Commissioner to defray costs and expenses incident to the filing and examination of said application and shall return the balance of the license fee so tendered with such application to the applicant.

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

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

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

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

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

(c) All "commission merchants" and/or "dealers" and "contract dealers," as the terms are in this Act defined, shall, in addition to the license

fee herein prescribed, deliver to the Commissioner, together with their application for license, a good and sufficient surety bond, payable to the Governor of the State of Texas and his successors in office in the following amounts for the number of standard packed boxes of citrus fruit, or the equivalent thereof, exclusive of citrus fruit grown by said "commission merchant" and/or "dealer" or "contract dealer," which the "commission merchant" and/or "dealer" "contract dealer" handled during the previous year:

- |              |                                 |
|--------------|---------------------------------|
| (1) \$ 5,000 | up to 5,000 boxes;              |
| (2) \$10,000 | between 5,000 and 50,000 boxes; |
| (3) \$25,000 | over 50,000 boxes.              |

(d) In the case of a new business, the bond shall be Five Thousand Dollars (\$5,000). After experience for six months, the amount of the bond shall be redetermined. However, the bond must be obtained before the new commission merchant, dealer, or contract dealer may do business.

(e) The bond furnished shall be in such form as the Commissioner may prescribe and shall be conditioned upon faithful compliance with the terms and provisions of this Act and upon the faithful performance of the conditions and terms of all contracts made by said "commission merchant" and/or "dealer" and "contract dealer," pertaining to the handling of citrus fruit under this Act; cause of action may be maintained upon said bond by any person with whom said applicant deals in purchasing, handling, selling and accounting for sales of citrus fruit, as provided in this Act; the aggregate accumulated liability under any such bond shall not exceed the amount of such bond, and each such bond shall continue in full force and effect until notice of the termination thereof is given by registered mail to the Commission, which fact shall be set forth in the face of said bond, but such notice shall not affect the liability which may have accrued thereon prior to termination. No license shall be issued to any "commission merchant" or "dealer," or "contract dealer" prior to the delivery to the Commissioner and the approval by him of the bond required under the provisions of this Section. No cooperative association organized pursuant to Chapter 8, Title 93 of the Revised Civil Statutes of Texas, 1925, as amended, that handles fruit only for its members shall be required to furnish bond as required in this Section. Any such cooperative association dealing in citrus fruit other than for its producer members shall be required to furnish bond as any other dealer. It is hereby declared to be the policy of the Legislature to make these exemptions with reference to cooperative associations because of the fact that the producer members pool their fruit for sale rather than immediately selling it. Any "commission merchant" and/or "dealer" or "contract dealer" who at any time deals in citrus fruit in excess of the amounts covered by his or its bond as hereinabove specified shall be deemed guilty of a violation of this Act. As amended Acts 1963, 58th Leg., p. 312, ch. 117, § 3; Acts 1965, 59th Leg. p. 412, ch. 201, § 1, emerg. eff. May 18, 1965.

## CHAPTER SEVEN A—PLANT DISEASES AND PESTS

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

#### Application of act to certain counties

Sec. 17. This Act shall not be effective at this time in any county in this state north and northwest of the southernmost boundaries of Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Callahan, and Eastland Counties, and the easternmost boundary line of a portion of Eastland County, and the counties of Stephens and Young; and the southernmost boundary and the easternmost boundary of Clay County,

For Annotations and Historical Notes, see V.A.T.S.

it being the intention of the Legislature that all of the counties named shall be exempted from the provisions of this Act; as herein provided, and all counties of Texas north and west of said named counties shall also be exempted from the provisions of this Act; because it is found to be a fact that there is now no crop or vegetation of value susceptible to damage in this area; provided, however, when any crop or vegetation of value that is susceptible to damage exists in any county in this area, which fact shall be determined by the commissioners court of the affected county, evidenced by an appropriate order entered in the minutes of the court, this Act shall be in full force and effect in that county immediately upon the entrance of said order. Before any such order shall be entered by a commissioners court, the court shall first give notice in at least one newspaper in said county 10 days prior to a hearing on this matter. Any interested person may appeal to the district court to test the reasonableness of the fact-finding of the commissioners court within 20 days from entrance of the order, in which case the rules and procedure governing appeals from orders of the Railroad Commission of Texas shall be followed, the 'substantial evidence rule' shall apply, and appeals may be taken as in other civil cases. It is further provided that the following named counties shall be exempt from the provisions of this Act: Coleman, Runnels, Coke, Tom Green, Sterling, Glasscock, Reagan, Upton, Irion, Crane, Sutton, Schleicher, Crockett, Val Verde, Presidio, Pecos, Jeff Davis, Brewster, Terrell, Edwards, Mills, Lampasas, Burnet, Llano, Gillespie, Kerr, Bandera, Kinney, Uvalde, Zavala, Real, Kimble, Mason, Menard, McCulloch, Montague, San Saba, Concho, Brooks, Cameron, Dimmit, Duval, McMullen, Nueces, Starr, Webb, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, LaSalle, Willacy, Zapata, Mayerick, and Panola. As amended Acts 1965, 59th Leg., p. 427, ch. 213, § 1; Acts 1965, 59th Leg., p. 870, ch. 425, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

CHAPTER EIGHT—EXPERIMENT STATIONS

Art. 139. Powers of board

The Board shall have power:

\* \* \* \* \*

2. To abandon or discontinue any substation which may become undesirable for experiment purposes, and if deemed necessary to establish others in their stead at such other places in the State as it shall deem advisable. As amended Acts 1965, 59th Leg., p. 1021, ch. 505, § 1.

\* \* \* \* \*

Effective Aug. 30, 1965, 90 days after date of adjournment.

CHAPTER NINE—SOIL CONSERVATION AND PRESERVATION

Art. 165a-4a. Watershed protection and flood prevention; contracts for work plans [New].

Art. 165a-4. State Soil and Water Conservation

Definitions

Sec. 3.

\* \* \* \* \*

(5) Repealed. Acts 1965, 59th Leg., p. 261, ch. 109, § 5.

\* \* \* \* \*

State Soil and Water Conservation Board

Sec. 4.

\* \* \* \* \*

B. Repealed. Acts 1965, 59th Leg., p. 261, ch. 109, § 5.

C(a) Board members for Districts 2 and 4 elected in 1941 under the provisions of House Bill No. 20, Acts, 46th Legislature, Regular Session, 1939, shall serve for the term for which they were elected, and until their successors are elected and have qualified. On the first Tuesday in May, 1943, at a place within the district to be designated by the State Soil Conservation Board, State District 2 shall elect a board member as hereinabove provided, to serve on the State Soil Conservation Board for a period of five years, and State District 4 shall elect a board member as hereinabove provided to serve on the State Soil Conservation Board for a period of four years. Thereafter, board members elected from State Districts 2 and 4 shall be elected for a period of five years or until their successors are elected and have qualified.

(b) Board members for Districts 1, 3, and 5, elected under the provisions of House Bill No. 20, Acts, 46th Legislature, Regular Session, 1939, shall hold their offices for the terms for which they were elected, and until their successors are elected and have qualified. On the first Tuesday in May, 1942, at a place within the district to be designated by the State Soil Conservation Board, State District 1 shall elect a board member as hereinabove provided to serve on the State Soil Conservation Board for a period of two years, and State District 3 shall elect a board member as hereinabove provided to serve on the State Soil Conservation Board for a period of three years, and State District 5 shall elect a board member as hereinabove provided to serve on the State Soil Conservation Board for a period of four years. Thereafter, board members elected from State Districts 1, 3, and 5 shall be elected for a period of five years or until their successors are elected and have qualified.

(c) Terms of office of all state board members shall begin on the day following their election. As amended Acts 1965, 59th Leg., p. 261, ch. 109, § 4, eff. Sept. 1, 1965.

D. Each member of the State Soil Conservation Board shall take the state constitutional oath of office, and said State Soil Conservation Board shall designate one of its elective members to serve as chairman.

Vacancies upon such board shall be filled for an unexpired term or for a full term, by the same manner in which the retiring members were respectively elected. Elective members of the board may receive compensation for their services on the board, not to exceed the sum of \$20 per diem for each day of actual service rendered, but each member shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties as a member of the board. As amended Acts 1965, 59th Leg., p. 261, ch. 109, § 1, eff. Sept. 1, 1965.

Method of selection, qualifications, and tenure of Soil and Water Conservation District Supervisors

Sec. 6. (a) Within 30 days after the date of issuance by the Secretary of State of a certificate of organization of a soil conservation district, the State Soil Conservation Board shall designate a time and place within the subdivisions wherein supervisors are to be elected, giving due notice of such designation in each subdivision of the district wherein elections are to be held. The owners of land within each subdivision shall meet at the time and place as designated by the State Soil Conservation Board for the purpose of electing from within the subdivision a member to the board of district supervisors. The qualified voters present shall proceed by electing a chairman, secretary, and

tally clerks. Nominations shall be in order, and when nominations have ceased, the nominees shall be announced by the secretary. The qualified voters present shall, by a written ballot, cast their vote for their choice from among the nominees. When the votes have been tabulated by the tally clerks, if no candidate has received a majority of the total votes cast, the two candidates receiving the largest number of votes shall be voted on in a second ballot, and the candidate receiving the largest number of votes shall be declared elected.

(b) If there is no objection, the State Soil Conservation Board may designate the polling places for electing supervisors outside of a subdivision. If there is an objection, the board must receive the approval of a majority of the persons qualified to vote for supervisors before it may make the designation.

(c) The secretary shall record the proceedings of the meeting, and shall, within five days, certify to the State Soil Conservation Board the name and the proper address of the person elected.

The three members as certified to the state board shall serve until at a regular election within the subdivisions from which they are elected their successors are elected and have qualified.

(d) The governing body of the district shall consist of five supervisors, composed of the three supervisors elected as provided hereinabove, together with the two supervisors appointed as provided for in Section 5 of this Act by the State Soil Conservation Board. All five such supervisors shall be owners of land within the subdivision from which they are appointed or elected and shall be actively engaged in the business of farming or animal husbandry.

(e) The supervisors shall designate a chairman, vice-chairman, and secretary and may, from time to time, change such designation. Each of the supervisors who is appointed or elected upon creation of the district shall serve until at the regular election of supervisors their successors are elected and have qualified. Beginning with the year 1943, other than the first election and appointment of supervisors within a district, all elections for the election of district supervisors shall be held on the first Tuesday in October. On the first Tuesday in October, 1943, elections shall be held in all five subdivisions in each district within the state for election of supervisors, which shall establish a regular period for elections. Terms of office of supervisors elected on the first Tuesday in October, 1943, shall be as follows: Subdivision No. 1, one year; Subdivision No. 2, two years; Subdivision No. 3, three years; Subdivision No. 4, four years; and Subdivision No. 5, five years or until their successors are elected and have qualified. Their successors in office shall be elected for a term of five years. In districts created thereafter, the two appointed and the three elected supervisors shall serve until the regular period for elections in corresponding subdivisions in all districts, or until their successors are elected and have qualified. Their successors in office shall serve for the regular five-year term. Terms of office of all supervisors elected shall begin on the day following their election.

(f) Beginning with the election of supervisors held in 1965, supervisors are elected on a date, to be specified by the board of district supervisors for each district, that is after September 30 and before October 16 of each year.

(g) Vacancies shall be filled by election for the unexpired term.

(h) A majority of the supervisors shall constitute a quorum and the concurrence of a majority of the supervisors in any matter within their duties shall be required for its determination. A supervisor may receive compensation for services not to exceed \$10 for each day he

shall be in attendance at the meetings of the board of supervisors, and eight cents per mile for travel each way between the residence of a supervisor and the designated meeting place of the supervisors within the boundaries of the district. Supervisors shall be paid quarterly for their services, and may not receive compensation and mileage for any number of days in excess of five in any three-month period, except that two members of each board of supervisors shall be entitled to receive \$10 per day not to exceed two days, and one member shall be entitled to receive eight cents per mile, while attending an annual state-wide meeting of supervisors to be held at a time and place to be determined by the State Soil Conservation Board.

(i) The supervisors may employ such officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents or employees, such powers and duties as they may deem proper. The supervisors shall furnish to the State Soil Conservation Board, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this Act.

(j) The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property, shall provide for the keeping of a full and accurate record of all proceedings of all resolutions, regulations, and orders issued or adopted, and shall provide for an annual audit of the accounts of receipts and disbursements. The state board may demand and pay the expenses of an audit at any time. Any supervisor may be removed by the State Soil Conservation Board, upon notice and hearing, for neglect of duty or malfeasance in office, or if disqualified as a voter within the district, but for no other reason.

(k) The supervisors may invite the legislative body of any municipality or county located within or near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county. As amended Acts 1965, 59th Leg., p. 261, ch. 109, § 2, eff. Sept. 1, 1965.

#### Change of Name

*The name of the State Soil Conservation Board was changed to the State Soil and Water Conservation Board and that part of the name of each soil conservation district created under this article that reads "soil conservation district" was changed to "soil and water conservation district" by Acts 1965, 59th Leg., p. 370, ch. 176, §§ 1, 2.*

Acts 1965, 59th Leg., p. 261, ch. 109, which amended various sections of this article and which amended article 165a—10, provided in section 5: "Subdivision (5), Section 3, and Subsection B, Section 4, Chapter 3, page 7, General Laws, Acts of

the 46th Legislature, Regular Session, 1939, as amended and renumbered by Chapter 308, Acts of the 47th Legislature, Regular Session, 1941 (Article 165a—4, Vernon's Texas Civil Statutes) are repealed."

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

#### Transportation and per diem allowances

Sec. 9A. The delegate elected to represent each local soil conservation district at the State District Conservation Convention is entitled to a transportation allowance of eight cents a mile for travel each



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way between the county seat of his county and the place where the district convention is held. The delegate, or the alternate, if the delegate does not attend, is entitled to a per diem allowance of \$10 a day, for not more than two days. The State Soil Conservation Board shall pay the transportation and per diem allowances. Added Acts 1965, 59th Leg., p. 264, ch. 109, § 3, eff. Sept. 1, 1965.

### TITLE 5—ALIENS

Art.

166a. Ownership of real and personal property [New].

Art. 166. Repealed. Acts 1965, 59th Leg., p. 146, ch. 61, § 2. Eff. Aug. 30, 1965, 90 days after date of adjournment

Art. 166a. Ownership of real and personal property

Section 1. Aliens shall have and enjoy in this state such rights as to real and personal property as are or shall be accorded to citizens of the United States. Acts 1965, 59th Leg., p. 146, ch. 61, § 1.

Section 2 of Acts 1965, 59th Leg., p. 146, section 3 thereof repealed all conflicting laws ch. 61 repealed articles 166-177, and sections and parts of laws.

Arts. 167-177. Repealed. Acts 1965, 59th Leg., p. 146, ch. 61, § 2. Eff. Aug. 30, 1965, 90 days after date of adjournment

Prior to repeal, article 174 was amended by Acts 1961, 57th Leg., p. 1018, ch. 445, § 1.

## TITLE 8—APPORTIONMENT

SENATORIAL DISTRICTS  
Art.  
193a. Senatorial Districts [New].

REPRESENTATIVE DISTRICTS  
Art.  
195a. Representative Districts [New].  
CONGRESSIONAL DISTRICTS  
197b. Congressional Districts [New].

## SENATORIAL DISTRICTS

Art. 193. Repealed. Acts 1965, 59th Leg., p. 719, ch. 342, § 35. Eff. Aug. 30, 1965, 90 days after date of adjournment

See, now, art. 193a.

The provisions of article 193, as enacted by Acts 1961, 57th Leg., p. 544, ch. 256, §§ 4, 5 read as follows:

"Sec. 4. The Senatorial Districts of the State of Texas shall hereafter be composed respectively of the following counties and each district shall be entitled to elect one Senator, to wit:

No. 1. Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Marion, Morris, Red River, Titus.

No. 2. Gregg, Harrison, Panola, Rusk, Shelby.

No. 3. Angelina, Cherokee, Hardin, Jasper, Nacogdoches, Newton, Sabine, San Augustine, Tyler.

No. 4. Jefferson, Orange.

No. 5. Grimes, Houston, Leon, Liberty, Madison, Montgomery, Polk, San Jacinto, Trinity, Walker, Waller.

No. 6. Harris.

No. 7. Camp, Henderson, Kaufman, Smith, Upshur, Van Zandt, Wood.

No. 8. Dallas.

No. 9. Collin, Cooke, Fannin, Grayson, Hunt, Rains, Rockwall.

No. 10. Tarrant.

No. 11. Anderson, Brazos, Burleson, Falls, Freestone, Lee, Limestone, Navarro, Robertson.

No. 12. Bosque, Comanche, Coryell, Ellis, Erath, Hamilton, Hill, Hood, Johnson, Somervell.

No. 13. Bell, McLennan, Milam.

No. 14. Bastrop, Travis, Williamson.

No. 15. Austin, Colorado, DeWitt, Fayette, Lavaca, Matagorda, Washington, Wharton.

No. 16. Bandera, Brown, Burnet, Concho, Gillespie, Kerr, Kimble, Kinney, Lampasas, Llano, McCulloch, Mason, Menard, Mills, Real, San Saba, Uvalde, Zavala.

No. 17. Brazoria, Chambers, Fort Bend, Galveston.

No. 18. Aransas, Bee, Calhoun, Goliad, Jackson, Karnes, Live Oak, McMullen, Refugio, San Patricio, Victoria.

No. 19. Atascosa, Blanco, Caldwell, Comal, Frio, Gonzales, Guadalupe, Hays, Kendall, Medina, Wilson.

No. 20. Kenedy, Kleberg, Nueces, Wil-

lacy.

No. 21. Brooks, Dimmit, Duval, Jim Hogg, Jim Wells, LaSalle, Maverick, Starr, Webb, Zapata.

No. 22. Callahan, Clay, Denton, Eastland, Jack, Montague, Palo Pinto, Parker, Stephens, Wise.

No. 23. Archer, Baylor, Cottle, Foard, Hardeman, Dickens, King, Knox, Throckmorton, Wichita, Wilbarger, Young.

No. 24. Borden, Haskell, Fisher, Garza, Howard, Jones, Kent, Mitchell, Nolan, Scurry, Shackelford, Stonewall, Taylor.

No. 25. Brewster, Coke, Coleman, Crane, Crockett, Edwards, Glascock, Irion, Jeff Davis, Pecos, Presidio, Reagan, Runnels, Schleicher, Sterling, Sutton, Terrell, Tom Green, Upton, Val Verde.

No. 26. Bexar.

No. 27. Cameron, Hidalgo.

No. 28. Andrews, Cochran, Crosby, Dawson, Gaines, Hockley, Lubbock, Lynn, Martin, Terry, Yoakum.

No. 29. Culberson, Ector, El Paso, Hudspeth, Loving, Midland, Ward, Winkler, Reeves.

No. 30. Armstrong, Bailey, Briscoe, Castro, Childress, Collingsworth, Deaf Smith, Donley, Floyd, Hale, Hall, Lamb, Motley, Parmer, Swisher.

No. 31. Carson, Dallam, Gray, Hansword, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Wheeler.

"Sec. 5. This Act shall become effective for the elections, Primary and General, for all Senators, from the places herein specified and described, to the Fifty-eighth Legislature, and continue in effect thereafter for succeeding Legislatures; provided specifically that this Act shall not affect the membership, personnel or districts, of the Fifty-seventh Legislature; and provided further, that in case a vacancy occurs in the office of any Senator of the Fifty-seventh Legislature by death, resignation, or otherwise, and a Special Election to fill such vacancy becomes necessary, said election shall be held in the district as it now exists."

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Art. 193a. Senatorial Districts

Section 1. The State of Texas is apportioned into Senatorial Districts as provided in the following sections. Each district is entitled to elect one member to the Senate of the State of Texas:

Sec. 2. District 1 is composed of Bowie, Camp, Cass, Delta, Fannin, Franklin, Harrison, Hopkins, Lamar, Marion, Morris, Red River, and Titus Counties.

Sec. 3. District 2 is composed of Gregg, Panola, Rusk, Shelby, Smith, Upshur, Van Zandt, and Wood Counties.

Sec. 4. District 3 is composed of Anderson, Angelina, Cherokee, Hardin, Henderson, Jasper, Nacogdoches, Navarro, Newton, Polk, Sabine, San Augustine, and Tyler Counties.

Sec. 5. District 4 is composed of Jefferson and Orange Counties.

Sec. 6. District 5 is composed of Brazos, Burleson, Chambers, Fayette, Freestone, Grimes, Houston, Lee, Leon, Liberty, Madison, Montgomery, Robertson, San Jacinto, Trinity, Walker, and Waller Counties.

Sec. 7. District 6 is composed of that part of Harris County included in the following:

BEGINNING at the point where U. S. Highway 290 intersects the common line between Harris and Waller Counties;

THEN southeast along the U. S. Highway 290 to the Texas and New Orleans Railroad;

THEN east along the Texas and New Orleans Railroad to Heights Boulevard;

THEN south along Heights Boulevard to Waugh Drive;

THEN south along Waugh Drive to Buffalo Bayou;

THEN east along Buffalo Bayou to McKee Street;

THEN north along McKee Street to Lyons Avenue;

THEN east along Lyons Avenue to Hardy Street;

THEN north along Hardy Street to the Houston Belt and Terminal Railroad;

THEN east along the Houston Belt and Terminal Railroad to Jensen Drive;

THEN north along Jensen Drive to Halls Bayou;

THEN east along Halls Bayou to the T.&N.O. Railroad;

THEN south along the T.&N.O. Railroad to Laura Koppe Road;

THEN east along Laura Koppe Road to Missouri Pacific Railroad (B.S.L. & W. Railroad);

THEN northeast along Missouri Pacific Railroad (B.S.L. & W. Railroad) to the west shore line of Lake Houston;

THEN north along the west shore line of Lake Houston to Atascocita Road;

THEN northeast along Atascocita Road to the common line between Harris and Liberty Counties;

THEN northwest along the common line between Harris and Liberty Counties to the common line between Harris and Montgomery Counties;

THEN west along the common line between Harris and Montgomery Counties to the common line between Harris and Waller Counties;

THEN south along the common line between Harris and Waller Counties to the point intersected by U. S. Highway 290, the point of origin.

Sec. 8. District 7 is composed of that part of Harris County included in the following:

BEGINNING at the point where the Barbers Hill Road intersects the common line between Harris and Liberty Counties;

THEN west along the Barbers Hill Road to the Crosby-Lynchburg Road;

THEN south along the Crosby-Lynchburg Road to the H.N.S. Railroad;

THEN east and south along the H.N.S. Railroad to the San Jacinto River;

THEN southeast along the San Jacinto River to the Ship Channel (Buffalo Bayou);

THEN west along the Ship Channel (Buffalo Bayou) to Brays Bayou;

THEN south and west along Brays Bayou to the Gulf Freeway;

THEN northwest along the Gulf Freeway to Pierce Street;

THEN northwest along Pierce Street to Main Street;

THEN southwest along Main Street to Holcombe Boulevard;

THEN east along Holcombe Boulevard to Old Spanish Trail;

THEN east along Old Spanish Trail to Griggs Road;

THEN southeast along Griggs Road to Cullen Boulevard;

THEN southwest along Cullen Boulevard to Chocolate Bayou Road;

THEN south along Chocolate Bayou Road to Sims Bayou;

THEN east along Sims Bayou to Telephone Road;

THEN south along Telephone Road to Braniff Street;

THEN east along Braniff Street to Monroe Road;

THEN north along Monroe Road to Airport Boulevard;

THEN east along Airport Boulevard to the Gulf Freeway;

THEN southeast along the Gulf Freeway to the common line between Harris and Galveston Counties;

THEN east and north along the Harris County line to the common line between Harris and Chambers County;

THEN east and north along the common line between Harris and Chambers Counties to Barbers Hill Rd., the point of origin.

Sec. 9. District 8 is composed of that part of Dallas County included in the following:

BEGINNING at the point where Coit Road intersects the common line between Dallas and Collin Counties;

THEN south along Coit Road to Valley View Lane;

THEN east along Valley View Lane to Central Expressway;

THEN south along Central Expressway to Walnut Hill Lane;

THEN west along Walnut Hill Lane to Hillcrest Avenue;

THEN south along Hillcrest Avenue to Lovers Lane;

THEN east along Lovers Lane to the city limits between Dallas and University Park;

THEN south and west along the city limits between Dallas and University Park to the Central Expressway;

THEN south along the Central Expressway to Goodwin Avenue;

THEN east along Goodwin Avenue to Greenville Avenue;

THEN north along Greenville Avenue to the Missouri, Kansas and Texas Railroad;

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THEN east along the Missouri, Kansas and Texas Railroad to Abrams Road;

THEN north along Abrams Road to Northwest Highway;

THEN east along Northwest Highway to Dixons Branch;

THEN southwest along Dixons Branch to White Rock Lake;

THEN south along White Rock Lake to Grand Avenue;

THEN southwest along Grand Avenue to the Gulf, Colorado and Santa Fe Railroad;

THEN west and south along the Gulf, Colorado and Santa Fe Railroad to Beacon Avenue;

THEN northwest along Beacon Avenue to Junius Street;

THEN southwest along Junius Street to Dumas Street;

THEN northwest along Dumas Street to Gaston Avenue;

THEN southwest along Gaston Avenue to Pacific Avenue;

THEN southwest along Pacific Avenue to Houston Street;

THEN south along Houston Street to Commerce Street;

THEN west along Commerce Street to the Trinity River Diversion Channel;

THEN north and west along the Trinity River Diversion Channel to the West Fork Diversion Channel;

THEN west, south and west along the West Fork Diversion Channel to the West Fork of the Trinity River;

THEN west along the meandering of the West Fork of the Trinity River to the common line between Dallas and Tarrant Counties;

THEN north along the Dallas County line to the common line between Denton and Dallas Counties;

THEN east along the Dallas County line to Coit Road, the point of origin.

Sec. 10. District 9 is composed of Collin, Cooke, Denton, Grayson, Hunt, Kaufman, Rains, and Rockwall Counties and that part of Dallas County not included in Districts 8, 16 and 23.

Sec. 11. District 10 is composed of all of that part of Tarrant County not included in District 22.

Sec. 12. District 11 is composed of that part of Harris County included in the following:

BEGINNING at the point along the common line between Harris and Liberty Counties intersected by Atascocita Road;

THEN southwest along Atascocita Road to the west shore line of Lake Houston;

THEN south along the west shore line of Lake Houston to the Missouri Pacific Railroad (B.S.L. & W. Railroad);

THEN southwest along the Missouri Pacific Railroad tract to Laura Koppe Road;

THEN west along Laura Koppe Road to the T. & N. O. Railroad track;

THEN north along the T. & N.O. Railroad track to Halls Bayou;

THEN west along Halls Bayou to Jensen Drive;

THEN south along Jensen Drive to Houston Belt and Terminal Railroad;

THEN west along the Houston Belt and Terminal Railroad to Hardy Street;

THEN south along Hardy Street to Lyons Avenue;

THEN west along Lyons Avenue to McKee Street;

THEN south along McKee Street to Buffalo Bayou;

THEN west along Buffalo Bayou to Main Street;  
THEN southwest along Main Street to Pierce Street;  
THEN southeast along Pierce Street to the Gulf Freeway;  
THEN southeast along the Gulf Freeway to Brays Bayou;  
THEN east and northeast along Brays Bayou to the Ship Channel (Buffalo Bayou);  
THEN east along the Ship Channel (Buffalo Bayou) to the San Jacinto River;  
THEN north along the San Jacinto River to the H.N.S. Railroad;  
THEN north and east along the H.N.S. Railroad to the Crosby-Lynchburg Road;  
THEN north along the Crosby-Lynchburg Road to Barbers Hill Road;  
THEN east along the Barbers Hill Road to the point where it intersects the common line between Harris and Chambers Counties;  
THEN north and west along the common line between Harris and Chambers Counties to the common line between Harris and Liberty Counties;  
THEN north and west along the common line between Harris and Liberty Counties to Atascocita Road, the point of origin.

Sec. 13. District 12 is composed of Bandera, Bosque, Brown, Burnet, Comal, Comanche, Concho, Coryell, Ellis, Erath, Gillespie, Hamilton, Hill, Hood, Johnson, Kendall, Kerr, Kimble, Lampasas, Llano, McCulloch, Mason, Menard, Mills, Real, San Saba, and Somervell Counties.

Sec. 14. District 13 is composed of Bell, Falls, Limestone, McLennan, and Milam Counties.

Sec. 15. District 14 is composed of Bastrop, Blanco, Caldwell, Hays, Travis, and Williamson Counties.

Sec. 16. District 15 is composed of that part of Harris County included in the following:

BEGINNING at the point where U. S. Highway 290 intersects the common line between Harris and Waller Counties;

THEN southeast along U. S. Highway 290 to the Texas and New Orleans Railroad;

THEN east along the Texas and New Orleans Railroad to Heights Boulevard;

THEN south along Heights Boulevard to Waugh Drive;

THEN south along Waugh Drive to Buffalo Bayou;

THEN east along Buffalo Bayou to Main Street;

THEN southwest along Main Street to Holcombe Boulevard;

THEN east along Holcombe Boulevard to Old Spanish Trail;

THEN east along Old Spanish Trail to Griggs Road;

THEN southeast along Griggs Road to Cullen Boulevard;

THEN southwest along Cullen Boulevard to Chocolate Bayou Road;

THEN south along Chocolate Bayou Road to Reed Road;

THEN west along Reed Road to Alameda Road;

THEN south along Alameda Road to the common line between Harris and Fort Bend Counties;

THEN west and north along the common line between Harris and Fort Bend Counties to the common line between Harris and Waller Counties;

THEN north along the common line between Harris and Waller Counties to the point intersected by U. S. Highway 290, the point of origin.

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Sec. 17. District 16 is composed of that part of Dallas County included in the following:

BEGINNING at the point where Coit Road intersects the common line between Dallas and Collin Counties;

THEN south along Coit Road to Valley View Lane;

THEN east along Valley View Lane to Central Expressway;

THEN south along Central Expressway to Walnut Hill Lane;

THEN west along Walnut Hill Lane to Hillcrest Avenue;

THEN south along Hillcrest Avenue to Lovers Lane;

THEN east along Lovers Lane to the city limits between Dallas and University Park;

THEN south and west along city limits between Dallas and University Park to the Central Expressway;

THEN south along the Central Expressway to Goodwin Avenue;

THEN east along Goodwin Avenue to Greenville Avenue;

THEN north along Greenville Avenue to the Missouri, Kansas and Texas Railroad;

THEN east along the Missouri, Kansas and Texas Railroad to Abrams Road;

THEN north along Abrams Road to Northwest Highway;

THEN east along Northwest Highway to Dixons Branch;

THEN south along Dixons Branch to White Rock Lake;

THEN south along White Rock Lake to Grand Avenue;

THEN southwest along Grand Avenue to the Gulf, Colorado and Santa Fe Railroad;

THEN west and south along the Gulf, Colorado and Santa Fe Railroad to Beacon Avenue;

THEN northwest along Beacon Avenue to Junius Street;

THEN southwest along Junius Street to Dumas Street;

THEN northwest along Dumas Street to Gaston Avenue;

THEN southwest along Gaston Avenue to Pacific Avenue;

THEN southwest along Pacific Avenue to Houston Street;

THEN south along Houston Street to Commerce Street;

THEN west along Commerce Street to the Trinity River Diversion Channel;

THEN southeast along the Trinity River Diversion Channel and the meanderings of the Trinity River to where the Trinity River intersects the common line between Dallas and Ellis Counties;

THEN east along the common line between Dallas and Ellis Counties to the common line between Dallas and Kaufman Counties;

THEN north along the Dallas County line to the Texas and Pacific Railroad;

THEN west along the Texas and Pacific Railroad to North Mesquite Creek;

THEN northwest along North Mesquite Creek to Belt Line Railroad;

THEN north on Belt Line Railroad to U. S. Highway 67;

THEN southwest along U. S. Highway 67 to Barnes Bridge Road;

THEN northwest on Barnes Bridge Road to Oates Drive;

THEN northeast on Oates Drive to the Long Branch of Duck Creek;

THEN northwest along the Long Branch of Duck Creek to Centerville Road;

THEN northeast along Centerville Road to First Avenue in the City of Garland;

THEN north along First Avenue to Avenue D;  
THEN west along Avenue D to Garland Road;  
THEN north along Garland Road to Buckingham Road;  
THEN east along Buckingham Road to State Highway 78;  
THEN northeast along State Highway 78 to the common line between Dallas and Collin County;  
THEN west along the Dallas County line to Coit Road, the point of origin.

Sec. 18. District 17 is composed of Brazoria, Fort Bend, and Galveston Counties, and that part of Harris County included in the following:

BEGINNING at the point where the Gulf Freeway intersects the common line between Harris and Galveston Counties;

THEN northwest along the Gulf Freeway to Airport Boulevard;

THEN west along Airport Boulevard to Monroe Road;

THEN south along Monroe Road to Braniff Street;

THEN west along Braniff Street to Telephone Road;

THEN north along Telephone Road to Sims Bayou;

THEN west along Sims Bayou to Chocolate Bayou Road;

THEN south along Chocolate Bayou Road to Reed Road;

THEN west along Reed Road to Alameda Road;

THEN southwest along Alameda Road to the common line between Harris and Fort Bend Counties;

THEN east along the Harris County line to the Gulf Freeway, the point of origin.

Sec. 19. District 18 is composed of Aransas, Austin, Calhoun, Colorado, DeWitt, Gonzales, Guadalupe, Jackson, Lavaca, Matagorda, San Patricio, Victoria, Washington and Wharton Counties.

Sec. 20. District 19 is composed of that part of Bexar County included in the following:

BEGINNING at a point where U. S. Highway 81 intersects the county line between Bexar and Guadalupe Counties;

THEN southwest along U. S. Highway 81 to Harry Wurzbach Highway;

THEN northwest along Harry Wurzbach Highway to Klaus Street;

THEN west along Klaus Street to the boundary line of Alamo Heights;

THEN west and south along the boundary line of Alamo Heights to Basse Road;

THEN west along Basse Road to San Pedro Avenue;

THEN south along San Pedro Avenue to Elmira;

THEN southwest along Elmira to U. S. Highway 87;

THEN southeast along U. S. Highway 87 to U. S. Highway 81;

THEN south along U. S. Highway 81 to Durango Street;

THEN west along Durango Street to the Missouri Pacific Railroad;

THEN north along the Missouri Pacific Railroad to Matamoros Street;

THEN west along Matamoros Street to Comal Street;

THEN south along Comal Street to Durango Street;

THEN west along Durango Street to Brazos Street;

THEN south along Brazos Street to Laredo Street;

THEN east along Laredo Street to U. S. Highway 81;

THEN south along U. S. Highway 81 to Goodwin Street;

THEN west along Goodwin Street to Missouri Pacific Railroad;

THEN southwest along the Missouri Pacific Railroad to Zarzamora Street;



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THEN south along Zarzamora Street to Southcross Boulevard;  
 THEN west along Southcross Boulevard to Somerset Road;  
 THEN southwest along Somerset Road to Palo Alto Road;  
 THEN south along Palo Alto Road to the city limit of San Antonio;  
 THEN east along the city limit of San Antonio to the San Antonio River;  
 THEN southeast along the San Antonio River to the common boundary between Bexar and Wilson Counties;  
 THEN northeast and northwest along the Bexar County line to U. S. Highway 81, the point of origin.

Sec. 21. District 20 is composed of Kenedy, Kleberg, Nueces, and Willacy Counties and that part of Cameron County included in the following:

BEGINNING at a point where the western boundary of the Laguna Atascosa National Wildlife Refuge intersects the common boundary line between Cameron and Willacy Counties;

THEN south along the western boundary of the Laguna Atascosa National Wildlife Refuge to the Resaca De las Fresnos;

THEN south and west along the Resaca De las Fresnos to the Southern Pacific Railroad;

THEN northwest and west along the Southern Pacific Railroad to the Arroyo Colorado;

THEN southwest along the Arroyo Colorado to the Missouri Pacific Railroad;

THEN northwest along the Missouri Pacific Railroad to the common boundary between Cameron and Willacy Counties.

THEN east along the Cameron County line to the western boundary of Laguna Atascosa National Wildlife Refuge, the point of origin.

Sec. 22. District 21 is composed of Atascosa, Bee, Brooks, Dimmit, Duval, Frio, Goliad, Jim Hogg, Jim Wells, Karnes, LaSalle, Live Oak, Maverick, McMullen, Medina, Refugio, Starr, Webb, Wilson, Zapata and Zavala Counties and that part of Bexar County not included in District Numbers 19 and 26.

Sec. 23. District 22 is composed of Clay, Eastland, Jack, Montague, Palo Pinto, Parker, Stephens and Wise Counties and that part of Tarrant County south of a line beginning at the point where the city limits of Grand Prairie intersects the common line between Dallas and Tarrant Counties;

THEN north, west, and south along the city limits of Grand Prairie to the city limits of Arlington;

THEN west along the city limits of Arlington to the city limits of Fort Worth;

THEN southwest along the city limits of Fort Worth to Sandy Lane;

THEN north along Sandy Lane to Meadowbrook Drive;

THEN west along Meadowbrook Drive to Weiler Boulevard;

THEN south along Weiler Boulevard to Dallas Avenue;

THEN west along Dallas Avenue to Winnie Street;

THEN south along Winnie Street to the Texas and Pacific Railroad;

THEN east along the Texas and Pacific Railroad to Cravens Road;

THEN south along Cravens Road to Ramey Avenue;

THEN west along Ramey Avenue to Hughes Avenue;

THEN south along Hughes Avenue to Crenshaw Street;

THEN west along Crenshaw Street to Thrall Street;

THEN north along Thrall Street to Bedecker Street to Mitchell Boulevard;

THEN north along Mitchell Boulevard to Maddox Avenue;

THEN west along Maddox Avenue to Sycamore Creek;

THEN north along Sycamore Creek to Rosedale;

THEN west along Rosedale to the International and Great Northern Railroad;

THEN southeast along the International and Great Northern Railroad to Magnolia Avenue;

THEN west along Magnolia Avenue to Juroki;

THEN south along Juroki to Maddox Avenue;

THEN east along Maddox Avenue to Beverly Drive;

THEN south along Beverly Drive to Ramsey Avenue;

THEN west along Ramsey Avenue to Stuart Street;

THEN south along Stuart Street to Capps Street;

THEN west along Capps Street to Hemphill Street;

THEN north along Hemphill Street to Jessamine;

THEN west along Jessamine to the St. Louis, San Francisco and Texas Railroad;

THEN northwest along the St. Louis, San Francisco and Texas Railroad to Park Place;

THEN west along Park Place to the Clear Fork of the Trinity River;

THEN southwest along the Clear Fork of the Trinity River to Bryant-Irvin Road;

THEN north along Bryant-Irvin Road to Old Stove Foundry Road;

THEN southwest along Old Stove Foundry Road to the Texas and Pacific Railroad;

THEN north along the Texas and Pacific Railroad to U. S. Highway 377;

THEN southwest along U. S. Highway 377 to the Fort Worth city limits;

THEN northwest, southwest and north along the Fort Worth city limits to U. S. Highway 80;

THEN west along U. S. Highway 80 to the common line between Tarrant and Parker Counties.

Sec. 24. District 23 is composed of that part of Dallas County included in the following:

BEGINNING at the point where the West Fork of the Trinity River intersects the common line between Dallas and Tarrant Counties;

THEN east along the meanderings of the West Fork of the Trinity River to the West Fork Diversion Channel;

THEN along the West Fork Diversion Channel to the Trinity River Diversion Channel;

THEN east and southeast along the Trinity River Diversion Channel and along the meanderings of the Trinity River in a southeasterly direction to the intersection of the Trinity River and the common line between Dallas and Ellis Counties;

THEN west along the Dallas County line to the common line between Dallas and Tarrant Counties;

THEN north along the Dallas County line to the West Fork of the Trinity River, the point of origin.

Sec. 25. District 24 is composed of Borden, Callahan, Coke, Coleman, Fisher, Garza, Glasscock, Haskell, Howard, Jones, Kent, Mitchell, Nolan,

For Annotations and Historical Notes, see V.A.T.S.

Runnels, Scurry, Shackelford, Sterling, Stonewall, Taylor, Throckmorton and Young Counties.

Sec. 26. District 25 is composed of Brewster, Crane, Crockett, Ector, Edwards, Irion, Jeff Davis, Kinney, Loving, Midland, Pecos, Presidio, Reagan, Reeves, Schleicher, Sutton, Terrell, Tom Green, Upton, Uvalde and Val Verde Counties.

Sec. 27. District 26 is composed of that part of Bexar County included in the following:

BEGINNING at a point where U. S. Highway 81 intersects the county line between Bexar and Guadalupe Counties;

THEN southwest along U. S. Highway 81 to Harry Wurzbach Highway;

THEN northwest along Harry Wurzbach Highway to Klaus Street;

THEN west along Klaus Street to the boundary line of Alamo Heights;

THEN west and south along the boundary line of Alamo Heights to Basse Road;

THEN west along Basse Road to San Pedro Avenue;

THEN south along San Pedro Avenue to Elmira;

THEN southwest along Elmira to U. S. Highway 87;

THEN southeast along U. S. Highway 87 to U. S. Highway 81;

THEN south along U. S. Highway 81 to Durango Street;

THEN west along Durango Street to the Missouri Pacific Railroad;

THEN north along the Missouri Pacific Railroad to Matamoros Street;

THEN west along Matamoros Street to Comal Street;

THEN south along Comal Street to Durango Street;

THEN west along Durango Street to Brazos Street;

THEN south along Brazos Street to Laredo Street;

THEN east along Laredo Street to U. S. Highway 81;

THEN south along U. S. Highway 81 to Goodwin Street;

THEN west along Goodwin Street to Missouri Pacific Railroad;

THEN southwest along the Missouri Pacific Railroad to Zarzamora Street;

THEN south along Zarzamora Street to Southcross Boulevard;

THEN west along Southcross Boulevard to Somerset Road;

THEN southwest along Somerset Road to Palo Alto Road;

THEN south along Palo Alto Road to the city limit of San Antonio;

THEN northwest and northeast along the city limit of San Antonio to the boundary of Kelly Field;

THEN northwesterly along the boundary of Kelly Field to Castroville Road;

THEN west along Castroville Road to the common boundary between Bexar and Medina Counties;

THEN north, east and southeast along the county line of Bexar County to U. S. Highway 81, the point of origin.

Sec. 28. District 27 is composed of Hidalgo County and that part of Cameron County not included in District 20.

Sec. 29. District 28 is composed of Andrews, Cochran, Crosby, Dawson, Gaines, Hockley, Lubbock, Lynn, Martin, Terry, Ward, Winkler and Yoakum Counties.

Sec. 30. District 29 is composed of Culberson, El Paso, and Hudspeth Counties.

Sec. 31. District 30 is composed of Archer, Bailey, Baylor, Briscoe, Castro, Childress, Cottle, Dickens, Floyd, Foard, Hale, Hall, Hardeman,

King, Knox, Lamb, Motley, Parmer, Swisher, Wichita and Wilbarger Counties.

Sec. 32. District 31 is composed of Armstrong, Carson, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman and Wheeler Counties.

Sec. 33. This Act is effective for the elections, primary and general, for all Senators to the 60th Legislature, and continues in effect for succeeding legislatures. This Act does not affect the membership of the 59th Legislature. If a vacancy occurs in the office of any Senator of the 59th Legislature and a special election to fill the vacancy becomes necessary, the election shall be held in the district as it existed before the effective date of this Act.

Sec. 34. Wherever in this Act reference is made to a city limit it means the city limit as it existed in 1960 as reflected in census tract maps prepared and published by the United States Bureau of the Census. Wherever a street, highway, road, drive, avenue, railroad, or other identification is named to define the boundary of a district it means the center line of the boundary identification. Wherever a street or other boundary identification is described as intersecting another street or boundary identification and they do not actually intersect, the named streets or boundary identifications shall be extended so as to intersect one another.

Sec. 35. Sections 4 and 5, Chapter 256, Acts of the 57th Legislature, Regular Session, 1961<sup>1</sup>, are repealed.

Sec. 36. All boards, agencies, commissions, committees and governing bodies created or existing under the laws of this state whose membership is based upon the Senatorial Districts of Texas, shall conform their memberships to the Senatorial Districts created hereunder. Acts 1965, 59th Leg., p. 719, ch. 342.

<sup>1</sup> Former article 193 and note thereunder. See note under repealed article 193. Effective Aug. 30, 1965, 90 days after date of adjournment. tions 4 and 5, Chapter 256, Acts of the 57th Legislature, Regular Session, 1961; and declaring an emergency. Acts 1965, 59th Leg., p. 719, ch. 342.

Title of Act:  
An Act apportioning the State of Texas into Senatorial Districts; repealing Sec-

REPRESENTATIVE DISTRICTS

Art. 195. Repealed. Acts 1965, 59th Leg., p. 753, ch. 351, § 4. Eff. Aug. 30, 1965, 90 days after date of adjournment

- See, now, art. 195a.
- The provisions of Acts 1961, 57th Leg., p. 544, ch. 256, § 2, repealed by Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(c), have been revised and incorporated into V.A. T.S. Election Code, arts. 8.41, 8.42.
- The provisions of article 195, as enacted by Acts 1961, 57th Leg., p. 544, ch. 256, §§ 1-3 provided:
- "Section 1. The Representative Districts of the State of Texas shall be composed respectively of the following named Counties and each District shall be entitled to elect one Representative except as otherwise provided herein:
1. Bowie
  2. Morris, Cass, Marion
  3. Harrison
  4. Rusk, Panola
  5. Nacogdoches, San Augustine, Shelby
  6. Trinity, Angelina
  7. Jasper, Newton, Tyler, Sabine
  8. Orange
  9. Jefferson  
Place 1  
Place 2  
Place 3  
Place 4
  10. Lamar, Red River
  11. Delta, Hopkins, Franklin, Titus
  12. Wood, Upshur, Camp
  13. Gregg
  14. Smith
  - 15F. Smith, Gregg
  16. Anderson, Cherokee
  17. Houston, Walker, Leon

For Annotations and Historical Notes, see V.A.T.S.

18. Madison, Grimes, Montgomery
19. San Jacinto, Polk, Hardin
20. Liberty, Chambers
21. Galveston
  - Place 1
  - Place 2
22. Harris
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
  - Place 6
  - Place 7
  - Place 8
  - Place 9
  - Place 10
  - Place 11
  - Place 12
23. Brazoria
24. Fannin, Hunt
25. Kaufman, Rockwell
26. Rains, Van Zandt, Henderson
27. Falls, Limestone, Freestone
28. Brazos
29. Washington, Austin, Waller
30. Fort Bend
31. Wharton
32. Matagorda, Jackson
33. Victoria, Calhoun
34. Goliad, Live Oak, Bee, Refugio
35. San Patricio, Aransas
36. Nueces
  - Place 1
  - Place 2
  - Place 3
  - Place 4
- 37F. Kleberg, Kenedy, Hidalgo
38. Hidalgo
  - Place 1
  - Place 2
  - Place 3
39. Cameron
  - Place 1
  - Place 2
- 40F. Willacy, Cameron
41. Ellis
42. Hill, Navarro
43. McLennan
  - Place 1
  - Place 2
  - Place 3
44. Bell
  - Place 1
  - Place 2
45. Milam, Robertson, Burleson
46. Bastrop, Fayette, Colorado
47. Gonzales, Lavaca, DeWitt
48. Grayson
- 49F. Grayson, Cooke
50. Collin
51. Dallas
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
  - Place 6
  - Place 7
  - Place 8
  - Place 9
52. Johnson, Somervell, Bosque
53. Hamilton, Coryell, Erath
54. Williamson, Lee
55. Travis
  - Place 1
  - Place 2
  - Place 3
  - Place 4
56. Blanco, Hays, Caldwell
57. Kendall, Comal, Guadalupe
58. Wilson, Karnes, Atascosa, Frio, LaSalle, McMullen
59. Denton
60. Tarrant
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
  - Place 6
  - Place 7
61. Montague, Clay, Archer, Young, Jack
62. Parker, Wise, Hood
63. Palo Pinto, Stephens, Shackelford, Callahan, Eastland
64. Runnels, Coleman, Brown, Comanche
65. McCulloch, San Saba, Lampasas, Burnet, Llano, Gillespie, Mills
66. Mason, Kimble, Kerr, Bandera, Real, Edwards, Sutton, Menard, Schleicher, Crockett, Concho
67. Uvalde, Medina, Zavala, Dimmit
68. Bexar
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
  - Place 6
  - Place 7
69. Webb, Zapata
70. Jim Wells, Brooks, Jim Hogg, Duval, Starr
71. Maverick, Kinney, Val Verde, Terrell
72. Brewster, Pecos, Crane, Upton, Ward
73. Presidio, Jeff Davis, Reeves, Winkler, Loving, Culberson, Hudspeth
74. El Paso
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
75. Andrews, Gaines, Dawson, Lynn
76. Ector
77. Midland
78. Martin, Howard, Glasscock, Sterling, Coke, Reagan, Irion
79. Tom Green
80. Mitchell, Nolan, Fisher, Stonewall, Dickens, King
81. Wichita
  - Place 1
  - Place 2
82. Wilbarger, Foard, Hardeman, Cottle, Motley, Childress, Hall, Donley
83. Knox, Baylor, Haskell, Throckmorton, Jones
84. Taylor
  - Place 1
  - Place 2
85. Crosby, Garza, Kent, Borden, Scurry

- 86. Hutchinson, Ochiltree, Lipscomb, Roberts, Hemphill
- 87. Gray, Wheeler, Collingsworth
- 88. Lubbock  
Place 1  
Place 2  
Place 3
- 89. Swisher, Briscoe, Hale, Floyd
- 90. Cochran, Hockley, Yoakum, Terry
- 91. Parmer, Castro, Bailey, Lamb, Deaf Smith
- 92. Oldham, Hartley, Dallam, Sherman, Moore, Hansford
- 93. Potter  
Place 1  
Place 2
- 94F. Potter, Carson, Randall, Armstrong

"Sec. 2. In all Districts composed of only one (1) county, the County Judge of each county shall receive the returns and issue a certificate of election to the Representative elected as shown by the highest number of votes cast for any one per-

son; but in the several Districts composed of more than one (1) county, the County Judge of the county having the largest population as shown by the last preceding Federal Census shall receive the returns and issue a certificate of election to the Representative elected as shown by the highest number of votes for any one person in the District.

"Sec. 3. This Act shall become effective for the elections, Primary and General, for all Representatives, from the places herein specified and described, to the Fifty-eighth Legislature, and continue in effect thereafter for succeeding Legislatures; provided specifically that this Act shall not affect the membership, personnel or Districts, of the Fifty-seventh Legislature; and provided further, that in case a vacancy occurs in the office of any Representative of the Fifty-seventh Legislature by death, resignation, or otherwise, and a Special Election to fill such vacancy becomes necessary, said election shall be held in the District as it now exists."

**Art. 195a. Representative Districts**

Section 1. The Representative Districts of the State of Texas shall be composed respectively of the following counties or defined areas and each District shall be entitled to elect one Representative except as otherwise provided herein:

- 1. Bowie
- 2. Cass, Marion, Morris, Titus
- 3. Harrison, Panola
- 4. Sabine, San Augustine, Shelby, Nacogdoches
- 5. Angelina, Polk, San Jacinto, Trinity
- 6. Chambers, Liberty, Montgomery
- 7. Hardin, Jasper, Newton, Tyler
- 8. Orange
- 9. Jefferson  
Place 1  
Place 2  
Place 3  
Place 4
- 10. Delta, Franklin, Lamar, Red River
- 11. Camp, Hopkins, Upshur, Wood
- 12. Henderson, Kaufman, Van Zandt
- 13. Gregg
- 14. Smith
- 15F. Smith, Rusk
- 16. Anderson, Cherokee
- 17. Houston, Leon, Madison, Walker
- 18. Brazos, Grimes
- 19. Brazoria
- 20F. Brazoria, Fort Bend
- 21. Galveston  
Place 1  
Place 2
- 22. Harris

For Annotations and Historical Notes, see V.A.T.S.

That part of Harris County included in the following:

BEGINNING with the point where Willow Creek crosses the boundary of Harris and Montgomery counties westerly along the middle of Willow Creek with its meanders to the point where it intersects Kuykendahl Road;

THEN southeasterly along Kuykendahl Road to the point where same enters U. S. Highway 75;

THEN southerly along U. S. Highway 75 to the point where same is intersected by Greens Bayou;

THEN easterly along the center of Greens Bayou with its meanders to the point where same intersects the right-of-way referred to as the International and Great Northern right-of-way (the Houston Belt and Terminal tracks generally parallel to Hardy Street);

THEN along such railroad right-of-way to the point where the said tracks cross Buffalo Bayou;

THEN up the center line of Buffalo Bayou in a westerly direction with its meanders to the point where same intersects Main Street.

THEN southwestwardly along Main Street to the point where the same intersects the Texas and New Orleans Railroad;

THEN southwestwardly along the Texas and New Orleans Railroad to the point where the same intersects Hillcroft Street;

THEN southerly along Hillcroft Street to the point where the same enters U. S. Highway 90A;

THEN southwestwardly along U. S. Highway 90A to the point where the same intersects Blue Ridge Street;

THEN southerly along Blue Ridge Street to the point where the same intersects the boundary between Harris and Fort Bend counties;

THEN beginning in a northwesterly direction following the Harris County boundary to the place of beginning.

Place 1

Place 2

Place 3

Place 4

Place 5

Place 6

Place 7

### 23. Harris

That part of Harris County included in the following:

BEGINNING with the point where Willow Creek crosses the boundary of Harris and Montgomery counties westerly along the middle of Willow Creek with its meanders to the point where it intersects Kuykendahl Road;

THEN southeasterly along Kuykendahl Road to the point where same enters U. S. Highway 75;

THEN southerly along U. S. Highway 75 to the point where same is intersected by Greens Bayou;

THEN easterly along the center of Greens Bayou with its meanders to the point where same intersects the right-of-way referred to as the International and Great Northern right-of-way (the Houston Belt and Terminal tracks generally parallel to Hardy Street);

THEN along such railroad right-of-way to the point where the said tracks cross Buffalo Bayou;

THEN up the center line of Buffalo Bayou in a westerly direction with its meanders to the point where same intersects Main Street;

THEN southwestwardly along Main Street to its intersection with Tuam Street;

THEN southeasterly along Tuam Street to its intersection with Bastrop Street;

THEN northeasterly along Bastrop Street to its intersection with McGowen Street;

THEN southeasterly along McGowen Street to the point where it is crossed by the Houston Belt and Terminal Railroad;

THEN northeasterly along the Houston Belt and Terminal Railroad right-of-way to Interstate Highway 45 (sometimes known as the Gulf Freeway);

THEN southeasterly along Interstate Highway 45 (sometimes known as the Gulf Freeway) to Plum Creek;

THEN northerly and easterly along Plum Creek with its meanders to its intersection with Sims Bayou;

THEN northerly and easterly along Sims Bayou with its meanders to its intersection with the Houston Ship Channel;

THEN easterly down the Houston Ship Channel to the Harris County boundary line;

THEN following the Harris County boundary line following its east and north boundaries to the place of beginning.

Place 1

Place 2

Place 3

Place 4

Place 5

Place 6

#### 24. Harris

That part of Harris County included in the following:

BEGINNING at the intersection of the center line of Blue Ridge Street with the boundary line between Harris and Fort Bend counties;

THEN northerly along Blue Ridge Street to the point where Blue Ridge Street enters U. S. Highway 90A;

THEN in a northeasterly direction along U. S. Highway 90A to the point where Hillcroft Street enters U. S. Highway 90A;

THEN northerly along Hillcroft Street to the point where the same intersects the Texas and New Orleans Railroad right-of-way;

THEN in a northeasterly direction along the Texas and New Orleans Railroad to the point where the same intersects Main Street;

THEN northeasterly along Main Street to its intersection with Tuam Street;

THEN southeasterly along Tuam Street to its intersection with Bastrop Street;

THEN northeasterly along Bastrop Street to its intersection with McGowen Street;

THEN southeasterly along McGowen Street to the point where it is crossed by the Houston Belt and Terminal Railroad;

THEN northeasterly along the Houston Belt and Terminal Railroad right-of-way to Interstate Highway 45 (sometimes known as the Gulf Freeway);

THEN southeasterly along Interstate Highway 45 (sometimes known as the Gulf Freeway) to Plum Creek;

THEN northerly and easterly along Plum Creek with its meander to its intersection with Sims Bayou;

THEN northerly and easterly along Sims Bayou with its meander to its intersection with the Houston Ship Channel;

THEN easterly down the Houston Ship Channel to the Harris County boundary line;



For Annotations and Historical Notes, see V.A.T.S.

THEN following the Harris County boundary line southerly and westerly to the place of beginning.

- Place 1
- Place 2
- Place 3
- Place 4
- Place 5
- Place 6
- 25. Fannin, Hunt, Rains
- 26. Freestone, Limestone, Navarro
- 27. Falls, Milam, Robertson
- 28. Bastrop, Colorado, Fayette
- 29. Austin, Burleson, Lee, Waller, Washington
- 30. Matagorda, Wharton
- 31. Grayson
- 32F. Collin, Grayson, Rockwall
- 33. Dallas
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
  - Place 6
  - Place 7
  - Place 8
  - Place 9
  - Place 10
  - Place 11
  - Place 12
  - Place 13
  - Place 14
- 34. Ellis, Hill
- 35. McLennan
  - Place 1
  - Place 2
- 36F. Coryell, McLennan
- 37. Bell
- 38F. Bell, Williamson
- 39. Travis
  - Place 1
  - Place 2
  - Place 3
- 40F. Burnet, Travis
- 41. Comal, Gonzales, Guadalupe
- 42. DeWitt, Goliad, Jackson, Lavaca, Refugio
- 43. Calhoun, Victoria
- 44. Aransas, LaSalle, Live Oak, McMullen, San Patricio
- 45. Nueces
  - Place 1
  - Place 2
  - Place 3
- 46F. Kleberg, Nueces
- 47. Cameron
  - Place 1
  - Place 2

- 48F. Brooks, Cameron, Kenedy, Willacy
- 49. Hidalgo
  - Place 1
  - Place 2
  - Place 3
- 50. Duval, Jim Hogg, Jim Wells, Starr
- 51. Cooke, Denton
- 52. Tarrant
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
  - Place 6
  - Place 7
  - Place 8
- 53. Erath, Hood, Parker, Wise
- 54. Bosque, Hamilton, Johnson, Somervell
- 55. Bandera, Kerr, Kimble, Lampasas, Llano, McCulloch, Mason, Mills, Real, San Saba
- 56. Blanco, Caldwell, Gillespie, Hays, Kendall
- 57. Bexar
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
  - Place 6
  - Place 7
  - Place 8
  - Place 9
  - Place 10
- 58. Atascosa, Bee, Karnes, Wilson
- 59. Webb, Zapata
- 60. Dimmit, Frio, Medina, Uvalde, Zavala
- 61. Taylor
- 62F. Haskell, Jones, Taylor
- 63. Callahan, Eastland, Palo Pinto, Shackelford, Stephens
- 64. Brown, Coleman, Comanche, Runnels
- 65. Concho, Crockett, Edwards, Kinney, Maverick, Menard, Schleicher, Sutton, Val Verde
- 66. Brewster, Coke, Crane, Culberson, Glasscock, Hudspeth, Irion, Jeff Davis, Pecos, Presidio, Reagan, Sterling, Terrell, Upton, Ward
- 67. El Paso
  - Place 1
  - Place 2
  - Place 3
  - Place 4
  - Place 5
- 68. Ector
- 69F. Ector, Loving, Reeves, Winkler
- 70. Midland
- 71. Tom Green
- 72. Howard, Mitchell, Nolan

For Annotations and Historical Notes, see V.A.T.S.

- 73. Andrews, Dawson, Gaines, Lynn, Martin
- 74. Baylor, Borden, Fisher, Garza, Kent, King, Knox, Scurry, Stonewall
- 75. Bailey, Cochran, Hockley, Terry, Yoakum
- 76. Lubbock
  - Place 1
  - Place 2
- 77F. Crosby, Lubbock
- 78. Castro, Deaf Smith, Lamb, Oldham, Parmer
- 79. Floyd, Hale, Swisher
- 80. Potter
  - Place 1
  - Place 2
- 81. Armstrong, Carson, Collingsworth, Donley, Randall
- 82. Briscoe, Childress, Cottle, Dickens, Foard, Hall, Hardeman, Motley, Wilbarger
- 83. Dallam, Hansford, Hartley, Hutchinson, Moore, Sherman
- 84. Gray, Hemphill, Lipscomb, Ochiltree, Roberts, Wheeler
- 85. Wichita
  - Place 1
  - Place 2
- 86. Archer, Clay, Jack, Montague, Throckmorton, Young.

Sec. 2. Wherever a street, highway, road, drive, avenue, railroad, or other identification is named to define the boundary of a district it means the center line of the boundary identification. Wherever a street or other boundary identification is described as intersecting another street or boundary identification and they do not actually intersect, the named streets or boundary identifications shall be extended so as to intersect one another.

Sec. 3. This Act shall become effective for the elections, Primary and General, for all Representatives, from the places herein specified and described, to the Sixtieth Legislature, and continue in effect thereafter for succeeding Legislatures; provided specifically that this Act shall not affect the membership, personnel or Districts, of the Fifty-ninth Legislature; and provided further, that in case a vacancy occurs in the office of any Representative of the Fifty-ninth Legislature by death, resignation, or otherwise, and a Special Election to fill such vacancy becomes necessary, said election shall be held in the District as it was constituted on January 1, 1965.

Sec. 4. Sections 1, 2, 3, 6, 7 and 8, Chapter 256, Acts of the 57th Legislature, Regular Session, 1961<sup>1</sup>, are repealed. Acts 1965, 59th Leg., p. 753, ch. 351.

<sup>1</sup> Article 195 and notes thereunder. Section 6 of Acts 1961, 57th Leg., p. 544, ch. 256 was a severability provision, section 7 thereof repealed all conflicting laws and section 8 declared an emergency. See note under former article 195.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act apportioning the State of Texas into Representative Districts; naming the Counties composing each District; providing the number of Representatives to be elected in each District; making the Act effective for the elections for all Representatives from the places herein specified and described for the Sixtieth Legislature; and continuing in effect thereafter for suc-

ceeding Legislatures; providing the Act shall not affect present membership, personnel, or Representative Districts of the Fifty-ninth Legislature; and providing Special Elections for the filling of vacancies in the office of any Representative of the Fifty-ninth Legislature shall be filled in the District as it now exists; repealing Sections 1, 2, 3, 6, 7, and 8, Chapter 256, Acts of the 57th Legislature, Regular Session, 1961; and declaring an emergency. Acts 1965, 59th Leg., p. 753, ch. 351.

Art. 197a. Repealed. Acts 1965, 59th Leg., p. 743, ch. 349, § 26. Eff. Aug. 30, 1965, 90 days after date of adjournment

See, now, art. 197b.

**Art. 197b. Congressional Districts**

Section 1. The State of Texas is apportioned into Congressional Districts as provided in the following Sections. Each district is entitled to elect one Member to the House of Representatives of the Congress of the United States.

Sec. 2. District 1 is composed of Bowie, Camp, Cass, Cherokee, Delta, Franklin, Harrison, Hopkins, Lamar, Marion, Morris, Panola, Red River, Rusk, Shelby, Titus, and Wood Counties.

Sec. 3. District 2 is composed of Anderson, Angelina, Hardin, Henderson, Houston, Jasper, Liberty, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, and Walker Counties.

Sec. 4. District 3 is composed of that part of Dallas County included in the following:

BEGINNING at the point where the Elm Fork of the Trinity River intersects the common line between Dallas and Denton Counties;

THEN south along the Elm Fork of the Trinity River to Valley View Lane;

THEN east along Valley View Lane to the Missouri, Kansas and Texas Railroad;

THEN north along the Missouri, Kansas and Texas Railroad to Valwood Parkway;

THEN east along Valwood Parkway to Webbs Chapel Road;

THEN north along Webbs Chapel Road to Crosby Road;

THEN east along Crosby Road to Webbs Chapel Road;

THEN north along Webbs Chapel Road to Belt Line Road;

THEN east along Belt Line Road to Marsh Lane;

THEN south along Marsh Lane to Spring Valley Road;

THEN east along Spring Valley Road to Dooley Road;

THEN south along Dooley Road to Valley View Lane;

THEN east along Valley View Lane to Inwood Road;

THEN south along Inwood Road to Mockingbird Lane;

THEN east along Mockingbird Lane to the west city limit line of Highland Park;

THEN south and east along the south city limit line of Highland Park to the Missouri, Kansas and Texas Railroad;

THEN southwest along the Missouri, Kansas and Texas Railroad to Fitzhugh Avenue;

THEN southeast along Fitzhugh Avenue to Central Expressway;

THEN south along Central Expressway to the G.C. & S.F. Railroad;

THEN southwest along the G.C. & S.F. Railroad, crossing the Trinity River to Corinth Street;

THEN south along Corinth Street to Lancaster Road (State Highway #342);

THEN south along Lancaster Road to Cedardale Road, and the common city limit line between Dallas and Lancaster;

THEN west, north, west, south and west, along said common city limit line between Dallas and Lancaster to Beckley Avenue (U. S. Highway #77);

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THEN south along Beckley Avenue to the south city limit line of the City of Dallas;

THEN west, north and west along the city limit line of Dallas to U. S. Highway #67;

THEN southwest along U. S. Highway #67 to the north city limit line of Cedar Hill;

THEN west, north and west along the north line of Cedar Hill to Clark Road, and the common line between the City of Cedar Hill and the City of Dallas 10.0 foot strip as established by City of Dallas Ordinance No. 9925 on August 19, 1963;

THEN south, west, northwest and southwest along the common city limit line between the City of Dallas and Cedar Hill to Belt Line Road;

THEN northwest along Belt Line Road to Walnut Creek;

THEN west along Walnut Creek to the Dallas-Tarrant County line;

THEN north and east along the Dallas County line to the Elm Fork of the Trinity River, the point of origin.

Sec. 5. District 4 is composed of Collin, Fannin, Grayson, Gregg, Hunt, Kaufman, Rains, Rockwall, Smith, Upshur, and Van Zandt Counties.

Sec. 6. District 5 is composed of that part of Dallas County included in the following:

BEGINNING at the intersection of the north line of Dallas County and Jupiter Road, same being the common line between Commissioners Districts Nos. 1 and 2, and the present east line of the City of Richardson.

THEN south on Jupiter Road and said Commissioners District line to Buckingham Road;

THEN west along Buckingham Road to an inner corner of the City of Dallas city limit line, a point about one-fourth mile west of Plano Road;

THEN south and east with the common city limit line between Dallas and Garland to Groves Road;

THEN west along Groves Road and Northwest Highway to Inwood Road;

THEN south along Inwood Road to Mockingbird Lane;

THEN east along Mockingbird Lane to the west city limit line of Highland Park;

THEN south and east along the city limit line of Highland Park to the Missouri, Kansas and Texas Railroad;

THEN southwest along the Missouri, Kansas and Texas Railroad to Fitzhugh Avenue;

THEN southeast along Fitzhugh Avenue to Central Expressway;

THEN south along Central Expressway to the G.C. and S.F. Railroad;

THEN southwest along the G.C. and S.F. Railroad, crossing the Trinity River to Corinth Street;

THEN south along Corinth Street to Lancaster Road (State Hwy. #342);

THEN south along Lancaster Road to Simpson Stewart Road;

THEN northeast along Simpson Stewart Road and its extension to the Trinity River;

THEN east along the Trinity River and common line between Commissioners Districts Nos. 2 and 3, to the east line of the G. Marcum Survey, Abstract #980;

THEN north along the east line of G. Marcum Survey, Abstract #980, and said Commissioners District line to Fairport Road extended west;

THEN east, to and along Fairport Road, continuing along said Commissioners District line, to Dowdy Ferry Road;

THEN north along Dowdy Ferry Road and Pleasant Drive, continuing along said Commissioners District line, to Elam Road;

THEN west along Elam Road to Buckner Boulevard;

THEN north along Buckner Boulevard to Bruton Road;

THEN east along Bruton Road to the common line between Dallas and Balch Springs (a point east of Cheyenne Road);

THEN south along the common city limit line between Dallas and Balch Springs to Lake June Road;

THEN east, northeast and east along Lake June Road to Pioneer Road;

THEN north along Pioneer Road to Cartwright Road;

THEN east along Cartwright Road to Euland Drive;

THEN northeast along Euland Drive to Mesquite Valley Road;

THEN south and east along Mesquite Valley Road to North Mesquite Creek;

THEN north along North Mesquite Creek to the Texas & Pacific Railroad;

THEN east along the Texas & Pacific Railroad, to the east line of Dallas County;

THEN north along the east line of Dallas County to its northeast corner;

THEN west along the north line of Dallas County to Jupiter Road, the point of origin.

Sec. 7. District 6 is composed of Brazos, Ellis, Freestone, Grimes, Hill, Johnson, Leon, Madison, and Navarro Counties; and

(1) that part of Dallas County south of a line beginning at the intersection of the east line of Dallas County and the Texas and Pacific Railroad.

THEN west along the Texas and Pacific Railroad to North Mesquite Creek;

THEN south along North Mesquite Creek to Mesquite Valley Road;

THEN west along Mesquite Valley Road to Euland Drive;

THEN southwest along Euland Drive to Cartwright Road;

THEN west along Cartwright Road to Pioneer Road;

THEN south along Pioneer Road to Lake June Road;

THEN west, southwest, and west along Lake June Road to the common city limit between Dallas and Balch Springs;

THEN north along the common city limit between Dallas and Balch Springs to Bruton Road;

THEN west along Bruton Road to Buckner Boulevard;

THEN south along Buckner Boulevard to Elam Road;

THEN east along Elam Road to Pleasant Drive;

THEN south along Pleasant Drive and Dowdy Ferry Road to Fairport Road;

THEN west along Fairport Road and its extension to the east line of G. Marcum Survey, Abst. No. 980;

THEN south along the east line of G. Marcum Survey, Abst. No. 980 to the Trinity River;

THEN west along the Trinity River to its intersection with the prolongation of Simpson Stewart Road;

THEN southwest along Simpson Stewart Road to Lancaster Road;

THEN south along Lancaster Road to Cedardale Road and the common city limit line between Dallas and Lancaster;

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THEN west, northwest, south, and west along the common city limit line between Dallas and Lancaster to Beckley Avenue;

THEN south along Beckley Avenue to the south city limit line of the City of Dallas;

THEN west, north, and west along the city limit line of Dallas to U. S. Highway 67;

THEN south along U. S. Highway 67 to the north city limit line of Cedar Hill;

THEN west, north, and west along the north city limit line of Cedar Hill to Clark Road and the common city limit line between the City of Cedar Hill and the City of Dallas;

THEN south, west, northwest and southwest along the common city limit line between the City of Dallas and Cedar Hill to Belt Line Road;

THEN northwest along Belt Line Road to Walnut Creek;

THEN west along Walnut Creek to the Dallas-Tarrant County line; and

(2) that part of Tarrant County south of a line beginning at the point where U. S. Highway 377 intersects the common line between Tarrant and Parker Counties;

THEN northeast along U. S. Highway 377 to the city limits of Benbrook;

THEN in a generally northeast direction along the western city limits of Benbrook to U. S. Highway 377;

THEN northeast along U. S. Highway 377 to Edgehill Road;

THEN south along Edgehill Road to Old Stove Foundry Road;

THEN northeast along Old Stove Foundry Road to Bryant-Irvin Road to the Clear Fork of the Trinity River;

THEN in a generally northeast direction along the Clear Fork of the Trinity River to the eastern boundary of Forest Park;

THEN southeast along the eastern boundary of Forest Park to Park Place;

THEN east along Park Place to the Gulf, Colorado, and Santa Fe Railroad;

THEN south along the Gulf, Colorado, and Santa Fe Railroad to Bowie Street;

THEN east along Bowie Street to 8th Avenue;

THEN south along 8th Avenue to Biddison Street;

THEN east along Biddison Street to Hemphill Street;

THEN south along Hemphill Street to Seminary Drive;

THEN east along Seminary Drive to the city limits of Fort Worth;

THEN east, northwest, and southeast along the city limits of Fort Worth to Wichita Street;

THEN north along Wichita Street to Martin Street;

THEN east along Martin Street to Miller Avenue;

THEN north along Miller Avenue to Poly-Webb Road;

THEN east along Poly-Webb Road to Interstate Highway 820;

THEN northeast along Interstate Highway 820 to Willard Road;

THEN east along Willard Road to the common city limits of Fort Worth and Arlington;

THEN generally south, northeast and east along the western and southern city limits of Arlington to the city limits of Grand Prairie;

THEN east along the southern city limits of Grand Prairie to its intersection with the common line of Tarrant and Dallas Counties.

Sec. 8. District 7 is composed of that part of Harris County including the following:

BEGINNING with the point where Willow Creek crosses the boundary of Harris and Montgomery Counties westerly along Willow Creek with its meanders to the point where it intersects Kuykendahl Road;

THEN Southeasterly along Kuykendahl Road to the point where same enters U. S. Highway 75;

THEN Southerly along U. S. Highway 75 to the point where same is intersected by Greens Bayou;

THEN easterly along Greens Bayou with its meanders to the point where same intersects the right-of-way referred to as the I & GN Railroad right-of-way (the Houston Belt and Terminal Railroad tracks generally parallel to Hardy Street);

THEN along such railroad right-of-way to the point where the said tracks cross Buffalo Bayou;

THEN along Buffalo Bayou in a westerly direction with its meanders to the point where same intersects Main Street;

THEN southwesterly along Main Street to the point where the same intersects the T & N O Railroad;

THEN southwesterly along the T & N O Railroad to the point where the same intersects Hillcroft Street;

THEN southerly along Hillcroft Street to the point where the same enters U. S. Highway 90A;

THEN southwesterly along U. S. Highway 90A to the point where the same intersects Blue Ridge Street;

THEN southerly along Blue Ridge Street to the point where the same intersects the boundary between Harris and Ft. Bend Counties;

THEN beginning in a northwesterly direction following the Harris County boundary to the point of origin.

Sec. 9. District 8 is composed of that part of Harris County included in the following:

BEGINNING with the point where Willow Creek crosses the boundary of Harris and Montgomery Counties westerly along Willow Creek with its meanders to the point where it intersects Kuykendahl Road;

THEN southeasterly along Kuykendahl Road to the point where same enters U. S. Highway 75;

THEN southerly along U. S. Highway 75 to the point where same is intersected by Greens Bayou;

THEN easterly along Greens Bayou with its meanders to the point where same intersects the right-of-way referred to as the I & GN Railroad right-of-way (the Houston Belt and Terminal Railroad tracks generally parallel to Hardy Street);

THEN along such railroad right-of-way to the point where the said tracks cross Buffalo Bayou;

THEN along Buffalo Bayou in a westerly direction with its meanders to the point where same intersects Main Street;

THEN southwesterly along Main Street to its intersection with Tuam Street;

THEN southeasterly along Tuam Street to its intersection with Bastrop Street;

THEN northeasterly along Bastrop Street to its intersection with McGowen Street;

THEN southeasterly along McGowen Street to the point where it is crossed by the Houston Belt and Terminal Railroad;



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THEN northeasterly along the Houston Belt and Terminal Railroad right-of-way to Interstate Highway 45 (sometimes known as the Gulf Freeway);

THEN southeasterly along Interstate Highway 45 (sometimes known as the Gulf Freeway) to Plum Creek;

THEN northerly and easterly along Plum Creek with its meanders to its intersection with Sims Bayou;

THEN northerly and easterly along Sims Bayou with its meanders to its intersection with the Houston Ship Channel;

THEN easterly along the Houston Ship Channel to the Harris County boundary line;

THEN following the Harris County boundary line following its east and north boundaries to the point of origin.

Sec. 10. District 9 is composed of Chambers, Fort Bend, Galveston, and Jefferson Counties and that part of Brazoria County included in the following:

BEGINNING at a point where the Brazos River intersects the common line between Brazoria and Fort Bend Counties;

THEN south along the Brazos River to State Highway 35;

THEN east along State Highway 35 to Farm Road 521;

THEN north along Farm Road 521 to State Highway 288;

THEN north along State Highway 288 to Farm Road 1462;

THEN east along Farm Road 1462 to Chocolate Bayou;

THEN south along Chocolate Bayou to Lost Bay;

THEN south along Lost Bay to Chocolate Bay;

THEN east along Chocolate Bay to West Bay;

THEN east along West Bay to the Brazoria County line;

THEN northwest and west along the Brazoria County line to the Brazos River, the point of origin.

Sec. 11. District 10 is composed of Austin, Bastrop, Blanco, Burleson, Burnet, Caldwell, Colorado, Fayette, Hays, Lee, Travis, Waller, Washington, Wharton, and Williamson Counties.

Sec. 12. District 11 is composed of Bell, Bosque, Coryell, Falls, Hood, Limestone, McLennan, Milam, Parker, Robertson, and Somervell Counties.

Sec. 13. District 12 is that part of Tarrant County not included in District 6.

Sec. 14. District 13 is composed of Archer, Baylor, Clay, Cooke, Denton, Dickens, Foard, Hardeman, Jack, Kent, King, Knox, Montague, Stonewall, Wichita, Wilbarger, Wise, and Young Counties and that part of Dallas County included in the following:

BEGINNING at the point where the Elm Fork of the Trinity River intersects the common line between Dallas and Denton Counties;

THEN south along the Elm Fork of the Trinity River to Valley View Lane;

THEN east along Valley View Lane to the Missouri, Kansas and Texas Railroad;

THEN north along the Missouri, Kansas and Texas Railroad to Valwood Parkway;

THEN east along Valwood Parkway to Webbs Chapel Road;

THEN north along Webbs Chapel Road to Crosby Road;

THEN east along Crosby Road to Webbs Chapel Road;

THEN north along Webbs Chapel Road to Belt Line Road;

THEN east along Belt Line Road to Marsh Lane;

THEN south along Marsh Lane to Spring Valley Road;  
 THEN east along Spring Valley Road to Dooley Road;  
 THEN south along Dooley Road to Valley View Lane;  
 THEN east along Valley View Lane to Inwood Road;  
 THEN south along Inwood Road to Northwest Highway;  
 THEN east along Northwest Highway and Groves Road to the common city limit line between Dallas and Garland;  
 THEN north, west, and north along the common city limit line between Dallas and Garland to Buckingham Road;  
 THEN east along Buckingham Road to Jupiter Road;  
 THEN north along Jupiter Road to the north line of Dallas County;  
 THEN west along the Dallas County line to the Elm Fork of the Trinity River, the point of origin.

Sec. 15. District 14 is composed of Aransas, Calhoun, Goliad, Jackson, Live Oak, Matagorda, Nueces, Refugio, San Patricio, and Victoria Counties and that part of Brazoria County not included in District 9.

Sec. 16. District 15 is composed of Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy, Kleberg, Starr, Willacy, and Zapata Counties.

Sec. 17. District 16 is composed of Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, and Winkler Counties.

Sec. 18. District 17 is composed of Brown, Callahan, Coke, Coleman, Comanche, Concho, Eastland, Erath, Fisher, Glasscock, Hamilton, Haskell, Howard, Jones, Mills, Mitchell, Nolan, Palo Pinto, Runnels, Shackelford, Stephens, Sterling, Taylor, and Throckmorton Counties.

Sec. 19. District 18 is composed of Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler Counties.

Sec. 20. District 19 is composed of Andrews, Borden, Cochran, Crosby, Dawson, Floyd, Gaines, Garza, Hale, Hockley, Lubbock, Lynn, Martin, Midland, Scurry, Terry, and Yoakum Counties.

Sec. 21. District 20 is composed of that part of Bexar County not included in Districts 21 and 23.

Sec. 22. District 21 is composed of Bandera, Comal, Crane, Crockett, Ector, Edwards, Gillespie, Irion, Kendall, Kerr, Kimble, Kinney, Lampasas, Llano, McCulloch, Mason, Menard, Reagan, Real, San Saba, Schleicher, Sutton, Tom Green, Upton, Uvalde, and Val Verde Counties and that part of Bexar County included in the following:

BEGINNING at the point where Culebra Road intersects the common line between Bexar and Medina Counties;

THEN southeast along Culebra Road to 38th Street;  
 THEN south along 38th Street to Mayberry Street;  
 THEN east along Mayberry Street to Camino Santa Maria;  
 THEN north along Camino Santa Maria to Woodlawn Avenue;  
 THEN east along Woodlawn Avenue to Saint Cloud Road;  
 THEN north along Saint Cloud Road to Babcock Road;  
 THEN northwest along Babcock Road to Danville Street;  
 THEN northeast along Danville Street to the city limits of San Antonio;

THEN northeast along the city limits of San Antonio to Spencer Lane;  
 THEN east along Spencer Lane to Vance-Jackson Drive;

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THEN north along Vance-Jackson Drive to El Monte Boulevard;  
 THEN east along El Monte Boulevard to West Avenue;  
 THEN south along West Avenue to Mariposa;  
 THEN east along Mariposa to San Pedro Avenue;  
 THEN south along San Pedro Avenue to Norwood Court;  
 THEN east along Norwood Court to the boundary line of Olmos Park;  
 THEN east along the southern and north along the eastern boundary of Olmos Park to Olmos Dam;  
 THEN northeast along Olmos Dam to the boundary of Alamo Heights;  
 THEN south and east along the southern boundary of Alamo Heights to the boundary of Terrell Hills;  
 THEN east along the southern and north along the eastern boundary of Terrell Hills to the northern boundary of Fort Sam Houston;  
 THEN east along the northern and south along the eastern boundary of Fort Sam Houston to the Texas and New Orleans Railroad;  
 THEN northeast along the Texas and New Orleans Railroad to the city limits of San Antonio;  
 THEN north along the city limits of San Antonio to U. S. Highway 81;  
 THEN northeast along U. S. Highway 81 to the common line between Guadalupe and Bexar Counties.  
 THEN north, west, and south along the Bexar County line to Culebra Road, the point of origin.

Sec. 23. District 22 is composed of that part of Harris County included in the following:

BEGINNING at the intersection of the center line of Blue Ridge Street with the boundary line between Harris and Fort Bend Counties;

THEN northerly along Blue Ridge Street to the point where Blue Ridge Street enters U. S. Highway 90A;

THEN in a northeasterly direction along U. S. Highway 90A to the point where Hillcroft Street enters U. S. Highway 90A;

THEN northerly along Hillcroft Street to the point where the same intersects the T&NO Railroad right-of-way;

THEN in a northeasterly direction along the T&NO Railroad to the point where the same intersects Main Street;

THEN northeasterly along Main Street to its intersection with Tuam Street;

THEN southeasterly along Tuam Street to its intersection with Bastrop Street;

THEN northeasterly along Bastrop Street to its intersection with McGowen Street;

THEN southeasterly along McGowen Street to the point where it is crossed by the Houston Belt and Terminal Railroad;

THEN northeasterly along the Houston Belt and Terminal Railroad right-of-way to Interstate Highway 45 (sometimes known as the Gulf Freeway);

THEN southeasterly along Interstate Highway 45 (sometimes known as the Gulf Freeway) to Plum Creek;

THEN northerly and easterly along Plum Creek with its meander to its intersection with Sims Bayou;

THEN northerly and easterly along Sims Bayou with its meander to its intersection with the Houston Ship Channel;

THEN easterly along the Houston Ship Channel to the Harris County boundary line;

THEN following the Harris County boundary line southerly and westerly to the point of origin.

Sec. 24. District 23 is composed of Atascosa, Bee, DeWitt, Dimmit, Duval, Frio, Gonzales, Guadalupe, Jim Wells, Karnes, La Salle, Lavaca, Maverick, McMullen, Medina, Webb, Wilson, and Zavala Counties and that part of Bexar County included in the following:

BEGINNING at the point where Culebra Road intersects the common line between Bexar and Medina Counties;

THEN southeast along Culebra Road to 38th Street;

THEN south along 38th Street to Castroville Road;

THEN southwest along Castroville Road to the boundary of Lackland Air Force Base;

THEN south and west along the southern boundary of Lackland Air Force Base to Kelly Field;

THEN east along the southern boundary of Kelly Field to the city limits of San Antonio;

THEN north along the city limits of San Antonio to Military Road;

THEN east along Military Road to Somerset Road;

THEN northeast along Somerset Road to Southcross Boulevard;

THEN east along Southcross Boulevard to Commercial Boulevard;

THEN south along Commercial Boulevard to Military Road;

THEN east along Military Road to Pleasanton Road;

THEN south along Pleasanton Road to Ware Street;

THEN east along Ware Street to Flores Street;

THEN south along Flores Street to Airport Road;

THEN east along Airport Road to Roosevelt Avenue;

THEN north along Roosevelt Avenue to Military Highway;

THEN southeast along Military Highway to the boundary of Brooks Air Force Base;

THEN south along the western, east along the southern, and north along the eastern boundary of Brooks Air Force Base to Goliad Road;

THEN north along Goliad Road to Hot Wells Avenue;

THEN west along Hot Wells Avenue to Clark Avenue;

THEN north along Clark Avenue to Grover Street;

THEN east along Grover Street to Dollarhide Street;

THEN north along Dollarhide Street to Hiawatha Street;

THEN east along Hiawatha Street to Elgin Street;

THEN north along Elgin Street to Villa Real Street;

THEN east along Villa Real Street to Mozart Street;

THEN north along Mozart Street to Hicks Avenue;

THEN east along Hicks Avenue to Amanda Avenue;

THEN north along Amanda Avenue to Rigsby Avenue;

THEN east along Rigsby Avenue to Artesia Avenue;

THEN north along Artesia Avenue to Nebraska Street;

THEN west along Nebraska Street to the Missouri, Kansas and Texas Railroad;

THEN north along the Missouri, Kansas and Texas Railroad to the boundary of Fort San Houston;

THEN north along the eastern boundary of Fort Sam Houston to the Texas and New Orleans Railroad;

THEN northeast along the Texas and New Orleans Railroad to the city limits of San Antonio;

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THEN north along the city limits of San Antonio to U. S. Highway 81;  
THEN northeast along U. S. Highway 81 to the common line between Bexar and Guadalupe Counties;

THEN south, west, and north along the Bexar County line to Culebra Road, the point of origin.

Sec. 25. Wherever in this Act reference is made to a city limit it means the city limit as it existed in 1960 as reflected in census tract maps prepared and published by the United States Bureau of the Census. Whenever a street, highway, road, drive, avenue, railroad, or other identification is named to define the boundary of a district it means the center line of the boundary identification. Whenever a street or other boundary identification is described as intersecting another street or boundary identification and they do not actually intersect, the named streets or boundary identifications shall be extended so as to intersect one another.

Sec. 26. Chapter 286, Acts of the 55th Legislature, Regular Session, 1957 (Article 197a, Vernon's Texas Civil Statutes), is repealed.

Sec. 27. Nothing in this Act shall affect the tenure in office of the present delegation in Congress, but this Act takes effect for the General Election in 1966, and thereafter until this law is changed by the Legislature of this State. Acts 1965, 59th Leg., p. 743, ch. 349.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act to apportion the State of Texas into Congressional Districts, naming the counties and parts of counties composing

the districts, providing for the election of a Member of the Congress of the United States from each district; repealing Chapter 286, Acts of the 55th Legislature, Regular Session, 1957; and declaring an emergency. Acts 1965, 59th Leg., p. 743, ch. 349.

## JUDICIAL DISTRICTS

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

### Second 9th Judicial District Court

#### Montgomery, Polk, San Jacinto and Trinity Counties

Sec. 10A. In all counties wherein the Ninth Judicial District of Texas and the Second Ninth Judicial District of Texas have concurrent jurisdiction, either of the Judges of said Courts may, in their discretion, either in term time or vacation, transfer any case or cases, civil or criminal, that may be pending in his court, to the other district court in said county, and the judges of said courts may, in their discretion, exchange benches from time to time; and whenever a judge of one of said courts is disqualified, he shall transfer the case from his court to the other court and either judge may, in his own courtroom, try and determine any case or proceeding pending in either court without having the case transferred, or may sit in the other court and there hear and determine any case there pending; and each judgment and order shall be entered in the minutes of the court in which the case is pending; and the judges may try different cases in the same court at the same time and each may occupy his own courtroom or the room of the other court. In case of absence, sickness, or disqualification of either judge of said courts, the other judge may hold court for him. Either of said judges may hear any part of any case or proceeding pending in either of said courts and determine the same or may hear and determine any question in any case and either judge may complete the hearing and render judgment in said case. In cases transferred to any one of the said courts by order of the judge of one of said courts, all process, writs, bonds, recognizances or other obligations issued or made in said cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in said cases shall bind the parties for their appearance or to fulfill the obli-

gations of such bonds or recognizances at the terms of the court to which the cases are transferred to as are fixed by law and by this Act. And all processes issued or returned before transfer of said cases as well as all bonds and recognizances before taken in said cases shall be valid and binding as though originally issued out of the court to which such transfer may be made. Added Acts 1965, 59th Leg., p. 292, ch. 125, § 1, emerg. eff. May 6, 1965.

#### 20. — Robertson and Milam

The 20th Judicial District of the State of Texas shall hereafter be composed of the Counties of Robertson and Milam, and the terms of the District Court shall be held therein each year as follows:

In the County of Robertson on the first Monday in January and July, and may continue in session until the date set for the beginning of the next succeeding term therein;

In the County of Milam, on the third Monday in January, May and September of each year, and may continue in session until the date set for the beginning of the next succeeding term therein. Acts 1965, 59th Leg., p. 414, ch. 202, § 1, eff. Sept. 1, 1965.

Acts 1965, 59th Leg., p. 414, ch. 202, § 2 reorganized the 85th Judicial District. See art. 199(85).

Sections 3-6 of the amendatory act of 1965 provided:

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

"Sec. 4. The District Judges of the 20th and 85th Judicial Districts now elected and acting as such shall each continue to hold the office of District Judge of said respective Judicial Districts in and for the several Counties as herein established and until the terms for which they have been elected expire and until therein have been elected and qualified successors thereto.

"Sec. 5. This Act shall become effective September 1, 1965.

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

#### 85. — Brazos

The 85th Judicial District of the State of Texas shall hereafter be composed of the County of Brazos. The terms of the District Court shall be held therein on the first Monday in April and October and may continue until the date herein fixed for the beginning of the next succeeding term therein. Acts 1965, 59th Leg., p. 414, ch. 202, § 2, eff. Sept. 1, 1965.

Authority of District Judges of 20th and 85th Judicial Districts to hold offices until the expiration of their terms, see art. 199(20) note.

Acts 1965, 59th Leg., p. 414, ch. 202, § 1 reorganized the 20th Judicial District. See art. 199(20) and notes thereunder.

Validity of all processes issued, bonds and recognizances made and all grants and petit jurors drawn before September 1, 1965, the effective date of the 1965 amendment, see art. 199(20) note.

#### 107. — Willacy and Cameron

Sec. 5a. Repealed. Acts 1965, 59th Leg., p. 999, ch. 486, § 2. Emerg. eff. May 18, 1965.

Sec. 7. In any County which is situated within two (2) Judicial Districts and in which the County Attorney of such County is performing the duties of a District Attorney, as well as those of a County Attorney, and in which Counties the office of District Attorney, or the office of Criminal District Attorney has been abolished since the enactment of Section 13, Article 3912—e, Revised Civil Statutes of Texas, Acts 1939, 46th Legislature, Special Laws, page 608, Section 1, the Commissioners Court of any such County is hereby authorized, at their discretion, to pay such County Attorney so performing such duties of District Attorney, as compensation, over and above the salary which such County Attorney draws as County

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Attorney, a sum not to exceed the amount of Three Thousand, Six Hundred Dollars (\$3,600) per annum, such additional compensation to be paid in twelve (12) equal monthly installments. As amended Acts 1965, 59th Leg., p. 425, ch. 211, § 1, emerg. eff. May 18, 1965.

Section 5a of this article, added by Acts 1949, 51st Leg., p. 678, ch. 351, § 1 and another section 5a, added by Acts 1950, 51st Leg., 1st C.S., p. 96, ch. 33, § 1, were repealed by Acts 1965, 59th Leg., p. 999, ch. 486, § 2. Section 1 of the Act of 1965, noted under article 1970-310, provided: "After the effective date of this Act the County Court of Willacy County, Texas, has the jurisdiction provided for county courts by the Constitution and Laws of this State. All causes and proceedings over which county

courts have jurisdiction under the Constitution and Laws of this State, and which are on file with the 107th District Court in Willacy County, Texas, are transferred without further action at the effective date of this Act to the County Court of Willacy County, Texas. Process outstanding in these causes or proceedings at the effective date of this Act is returnable to the Willacy County Court and is as valid as if originally issued by that court."

### 137. — Lubbock

Section 1. There is created in and for Lubbock County, Texas, an additional district court to be known as the District Court of the 137th Judicial District of Texas, composed of the County of Lubbock.

Sec. 2. The District Court for the 137th Judicial District of Texas shall have and exercise the jurisdiction prescribed by the constitution and laws of this state for district courts in general, and the judge shall have and exercise the powers conferred by the constitution and laws of this state on the judges of district courts. The jurisdiction of the court shall be concurrent with the District Court of the 72nd Judicial District of this state in the County of Lubbock and the District Court of the 99th Judicial District of Texas in Lubbock County and the District Court of the 140th Judicial District of Texas in Lubbock County. Any judge of a district court for Lubbock County may in his discretion in termtime or in vacation, transfer a case or cases, civil or criminal, to another district court with the consent of the judge of the other district court by order entered on the minutes of the court from which the case is transferred, or minutes or orders made in chambers as the case may be. The orders when made shall be copied and certified to by the district clerk of Lubbock County, together with all orders made in the case. The certified copies of the orders, together with the original papers, shall be filed among the papers of any case transferred and the fees shall be taxed as a part of the costs of the suit. The clerk of the court shall docket any case in the court to which it is transferred and when so entered the court to which the case is transferred shall have the same jurisdiction as in cases originally filed in the court and the case shall be dropped from the docket of the court from which it was transferred. All process and writs issued out of the district court from which any transfer is made shall be returnable to the term of court to which the transfer is made according to the terms of the district court of the respective courts as fixed by this Act. All bonds executed and recognizances entered into in any district court from which any transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of the court to which the transfer is made as the terms are fixed by this Act.

Sec. 3. The terms of the District Court of the 137th Judicial District in and for Lubbock County shall be held as follows:

On the first Monday in January and July of each calendar year, and shall continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of the 137th District Court in Lubbock County, Texas.

Sec. 4. The district clerk of Lubbock County shall act as the district clerk for the court herein created. Immediately upon the effective date of this Act the Judge of the 72nd Judicial District Court, the Judge of the

99th Judicial District Court, and the Judge of the 140th Judicial District Court shall enter an order transferring a portion of the cases on the dockets in their courts to the District Court of the 137th Judicial District. The District Clerk of Lubbock County shall thereupon transfer such cases accordingly and enter them upon the docket of the court created by this Act, together with all records and papers relating thereto.

Sec. 5. The District Attorney in and for the 72nd Judicial District shall act also as the District Attorney for the District Court of the 137th Judicial District.

Sec. 6. The Sheriff of Lubbock County shall perform the duties in connection with the court herein created as provided by law for sheriffs to perform in connection with district courts.

Sec. 7. The Judge of the District Court of the 137th Judicial District shall appoint an official shorthand reporter for the court who shall be well skilled in his profession. He shall be a sworn officer of the court and shall be compensated as provided by law.

Sec. 8. Upon the effective date of this Act, the Governor shall appoint a Judge of the District Court for the 137th Judicial District who shall have the qualifications required of judges of district courts of this state and who shall hold his office until the next general election and until his successor is duly elected and qualified.

Sec. 9. A sum of \$16,000 for the fiscal year ending August 31, 1966, and a sum of \$16,000 for the fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the District Court of the 137th Judicial District. The salary shall be paid as provided by law.

Sec. 10. All grand and petit juries drawn and selected under existing laws in Lubbock County shall be considered lawfully drawn and selected for the next ensuing term of the 137th District Court. Acts 1965, 59th Leg., p. 895, ch. 442, §§ 1-10, eff. Sept. 1, 1965.

Additional compensation for district court judge of 137th Judicial District, see art. 6819a-41.

Section 10a of Acts 1965, 59th Leg., p. 895, ch. 442, created the Criminal District Court No. 5 of Dallas County and is codified as Vernon's Ann.C.C.P. art. 52-24d; section 10b of the act of 1965 created the 171st District Court of El Paso County and is codi-

fied as art. 199(171); Section 10c thereof created the Criminal District Court No. 6 of Harris County and is codified as Vernon's Ann.C.C.P. art. 52-158c; section 10d created the Criminal District Court No. 2 of Tarrant County and is codified as Vernon's Ann.C.C.P. art. 52-87b, and section 11 provided that the act should take effect on September 1, 1965.

#### 147. — Travis

Section 1. There is hereby created the 147th Judicial District to be composed of and to have its boundaries coextensive with the boundaries of Travis County, Texas; and the Criminal District Court of Travis County is hereby designated and created as the 147th Judicial District Court of Travis County, Texas.

Sec. 2. The 147th Judicial District Court of Travis County, Texas, shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the Constitution and laws of the State of Texas to District Courts; provided, however, that such Court shall give preference to criminal matters.

Sec. 3. The present Judge of the Criminal District Court of Travis County, Texas, duly elected and acting as such, shall be the Judge of this Court and shall henceforth be known as the Judge of the 147th Judicial District Court of Travis County, and shall exercise all the powers and duties now or hereafter vested in and exercised by District Judges. He shall continue to serve as Judge of such Court until his present term of office expires and until his successor is elected and qualified as provided in the Con-



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stitution and laws of this State. He shall have the qualifications provided by the Constitution and laws of this State for District Judges of Travis County.

Sec. 4. All appropriations heretofore made and hereafter made for the payment of the salaries and expenses of the Judge of the Criminal District Court of Travis County shall be made available for the payment of the salary and expenses of the Judge of the 147th Judicial District Court of Travis County.

Sec. 5. The 147th Judicial District Court of Travis County, Texas, shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, such terms to be as follows:

Beginning on the first Monday of January of each year and may continue until the first Monday of April; beginning on the first Monday of April and may continue until the first Monday of July; beginning on the first Monday of July and may continue until the first Monday of October; beginning on the first Monday of October and may continue until the first Monday of January of the following calendar year. A grand jury shall be impaneled in said Court for each term thereof in the same manner as is now or may hereafter be required by law in District Courts and under like rules and regulations. The Judge of said Court may also impanel other grand juries at any time as in his judgment is necessary, by an order entered in the minutes of the Court. The other District Courts of Travis County shall be relieved of the mandatory duty of impaneling grand juries but may impanel same in their discretion when necessary in accordance with the provisions of law.

Sec. 6. The Judge of the 147th Judicial District Court of Travis County and the Judge of each other District Court of Travis County may in their discretion exchange benches and hear cases for each other in the same manner as the Judge of each of such District Courts of Travis County may now do as provided by law, and cases may be transferred from such District Courts to other District Courts within Travis County as is provided by law by appropriate orders made and entered on the docket of the Court so transferring same. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same, or may hear or determine any question in any case, and any other of said Judges may complete the hearing and render judgment in the case.

Sec. 7. On and after the effective date of this Act, all processes, writs, bonds, recognizances, or other obligations issued out of the Criminal District Court of Travis County or made returnable thereto, are hereby made returnable to the 147th Judicial District Court of Travis County, Texas, and all bonds executed and recognizances entered into in said Court shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Court as are fixed by law and by this Act; and all processes heretofore issued or returned, as well as all bonds and recognizances heretofore taken in the Criminal District Court of Travis County, Texas, shall be valid and binding.

Sec. 8. The 147th Judicial District Court shall have a seal of like design as now provided by law for District Courts in this State, which seal shall be used for all purposes for which seals of District Courts are required to be used; and certified copies of the orders, proceedings, judgments, and other official acts of said Court, under the hand of the Clerk and attested by the seal of said Court, shall be admissible in evidence in all courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 9. The Sheriff, District Attorney, County Attorney, and the Clerk of the District Courts of Travis County, as heretofore provided by law shall be the Sheriff, District Attorney, County Attorney, and Clerk, respectively,

of the 147th Judicial District Court under the same rules and regulations as are now or may hereafter be prescribed by law for Sheriffs, District Attorneys, County Attorneys, and Clerks of the District Courts of the State; and the Sheriff, District Attorney, County Attorney, and Clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the District Courts of this State to be paid in the same manner.

Sec. 10. The Judge of said 147th Judicial District Court shall have the right to appoint an official Court Reporter who shall have the qualifications and receive the same compensation as are now or may hereafter be fixed by law for Court Reporters in District Courts. Acts 1957, 55th Leg., p. 721, ch. 299, as amended Acts 1963, 58th Leg., p. 120, ch. 71, § 1.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 52—61a.

#### 162. — Dallas

(D). The term of the 162nd Judicial District Court shall begin on the first Monday of January and July of each year, respectively, and the term of said Court shall continue until the convening of the next succeeding term.

The Criminal Judicial District Court Number 4 shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of January, one term beginning the first Monday of April, one term beginning the first Monday of July, and one term beginning the first Monday of October. As amended Acts 1965, 59th Leg., p. 351, ch. 167, § 1, emerg. eff. May 17, 1965.

#### 171. — El Paso

A. Creation and Jurisdiction. (a) The 171st Judicial District is created. Its boundaries are coextensive with the boundaries of El Paso County, Texas, and its court is the 171st District Court of El Paso County, Texas.

(b) The 171st District Court has the jurisdiction provided for district courts by the constitution and laws of this state. Its jurisdiction is concurrent with that of the 34th, 41st, 65th, and 120th District Courts.

B. Terms of Court. The terms of the 171st District Court begin on the first Monday in January and the first Monday in July of each year. Each term of the court continues until the next succeeding term convenes.

C. Judge. As soon as practicable after the effective date of this Act, the Governor shall appoint as Judge of the 171st District Court a person qualified to serve as a district judge under the constitution and laws of this state. The judge appointed holds office until the next general election and until his successor is duly elected and qualified. A sum of \$16,000 for the fiscal year ending August 31, 1966, and a sum of \$16,000 for the fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the District Court of the 171st Judicial District. The salary shall be paid as provided by law.

D. Court Officials. (a) The Judge of the 171st District Court may appoint an official court reporter. The reporter must meet the qualifications prescribed by law for that office and is entitled to the same compensation, fees, and allowances provided by law for other official court reporters.

(b) The District Attorney of the 34th Judicial District and the sheriff and district clerk of El Paso County shall serve as district attorney, sheriff, and clerk, respectively, of the 171st District Court. They shall perform.

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the duties, and are entitled to the compensation and allowances, prescribed by law for their respective offices.

E. Transfer of Causes. (a) The judges of the 34th, 41st, 65th, 120th, and 171st District Courts may freely transfer causes, civil and criminal, to and from the dockets of their respective courts. The judges may also freely exchange benches and courtrooms with each other so that if a judge is ill, disqualified, or otherwise absent, another judge may hold court for him without the necessity of transferring the cause involved.

(b) A judge of one of the district courts of El Paso County may hear all or any part of a cause pending in another district court of that county; and he may rule and enter orders on, continue, determine, or render judgment on all or any part of the cause without the necessity of transferring it to his own docket. Acts 1965, 59th Leg., p. 895, ch. 442, § 10b, eff. Sept. 1, 1965.

Sections 1-10 of Acts 1965, 59th Leg., p. 895, ch. 442 created the District Court of the 137th Judicial District composed of Lubbock County and are codified as art. 199(137); section 10a of the act of 1965 created the Criminal District Court No. 5 of Dallas County and is codified as Vernon's Ann.C.C.P. art. 52-24d; section 10c of the act created the 171st District Court of El Paso County and is codified as art.

199(171); section 10c thereof created the Criminal District Court No. 6 of Harris County and is codified as Vernon's Ann. C.C.P. art. 52-158c; section 10d created the Criminal District Court No. 2 of Tarrant County and is codified as Vernon's Ann. C.C.P. art. 52-87b and section 11 provided that the act should take effect on September 1, 1965.

## ADMINISTRATIVE JUDICIAL DISTRICTS

### Art. 200a. Administrative Judicial Districts

#### Presiding judge

Sec. 2. It shall be the duty of the Governor, with the advice and consent of the Senate, to designate one of the regularly elected district judges, or a retired district judge, who voluntarily retired from office, who resides within the district, and who has certified his willingness to serve, in each of said districts as Presiding Judge of the Administrative Judicial District. Adequate quarters for the operation of such District and preservation of records shall be provided in the courthouse of the county in which such Presiding Judge resides. Upon the death, resignation or expiration of the term of office of such Presiding Judge, the Governor shall thereafter immediately appoint or reappoint a Presiding Judge of the Administrative District, as in the first instances above. Presiding Judges of Administrative Judicial Districts shall serve for a term of four (4) years from date of qualification as such administrative judge. As amended Acts 1965, 59th Leg., p. 62, ch. 22, § 1, emerg. eff. March 16, 1965.

#### Differential pay

Sec. 10a. Any active district judge of the State of Texas assigned to sit for the judge of a district or domestic relations court under the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended, codified as Article 200a of Vernon's Texas Civil Statutes, shall, while so serving in any county outside his own judicial district, receive in addition to his necessary expenses additional compensation from the county to which he is assigned in an amount not to exceed the difference between the pay of such visiting judge from all sources exclusive of the per diem provided for such visiting judge under Section 2a(4) of Article 200a of Vernon's Texas Civil Statutes, and the pay received from all sources by the judge of the court to which he is so assigned, such amount to be paid by the county upon approval of the pre-

siding judge of the Administrative District in which such court is located. Added Acts 1965, 59th Leg., p. 820, ch. 398, § 1, emerg. eff. June 9, 1965.

Acts 1965, 59th Leg., p. 62, ch. 22, § 1 amended section 2 of this article; section 2 of the 1965 act provided: "Nothing in this Act shall in any manner affect the tenure of office of any of the Presiding Judges heretofore appointed and serving."

Acts 1965, 59th Leg., p. 820, ch. 398, § 1 amended this article by adding section 10a.

Section 2 thereof provided: "It is the intention of the Legislature that, if the visiting judge receives greater supplementary pay from his own district, such pay shall not be reduced when he is sitting for a court outside his home district."

For Annotations and Historical Notes, see V.A.T.S.

## TITLE 10—ARBITRATION

### 1. TEXAS GENERAL ARBITRATION ACT

*Part 1 of Title 10, Arbitration in General, consisting of articles 224 to 238, was revised and amended by Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, to read as it now appears in articles 224 to 238-6.*

#### Art. 224. [56] [47] [42] Validity of arbitration agreements

A written agreement concluded upon the advice of counsel to both parties as evidenced by counsels' signatures thereto to submit any existing controversy to arbitration or a provision in a written contract concluded upon the advice of counsel to both parties as evidenced by counsels' signatures thereto to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity for the revocation of any contract. Provided, however, that none of the provisions of this Act shall apply to any labor union contract or to any arbitration agreements or to any arbitrations held pursuant to agreements between any employer and any employee of that employer or between their respective representatives, to any contract of insurance or any controversy thereunder, or to any construction contract or any document relating thereto. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

Effect of 1965 revision and amendment to Part 1 of this title on the enforcement of arbitration agreements made before January 1, 1966, the effective date of the revisionary act, see note under article 238-6.

#### Art. 225. [57] [48] [43] Proceedings to compel or stay arbitrations

Sec. A. On application of a party showing an agreement described in Article 224 of this Act, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration; but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue so raised and shall order arbitration if found for the moving party; otherwise, the application shall be denied.

Sec. B. On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. Such an issue, when in substantial and bona fide dispute, shall be forthwith and summarily tried and the stay ordered if found for the moving party. If found for the opposing party, the court shall order the parties to proceed to arbitration.

Sec. C. If an issue referable to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under Section A of Article 234 of this Act, the application shall be made therein. Otherwise and subject to Article 235 of this Act, the application may be made in any court of competent jurisdiction.

Sec. D. Any action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application therefor has been made under the provisions of this Article 225, or, if the issue is severable, the stay may be with respect thereto only. When the application is made in such action or proceeding, the order for arbitration shall include such stay.

Sec. E. An order for arbitration shall not be refused on the ground that the claim in issue lacks merit or bona fides or because any fault or grounds for the claim sought to be arbitrated have not been shown. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

**Art. 226. [58] [49] [44] Appointment of arbitrators by court**

If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails or is unable to act and his successor has not been duly appointed, the court on application of a party setting forth the nature of the issues to be arbitrated and the qualifications of the proposed arbitrators shall appoint one or more qualified arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

**Art. 227. [59] [50] [45] Majority action by arbitrators**

The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by this Act. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

**Art. 228. [60] [51] [46] Hearings before arbitrators and notices thereof**

Unless otherwise provided by the agreement:

Sec. A. The arbitrators shall appoint a time and place for the hearing and cause notification to the parties to be served personally or by registered or certified mail with return receipt requested not less than five days before the hearing. Appearance at the hearing waives such notice. The arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause, or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. The court on application may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

Sec. B. The parties are entitled to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

Sec. C. The hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals may continue with the hearing and determination of the controversy. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

**Art. 229. [61] [52] [47] Representation by attorneys**

A party has the right to be represented by an attorney at any proceeding or hearing under this Act. A waiver thereof prior to the proceeding or hearing is ineffective. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

**Art. 230 [62] [53] [48] Testimony at hearings before arbitrators by witnesses; subpoenas and dispositions therefor**

Sec. A. The arbitrators shall have the power to administer oaths required of witnesses in a civil action pending in a district court and may cause same to be administered by any one of them, to each witness testifying before them.

Sec. B. The arbitrators may authorize a deposition to be taken of a witness who cannot be required by subpoena to appear before them.

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or who is unable to attend the hearing, for use as evidence, or may authorize a deposition of an adverse witness for discovery or evidentiary purposes, such depositions to be taken in the manner provided by law for depositions in a civil action pending in a district court.

Sec. C. The arbitrators may issue or cause to be issued by any one of them, subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence; the appearance of the witness required by such a subpoena may be either at the hearing before the arbitrators or at the deposition of the witness. Subpoenas so issued shall be served in the manner provided by law for the service of subpoenas issued in a civil action pending in a district court. All provisions of law requiring a witness under subpoena to appear, to produce and to testify, pursuant to a subpoena issued in such a civil action, shall apply to subpoenas issued under this Article.

Sec. D. Fees for witnesses attending any hearing before arbitrators or any deposition pursuant to the provisions of this Article, shall be the same as for a witness in a civil action in a district court. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

#### Art. 231. [63] [54] [49] Awards by arbitrators

Sec. A. The award shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy to each party personally or by registered or certified mail, or as provided in the agreement.

Sec. B. An award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless he notifies the arbitrators of his objection prior to the delivery of the award to him. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

#### Art. 232. [64] [55] [50] Changes of awards by arbitrators

On application of a party or, if an application to the court is pending under Articles 236, 237 and 238, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in Section A of Article 238, or for the purpose of clarifying the award. The application shall be made within twenty days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating that he must serve his objections thereto, if any, within ten days from the notice. The award so modified or corrected is subject to the provisions of Articles 236, 237 and 238. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

#### Art. 233. [65] [56] [51] Fees and expenses of arbitrations as awarded by arbitrators

Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses incurred in the conduct of the arbitration, shall be paid as provided in the award. Attorneys fees shall be awarded by the arbitrators as additional sums required to be paid under the award only if provided for in the agreement to arbitrate or provided by law as to any recovery in a civil action in the district court on such a cause of action on which the award in whole or in part is based. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

Art. 234. [66] [57] [52] Courts with jurisdiction in arbitration proceedings

Sec. A. The term "court" as used in this Act shall mean and include any court of this State of competent jurisdiction as to the parties, the subject matter, and the amount in controversy. Such a court shall have jurisdiction to hear and determine applications as provided in Article 235.

Sec. B. The making of an agreement described in Article 224 and to which that Article is applicable (but this expressly shall not be the effect of the making of an agreement to which that Article is made inapplicable by the last sentence thereof), which provides for or authorizes an arbitration in this State, confers jurisdiction on the court to enforce the agreement under this Act and to enter judgment on an award thereunder. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

Art. 235. [67] [58] [54] Applications to courts and the effect thereof; court proceedings on applications to courts; venue thereof; stay of proceedings in another court pursuant to a later application; what the court may require that an application contain; when applications may be filed in advance of or pending or at or after the conclusion of arbitration proceedings; acquisition of jurisdiction over adverse parties by service of process or in rem by ancillary proceedings; court relief in aid of pending or prospective arbitration proceedings or the enforcement of court orders or decrees or satisfaction of court judgments; court hearings on applications

Sec. A. The jurisdiction of a court may be invoked by the filing with the clerk of that court of an application for the entry by the court of a judgment or decree or order provided for by the terms of this Act. Upon the filing of the initial application and the payment to the clerk of the fees of court required to be paid on the filing of a civil action in the court, the clerk shall docket the proceedings as a civil action pending in that court.

Sec. B. The filing of the initial application shall be with the clerk of the court of that county in Texas in which (if it does so provide) the arbitration agreement shall provide that the hearing before the arbitrators shall be held; or if the hearing has been held, in the county in which it was held. Otherwise, the initial application shall be filed in the county in which the adverse party resides (or one of them if there are two or more adverse parties) or has a place of business; or if no adverse party has a residence or place of business in this State, in any county. The initial application filed with the clerk of a court having jurisdiction but in a county other than as provided for in this Section, shall be transferred to a court of the county provided for in this Section by an order comparable to an order sustaining a plea of privilege to be sued in a civil action in a district court of a county other than the county in which an action is filed; provided that such order of transfer shall be entered only if applied for by a party adverse to the applicant who files the initial application, within twenty days of the service of process on such adverse party and in advance of any other appearance in the court of that adverse party other than one challenging the jurisdiction of the court.

Sec. C. An initial application having been so filed, the court having jurisdiction thus invoked, may by order or orders stay proceedings pursuant to any application later filed seeking to invoke the ju-



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jurisdiction of any other court or the entry of a judgment or decree or order provided for by the terms of this Act; or may stay any civil action or other proceeding later instituted; provided, however, that any such stay of proceedings in any civil action or other proceeding or pursuant to an application later filed in any other court shall be limited to and affect only an issue subject to arbitration under the arbitration agreement pursuant to the terms of which the initial application was so filed.

Sec. D. As provided in Section C of Article 225, the initial application and all subsequent applications to the court relating to arbitration of an issue subject to arbitration under an arbitration agreement shall be filed in a civil action or proceeding pending in a court having jurisdiction to hear applications under the provisions of Section A of Article 234 if the civil action or proceeding is pending before the filing of the initial application as otherwise provided by Section A of Article 235.

Sec. E. The court may require that an application filed under this Act for entry by it of any judgment or decree or order shall show the jurisdiction of the court, shall have attached to it a copy of the arbitration agreement, shall define the issue or issues subject to arbitration between the parties under the arbitration agreement, shall specify the status of the proceedings before arbitrators and show the need for the entry of the judgment, decree or order by the court sought by the applicant. No application shall be deemed inadequate because of the absence of any of these requirements unless the court shall, in its discretion, first require that the application as filed be amended to meet the requirements of the court and a period of ten days is granted to the applicant to permit him to comply.

Sec. F. An application for entry by the court of a judgment or decree or order provided for by the terms of this Act may be filed in advance of the institution of any arbitration proceedings but in aid thereof, or during the pendency of any arbitration proceeding before the arbitrators or, subject to the provisions of subsequent Articles of this Act, at or after the conclusion thereof.

Sec. G. In advance of the institution of any arbitration proceedings, but in aid thereof, an application may be filed for order or orders to be entered by the court, including but not limited to applications: (i) invoking the jurisdiction of the court over the adverse party and for effecting same by service of process on him in advance of the institution of arbitration proceedings (it not being required to be shown in this connection that the adverse party is about to, or may, absent himself from the state if jurisdiction over him is not effected by service of process on him before the institution of arbitration proceedings); or (ii) invoking the jurisdiction of the court over the controversy in rem, by attachment, garnishment, sequestration, or any other ancillary proceeding in the manner by which, and on complying with the conditions under which, such proceedings may be instituted and conducted ancillary to a civil action in a district court; or (iii) seeking to restrain or enjoin the destruction of the subject matter of the controversy or any essential part thereof, or the destruction or alteration of books, records, documents, or evidence needed for the arbitration proceeding, or seeking from the court in its discretion, order for deposition or depositions needed in advance of the commencement of the arbitration proceedings for discovery, for perpetuation of testimony or for evidence; or (iv) seeking the appointment of arbitrator or arbitrators so that proceedings before them under the arbitration agreement may proceed; or (v) seeking any other relief, which the court can grant in its discretion, needed to permit the orderly arbitration proceedings

to be instituted and conducted and to prevent any improper interference or delay thereof.

Sec. H. During the pendency of any arbitration proceedings before the arbitrators, an application may be filed for order or orders to be entered by the court, including but not limited to applications: (i) referred to or to serve any purpose referred to in Section G of this Article; or (ii) to require compliance by any adverse party or any witness with order or orders made by arbitrators during the arbitration proceedings, pursuant to provisions of this Act; or (iii) to require the issuance and service under orders of the court rather than orders made by the arbitrators, of subpoenas, notices or other court processes in aid of the arbitration proceedings before the arbitrators; or in any ancillary proceedings in rem by attachment, garnishment, sequestration or otherwise, in the manner of and on complying with the conditions under which such ancillary proceedings may be instituted and conducted ancillary to a civil action in a district court; or (iv) to seek to effect or maintain security for the satisfaction of any court judgment that may be later entered pursuant to the provisions of an award. During the pendency of the arbitration proceedings or at or after their conclusion, an application may be filed to seek any of the above mentioned relief or otherwise aid in the enforcement of any court judgment or decree or order entered pursuant to the provisions of this Act; or for relief as provided in Articles 236, 237 and 238.

Sec. I. On filing of any initial application herein authorized, the clerk of the court shall issue process for service upon each adverse party named therein, attaching a copy of the application to each, and appropriate officials authorized so to do may proceed to effect service of such process on each adverse party, the form and substance of the process and service and the return of service, insofar as applicable, being the form provided for as to process and service on a defendant in a civil action in a district court.

Sec. J. Upon the filing of any application other than the initial application, if the jurisdiction over the adverse party has been established by service of process on him or in rem upon the initial application (though, if not, then on such subsequent application there shall be a service of process as provided for in Section I of this Article), each subsequent application with reference to the same arbitration proceedings or prospective proceedings under the same arbitration agreement and relating to the same controversy or controversies, shall be treated for the purposes of notice to each adverse party, as if a motion filed in a pending civil action in a district court. Every such subsequent application to the court for any relief and every initial application shall be heard by the court in the manner and pursuant to the notice provided by law or rule of court as to the making and hearing of such a motion. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

#### Art. 236. [68] [59] [54] Confirmation of an award

Upon application of a party, the court shall confirm an award, unless within the time limits hereinafter imposed grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in Articles 237 and 238 of this Act. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

#### Art. 237. [69] [60] [55] Vacating an award

Sec. A. Upon application of a party, the court shall vacate an award where:

(1) The award was procured by corruption, fraud or other undue means;

For Annotations and Historical Notes, see V.A.T.S.

(2) There was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct or wilful misbehavior of any of the arbitrators prejudicing the rights of any party;

(3) The arbitrators exceeded their powers;

(4) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of Article 228, as to prejudice substantially the rights of a party; or

(5) There was no arbitration agreement and the issue was not adversely determined in proceedings under Article 225 and the party did not participate in the arbitration hearing without raising the objection; but the fact that the relief was such that it could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

Sec. B. An application under this Article shall be made within ninety days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud or other undue means, it shall be made within ninety days after such grounds are known or should have been known.

Sec. C. In vacating the award on grounds other than stated in paragraph 5 of Section A of this Article, the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence thereof, by the court in accordance with the provisions of Article 226; or, if the award is vacated on grounds set forth in paragraphs 3 and 4 of Section A of this Article, the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with the provisions of Article 226. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

Sec. D. If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

#### Art. 238. [70] [61] [56] Modification or correction of award

Sec. A. Upon application made within ninety days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

(1) There was an evident miscalculation of figures or an evident mistake in the description of any person, thing, or property referred to in the award;

(2) The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

(3) The award is imperfect in a matter of form, not affecting the merits of the controversy.

Sec. B. If the application is granted, the court shall modify and correct the award so as to effect its intent and shall confirm the award as so modified and corrected. Otherwise, the court shall confirm the award as made.

Sec. C. An application to modify or correct an award may be joined in the alternative with an application to vacate the award. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

**Art. 238—1. Judgment or decree upon an award; the enforcement thereof**

Upon the granting of an order confirming, modifying or correcting an award, judgment or decree shall be entered in conformity therewith and be enforced as any other judgment or decree. Costs of the application and of the proceedings subsequent thereto, and disbursements may be awarded by the court. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

**Art. 238—2. Appeals**

Sec. A. An appeal may be taken from:

- (1) An order denying an application to compel arbitration made under Section A of Article 225;
- (2) An order granting an application to stay arbitration made under Section B of Article 225;
- (3) An order confirming or denying confirmation of an award;
- (4) An order modifying or correcting an award;
- (5) An order vacating an award without directing a rehearing; or
- (6) A judgment or decree entered pursuant to the provisions of this Act.

Sec. B. The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

**Art. 238—3. Act not retroactive**

The Act applies only to agreements made subsequent to the taking effect of this Act. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

**Art. 238—4. Uniformity of interpretation**

This Act shall be so construed as to effectuate its general purpose and make uniform the construction of those articles and sections that are enacted into the law of arbitration proceedings of other states. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

**Art. 238—5. Severability**

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

**Art. 238—6. Name of this act; definition of term "this act"; effect of division into articles, sections, and paragraphs and of captions of articles**

The name of this Act is "Texas General Arbitration Act." The term "this act" as used therein shall mean and refer to Article 224 through this Article 238—6, inclusive. This Act is divided into articles with a caption for each, with a number assigned to each article, certain of the articles are divided into sections with a capital letter assigned to each section and certain of the sections are subdivided into paragraphs with a parenthetical number assigned to each such paragraph. These subdivisions of this Act however are for purposes of convenience only and in order that there may be references in one provision of the Act to other provision or provisions of the Act more readily; neither any such sub-

For Annotations and Historical Notes, see V.A.T.S.

division of the Act nor any caption for any article however shall be any aid to or given any effect in connection with any construction of the Act or any part thereof. Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.

Sections 2 and 3 of Acts 1965, 59th Leg., p. 1593, ch. 689 provided:

"Sec. 2. This Act does not affect the enforcement of arbitration agreements

made before the effective date of this Act.

"Sec. 3. This Act takes effect on January 1, 1966."

### TITLE 11A—ASSIGNMENTS, IN GENERAL

Art. 260—1. Repealed. Acts 1965, 59th Leg., p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed Article 260—1 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

### TITLE 13—ATTACHMENT

Art. 279. [244—5] Plaintiff must give bond

Before the issuance of any writ of attachment, the plaintiff must execute a bond, with two or more good and sufficient sureties, payable to the defendant in an amount to be fixed by the judge or by the justice of the peace issuing the attachment, conditioned that the plaintiff will prosecute his suit to effect, and will pay all such damages and costs as shall be adjudged against him for wrongfully suing out such attachment. Such bond shall be delivered to and approved by the officer issuing the writ, and shall, together with the affidavit, be filed with the papers of the cause. As amended Acts 1965, 59th Leg., p. 1336, ch. 607, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## TITLE 14—ATTORNEYS AT LAW

Art. 306a. Exemption from examination; membership in legislature as equivalent of prelegal study

Sec. 2. Membership in the Texas Legislature for twelve (12) consecutive years, or Membership in the Texas Legislature for four (4) consecutive years with a bachelor's degree or its equivalent and adequate study of the law for at least two (2) years at an approved law school, or Membership in the Texas Legislature for eight (8) consecutive years with a bachelor's degree or its equivalent, or service in both Houses of the Texas Legislature with a master's degree or its equivalent, prior to making application to take the Bar examination, shall be considered equivalent to the prelegal study and training and study of the law required under Article 306, Revised Civil Statutes, 1925, as amended, as a prerequisite to taking the regular examination for license to practice law and may be substituted in lieu thereof, provided the applicant meets all requirements of the Supreme Court relative to moral character; and any person complying with the above is declared to be eligible to take such examination for license to practice law. In such cases thirty (30) days' written notice of intention to take the Bar examination, directed and delivered to the Clerk of the Supreme Court of Texas, shall be sufficient notice. As amended Acts 1965, 59th Leg., p. 1655, ch. 714, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## Art. 320a—1. State Bar Act

## Creation and general powers of State Bar; board of directors

Sec. 2. Subdivision (a). There is hereby created the State Bar, which is hereby constituted an administrative agency of the Judicial Department of the state, with power to contract with relation to its own affairs and which may sue and be sued and have such other powers as are reasonably necessary to carry out the purposes of this Act.

Subdivision (b). The general executive agency of the State Bar shall be its Board of Directors. Upon such Board shall rest the duty of enforcing the provisions of this Act.

Such Board shall be composed of the officers of the State Bar, and not more than 30 additional members, elected from geographical Bar Districts by the members of the State Bar, with one or more Board members from each district, as may be determined by the Board.

For purposes of electing directors or for the fulfillment of any other duty imposed upon the State Bar by this Act or the State Bar rules, such Board shall from time to time reapportion the state into Bar Districts as conditions require, taking into account the best interests of the legal profession and the public and the advancement of the administration of justice in this state. Provided, however, that any reapportionment plan promulgated by the Board shall be submitted in referendum to the registered members of the State Bar for a vote thereon. Such plan submitted shall become effective unless disapproved by 51% of the members. As amended Acts 1965, 59th Leg., p. 1531, ch. 669, § 1, emerg. eff. June 18, 1965.

**TITLE 15—ATTORNEYS—DISTRICT AND COUNTY**

Art. 326k—52. Sixty-fourth judicial district; appointment and compensation of stenographer [New].	Art. 326k—55. Thirty-sixth judicial district; compensation of district attorney [New].
326k—53. One hundred and thirty-second judicial district; supplemental salary of district attorney and district judge [New].	326k—56. 19th, 54th and 74th Judicial Districts; compensation of district attorneys [New].
326k—54. One hundred eighteenth judicial district; compensation of stenographer [New].	326l—1. Assistant District Attorney for Second Judicial District and salary [New].

**Art. 326k—23. Criminal district attorney for Brazoria County**

**Commission; salary**

Sec. 4. The Criminal District Attorney of Brazoria County, Texas, shall be commissioned by the Governor and shall receive as salary and compensation the following, and no more: A salary of \$500 from the State of Texas as provided in the Constitution of the State of Texas for the salary of District Attorneys, and the sum of not less than \$9,500 a year nor more than \$14,500 a year to be paid out of the Officers' Salary Fund of Brazoria County, if adequate; if inadequate the Commissioners Court shall transfer the necessary funds from the General Fund of the County to the Officers' Salary Fund. As amended Acts 1965, 59th Leg., p. 1037, ch. 513, § 1, emerg. eff. June 16, 1965.

**Art. 326k—29. One hundred and fifth judicial district; compensation of district attorney**

**Annual compensation**

Section 1. The District Attorney of the 105th Judicial District of this state shall be compensated for his services by a salary in an amount not to exceed \$12,000.00 per year, to be paid from state and county funds.

**Supplemental salary**

Sec. 2. The Commissioners Courts of the counties which compose the 105th Judicial District of Texas are hereby authorized to supplement the salary paid by the State of Texas to the District Attorney of said 105th Judicial District, in such amount or amounts as they may determine, provided that the total salary shall not exceed the maximum provided in Section 1 hereof.

**Officers salary funds**

Sec. 3. The salary to be paid as provided in Section 1 of this Act may be fixed and determined by the Commissioners Courts of the various counties in the 105th Judicial District of Texas and may be paid from the Officers Salary Funds of said counties, if adequate. If inadequate, the respective Commissioners Courts may transfer the necessary funds from the general fund of the county to the Officers Salary Fund.

**Pro rata basis for supplementary salary**

Sec. 4. The supplementary salary to be paid to the District Attorney of the 105th Judicial District of Texas by the counties that comprise such Judicial District shall be paid on a pro rata basis according to the population of each county as determined by the last preceding Federal Census. As amended Acts 1965, 59th Leg., p. 145, ch. 60, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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

**District attorney; compensation; supplemental salary**

**Section 1. District Attorney; compensation, supplemental salary:** The District Attorney of the 49th Judicial District may be paid a salary, at the discretion of the Commissioners Court, in an amount not to exceed Five Thousand, One Hundred Dollars (\$5,100) per annum by the County of Webb for the handling and prosecution of all misdemeanor cases in Webb County, and the Commissioners Court of Webb County is hereby authorized to pay said salary in supplementation of the salary paid by the State, in equal monthly payments out of the county funds by warrants drawn on such county funds.

**Assistant district attorney; appointment; qualifications; oath; salary; removal**

**Sec. 2. Assistant District Attorney; appointment; qualifications; oath; compensation; and removal:** Said District Attorney is hereby authorized to appoint one Assistant District Attorney for Webb County, provided that the District Attorney shall furnish data to the Commissioners Court of Webb County that he is in need of an Assistant and that it is necessary and to the best interests of the State and said County that an Assistant District Attorney be appointed. Said Assistant District Attorney so appointed shall be a qualified resident of Webb County and shall give bond and take the official oath; and said Assistant District Attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the District Attorney in Webb County under the laws of this State. Said appointment shall be for such time as the District Attorney shall deem best in the enforcement of the law, not to be less than one month. Said Assistant District Attorney shall be paid by Webb County for the time of actual service rendered at a rate not to exceed Eight Thousand, Four Hundred Dollars (\$8,400) per annum, in twelve (12) equal monthly installments out of county funds by warrants drawn upon such county funds. The District Attorney of said District, at any time he deems said Assistant unnecessary or finds that he is not attending to his duties as required by law, may remove said person from office by giving written notice to the Assistant and to the Commissioners Court to that effect.

**Part-time assistants; special investigators; salaries; powers; removal**

**Sec. 3. Full-time Special Investigator and Part-time Special Investigator; compensation; powers; duties; and removal:** Said District Attorney is hereby authorized to appoint one part-time assistant and one full-time assistant to serve in Webb County, in addition to his regular assistant, provided for in this Act, which assistants need not be licensed to practice law. Said assistants shall be known as Special Investigators, and shall perform such duties as may be assigned to them by the District Attorney. The part-time assistant shall receive as compensation a salary not to exceed Three Thousand, Six Hundred Dollars (\$3,600) per annum, and the full-time assistant shall receive as compensation a salary not to exceed Seven Thousand, Two Hundred Dollars (\$7,200) per annum, payable monthly out of county funds by warrants drawn on such county funds. Said Special Investigators shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. They shall serve at the will of the District Attorney and may be removed from office by written notice by the District Attorney to the Special Investigator concerned and to the Commissioners Court to that effect.



**61 ATTORNEYS—DISTRICT AND COUNTY Art. 326k—52**  
For Annotations and Historical Notes, see V.A.T.S.

**Stenographer—secretary; appointment; salary**

Sec. 4. Stenographer-Secretary; appointment; compensation; and duties: The District Attorney is hereby authorized to appoint one Stenographer-Secretary, who shall keep the records of the District Attorney's office and perform the necessary stenographic and secretarial work, as may be assigned to such person by the District Attorney, and who shall receive as compensation a salary not to exceed Four Thousand, Eight Hundred Dollars (\$4,800) per annum, payable monthly out of county funds by warrants drawn on such county funds.

**Supplemental salary of district attorney**

Sec. 5. The Commissioners Court of Webb County is hereby authorized to pay the salaries provided in Sections 2, 3 and 4 of this Act, and to supplement the salary of the District Attorney of the 49th Judicial District paid by the State of Texas in the amount set out in Section 1 hereof. The salaries of the Assistant District Attorney, the Special Investigators, and the Stenographer-Secretary shall be fixed by the Commissioners Court at its discretion. Acts 1961, 57th Leg., p. 11, ch. 7, as amended Acts 1965, 59th Leg., p. 854, ch. 414, § 1, emerg. eff. June 14, 1965.

Sec. 6 of the Act of 1961, repealed article 326k—38 and all conflicting laws and parts of laws to the extent of such conflict.

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

**Compensation; commission**

Sec. 4. The Criminal District Attorney of Bexar County shall receive as pay for his services the sum of not less than Sixteen Thousand, Five Hundred Dollars (\$16,500) nor more than Eighteen Thousand Dollars (\$18,000) annually. He shall receive a salary of Five Hundred Dollars (\$500) from the State of Texas as provided in the Constitution of the State of Texas for the salary of district attorneys. The commissioners court in Bexar County shall supplement the salary of the Criminal District Attorney by the State of Texas in an amount to provide a salary not less than nor more than the amount set out herein. The Criminal District Attorney shall be commissioned in accordance with the Constitution and Laws of this State. As amended Acts 1965, 59th Leg., p. 1627, ch. 697, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 1 of the amendatory act of 1965 amended article 3883i and section 2 thereof is codified as article 3883i-1.

**Art. 326k—52. Sixty-fourth judicial district; appointment and compensation of stenographer**

Section 1. (a) The district attorney of the 64th Judicial District may hire a stenographer.

(b) The district attorney shall, with the approval of a majority of the commissioners courts in the district, set the stenographer's salary at not more than \$3,000 a year.

(c) The commissioners court of each county in the 64th Judicial District shall pay a proportionate part of the salary based on the ratio of the population of the county to the population of the district.

(d) The commissioners court of any one or more of the counties in the 64th Judicial District may supplement the salary of the district attorney's stenographer.

(e) The total annual compensation of the district attorney's stenographer may not exceed \$4,200. Acts 1965, 59th Leg., p. 371, ch. 177.

Effective Aug. 30, 1965, 90 days after date of adjournment.      of the 64th Judicial District; and declaring an emergency. Acts 1965, 59th Leg., p. 371, ch. 177.

**Title of Act:**

An Act relating to the compensation of the stenographer to the district attorney

**Art. 326k—53. One hundred and thirty-second judicial district; supplemental salary of district attorney and district judge**

Section 1. The District Attorney and the District Judge of the 132nd Judicial District shall be compensated for their services in such amounts as may be fixed by the general law relating to the salaries paid to district attorneys and district judges by the state, and in addition their salaries may be supplemented by the commissioners courts of the counties comprising the 132nd Judicial District, or any one or more of such commissioners courts. The total amount of each supplemental salary to be paid by the commissioners court or courts for the district attorney and the district judge shall not exceed the sum of \$3,000 per year. The commissioners courts of the counties comprising the 132nd Judicial District, or any one or more of them, may pay the supplemental salaries herein authorized, in such amount within the limit fixed above, out of the officers salary fund of such county or counties, if adequate; if inadequate, the commissioners courts may transfer the necessary funds from the general funds of such counties to the officers salary funds. Acts 1965, 59th Leg., p. 429, ch. 215.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing the commissioners courts of counties comprising the 132nd

Judicial District to supplement the salary of the District Attorney and the District Judge of the 132nd Judicial District; and declaring an emergency. Acts 1965, 59th Leg., p. 429, ch. 215.

**Art. 326k—54. One hundred eighteenth judicial district; compensation of stenographer**

Section 1. The stenographer of the district attorney of the 118th Judicial District is entitled to an annual salary of not more than \$3,600, to be fixed by the district attorney and approved by the combined majority of the commissioners courts of the counties composing the district. The salary shall be paid monthly by the commissioners court of each county, prorated proportionally to the population of the county. Acts 1965, 59th Leg., p. 430, ch. 216.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the salary of the stenographer of the district attorney of the

118th Judicial District; and declaring an emergency. Acts 1965, 59th Leg., p. 430, ch. 216.

**Art. 326k—55. Thirty-sixth judicial district; compensation of district attorney**

Section 1. (a) The general law of the State of Texas regarding compensation of district attorneys shall apply to the District Attorney of the 36th Judicial District.

(b) The commissioners court of any one or more of the counties in the 36th Judicial District may supplement the compensation paid the District Attorney under the general law.

(c) The District Attorney's total annual compensation may not exceed \$11,000. Acts 1965, 59th Leg., p. 973, ch. 468, emerg. eff. June 16, 1965.

**Title of Act:**

An Act relating to the compensation of the District Attorney of the 36th Judicial

District; and declaring an emergency. Acts 1965, 59th Leg., p. 973, ch. 468.

For Annotations and Historical Notes, see V.A.T.S.

**Art. 326k—56.** 19th, 54th and 74th Judicial Districts; compensation of district attorneys

Section 1. (a) The General Law of the State of Texas regarding compensation of district attorneys shall apply to the district attorney of the 19th, 54th and 74th Judicial Districts.

(b) The commissioners court of McLennan County may supplement the compensation paid the district attorney of the 19th, 54th and 74th Judicial Districts under the General Law.

(c) The district attorney's total annual compensation is limited to a maximum of \$14,000. Acts 1965, 59th Leg., p. 1663, ch. 716.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the compensation of the district attorney of the 19th, 54th and

74th Judicial Districts; and declaring an emergency. Acts 1965, 59th Leg., p. 1663, ch. 716.

**Art. 326l—1.** Assistant District Attorney for Second Judicial District and salary

Section 1. The District Attorney for the Second Judicial District, composed of the counties of Angelina, Cherokee and Nacogdoches, is hereby authorized to employ an Assistant District Attorney with the consent of the Commissioners Court of each of such counties.

Sec. 2. Said Assistant District Attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the District Attorney under the laws of this State.

Sec. 3. If the Commissioners Courts of the counties involved shall consent to the employment of an Assistant District Attorney, the salary of the same shall be paid as follows: one-third ( $\frac{1}{3}$ ) of the annual salary shall be paid by Angelina County, one-third ( $\frac{1}{3}$ ) of the annual salary shall be paid by Cherokee County, and one-third ( $\frac{1}{3}$ ) of the annual salary shall be paid by Nacogdoches County.

Sec. 4. The District Attorney of the Second Judicial District, subject to the consent of the Commissioners Courts of the counties in said district, shall fix the salary of the Assistant District Attorney at a sum not to exceed \$6,500 per annum, subject to the approval of each Commissioners Court of each county for its one-third ( $\frac{1}{3}$ ) share of the payment of the annual salary so prescribed. Acts 1965, 59th Leg., p. 1498, ch. 649, emerg. eff. June 17, 1965.

**Title of Act:**

An Act authorizing the District Attorney for the Second Judicial District to employ an Assistant District Attorney; prescribing the powers, duties and compensation

of the Assistant District Attorney; making other provisions relating thereto; and declaring an emergency. Acts 1965, 59th Leg., p. 1498, ch. 649.

## TITLE 16—BANKS AND BANKING

## TEXAS BANKING CODE OF 1943

CHAPTER SEVEN—DEFINITIONS, COLLECTIONS,  
DEPOSITORY CONTRACTS

Arts. 342—701 to 342—706. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed arts. 342—701 to 342—706 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

Arts. 342—711, 342—712. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed arts. 342—711, 342—712 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

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

State and national banks are hereby declared to be within the same class under the Constitution and laws of this state. It is not the intention of the Legislature to discriminate between state banks, national banks, and private banks. To the extent that the State of Texas has power to legislate with reference to national banks, all laws of this state shall apply alike to state banks, private banks, and national banks domiciled in this state; and state banks and private banks shall be subject to only such taxes heretofore or hereafter imposed by the state, or any political subdivision thereof, as could lawfully be imposed upon such state banks or private banks were they operating as national banks. As amended Acts 1963, 58th Leg., p. 134, ch. 81, § 7; Acts 1965, 59th Leg., p. 1527, ch. 666, § 1, emerg. eff. June 18, 1965.

## TITLE 18—BILLS AND NOTES

Art. 567 to 571. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed arts. 567—571 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

§§ 575, 576. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed arts. 575, 576 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

**TITLE 19—BLUE SKY LAW—SECURITIES**

**Saved from Repeal**

*The Uniform Commercial Code, section 10—104, provides that Acts 1965, 59th Leg., p. 180, ch. 721 (UCC), does not repeal or diminish articles 581—1 through 581—39, and further provides that if in any respect there is any inconsistency between those articles and the Commercial Code, the provisions of those articles shall control.*

**Art. 581—4. Definitions**

**Saved from Repeal**

*See italicized note following title heading.*

**Art. 581—5. Exempt Transactions**

**Saved from Repeal**

*See italicized note following title heading.*

**Art. 581—12. Registration of persons selling**

**Saved from Repeal**

*See italicized note following title heading.*

**Art. 581—22. Advertising**

**Saved from Repeal**

*See italicized note following title heading.*

**Art. 581—29. Penal Provisions**

**Saved from Repeal**

*See italicized note following title heading.*

**Art. 581—34. Actions for Commission; Allegations and Proof of Compliance**

**Saved from Repeal**

*See italicized note following title heading.*

**Art. 582—1. Uniform Act for Fiduciary Security Transfers**

**Saved from Repeal**

*The Uniform Commercial Code, section 10—104, provides that Acts 1965, 59th Leg., p. 180 (U.C.C.) ch. 721 does not repeal this article, and further provides that if in any respect there is any inconsistency between this article and the Commercial Code on investment securities (Article 8) the provisions of this article shall control.*

## TITLE 20—BOARD OF CONTROL

## CHAPTER THREE—PURCHASING DIVISION

## Art. 664—3. State Purchasing Act of 1957

**Products of the blind and mentally retarded or physically handicapped persons**

Sec. 13. The following manufactured products, if they meet the state specifications as to quantity, quality, and price, shall have preference in purchases made of those types of items by the Board:

(1) products of visually handicapped persons or workshops for the blind, produced under the supervision and direction of the Commission for the Blind or in any other workshop which has been approved by the Commission for the Blind;

(2) products of workshops, organizations, or corporations whose primary purpose is training and employing mentally retarded persons or physically handicapped persons. As amended Acts 1965, 59th Leg., p. 1261, ch. 579, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

State Building Construction Administration Act, see art. 678f.

## CHAPTER FOUR—PUBLIC BUILDINGS AND GROUND DIVISION

Art. 678d—1. Vending facilities operated by blind persons [New].	Art. 678f. State Building Construction Administration Act [New].
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Arts. 670—672. Repealed. Acts 1965, 59th Leg., p. 926, ch. 455, § 16. Eff. Sept. 1, 1965

See, now, art. 678f.

## Art. 678a. Board of Mansion Supervisors

**ABOLITION**

*Acts 1965, 59th Leg., p. 674, ch. 323, § 8 abolished the Board of Mansion Supervisors and transferred all its powers, duties and authority to the Texas Fine Arts Commission. See article 6144g, § 8.*

Art. 678d. Repealed. Acts 1965, 59th Leg., p. 445, ch. 227, § 13. Eff. Aug. 30, 1965, 90 days after date of adjournment

See, now, article 678d—1.

## Art. 678d—1. Vending facilities operated by blind persons

**Definitions**

Section 1. In this Act, unless the context requires a different definition,

(1) "blind person" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses, or visual acuity greater than 20/200 but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle of no greater than 20 degrees;

(2) "vending facility" includes a cafe, cafeteria, restaurant, snack bar, concession stand, or other facility at which food, drinks, drugs, novelties,

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souvenirs, tobacco products, notions or related items are regularly sold, but does not include those facilities consisting solely of vending machines not in competition, directly or indirectly, with a vending facility operated by or suitable for being operated by a vocationally handicapped person, except where this Act specifically mentioned vending machines;

(3) "state property" means buildings and land owned, leased or otherwise controlled by the state;

(4) "agency" means the state department or agency in charge of state property;

(5) "Commission" means the State Commission for the Blind;

(6) "Division" means the Division of Vocational Rehabilitation, Texas Education Agency;

(7) "handicap" includes any physical or mental condition determined by the Commission or the Division to constitute a substantial vocational disadvantage.

#### License or permit required

Sec. 2. No person may operate a vending facility, including any vending machine or other coin-operated device, unless he is licensed to do so by the Commission or authorized to do so by an agency granted a permit to arrange for vending facilities.

#### Licensing procedure—first priority to be given to blind

Sec. 3. Upon written notification by an agency in control of state property that a vending facility is desired on the property, or, upon its own initiative, the Commission

(1) shall survey the property (or blueprints, plans, and other similar, available information) to determine if the installation of one of its vending facilities is feasible and consonant with its vocational rehabilitation objectives; and

(2) license a blind person to operate the vending facility to be installed by the Commission; or else

(3) notify, pursuant to Section 7(a) of this Act, the Division and agency in writing that it has rejected the property as a location for a Commission-sponsored vending facility, and issue the Division of the agency a general permit (the form of which the Commission may prescribe) authorizing the installation of whatever vending facilities the Division of the agency wants to install.

#### Adoption of rules

Sec. 4. The Commission shall adopt (1) substantive rules relating to the conditions for revoking a license, and (2) procedural rules relating to the manner of revocation.

#### Revocation of permits and licenses

Sec. 5. (a) Every license and general permit granted by the Commission for operating vending facilities on state property expires three years after the date of issuance, at which time the merits of renewing the license or general permit shall be reviewed by the Commission, and a new or different license or general permit issued, as the Commission finds proper.

(b) Should there be a material change in conditions before the expiration of a general permit, however, the agency and the Commission may revoke the general permit by mutual consent.

(c) The wilful failure of a blind person to operate a vending facility in compliance with rules of the Commission or the provisions of this Act

constitutes grounds for the automatic revocation of the license granted by the Commission.

#### Persons who may be licensed

Sec. 6. (a) The Commission may issue licenses to operate its vending facilities on state property to blind persons who are citizens of the state and who are capable of efficiently operating the vending facilities in a manner resulting in a reasonable satisfaction for all concerned parties.

(b) No blind person may be licensed to operate a vending facility until the Commission, through devices such as prevocational testing and training, has determined that the blind person has the requisite physical, psychological, and personal traits and abilities for operating a vending facility in a manner which is satisfactory to the Commission and the agency concerned.

(c) The Commission shall place the name of a blind person who has satisfactorily completed prevocational testing and training on a roster of individuals, certified as suitable for licensing as operators of vending facilities.

(d) When a Commission-sponsored vending facility becomes available on state property, the Commission shall, if two or more equally qualified and certified blind persons apply for a license to operate the facility, issue the license to the applicant on its roster of individuals certified as suitable for licensing whom it judges to be most in need of employment.

(e) When a vending facility is installed or operated by the Division pursuant to Section 7(a), the installation and operation of the facility shall, so far as possible, conform to the provisions of this Act applicable to vending facilities installed by the Commission.

(f) The granting of a license, general permit, authorization, or contract under the provisions of this Act does not vest the person, agency, firm, or corporation to whom granted with any property or other rights, in law or in equity, which might constitute the basis of a cause of action against the state, any of its agencies or departments, or any of its officials or employees.

#### Employment of other handicapped persons in vending facilities

Sec. 7. (a) If the nature of a location for a vending facility on state property is such that the Commission determines a blind person could not properly operate the facility, the Commission shall so advise the Division of Vocational Rehabilitation, Texas Education Agency. The Division shall survey the location and determine if it is suitable as a location for a vending facility to be operated by a person with a vocational handicap other than blindness. If the Division determines that the location is suitable for this purpose, it shall notify the Commission of its determination within a reasonable time, and the Commission shall grant the Division a general permit for the installation and operation of a vending facility.

(b) If, in addition to the blind person licensed by the Commission, an assistant is necessary to operate a vending facility, the Commission shall survey the vending facility to determine the nature of the duties for which an assistant is necessary. If the Commission determines that another visually handicapped person can adequately discharge the duties, and if a visually handicapped person having the requisite abilities and qualifications is available, the blind operator licensed to operate the vending facility may not employ an assistant other than another visually handicapped person. If another qualified visually handicapped person is not available, or if the duties for which an assistant is requested could not adequately be discharged by a visually handicapped person but could be adequately discharged by a person with a vocational handicap other than one of a



visual nature the Commission shall request the Division to recommend a vocationally handicapped person who is qualified and available for employment in the vending facility, and if a qualified person is recommended by the Division, the blind person licensed to operate the facility may not employ any other person. If there is no qualified visually handicapped or otherwise vocationally handicapped person to fill a requested position for which visually handicapped or otherwise vocationally handicapped person would be suited, the Commission may authorize the licensee to hire a non-handicapped person to fill the position on a temporary basis, pending the availability of a visually handicapped or otherwise vocationally handicapped person who is qualified to fill the position.

(c) Any assistant employed by a blind person licensed by the Commission under the provisions of this Act must be approved by the Commission, and the deliberate refusal of a blind operator to comply with this section constitutes grounds for automatic revocation of his license.

#### Competing vending facilities

Sec. 8. (a) No additional permit or license is required for installing additional vending facilities, such as vending machines, on state property having a Commission-sponsored vending facility, but additional vending facilities may not be installed on the property unless an agreement is reached between the agency and the Commission concerning the installation and operation of the competing vending facilities. If the competing vending facilities consist of vending machines or other coin-operated devices the installation and operation shall be by the authorization of the Commission, which authorization shall be made with a view toward providing the greatest economic benefits to blind clients of the Commission consonant with the supplying of additional services necessary at the building in which the Commission-sponsored vending facility is located.

(b) It is the duty of the heads of all state agencies concerned to negotiate and to cooperate in good faith to accomplish the purposes of this Act. This provision applies equally to vending facilities, including vending machines or other coin-operated devices, in competition with a Commission-sponsored vending facility on or before the effective date of this Act, vending facilities, including vending machines and other coin-operated devices, which would, if installed, be in competition with an existing Commission-sponsored vending facility, and vending facilities, including vending machines or other coin-operated devices, the installation and operation of which in a state building precludes the installation and operation of a vending facility by the Commission or the Division.

(c) When vending machines are located in the same building as is a vending facility operated by a blind or otherwise vocationally handicapped individual, all commissions from the vending machine are to be received by the blind or otherwise vocationally handicapped individual. When vending machines and more than one vending facility operated by a blind or otherwise vocationally handicapped individual are located in the same building, the assignment of commissions from the vending machines shall be determined by the Commission, with a view toward achieving equity and equality in the incomes of the blind or otherwise vocationally handicapped individuals. If the Commission and the Division have, pursuant to Section 3 and Section 7(a) of this Act, rejected a location for a vending facility operated by a blind or otherwise vocationally handicapped individual, the assignment of commissions from vending machines is to be determined by the agency to whom a general permit is issued.

#### Vending facility locations

Sec. 9. (a) The Commission is responsible for designating vending facility locations on state property after the agency in charge has requested

such a facility. The designation is effective after the agency in charge of the state property concurs in it.

(b) The agency responsible for state property shall alter the property to make it suitable for properly operating the vending facilities to be established on it. To this end, the agency in charge of the construction of new state property shall consult with the Commission during the planning stage in the construction of state property.

#### Vending facility equipment and stock

Sec. 10. (a) The Commission may supply a blind vending facility operator with equipment and initial stock necessary for him to begin business.

(b) The Commission shall collect and set aside from the proceeds of the operation of its vending facilities enough money

(1) to insure a sufficient amount of initial stock for the vending facilities it operates and for their proper maintenance;

(2) to defray the costs of supervision and other expenses incidental to the operation of the vending facilities.

(c) Except for purchasing and installing original equipment, the operation of Commission-sponsored vending facilities on state property is to be as self-supporting and as self-sustaining as possible, and, to this end, the Commission shall periodically review and, when necessary, revise its schedules for collecting and setting aside money from the proceeds of its vending facilities.

#### Responsibilities, duties, and privileges of parties

Sec. 11. (a) The Commission, in addition to the responsibilities and duties vested in it by other sections of this Act, may promulgate such rules and initiate such procedures as it finds necessary to the implementation of this Act.

(b) The blind person licensed by the Commission to operate one of its vending facilities on state property, in exercising the privilege granted by the license, shall operate the vending facility,

(1) in accordance with all applicable federal, state, and local laws;

(2) in accordance with the rules, regulations, and policies promulgated by the Commission.

(c) The agency in charge of state property shall

(1) exert every effort to cooperate with the Commission and with the blind persons it licenses to operate vending facilities on state property, in order to accomplish the purposes of this Act;

(2) furnish all necessary utility service, including connections and outlets necessary in the installation of the facility, janitorial, and garbage disposal services, where feasible, and other related assistance.

#### Applicability

Sec. 12. (a) The provisions of this Act do not apply to property maintained and operated by state-supported institutions of higher education, or property over which control is either wholly or in part maintained by the federal government.

(b) No vending facility operated by a blind or otherwise vocationally handicapped individual, nor any vending facility location surveyed by the Commission, is to be closed because of the transfer of state property from one agency to another, the reorganization of a state agency, or the altera-

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tion of a state building, unless the closing is agreed to by the Commission or the Division.

(c) The provisions of this Act apply immediately to all state property having no vending facilities or having only vending facilities installed by the Commission.

(d) None of the provisions of this Act shall apply to vending facilities operated by an institution under the control and management of the Board for Texas State Hospitals and Special Schools or its successor in function so long as such vending facility is operated for the benefit of the patients of the institutions without profit.

(e) Section 8(b) and (c) become applicable to state property having vending facilities other than those installed by the Commission six months after the effective date of this Act; all other provisions of this Act are of immediate applicability.

(f) Nothing in this Act shall be construed as prohibiting the Commission from selecting blind persons for operating other types of vending facilities or business enterprises determined by the Commission to be suitable for operation by blind persons, or as prohibiting the installation of automated vending facilities serviced by blind persons, or as precluding agreements between the Commission and heads of state-supported institutions of higher education leading to the utilization of blind labor in vending facilities at state-supported institutions of higher education, if there is agreement that the utilization of blind labor would be of mutual advantage to all concerned parties.

#### Repealer

Sec. 13. Chapter 47, Acts of the 50th Legislature, Regular Session, 1947, as amended by Chapter 490, Acts of the 57th Legislature, Regular Session, 1961,<sup>1</sup> is repealed. Acts 1965, 59th Leg., p. 445, ch. 227.

<sup>1</sup> Article 678d.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act relating to the operation of vending stands and vending machines on state

property by blind persons; repealing Chapter 47, Acts of the 50th Legislature, Regular Session, 1947, as amended; and declaring an emergency. Acts 1965, 59th Leg., p. 445, ch. 227.

### Art. 678f. State Building Construction Administration Act

#### Short title and purpose

Section 1. This Act may be cited as the "State Building Construction Administration Act."

The purpose of this Act is to provide for the orderly planning of buildings constructed by the State, to provide for adequate inspection in the State's interest of building construction work in progress, and to provide for reasonably accurate projections of building program requirements, and estimates of the cost of proposed projects prior to legislative appropriations or specific authorizations for the construction and equipping of such projects.

The Legislature hereby declares that the policy of the State of Texas in regard to projects constructed under the provisions of this Act shall be to provide requisite physical facilities for the operation of State government in an architectural form which will represent the dignity of the State of Texas and which shall be aesthetically pleasing. Designs shall adhere to established construction practices and utilize materials, methods and equipment of proven dependability to the end that projects shall be economical to construct, operate and maintain.

**Definitions**

Sec. 2. The following terms whenever used or referred to in this Act shall have the following meanings, except in those instances where the context clearly indicates otherwise:

(A) "Using agency" means any instrumentality of the State which shall occupy and make use of a State-owned or State-leased building, and for the purpose of this Act the State Board of Control shall be considered as the using agency for the State Capitol, the Governor's Mansion and for all other State-owned buildings maintained by the Board.

(B) "Commission" means the State Building Commission established by Section 51-b of Article III of the Constitution of this State.

(C) "Project" means any building construction project, other than those specifically excluded by Sections 3 and 4 of this Act, which shall be financed in whole or in part by specific appropriation, bond issue or federal funds. The term "project" shall include the construction of any building or any structure or any facility or utility appurtenant thereto, including original equipment and original furnishings thereof, and of any addition to, alteration, rehabilitation or repair of any existing building or any structure, or any facility or utility appurtenant thereto.

(D) "Project analysis" refers to work done prior to legislative appropriation for a project for the purpose of developing a reliable estimate of the cost of a project to be requested of the Legislature.

(E) "Cost of a project" includes, but shall not be limited to, the cost of all real estate, properties, rights and easements acquired, utility services, site development, the cost of construction and the initial furnishing and equipment thereof, all architectural and engineering and legal expenses, the cost of surveys and plans and specifications, and such other expenses, including those incurred by the State Building Commission, as are necessary or incident to determining the feasibility or practicability of any project.

(F) "Construction" means and includes acquisition, construction and reconstruction.

(G) "Rehabilitation" means and includes renewal, restoration, extension, enlargement and improvement.

(H) "Equipment" and "furnishings" mean and include any equipment and furnishings whatsoever as may be necessary and required for the use of a project.

(I) "Architect/engineer" means a person registered as an architect pursuant to Acts of the 45th Legislature, Regular Session, 1937, Chapter 478, as amended (compiled as Article 249a of Vernon's Texas Civil Statutes) and/or a person registered as a professional engineer pursuant to Acts of the 45th Legislature, Regular Session, 1937, Chapter 404, as amended (compiled as Article 3271a of Vernon's Texas Civil Statutes) employed to provide professional architectural or engineering services and having overall responsibility for the design of a project. The term "Architect/engineer" standing by itself may, unless the context clearly indicates otherwise, mean either an architect/engineer employed by the Commission on a salary basis or an architect/engineer in private practice retained for a specific project under a contractual agreement with the Commission. The term "private architect/engineer" shall specifically and exclusively refer to a registered architect or a registered engineer in private practice retained for a specific project under a contractual agreement with the Commission.

(J) "Stage construction" means the construction of a project in phases, each phase resulting in one or more buildings or structures which individ-

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ually or together shall be capable of use regardless of whether subsequent phases of the project are authorized or not.

#### Projects covered and excluded

Sec. 3. This Act shall apply to all building construction projects as herein defined which may be undertaken by the State with the following exceptions:

(A) All projects constructed by and for the Texas Highway Commission.

(B) All projects constructed by and for State institutions of higher education.

(C) All projects constructed by and for the Texas Department of Corrections.

(D) Repair and rehabilitation projects of any other using agency provided all labor for such projects is provided by the regular maintenance forces of the using agency under specific legislative authorization and provided further that such projects do not require the advance preparation of working plans and/or drawings.

Nothing in this Section shall be construed as prohibiting the Commission from undertaking a project excluded by this Section under an interagency agreement originated by the appropriate using agency, and provided, further, that nothing in this Section shall be construed as exempting any agency or institution from the requirements of Section 15 of this Act (Compilation of Construction and Maintenance Data).

In addition to the exclusions enumerated in this Section, the Commission may, by regulation, exclude repair and rehabilitation projects involving the use of contract labor provided such projects do not require the advance preparation of working plans and drawings.

#### Additional exclusions

Sec. 4. In addition to the projects excluded by Section 3 of this Act, it is specifically provided that nothing in this Act shall apply to:

(A) Projects constructed by or under the supervision of any public authorities created by the laws of this State, or

(B) State-aided local government projects of any character whatsoever, or

(C) Any plans or specifications on projects advertised for bids prior to the effective date of this Act, or

(D) Any design or construction contracts awarded prior to the effective date of this Act.

Provided, a using agency may transfer projects excluded by Subsection (C) or Subsection (D) to the Commission with the consent of the contracting parties or may request the Commission to undertake the administration and supervision of projects excluded by Subsections (C) and (D) by an interagency contract between the Commission and the using agency.

#### State building commission

Sec. 5.

(A) The State Building Commission is hereby designated as the administering agency and shall exercise the powers and duties conferred upon it by this Act in addition to all powers, duties and responsibilities previously conferred upon it by Acts of the 54th Legislature, Regular Session, 1955, Chapter 514, as amended (compiled as Article 678m, Vernon's Annotated Civil Statutes), and the provisions of such Act, as

amended, shall apply where pertinent to all construction under the provisions of this Act. The Commission shall be the coordinating authority for the construction of any multiagency State office buildings which the Legislature may, from time to time, authorize.

(B) The Commission shall, subject to the provisions of the Appropriations Act and such General Laws as may apply, employ professional, technical and clerical personnel. In selecting such personnel, the Commission shall give first preference to persons currently employed in the Engineering Section of the State Board of Control and in the design and Construction Division of the Board for Texas State Hospitals and Special Schools.

(C) The Commission shall appoint a Director who shall serve at the pleasure of the Commission. The Director shall be a registered architect or a registered professional engineer and shall be chosen for proven administrative ability and experience in the fields of building design and construction. The Director shall be the full-time executive and administrative officer of the Commission which shall delegate to him such power, authority and duties as it may deem necessary and proper.

(D) The Commission may assign a qualified professional employee to any using agency where the volume of construction projects is such that the Commission and the using agency agree that full-time coordination between the Commission and the using agency is desirable. The Commission and the using agency shall mutually agree upon the qualifications and duties of such assigned employees and the salary and related expenses of such assigned employees shall be charged against the projects of the using agency to which they are assigned. Such assignments shall be terminated whenever in the opinion of the Commission they are no longer required.

(E) The operating expenses of the State Building Commission shall, unless otherwise specified by the Legislature, be paid from appropriations made out of the State Building Fund. The State Building Fund shall be reimbursed for such expenditures from the funds appropriated by the Legislature for projects supervised by the Commission. In order that each project shall bear its fair and proper share of the Commission's expenses, the Commission shall institute and maintain a cost accounting system which shall be devised by the State Auditor as soon after the effective date of this Act as possible.

(F) The State Building Commission may promulgate rules and regulations necessary to implement the powers, duties and responsibilities imposed upon it by this Act. Such rules and regulations shall be binding on all State agencies upon being filed with the Secretary of State. As soon as practical, the Commission shall cause to be prepared and published a manual to assist using agencies in complying with the provisions of this Act and the rules and regulations of the Commission. Copies of the manual shall be distributed to all using agencies and shall be available to architects, engineers, contractors and others who may need and request a copy of it.

(G) On or before the first working day of the fiscal year beginning September 1, 1965, all files, records, equipment, furnishings and personal property of all kinds heretofore used by the Engineering Section of the Building Engineering and Management Division of the State Board of Control and by the Design and Construction Division of the Board for Texas State Hospitals and Special Schools shall be transferred to the Commission. The Commission shall agree with the State Board of Control and with the Board for Texas State Hospitals and Special Schools on the personal property to be transferred and shall evidence such agreement in a written inventory to be signed by representatives of the Commission and

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the respective Boards. The agreement when so signed shall be full authority (1) for the Commission to transfer the personal property listed thereon to its control and (2) for the Comptroller of Public Accounts to enter any inventoried items on the property inventory records of the Commission and to delete the same items from the property inventory records of the State Board of Control and of the Board for Texas State Hospitals and Special Schools.

(H) Legal representation of the State Building Commission shall be performed by the Attorney General of Texas. This provision shall not restrict the Attorney General from employing special assistants to assist in the performance of duties arising by virtue of the provisions of this Act in those instances where the Attorney General deems such employment necessary.

(I) Venue of all suits for any breach of contract entered into pursuant to the provisions of this Act shall be in Travis County, Texas.

(J) The Commission may waive, suspend or modify any provision of this Act which shall be in conflict with any federal statute or any rule, regulation or administrative procedure of any federal agency where such waiver, suspension or modification shall be essential to the receipt of federal funds for any project. In the case of any project wholly financed from federal funds, any standards required by the enabling federal statute or required by the rules and regulations of the administering federal agency shall be controlling.

#### **Pre-preliminary planning; project analysis**

##### **Sec. 6.**

(A) Each using agency of the State which shall desire any project, other than those specifically excluded by Sections 3 and 4 of this Act, shall prepare and submit to the Commission a general description of the project. The Commission shall cause all such projects to be studied and shall initiate the preparation of a project analysis for all new construction projects and for all other projects where, in the opinion of the Commission, the cost of preparing a project analysis is justified.

(B) A project analysis may be prepared by a private architect/engineer employed by the Commission or, at its discretion, by the Commission's staff. A private architect/engineer employed for the purpose of preparing a project analysis shall be selected by the method set forth in Section 10 of this Act and shall be paid from the State Building Construction Planning Fund established by Section 12 of this Act. The contract to prepare a project analysis shall specify that the analysis shall become the property of the State Building Commission.

(C) A project analysis shall consist of (1) a complete description of the facility or project together with a justification of such facility or project prepared by the using agency, (2) a detailed estimate of the amount of space needed to meet the needs of the using agency and to allow for realistic future growth, (3) a description of the proposed facility prepared by an architect/engineer and including schematic plans and outline specifications describing the type of construction and probable materials to be used, sufficient to establish the general scope and quality of construction, (4) an estimate of the probable cost of construction, (5) a description of the proposed site of the project and an estimate of the cost of site preparation, and (6) an overall estimate of the cost of the project as that term is defined in this Act. All estimates involved in the preparation of a project analysis shall be carefully and fully documented and incorporated into the project analysis.

Throughout the preparation of the project analysis, the State Building Commission and any private architect/engineer employed by the Commis-

sion shall work closely and cooperatively with the using agency to the end that the project analysis shall fully reflect the needs of the using agency.

The using agency shall use the cost of the project as determined by such project analysis as the basis of its request to the budget offices of this State.

(D) In the case of projects where, in the opinion of the Commission, the cost of a project analysis is not justified or required, the Commission shall, in cooperation with the using agency, develop a realistic estimate of the cost of the project. When necessary, the Commission shall arrange for an on-site inspection and analysis of the proposed project by a member of its staff. The using agency shall be informed of the cost estimate so developed and shall use such estimate as the basis of its request to the budget offices of this State.

(E) On or before a date to be specified by the budget agencies of this State in each year immediately preceding a Regular Session of the Legislature, the Commission shall submit to said budget agencies a report listing all projects requested pursuant to this Section. The list shall contain (1) a brief and specific justification of each project as prepared by the using agency, (2) a summary of the project analysis where one was made or a statement briefly describing the cost-estimating method used for projects for which a project analysis was not made, (3) a project cost estimate developed in accordance with the provisions of this Section, with sufficient detail given to afford the budget agencies, the Governor and the Legislature the widest possible latitude in developing policy in regard to each such project request, (4) an estimate, prepared by the Commission with the cooperation of the using agency and with the cooperation of the private architect/engineer employed, of the annual cost of maintaining the completed project including the estimated cost of utility services, and (5) an estimate, prepared by the using agency, of the annual cost of staffing and operating the completed project exclusive of maintenance cost. Where appropriate, the Commission, with the approval of the using agency, may indicate the feasibility of stage construction of a requested project and may indicate the degree to which funds would be required in the next biennium if the project were undertaken in stages.

(F) Whenever any using agency shall request three (3) or more projects, it shall designate its priority rating for each project. The budget agencies shall, with the cooperation of the Commission, develop detailed instructions to implement this priority system and the Commission's report shall show the designated priority of each project to which a priority rating has been assigned.

#### Legislative authorizations and appropriations

##### Sec. 7.

(A) The Legislature shall, from time to time, authorize and appropriate for such projects as it may approve. Project appropriations shall be made directly to the using agency except in those instances where the project is to be constructed from the State Building Fund, in which case the appropriation shall be made to the State Building Commission.

(B) The appropriation of funds by the Legislature for the construction of a project shall be construed by the Commission and the using agency as an expression of legislative intent that the project be completed within the limits of the funds actually appropriated. In the event that the funds so appropriated are less than the amount originally requested or if, for any reason, the funds so appropriated are less than the amount required for the project as originally submitted to the budget agencies, the Commission and the using agency shall jointly confer on ways and means whereby the project cost can be brought within the bounds of the funds so appropriated



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and shall, in such conferences, make every effort to comply with legislative intent with regard to modification of the project from the original request. In the event that it is impossible to modify the project to bring the cost within the amount appropriated, the Commission shall notify the using agency that it considers such project as cancelled.

When authorized by the biennial Appropriations Act, the using agency may appeal the decision of the Commission to the Governor by submitting to him a request that the project be undertaken as stage construction or that the funds available for such project be supplemented by the transfer of funds appropriated to the same using agency for other projects of equal or lower priority or from the unused contingency reserves of any project of the same using agency. The Governor shall, after obtaining the advice of the Legislative Budget Board, rule on such request and if his ruling shall favor the agency the Commission shall proceed with the project.

(C) Notwithstanding the provisions of Subsection (B) of this Section, the Legislature may, by specific provision, provide for stage construction of a project and in such event the Commission shall proceed with the project through the specifically authorized stage.

(D) There is hereby appropriated out of the General Revenue Fund to the State Building Commission for the implementation of the "Building Construction Administration Act" for an Archaeologist the sum of Twelve Thousand Dollars (\$12,000) each fiscal year, four Project Analysts (not to exceed \$12,000) the sum of Forty-four Thousand Dollars (\$44,000) each fiscal year. Salaries of Classified Positions the sum of One Hundred Thousand Dollars (\$100,000) each fiscal year, Professional Fees and Services, Fifteen Thousand Dollars (\$15,000) each fiscal year and unexpended balances of the first year of the biennium, Travel Expenses, Fifteen Thousand Dollars (\$15,000) each fiscal year and unexpended balances of the first year of the biennium, Other Operating Expenses, Fifty Thousand Dollars (\$50,000) each fiscal year and unexpended balances of the first year of the biennium. The combined sum for the biennium from the General Revenue Fund shall be Four Hundred Seventy-two Thousand Dollars (\$472,000).

**Preliminary plans, working plans and specifications; change orders**

**Sec. 8.**

(A) Preliminary plans and outline specifications and working plans and specifications for all projects shall be prepared either by a private architect/engineer selected and appointed by the Commission in accordance with Section 10 of this Act, or by the professional staff of the Commission, provided, however, that a private architect/engineer shall be appointed for any new construction project estimated to cost in excess of One Hundred Thousand Dollars (\$100,000) and for any new construction project for which the using agency requests a private architect/engineer be selected and appointed. In either case, such plans and specifications shall be approved by the Commission, and shall not be accepted or used by the using agency without such approval. The Commission shall see that plans and specifications (1) are clear and complete; (2) permit execution of the project with appropriate economy and efficiency; and (3) conform with the requirements as set forth in the project analysis previously prepared.

(B) The Commission shall appoint a Design Advisory Panel to advise with the Commission and the using agency on the design concept and aesthetic merits of plans submitted by an architect/engineer, provided, however, that the final decision on such matters shall rest with the Commission. The Design Advisory Panel shall consist of five (5) persons, two (2) of whom shall be selected from a list of nominees submitted by the Texas Society of Architects, two (2) of whom (one a structural engineer

and the other a mechanical-electrical engineer) shall be selected from a list of nominees submitted by the Texas Society of Professional Engineers and one (1) of whom shall be neither an architect nor an engineer and who shall serve as chairman of the Panel. Members of the Panel shall serve for two years and shall be eligible for reappointment and the Commission shall promulgate regulations to provide for an orderly rotation of membership which may specify a shorter term of office for the original appointees. The members of the Panel shall serve without compensation, but may be reimbursed for their necessary and actual expenses out of the appropriations to the Commission. No member of the Panel shall, during the period of his service, advise on any project in which he is employed, retained or in any manner financially interested. The Panel shall have no responsibility for reviewing the plans and specifications other than to the extent set forth in this Subsection.

(C) Following final approval of the working plans and specifications and their acceptance by the using agency, the Commission shall cause to be advertised in not less than two (2) newspapers of general circulation for bids or proposals for performance of the construction and related work on the project. Subject to the applicable provisions of other law respecting the award of State contracts, the contract or contracts shall be awarded to the qualified bidder making the lowest and best bid; but no contract shall be awarded for a sum in excess of the amount which the Comptroller shall certify to be available for such project, provided, the Commission shall have the right to reject any and all bids.

(D) Upon notice and on itemized statements by the Commission:

(1) The Comptroller shall transfer from each project appropriation to the State Building Construction Planning Fund created by Section 12 of this Act an amount certified by the Commission as sufficient to reimburse the Planning Fund for prior expenditures on behalf of the project.

(2) The Comptroller shall reserve from each project appropriation an amount estimated by the Commission to be sufficient to reimburse the State Building Fund for services rendered and to be rendered by the Commission and shall transfer funds from such reserve to the State Building Fund upon certification by the Commission that such services have been rendered and any funds remaining in such reserve following the final certification shall be transferred to the contingent reserve created by paragraph (3) below.

(3) The Comptroller shall reserve from each project appropriation an amount estimated by the Commission to be sufficient to cover contingencies over and above all amounts obligated by contract or otherwise, for planning, engineering and architectural work, site acquisition and development, and construction, equipment and furnishings contracts. The amount so reserved shall be used only upon the following conditions:

(a) That the architect/engineer or the contractor recommend and justify the proposed contingency expenditures by submitting a change order request;

(b) That the proposed change order request be approved by the architect/engineer;

(c) That the proposed change order request be approved by the using agency which shall make formal request for the allocation of funds from the contingency reserve; and

(d) That the Director of the Commission shall investigate the nature of the change order and concur in the necessity of the proposed expenditure or refuse same within fifteen (15) days after receiving the request.

For Annotations and Historical Notes, see V.A.T.S.

In the event the Director shall refuse to concur in a proposed contingency expenditure, the using agency may appeal to the Commission and the findings of the Commission shall be final. The Commission shall promulgate regulations setting forth the procedures for such appeals.

If an approved change order shall result in a reduction of construction cost, the contingency reserve shall be increased by the amount of such reduction.

(E) The Comptroller of Public Accounts shall issue warrants in payment of progress payments as well as final payments on construction under this Act upon the written approval of the Commission.

(F) Any equipment and furnishings not constructed or installed under the construction contract or contracts shall be acquired through regular purchasing channels of the State under the provisions of the State Purchasing Act of 1957.

#### Project construction inspection

Sec. 9. The Commission shall be responsible for protecting the interests of the State during the actual construction of each project covered by the provisions of this Act. Construction inspection shall fall into three (3) categories: detailed inspection, general inspection and professional inspection, as defined and provided for in this Section.

(A) Detailed inspection shall mean the close, technical on-site examination of the materials, structure and equipment, and surveillance of the workmanship and methods used to insure reasonably that the project is accomplished in compliance with information given by the contract documents and good construction practices by one or more full-time personnel at the project site. The Commission shall be the sole judge of when detailed inspection is required and shall base its decision on the size and complexity of the project.

Detailed inspection shall be exercised by a Project Construction Inspector who shall be appointed by the architect/engineer with the approval of the Commission.

The duties of the Project Construction Inspector shall include, but not be limited to, the following:

(1) He shall become thoroughly conversant with the drawings, specifications, details and general conditions for executing the work.

(2) He shall keep such records of the work as the architect/engineer and the Commission may specify and require and shall make such reports to the architect/engineer with copies to the Commission and the using agency as the architect/engineer and the Commission may specify and require. He shall maintain copies of these records and reports at the site of construction together with the plans, specifications, shop drawings, change orders and correspondence dealing with the project.

(3) He shall endeavor to see that the requirements of the contract documents are being carried out by the contractor.

(4) He shall endeavor to see that all authorized changes are properly incorporated in the work and that no changes are made unless properly authorized.

(5) He shall notify the architect/engineer if conditions encountered at the project are at variance with the contract documents and he shall comply with the directives of the architect/engineer in endeavoring to correct these conditions.

(6) He shall review shop drawings in relation to their adaptability to job conditions and advise the architect/engineer in respect thereto.

(7) He shall endeavor to see that materials and equipment furnished are in accordance with the specifications.

(8) He shall see that records are kept, on construction plans, of the principal elements of mechanical and electrical systems.

(9) He shall see that accurate records are kept of all underground utility installations (including existing installations uncovered in the process of construction) at the project site so that the information may be recorded on site plans or drawings which may be established and maintained by the Commission and/or the using agency.

(10) He shall keep a daily written log of all significant happenings on the job. His log shall include the number of workers that worked that particular day and weather conditions that existed during the day.

(11) He shall observe and give prompt written notice to the construction contractor's representative and the architect/engineer of any non-compliance on the part of the contractor's representative with any contract documents. He shall notify the architect/engineer and the Commission of any failure to take corrective measures promptly.

(12) He shall initiate, attend and participate in progress meetings and inspections with the contractor.

(13) He shall review every contractor's invoice against the value of partially completed or completed work and the materials stored at the project site prior to it being forwarded to the architect/engineer and shall promptly notify the architect/engineer of any discrepancy between his review of the work and the invoice.

(14) He shall be responsible to the architect/engineer for the proper administration of the duties enumerated herein, and he shall comply with other instructions and assignments of the architect/engineer.

The full cost of detailed inspection shall be a charge against the project.

(B) General inspection shall mean the examination and inspection of the project at periodic intervals by employees of the Commission. On projects where a Project Construction Inspector is employed by an architect/engineer, the General Inspector shall work with and through the Project Construction Inspector and the architect/engineer. On all other projects, the General Inspector shall work with and through the architect/engineer and shall exercise such detailed inspection functions as the Commission may require. The cost of general inspection shall be a charge against the project.

(C) Professional inspection shall mean the periodic examination of all elements of the project to reasonably insure that these meet the performance and design features and the technical and functional requirements of the contract documents. Professional inspection shall be exercised by the architect/engineer or his authorized representative and his duties shall include, but not be limited to, the following:

(1) He shall assist the Commission in obtaining proposals from contractors and in awarding and preparing construction contracts. He shall be responsible for the interpretation of the contract documents and any changes made thereto. He shall provide such interpretation of the plans and specifications as may be required during the construction phase.

(2) He shall check and approve samples, schedules, shop drawings and other submissions only for conformance with the design concept of the project and for compliance with the information given by contract documents.

(3) He shall approve or disapprove all change order requests and shall, subject to the provisions of Section 8 of this Act, prepare all change orders.

For Annotations and Historical Notes, see V.A.T.S.

(4) He shall assemble all written guarantees required of the contractors.

(5) He shall make periodic visits to the site of the project to familiarize himself generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the contract documents. The amount of time that such on-site inspections shall entail shall be determined by dividing the total compensation for professional services, exclusive of payments for detailed inspection, by one hundred (100) with the result being expressed as the number of hours to be devoted to on-site inspections, project conferences with the contractor and others, and travel to and from such inspections and conferences. He shall make a written inspection report after each visit to the project and he shall send a copy of such report to the contractor and to the Commission.

(6) He shall keep the Commission informed of the progress of the work and shall endeavor to guard against defects and deficiencies in the work of contractors.

(7) He shall determine periodically the amount owing to the contractors and shall recommend payment of such amounts to the Commission. Such recommendation shall constitute a representation to the Commission that, based upon his observations and other pertinent data, the work has progressed to the point indicated and it shall also constitute a representation to the Commission on the part of the architect/engineer that, to the best of his knowledge, information and belief, the quality of the work is in accordance with the plans, specifications and contract documents. He shall conduct inspections to determine the dates of substantial and final completion and shall notify the Commission and the using agency of his findings in this respect.

(8) In the event that the Commission requires full-time detailed inspection of the construction of a project, he shall select, subject to the Commission's approval, the Project Construction Inspector and shall be responsible for the proper administration of the duties enumerated under Subsection (A) of this Section. He shall pay the salary of the Project Construction Inspector and shall be reimbursed for all such salary costs plus expenses of overhead directly applicable to such salary.

Nothing in this Subsection (C) shall be construed as requiring the architect/engineer to assume responsibility for or to guarantee the complete adherence of the contractor to the plans and specifications and contract documents nor shall anything in this Subsection (C) be construed as requiring that the architect/engineer shall be liable for defects in construction.

It is the responsibility of the architect/engineer to furnish the professional inspection of a project and when a private architect/engineer is employed, the fee paid such architect/engineer shall be deemed to cover professional inspection, provided, however, that such fee shall not be deemed to cover the additional cost of detailed inspection over and above the administrative duties specifically encompassed by paragraph (C) (8) of this Subsection. In projects where the Commission's staff serves as architect/engineer, the Commission shall be responsible for professional supervision and the cost of such supervision shall be a charge against the project.

#### Selection of private architects/engineers

#### Sec. 10.

(A) The Commission shall establish and maintain a file of all qualified private architects/engineers who express an interest in State building construction projects. Said file shall contain such information as the

Commission shall deem essential and desirable together with brochures and exhibits submitted by each private architect/engineer. Each private architect/engineer may submit additional brochures, exhibits and information as he may deem necessary and that may be in accordance with his ethical practice in order that his file shall be current at all times. Such files shall be open to the inspection of any using agency.

(B) Ultimate responsibility for the selection of a private architect/engineer employed for any project covered by the provisions of this Act shall be vested in the Commission. In recognition of the close working relationship which must exist between the architect/engineer and the using agency, the Commission shall request the using agency to make recommendations regarding private architects/engineers and the using agency which desires to take advantage of such opportunity shall submit to the Commission the names of three (3) private architects/engineers designating its order of preference. The Commission shall consider such using agency recommendations in order of preference and shall not reject such recommendations without good and sufficient reason set forth in writing to the using agency. In the event that the Commission rejects all of the using agency recommendations, the using agency shall prepare and submit a new list.

(C) If the using agency does not choose to submit recommendations, it shall request the Commission to proceed to select a private architect/engineer in accordance with the generally accepted standards for such selection and in conformity with the ethical standards of the professional societies of such architects/engineers.

#### Compensation of private architects/engineers

##### Sec. 11.

Private architects/engineers employed by the Commission shall be compensated in accordance with the following provisions:

(A) The compensation for new projects and rehabilitation projects shall be established by the Commission on the basis of studies of the compensation paid within the State by private clients for projects of comparable size and complexity, provided that such compensation shall not exceed the minimum recommended for similar projects by the Texas Society of Architects in instances where the private architect/engineer is an architect or the minimum recommended by the Texas Society of Professional Engineers in instances where the private architect/engineer is an engineer. The compensation so established by the Commission shall be deemed to cover all professional services to be rendered by the private architect/engineer including professional inspection as that term is defined in Section 9 of this Act. On any project where the Commission requires detailed inspection, as defined by Section 9 of this Act, the compensation shall be increased by the actual cost of providing such detailed inspection.

(B) The compensation for preparation of a project analysis as required by Section 6 of this Act shall not exceed one per cent (1%) of the estimated cost of construction. In the event the project is approved by the Legislature in substantially the form originally requested and the same private architect/engineer is employed for the subsequent phases of design, the compensation paid under this Subsection shall be deducted from the compensation paid under the provisions of Subsection (A) of this Section.

(C) The State shall furnish detailed information on space requirements and relationships and the justification for, use of and general requirements to be met by the project. The State shall furnish a complete site survey and soil analysis.

**Planning fund**

## Sec. 12.

(A) There is hereby created with the State Treasury a special fund to be known as the State Building Construction Planning Fund.

(B) On the first working day of the fiscal year beginning September 1, 1965, the sum of Two Hundred Thousand Dollars (\$200,000) shall be transferred from the State Building Fund to the State Building Construction Planning Fund. Such amount is hereby appropriated for the fiscal year beginning September 1, 1965, and ending August 31, 1966. The unexpended balance of such appropriation is hereby reappropriated for the fiscal year beginning September 1, 1966, and ending August 31, 1967. Any interest earned on the assets of said Planning Fund shall thereafter be credited to the account of said Planning Fund.

(C) The State Building Construction Planning Fund shall be used to make payments for engineering, architectural and other planning expenses necessary to make a project analysis in accordance with the provisions of Section 6 of this Act. The State Building Commission shall authorize all payments made from said Planning Fund. Such payments shall be a first charge against the project for which they were drawn and the amount so paid shall be credited to and transferred to said Planning Fund at such time as the Legislature may approve the project and appropriate funds for its construction.

**Final inspection, acceptance of project, guarantee period**

## Sec. 13.

(A) The Commission shall be responsible for directing final payment for work done on each project; provided, however, that if upon final inspection of any project it shall be found that the plans, specifications, contract or change orders for the project shall not have been fully complied with, the Commission shall, until such compliance shall have been effected or adjustments satisfactory to it shall have been made, refuse to direct such payment.

(B) The final inspection shall consist of an on-site inspection by the architect/engineer, a representative of the Commission, a representative of the using agency and a representative or representatives of the contractor or contractors. The final inspection shall be scheduled by the Commission upon notification by the architect/engineer within ten (10) days after the architect/engineer has notified the Commission that the contract has been performed according to the plans and specifications.

(C) Upon completion of the project the Commission shall release the same to the using agency. The Commission shall be responsible for making an inspection of the project prior to the expiration of the guarantee period to observe any defects which may appear within one (1) year after completion of the contract. The Commission shall give prompt written notice to the contractor of defects which are due to faulty materials and workmanship. Nothing in this Subsection shall be construed as requiring the contractor to assume responsibility for or guarantee any defects other than those due to faulty materials or workmanship or failure on his part to adhere to the contract documents.

**Uniform general conditions in construction contracts**

## Sec. 14.

(A) The Commission shall, not later than six (6) months after the effective date of this Act, appoint an advisory committee consisting of the Director of the Commission who shall serve ex officio as chairman of

the committee and who shall vote only in the event of a tie; two (2) persons appointed by the Commission from a list of nominees submitted to it by the President of the Texas Society of Architects; two (2) persons appointed by the Commission from a list of nominees submitted to it by the President of the Texas Society of Professional Engineers; and two (2) persons appointed by the Commission from a list of nominees submitted to it by the Chairman of the Executive Council of the Texas Associated General Contractors Chapters; and two (2) persons appointed by the Commission from the list of nominees submitted to it by the Executive Secretary of the Mechanical Contractors Associations of Texas, Incorporated.

(B) The committee shall review the general conditions of State building construction contracts and shall, within three (3) months after its appointment, recommend to the Commission a set of uniform general conditions to be incorporated into all State building construction contracts. The members of the committee shall serve without compensation but may be reimbursed for their necessary and actual expenses.

(C) The Commission may, after consultation with the State Highway Department, modify or amend the recommendations submitted to it but shall, not later than one (1) year after the effective date of this Act, adopt a uniform set of general conditions which shall thereafter be incorporated into all building construction contracts executed by the State of Texas, including those pertaining to projects otherwise excluded from the provisions of this Act by Section 3 of this Act, but not including those excluded by Section 4 of this Act.

(D) The Commission shall cause the uniform general conditions of State building construction contracts to be reviewed whenever in its opinion such review is desirable, but in no event less frequently than once every five (5) years. The review shall be made by a committee appointed in the manner required by Subsection (A) of this Section. Members of any review committee appointed pursuant to this Subsection shall serve without compensation but may be reimbursed for their necessary and actual expenses.

#### Compilation of construction and maintenance data

##### Sec. 15.

(A) For the purpose of providing the Governor, the Legislature and the budget offices of the State with current information on the status of State-owned buildings, and for the purpose of obtaining up-to-date information on construction costs, the Commission shall biennially obtain from all using agencies a list of all State-owned buildings showing the year of completion, the general type of construction, size, usage and general condition of each. In addition the Commission shall, for all buildings completed from and after the effective date of this Act, obtain from all using agencies data showing the total cost of the project and the cost of construction together with such data as may be necessary to enable a meaningful comparison to be made on the cost of buildings of like nature.

(B) For the purpose of obtaining up-to-date information on maintenance data, the Commission shall obtain biennially from all using agencies information on the cost of heating, cooling and maintaining all buildings owned by the State.

(C) The Commission shall summarize its findings in a report to be made available to the Governor, the Legislature and the budget offices of this State. All State agencies, departments and institutions shall cooperate with the Commission in providing the information necessary for said report.



**Repealer****Sec. 16.**

Articles 670, 671, 672, 679, 680, 681, 682, and 683 of the Revised Civil Statutes of Texas, 1925, as amended, are hereby repealed; and all laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict. Acts 1965, 59th Leg., p. 926, ch. 455, eff. Sept. 1, 1965.

Section 17 of Acts 1965, 59th Leg., p. 926, ch. 455 was a severability clause; section 18 of the act provided that the act should become effective on September 1, 1965.

**Title of Act:**

An Act relating to methods and procedures for planning, design and construction of State buildings; defining certain

terms; providing for applicability of this Act; providing certain appropriations; vesting certain powers and duties in the State Building Commission; repealing certain laws; providing a severability clause; providing for an effective date; and declaring an emergency. Acts 1965, 59th Leg., p. 926, ch. 455.

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

**Arts. 679–683. Repealed. Acts 1965, 59th Leg., p. 926, ch. 455, § 16.  
 Eff. Sept. 1, 1965**

See, now, art. 678f.

**TITLE 20A. BOARD AND DEPARTMENT OF  
PUBLIC WELFARE**

Art.  
695c—2. Physicians' reports of certain in-  
juries involving children [New].

Art.  
695k. Texas State Committee on Aging  
[New].

**Art. 695c. Public Welfare Act of 1941**

State Department as agency of state; "Economic Opportunity Act of 1964"

Sec. 6-A. (a) The State Department of Public Welfare is hereby designated as the State Agency to cooperate with the Federal Government in the administration of the provisions of Title V of the "Economic Opportunity Act of 1964" and of the provisions of such other applicable titles of the "Economic Opportunity Act of 1964"<sup>1</sup> as are now provided or as may be added thereto from time to time in the event no other State Agency is by law designated to cooperate with the Federal Government in the administration of the provisions of such title or titles as may be added to said Act, and the Department is directed to enact and promulgate such rules and regulations as may be necessary to effect the cooperation as herein outlined and designated.

The State Department of Public Welfare is hereby authorized and directed to take all necessary and proper action to administer the programs contemplated in Title V and such other applicable titles of said Act and to cooperate with the proper Departments of the Federal Government and with all other Departments of the state and local governments in the enforcement and administration of such provisions of the "Economic Opportunity Act of 1964" and any amendments thereto and/or any other related Federal Acts enacted for the purpose of carrying out the provisions of the "Economic Opportunity Act of 1964" and any amendments thereto, and the rules and regulations issued thereto and in compliance therewith, in the manner prescribed in this Act or as otherwise provided by law.

(b) The State Department of Public Welfare shall establish reasonable rules and regulations for setting up and expanding experimental, pilot, or demonstration projects for the purpose of providing and extending the opportunities for constructive work experience and other needed training available to needy persons, who are unable to support or care for themselves or their families, so as to assist them in securing and retaining employment or attaining or retaining capability for self-support, subject to the limitations and restrictions, and within the limits of the appropriations provided under the "Economic Opportunity Act of 1964."

(c) The State Department of Public Welfare shall have the authority to employ such personnel as may be found necessary by the Commissioner of Public Welfare and/or to make such arrangements as are necessary to efficiently carry out the purposes of this Act.

At such time as appropriations are made available for such purposes, the State Department of Public Welfare is authorized to use such funds for the administrative cost of the operation of the programs established under the "Economic Opportunity Act of 1964," or as it may hereafter be amended, including but not limited to the payment of salaries, travel expense, rent, bond premiums, postage, telephone and telegraph, freight, express, drayage, stationery, printed forms, office supplies, equipment, repairs, examining fees, medical services, maintenance and miscellaneous and contingent expense (includes Merit System).

The personnel and other administrative expenses provided for in this Section shall constitute additional staff and administrative expenses of the State Department of Public Welfare, and said Department is hereby authorized to establish position classifications, and such additional personnel and administrative expenses shall be integrated with the present staff and other costs of administration for the purpose of administering the public welfare programs for which the Department is responsible, and shall in no way lessen the authority or the power of the Commissioner of Public Welfare to allocate and reallocate functions of the employees as provided in Section 5 of Senate Bill No. 36, Acts of the 46th Legislature, Regular Session, 1939, as amended by House Bill No. 611, Chapter 562, Page 914, Acts of the 47th Legislature, Regular Session, 1941, as amended.<sup>2</sup>

(d) The State Department of Public Welfare shall establish reasonable rules and regulations for safeguarding the confidential nature of information obtained from and on behalf of persons affected by this program and shall establish sufficient safeguards to restrict the use or disclosure of information obtained from or pertaining to persons affected by the program to purposes directly connected with the administration of the program. Added Acts 1965, 59th Leg., p. 266, ch. 111, § 1, emerg. eff. May 6, 1965.

<sup>1</sup> 42 U.S.C.A. § 2921 et seq.

<sup>2</sup> Article 695c, § 5.

Acts 1965, 59th Leg., p. 266, ch. 111, § 2, provided:

The State Department of Public Welfare is authorized to accept and expend any Federal moneys allocated to the said Department for any projects or programs established for the purpose of carrying out the provisions of this Act and for administrative expenses and/or any other expenses incident to the administration of said projects or programs.

The State Department of Public Welfare is authorized to receive and expend funds from the state, counties, and cities and from any other source for the purpose of carrying out the provisions of this Act.

The Department shall deposit all such funds irrespective of source in the Special Fund hereinafter created in the State Treasury [See article 7033a, § 2(8)] and such funds shall be subject to withdrawals upon authorization of the Commissioner of Public Welfare, and all such funds deposited in said Special Fund in the Treasury are hereby appropriated to the State Department of Public Welfare.

**Child-caring institutions**

Sec. 8(a).

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**2. Provisions for License to Operate.**

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(e) Fees. (1) Child-placing agencies, in cases either of placement for adoption or of placement for care and custody, shall not be prohibited from charging a reasonable fee for placement, consultation or other child-placing activities either from the parents or other person responsible for the child involved, or from the foster parents receiving the child; the natural parents, legal guardian, or foster parents may pay such agency a reasonable amount for staff and other services, board, maintenance, and medical care of such child and may reimburse the agency for medical care and maintenance plus staff and other services on behalf of the mother of such child in accordance with rules and regulations prescribed by the State Department of Public Welfare as hereinafter provided. (2) License to operate, for each type of facility as herein defined, shall be issued without fee, and under such reasonable and uniform rules and regulations as the State Department of Public Welfare shall prescribe as hereinafter provided; and the type of facility for which a license is issued shall be indicated on such license. As amended Acts 1965, 59th Leg., p. 1444, ch. 634, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Permanently and totally disabled persons; eligibility for assistance; definitions; amount of assistance**

Sec. 16-B. (1) Assistance to the permanently and totally disabled shall be given under the provisions of this Act to any needy person:

1. Who is permanently and totally disabled as hereinafter defined; and
2. Who is eighteen (18) years of age or older but less than sixty-five (65) years of age; and
3. Who is a citizen of the United States; and
4. Who has resided in the State of Texas for five (5) years or more within the last nine (9) years preceding the date of his application for assistance and has resided in the State of Texas continuously for one (1) year immediately preceding the application; and
5. Who is not at the time of receiving assistance an inmate in a public institution (except as a patient in a medical institution) or is not a patient in an institution for tuberculosis or mental disease, or who has not been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof; and
6. Who is in need as hereinafter defined; and
7. Who is not receiving Old Age Assistance, Aid to the Blind, or Aid to Dependent Children; and
8. Who has not disposed of property, either personal or real, for the purpose of qualifying or increasing need for assistance, provided that the property, if still available, would affect either eligibility or the amount of the assistance payment.

No application for assistance under the provisions of this Act shall be approved until it has been established in accordance with the rules and regulations promulgated by the State Department of Public Welfare that the applicant is permanently and totally disabled by reason of a mental or physical impairment or a combination of both.

(2) The term "permanently and totally disabled," as used in this Act, means that the individual has a permanent physical or mental impairment, disease, or loss, or a combination of such which is verifiable by medical findings, which is irreversible, or progressive, and not amenable to treatment, or requires treatment that is continuous, extremely hazardous, or of questionable benefit, and renders the individual totally disabled, as demonstrated by the fact that his functional capacity is extremely limited to the extent that he requires considerable assistance from another person in the normal activities of daily living, and which permanently precludes applicant from engaging in any useful occupation as a homemaker or as a wage earner.

"Permanent and total disability," as defined herein, shall be established on the basis of a currently applicable medical report of examination by a physician legally licensed to practice medicine in the State of Texas and who has been approved by the State Department of Public Welfare to make such examinations. The examining physician shall certify in writing, upon forms prescribed by the State Department, such information as the Department may require for proper diagnosis, prognosis, and recommendations as to medical and surgical treatment. Said reports shall be reviewed by a physician legally licensed to practice medicine in the State of Texas and employed by the State Department of Public Welfare, who shall approve or disapprove the medical evidence to substantiate the finding of "permanent and total disability." Said reviewing physician shall also determine the feasibility of referring said applicant for voca-

tional rehabilitation. The State Department of Public Welfare shall adopt a reasonable fee schedule for examinations, when examinations are considered necessary by the State Department of Public Welfare for the purpose of determining eligibility for assistance of individuals who are permanently and totally disabled under the provisions of this Act, and the Department of Public Welfare is hereby authorized to pay for such examinations out of the funds appropriated to the State Department for the purpose of assistance to the permanently and totally disabled persons under the provisions of this Act or for administrative expense. The State Department of Public Welfare is hereby authorized to incur claims for medical examinations which may be paid later out of subsequent appropriations for medical expenses when the current appropriation is inadequate to pay for such medical examinations.

Each recipient of assistance who is permanently and totally disabled shall submit to a re-examination whenever such re-examination is deemed necessary by the State Department of Public Welfare for the continuance of the assistance grant.

(3) The Department of Public Welfare is authorized to provide through employment of properly qualified personnel such medical, social and related services as are found necessary for proper administration of this Act, and for most effective use of other resources for rehabilitation and restoration to health and independence. The Department of Public Welfare shall refer recipients who can be benefitted thereby to the appropriate public and private resources for rehabilitation through retraining, restorative services, or treatment and therapy.

(4) In determining "need," the State Department of Public Welfare shall adopt reasonable rules and regulations for the purpose of determining eligibility, and shall take into consideration all of the resources and income available to the individual from any source. Assistance may not be granted if such individual has available resources which are sufficient to provide a reasonable subsistence compatible with health and decency; provided that in consideration of income and resources actually available to an applicant, the State Department shall take into consideration the income and resources which may be available to the relatives of an applicant or a recipient who are responsible for his support. "Responsible relatives," for the purpose of this Act, shall include spouses, parents, step-parents, children, stepchildren, brothers, sisters, and any other relative who has assumed responsibility for his care.

The State Department of Public Welfare shall adopt reasonable rules and regulations for determining the amounts of assistance given to an applicant. The amount of assistance given shall be determined by the State Department of Public Welfare through its District or County Agents in the County or District in which the needy person resides. The amount granted shall provide such person with a reasonable subsistence compatible with health and decency and within the limitations and provisions of the Constitution of the State of Texas, as is now provided or may hereafter be provided. The amount of such assistance out of State funds to each person assisted shall never exceed the amount so expended out of Federal funds. The method of investigation and the determination of the amount of assistance granted shall comply with the limitations and provisions of the Federal Social Security Act as is now provided or may hereafter be provided.

(5) No provision of this Act is intended to release the Federal or State institutions in this State from the specific responsibility which is currently borne by them in the care of those persons currently residing in either Federal or State hospitals or institutions for the care or treatment of mentally retarded or mentally ill persons or for the treatment of tuberculosis, or those who may hereafter be eligible for or entitled to care or

treatment in such institutions. It is further provided that none of the moneys appropriated for assistance to or on behalf of the permanently and totally disabled shall be used for the payment of assistance grants or for providing services to or on behalf of persons who are so hospitalized or whose mental or physical condition is such that his welfare and that of the general public would best be served by care and treatment in such public institution and such public institutional care is available. As amended Acts 1965, 59th Leg., p. 1619, ch. 693, § 1, eff. Aug. 31, 1965.

Acts 1965, 59th Leg., p. 266, ch. 111, § 1 amended this article by adding section 6-A; section 2 of the amendatory act of 1965 is set out under section 6-A; section 3 of the amendatory act of 1965 amended section 2 of article 7083a by creating in the State Treasury a special fund known as

the "Economic Opportunity Fund—Welfare." See, article 7083a, § 2(8).

Section 2 of the amendatory act of 1965 amended article 7083a. Section 3 thereof provided that the effective date of the act should be August 31, 1965.

Art. 695c—2. Physicians' reports of certain injuries involving children

Section 1. Any physician who examines or treats a child under the age of 18 years for any injury may report the injury to the judge of the juvenile court, district attorney, the county attorney, local law enforcement agency, or the probation officer of the county if he believes that the injury is other than accidental and that the injury is due to maltreatment or neglect.

Sec. 2. The physician may make an immediate oral report followed as soon as possible by a written report. The reports shall contain the name and address of the child, the name and address of the child's parent or guardian, the age of the child, the nature and extent of the injury, and any other information pertinent to establishing the cause of the injury. If any of the information required by this Section is unknown to the physician making the report he shall so state.

Sec. 3. A physician is immune from civil and criminal liability for reporting as defined by this Act. Acts 1965, 59th Leg., p. 277, ch. 117.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act relating to physicians' reports of certain injuries involving children; and declaring an emergency. Acts 1965, 59th Leg., p. 277, ch. 117.

Art. 695j. Medical assistance to recipients of public assistance

Definitions

Section 1.

\* \* \* \* \*

(g) The term "recipient of public assistance," for the purposes of this Act, means any person who was eligible and receiving a grant of Old Age Assistance, Aid to the Blind, Aid to the Permanently and Totally Disabled, or Aid to Families with Dependent Children (including the children and/or the caretaker with whom the child lives) when medical or hospital services or nursing care were rendered. As amended Acts 1965, 59th Leg., p. 1525, ch. 665, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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(j) The term "optometrist" means a person licensed by the Texas State Board of Examiners in Optometry and 'vendor of optometric care' under this Act. The Assistance provided under this Act shall also include monetary assistance paid to a vendor of optometric care. Added Acts 1965, 59th Leg., p. 1525, ch. 665, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Persons eligible for assistance**

Sec. 3. Medical Assistance may be given under the provisions of this Act on behalf of any recipient of public assistance;

(1) Who is certified by the physician of his choice as having an illness, injury or physical deformity which requires immediate inpatient care in a hospital and that the illness, injury or physical deformity is such that the absence of such care would be gravely detrimental to the health of such recipient, or who is certified by the physician of his choice as having an illness, injury or physical deformity which requires that nursing care, as defined herein, be rendered him; and

(2) Who is not an inmate in a public institution (except as a patient in a medical institution) or is not a patient in an institution for tuberculosis or mental disease, or who has not been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof.

(3) In the event that all or any part of the above-described services become available to recipients of assistance through any other Governmental Agency, State or Federal, then and in that event, the State Department of Public Welfare may extend medical services to recipients to include, but not limited to, physician's services outside the hospital, outpatient hospital or clinic service, home health service, private duty nursing services, and such other services, including optometric services as may be found to be necessary and within the limits of the appropriation for this program.

The State Department of Public Welfare shall adopt reasonable rules and regulations for determining need for the above-mentioned medical services, and for providing for payment of such services.

(4) Who is certified by the optometrist of the recipient's own choice and who uses the employment of objective or subjective means, without the use of drugs, for the purpose of ascertaining and measuring the powers of vision of the human eye, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. Nothing herein shall be construed to permit optometrists to treat the eyes for any defect whatsoever in any manner, nor to administer nor to prescribe any drug or physical treatment whatsoever unless such optometrist is a regularly licensed physician or surgeon under the laws of this state. The optometrist making such certification shall certify that the absence of such correction would adversely affect the recipient's efficiency, safety or welfare or the safety or welfare of others. As amended Acts 1965, 59th Leg., p. 1525, ch. 665, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 4 of the amendatory act of 1965 provided: "The medical assistance payments provided herein for recipients of Aid to the Blind, Aid to the Permanently and Totally Disabled, and Aid to Families with

Dependent Children (including the caretaker of such children) shall be effective July 1, 1966, except that no payments shall be made unless a major portion of hospital care for Old Age Assistance recipients is assumed by the Federal Government at that time."

**Art. 695k. Texas State Committee on Aging**

**Governor's Committee on Aging; terms of office; compensation; policies, rules and regulations; meetings**

Section 1. (a) There is hereby created a Texas State Committee on Aging to be known as the "Governor's Committee on Aging" which shall consist of nine (9) members appointed by the Governor, with the advice and consent of the Senate, all of whom shall have demonstrated their interest in and knowledge of problems of the aging.

(b) The term of office of the nine (9) members shall be six (6) years except that initially three (3) members shall be appointed for a six (6)

year term, three (3) members shall be appointed for a four (4) year term, and three (3) members for a two (2) year term; and biennially thereafter, three (3) members of said Commission shall be appointed for a full term of six (6) years, and each member of the Committee shall hold office until his successor has been appointed and has qualified by taking the oath of office. Said members shall be eligible for reappointment and a vacancy for an unexpired term shall be filled by the Governor.

(c) The members shall serve without compensation but shall be entitled to reimbursement for actual travel expenses incurred in the performance of their duties.

(d) The Governor's Committee on Aging shall be responsible for the adoption of all policies, rules, and regulations governing the functions of the Committee provided that nothing herein shall prohibit the Committee from delegating the rights, powers, or duties imposed or conferred upon the Committee to the Coordinator of the Aged hereafter provided for in accordance with the appropriate rule, regulations, or order of said Committee.

(e) The Governor's Committee on Aging shall hold two (2) meetings annually and may hold such other meetings as may be called by the Chairman.

#### **Chairman; duties; compensation**

Sec. 2. In addition to the nine (9) members provided for in Section 1, the Governor shall also appoint a Chairman of the Governor's Committee on Aging, who shall serve during the tenure of the Governor who appointed him, and until his successor has been appointed. If the Governor appoints a state officer as Chairman, the services of said Chairman shall not constitute any office but shall be considered as an extension of his other official duties. The Chairman shall preside at all meetings and shall serve without voting privileges. He shall direct the work of the Coordinator of the Aging and the Committee.

The Chairman shall serve without compensation but shall be entitled to reimbursement for actual travel expenses incurred in the performance of said duties.

#### **Coordinator of Aging; personnel; salaries; administrative and executive functions**

Sec. 3. (a) The Governor shall appoint a Coordinator of Aging and such other personnel as are necessary and proper. The salaries for the Coordinator of Aging and other personnel and expenses incident to the operation of said office shall be paid from the appropriations to the Governor's Office for such purposes as authorized by the Legislature except that nothing herein shall be construed as prohibiting the Committee from accepting services performed in pursuance to the purposes of this Act by other cooperating Agencies and Departments.

(b) The Coordinator of Aging shall be the Executive and Administrative officer of the Committee and shall discharge all administrative and executive functions of the Committee. The person so selected by the Governor shall be a person with executive ability and a person who has had extensive experience in the area of aging and shall serve at the pleasure of the Governor.

#### **Governor's Citizens Advisory Council**

Sec. 4. There shall be a Governor's Citizens Advisory Council composed of at least two (2) members from each Senatorial District in the state who shall be appointed by the Governor and serve at the pleasure of the Governor. These members of the Citizens Advisory Council shall serve without compensation, and shall work under the direction and in coordination with the Committee in carrying out the purposes of this Act.



**Functions and responsibilities of Committee**

Sec. 5. In addition to the functions and responsibilities as set forth elsewhere in this Act the Committee shall:

1. Develop and strengthen the services available for the aging in the state by coordinating the existing services provided by Federal, state, and local departments and agencies, and private agencies and facilities;
2. Extend and expand services for the aged through coordinating the interests and efforts of local communities in studying the problems of the aged citizens of this state;
3. Encourage, promote, and aid in the establishment of programs and services on a local level for the betterment of the living conditions of the aged by making it possible for the aged to more fully enjoy and participate in family and community life; and
4. Sponsor voluntary community rehabilitation and recreational facilities for the purpose of improving the general welfare of the aged.

It shall also be the responsibility of the Committee, through its Coordinator of Aging, to cooperate with Federal Agencies, other State Agencies, or Departments, and organizations to conduct studies and surveys on the special problems of the aged in such matters as mental and physical health, housing, family relationships, employment, income, vocational rehabilitation, recreation, and education, and to make such reports and recommendations as are appropriate to the Governor and other Federal and State Agencies.

**Cooperation with federal and state agencies**

Sec. 6. The Committee shall be the designated State Agency to handle programs of the Federal Government relating to the aging, requiring action within the state, which are not the specific responsibility of another State Agency under the provisions of Federal or State Law. This Committee is not intended to supplant or to take over from the counties and municipalities of this state or from other State Agencies or facilities of this state any of the specific responsibilities which are currently borne by them, but it is intended that this Committee shall cooperate with such Federal and State Agencies, counties, and municipalities and private agencies or facilities within the state in the furtherance of the purposes set forth in this Act on behalf of the aged.

**Donations**

Sec. 7. The Committee may accept and solicit gifts, grants, or donations of money or property from public or private sources. Donations of money shall be placed in a special fund in the state treasury and expended on warrants drawn by the comptroller on order of the Committee. Donations of real property and of personal property other than money shall be used or sold as the Committee deems proper. Acts 1965, 59th Leg., p. 669, ch. 320.

Effective Aug. 30, 1965, 90 days after date of adjournment

**Title of Act:**

An Act creating a Texas State Committee on Aging to be known as the "Governor's Committee on Aging"; providing for the appointment of the Committee, a Governor's Citizens Council on Aging, a Coordinator of Aging, and such other appropriate staff as is deemed necessary, and defining their term of office, powers, duties, functions, responsibility, and relationships

with other agencies and officers of the state; authorizing the Committee to accept and expend funds made available through any Federal and/or state grant or appropriation for the purposes of carrying out the purposes of this Act; authorizing the Committee to accept gifts and/or grants from private sources and to expend same in the interest of furthering the purposes set out in this Act; providing a repealing clause; a saving clause; and declaring an emergency. Acts 1965, 59th Leg., p. 669, ch. 320.

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

## CHAPTER ONE—GENERAL PROVISIONS AND REGULATIONS

Art.

715a. Replacement for damaged, destroyed,  
lost or stolen bonds [New].

## Art. 715a. Replacement for damaged, destroyed, lost or stolen bonds

Section 1. This Act shall be applicable to (and the term "issuer" as used in this Act shall mean and include) the State of Texas, or any department, agency or instrumentality of the State of Texas or any county, municipal corporation, taxing district or other political district or subdivision of the State of Texas having power to borrow money and issue bonds.

Sec. 2. Any issuer may issue a replacement bond to be exchanged for any damaged or mutilated bond theretofore lawfully issued and which at the time of exchange is outstanding, and may also issue a replacement bond for any bond theretofore lawfully issued and which is outstanding to replace any such bond which has been destroyed, lost or stolen, without an election. Any bond issued to replace a destroyed, lost or stolen bond, shall be issued upon indemnity satisfactory to the issuer, and to the Trustee if such bond is secured by a Trust Indenture. The issuer may require an affidavit or any other form of evidence satisfactory to the issuer to establish proof of ownership and the circumstances of the loss, theft, destruction, mutilation or damage of such bond.

Sec. 3. Any bond issued pursuant to the provisions of this Act shall be of like tenor and effect as the bond which it is issued to replace, except that such replacement bond shall bear a date specified by the issuer and shall be signed manually, or in facsimile, as provided by law, by the officers of the issuer holding office at the time of issuance of the replacement bond.

Sec. 4. Any such replacement bond shall be submitted to the Attorney General for his approval. If the Attorney General finds that such bond has been issued in accordance with the provisions of this Act he shall approve same and shall transmit any such bond to the Comptroller of Public Accounts for registration. The Comptroller shall register any such replacement bond in the same manner as the original bond was registered, giving it the same registration number as the original bond, except that such number shall be preceded by the letter R. The Comptroller shall date his registration certificate as of the date of registration of the replacement bond. Prior to registration of a bond issued to replace a mutilated or damaged bond, the Comptroller shall cancel the bond being replaced and return same to the issuer. The Comptroller shall register other bonds authorized herein upon certification from the Attorney General that such bond is being issued to replace a bond which has been lost, stolen or destroyed.

Sec. 5. This Act shall be cumulative of all existing laws relating to the issuance of bonds. Acts 1965, 59th Leg., p. 701, ch. 334.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act relating to issuance of duplicates for lost, stolen, destroyed, or mutilated

bonds issued by the state or by a political subdivision of the state; and declaring an emergency. Acts 1965, 59th Leg., p. 701, ch. 334.

**TITLE 24—BUILDING—SAVINGS AND LOAN ASSOCIATIONS****Art. 852a. Savings and Loan Act****CHAPTER FIVE. LOANS, INVESTMENTS, OWNERSHIP  
OF REAL PROPERTY****Art. 852a, sec. 5.05. Requirements in regard to lending transactions**

In no event shall an association make a loan, purchase or sell a note or lien or enter into any participation transaction authorized in Sections 5.01, 5.02, and 5.03 in violation of any rule or regulation promulgated under Section 5.04 and no association shall:

(1) Make a real estate loan to an officer or director of the association unless such loan be first approved unanimously by its board of directors and such approval recorded in the minutes of the meeting of the board at which such loan was approved.

(2) Make a real estate loan or loans to any one borrower in the aggregate in excess of Fifty Thousand Dollars (\$50,000) or the sum of its loss reserves, surplus and permanent Reserve Fund Stock, if any, or within such limits as may be fixed by appropriate rule and regulation promulgated under Section 5.04 hereof, whichever is the greater amount.

(3) Make a real estate loan unless an appraisal by an appraiser or committee of appraisers appointed by the board of directors first be made and filed in writing with the association as a part of its permanent files; reappraisals may be required by the Commissioner on real estate securing loans which are delinquent more than twelve (12) months at the expense of the association.

(4) Make a real estate loan which is not secured by a first and prior lien upon the property described in the mortgage, deed of trust or other instrument creating or constituting such lien, unless every prior lien thereon is owned by such association.

(5) Make a real estate loan unless the association is furnished with either a satisfactory abstract of title or a policy of title insurance issued by a title company authorized to insure titles in this state showing that the lien securing such loan meets the requirements of the preceding subsection (4).

(6) Make a real estate loan unless the insurable improvements thereon are insured against loss by a fire and extended coverage policy or its equivalent issued by an insurance company authorized to do business in this state.

(7) Sell or transfer a prior lien held by the association while retaining a junior lien on the same security to secure an unsatisfied obligation due the association unless such junior lien or liens were created in connection with a loan made under Sections 5.08 and 5.10 of this Act.

(8) Fail to promptly record in the proper county records every mortgage, deed of trust or other instrument, creating, constituting or transferring any lien securing in whole or in part any real estate loan or the association's interest therein. As amended Acts 1965, 59th Leg., p. 492, ch. 254, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER SIX. SAVINGS ACCOUNTS

**Art. 852a, sec. 6.08. Savings accounts in two or more names**

When a savings account is opened in any association operating under this law or Federal Savings and Loan Association doing business in this state in the names of two or more persons, whether minor or adult, and the savings contract provides that the moneys in such account may be paid to or on the order of any one of such persons, then the institution may pay the moneys in such account to or on the order of any one of such persons either before or after the death of the other person or persons named on such account and such institution shall have no further liability for the amounts so paid, but if the savings contract provides that the signatures of more than one of such persons during their lifetimes or of more than one of the survivors after the death of any one of them are required on any check, receipt or withdrawal order, then the institution shall pay the moneys in the account only in accordance with such instructions; provided, that any one of the parties to such an account may give written notice to the institution not to permit withdrawals in accordance with the terms of the savings contract, in which event the institution may refuse, without liability, to honor any check, receipt or withdrawal request on the account pending determination of the rights of the parties thereto. As amended Acts 1965, 59th Leg., p. 492, ch. 254, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## TITLE 25—CARRIERS

ART. 6. REGULATION OF MOTOR  
CARRIERS

911f. Motor transportation brokers of fresh citrus fruits and vegetables [New].

## 1. DUTIES AND LIABILITIES

Art. 883. [708] [320] [278] Liability fixed; exceptions for rates based on value; evidence; notice of claim may be required

Section 1. Railroad companies and other carriers of goods, wares and merchandise, for hire, within this state, on land, or in boats or vessels on the waters entirely within this state, shall not limit or restrict their liability as it exists at common law, by any general or special notice, or by inserting exceptions in the bill of lading or memorandum given upon the receipt of the goods for transportation or in any other manner whatsoever; provided, however, that the provisions hereof respecting liability of carriers as it exists at common law for loss, damage or injury to goods, wares and merchandise shall not apply to property received for transportation concerning which the carriers shall have been or shall hereafter be expressly authorized or required by order of the Railroad Commission of Texas to establish and maintain rates dependent upon the value declared in writing by the shipper of the property or agreed upon in writing as the released value of the property, in which case such declaration or agreement shall have no effect other than to limit liability and recovery to an amount not exceeding the value so declared or released, and so far as relates to values, shall be valid and is not hereby prohibited. The Railroad Commission of Texas is hereby authorized to fix and establish just and reasonable rates for transportation of goods, wares and merchandise described by commodities or articles or by generic groupings of commodities or articles dependent upon the value thereof declared in writing, or agreed upon in writing by the shipper as the agreed value, under the circumstances and conditions surrounding such transportation. Provided further, that a requirement of a notice or claim, consistent with the provisions of Article 5546 of the Revised Civil Statutes of Texas, 1925, as heretofore amended, as a condition precedent to the enforcement of any claim for loss, damage and delay or either, or any of them, whether inserted in a bill of lading or other contract or arrangement for carriage, or otherwise provided, shall be valid and is not hereby prohibited. As amended Acts 1965, 59th Leg., p. 581, ch. 295, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 2 of the amendatory act of 1965 provided: "All other laws or parts of laws in conflict herewith are to the extent of such conflict hereby repealed, provided, however, that nothing herein shall affect the provisions of Acts 1931, 42nd Legislature, page 480, Chapter 277, Section 6aa, [art. 911b, § 6aa], requiring that minimum rates, fares and charges of contract car-

riers shall not be less than the rates prescribed for common carriers for substantially the same service, or the provisions of Acts 1947, 50th Legislature, page 563, Chapter 327 [arts. 883(a), 833(b)] relating to declaration of value, rates based on value and evidence, with respect to transportation of household goods, personal effects or used office furniture and equipment by specialized motor carriers and other carriers for hire."

2. BILLS OF LADING

§§ 890 to 898. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102.  
Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed arts. 890 to 898 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

6. REGULATION OF MOTOR CARRIERS

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

Definitions

Section 1.

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(g) The term "motor carrier" means any person, firm, corporation, company, copartnership, association or joint stock association, and their lessees, receivers, or trustees appointed by any court whatsoever owning, controlling, managing, operating, or causing to be operated any motor-propelled vehicle used in transporting property for compensation or hire over any public highway in this state, where in the course of such transportation a highway between two or more incorporated cities, towns or villages is traversed.

Provided, that the term "motor carrier" as used in this Act shall not include, and this Act shall not apply to motor vehicles engaged in the transportation of property for compensation or hire between points:

(1) Wholly within any one incorporated city, town or village;

(2) Wholly within an incorporated city, town or village and all areas, incorporated or unincorporated, wholly surrounded by such city, town or village;

(3) So situated that the transportation is performed wholly within an incorporated and immediately adjacent unincorporated area without operating within or through the corporate limits of more than a single incorporated city, town or village, except to the extent provided in (2) above; or

(4) Wholly within the limits of a base incorporated municipality and any number of incorporated cities, towns and villages which are immediately contiguous to said base municipality.

Provided further, that motor carriers authorized to serve any incorporated city, town or village within the areas described in (2), (3), and (4) above, except carriers of commodities in bulk in tank trucks and all specialized motor carriers, may perform service for compensation or hire between all points within the areas described in (2), (3), and (4) above, on the one hand, and, on the other, authorized points beyond such areas without a certificate or permit authorizing service at all points within such areas when such transportation is incident to, or a part of, otherwise regulated transportation performed under a through bill of lading.

Provided further, that after notice and public hearing the Railroad Commission of Texas is hereby authorized, except as to operations of carriers of commodities in bulk in tank vehicles and all specialized motor carriers, from time to time and where necessary, to define and prescribe, and where necessary shall prescribe, commercial zones adjacent to and commercially a part of any specified incorporated municipality and within which operations as a motor carrier may be

For Annotations and Historical Notes, see V.A.T.S.

performed without a certificate or permit authorizing same and within which strictly local service wholly within such commercial zone may be performed at rates and charges other than those prescribed by the Commission. The Commission in so determining and prescribing the limits of any commercial zone shall take into consideration its powers and duties otherwise to administer and enforce the Motor Carrier Act considered in the light of the economic facts and conditions involved in each commercial zone or proposed commercial zone, particularly the effect that unregulated transportation for compensation or hire within such zone or proposed zone has had or may have upon fully regulated motor carriers operating in regulated intrastate commerce to, from and within such commercial zone. The Railroad Commission is empowered to prescribe such rules and regulations for operation of such transportation as the Commission deems in the public interest. Acts 1965, 59th Leg., p. 572, ch. 290, § 1, emerg. eff. May 31, 1965.

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(j) The term "transporting property for compensation or hire" shall include the furnishing during the same period of time of equipment and drivers to persons, firms, co-partnerships, associations or joint stock associations other than common carriers, contract carriers, specialized motor carriers for use in their carrier operations whether the equipment and drivers are furnished by the same or separate person, firm, co-partnership, association or joint stock association, and their lessees, receivers or trustees appointed by any court whatsoever owning, controlling, managing, operating or causing to be operated any motor-propelled vehicle, provided, when the owner of a motor-propelled vehicle furnishes, by lease, the motor-propelled vehicle and is employed to operate such motor-propelled vehicle by the person to whom the equipment is furnished, and when such motor-propelled vehicle and the operator thereof are to be engaged exclusively in the transportation of sand, gravel, dirt, caliche, shell, asphalt rock, crushed stone, hot-mix asphaltic concrete (not liquid asphalt), and aggregate, in bulk, when such substances have been processed by the person to whom the equipment is furnished, and when such substances are being transported by the lessee to or from the job site of any construction project, being performed by the lessee for or on behalf of the Federal Government, the State of Texas, or any political subdivision thereof, or to or from the construction site of any national defense project, airport and roadways leading thereto, or to or from the construction site of any road, highway and expressway, the owner of the motor-propelled vehicle so furnished and so used shall not be considered engaging in transportation for compensation or hire as that term is defined. As amended Acts 1965, 59th Leg., p. 432, ch. 219, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Exceptions to definition of terms "Motor Carrier" and "Contract Carrier"**

Sec. 1a. (1) Provided, however, that the term "Motor Carrier" and the term "Contract Carrier" as defined in the preceding Section shall not be held to include:

(a) Any person having a regular, separate, fixed, and established place of business, other than a transportation business, where goods, wares, and merchandise are kept in stock and are primarily and regularly bought from the public or sold to the public or manufactured or processed by such person in the ordinary course of the mercantile, manufacturing, or processing business, and who, merely incidental to the operation of such business, transports over the highways of this state such goods of which such person is the bona fide owner by means of a motor vehicle of which such person is the bona fide owner; nor

(b) Any person transporting farm implements, livestock, livestock feedstuffs, dairy products, horticultural products, floral products, agricultural products, timber in its natural state, or wool and mohair of which such person is the bona fide owner on a vehicle of which he is the bona fide owner to and from the area of production and to and from the market or place of storage thereof; provided, however, if such person (other than a transportation company) has in his possession under a bona fide consignment contract livestock, wool, mohair, milk and cream, fresh fruits and vegetables, or timber in its natural state under contract, as an incident to a separate, fixed, and established business conducted by him the said possession shall be deemed ownership under this Act;

(c) Where merely incidental to a regular, separate, fixed, and established business, other than a transportation business, the transportation of employees, petroleum products, and incidental supplies used or sold in connection with the wholesale or retail sale of such petroleum products from the refinery or place of production or place of storage to the place of storage or place of sale and distribution to the ultimate consumer, in a motor vehicle owned and used exclusively by the marketer or refiner, or owned in whole or in part and used exclusively by the bona fide consignee or agent of such single marketer or refiner; as well as where merely incidental to a regular, separate, fixed, and established business, other than a transportation business, the transportation of petroleum, employees, material, supplies, and equipment for use in the departments of the petroleum business by the bona fide owner thereof in a vehicle of which he is the bona fide owner; bona fide consignee or agent as used herein being hereby defined and construed, for the purpose of this Act, to mean a person under contract with a single principal to distribute petroleum products in a limited territory and only for such single principal; nor

(d) Any utility company using its own equipment transporting its own property over the highways;

(e) Any person transporting fresh iced fish or shellfish from a coastal production-landing point to an initial packing or freezing plant located not more than seventy-five miles inland from the coast of Texas, regardless of the distance of such initial packing or freezing plant from the coastal production-landing point, and regardless of whether or not such person owns said fish or shellfish; provided, however, that such person shall have first filed with the Railroad Commission of Texas certificates of insurance covering each motor vehicle to be used in such transportation with public liability and property damage insurance in the amounts required by the Commission for motor vehicles subject to its regulation;

(f) Any person transporting fresh vegetables, fresh fruits, or flax straw from the place where produced agriculturally and harvested to a point where the fresh fruits, vegetables, or flax straw are first processed, including but not limited to packing plants, canning plants, freezing plants and fiber or straw processing plants and regardless of whether or not such person owns said fresh fruits, fresh vegetables, or flax straw, provided such transportation does not exceed a total of seventy-five (75) miles in distance, except such transportation between points in the counties of Kinney, Uvalde, Maverick, Zavala, Dimmit, Webb, Zapata, Starr, Hidalgo, Cameron and Willacy, Texas; provided, however, that such person shall have first filed with the Railroad Commission of Texas certificates of insurance covering each motor vehicle to be used in such transportation with public liability and property damage insurance in the amounts required by the Commission for motor vehicles subject to its regulations. As amended Acts 1965, 59th Leg., p. 116, ch. 44, § 1, emerg. eff. March 25, 1965.

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For Annotations and Historical Notes, see V.A.T.S.

**Approval of deposits of United States Government bonds or cash  
in lieu of bonds and/or insurance**

Sec. 13aa. The Commission is hereby vested with power and authority to approve the deposit by a motor carrier of United States Government bonds or cash, in lieu of bonds and/or insurance required in Section 13, in an amount to be fixed by the Commission under such rules and regulations as it may prescribe; and provided further that upon a full and proper showing of financial fitness and responsibility under and in compliance with rules and regulations prescribed and administered by the Commission such motor carrier may become self-insured in lieu of any coverage required other than the Workmen's Compensation Insurance which each motor carrier shall take out either as provided by the Workmen's Compensation Laws of the State of Texas or in a reliable insurance company authorized to write Workmen's Compensation Insurance approved by the Commission. Added Acts 1965, 59th Leg., p. 1252, ch. 573, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Acts 1965, 59th Leg., p. 572, ch. 290, § 1 amended section 1(g) of this article. Sections 2 and 3 of the amendatory act of 1965 provided:

"Sec. 2. The provisions of this amendment shall not be construed so as to broaden the certificated operating authority of any specialized motor carrier; provided further, that to the extent of any conflict herewith the transportation of oil field equipment shall be governed by the provisions of Section 1(c) as amended by Acts 1963, 58th Legislature, Page 929, Chapter 359, Section 1 [art. 911b, § 1c]; provided further, this

amendment shall in no way limit, impair or restrict any power or authority the Commission now has to fix rates and charges on movements between points within any one incorporated city, town or village or commercial zone when such transportation is incident to, or a part of, regulated transportation performed under a through bill of lading or by the same carrier as part of a continuous shipment to or from points beyond such areas.

"Sec. 3. Except as specifically provided in Section 2 hereof all laws in conflict herewith are hereby repealed."

**Art. 911f. Motor transportation brokers of fresh citrus fruits and  
vegetables**

**Legislative declaration; regulation and control of intermediaries**

Section 1. The Legislature declares that the public welfare requires the regulation and control of those persons, whether acting individually or as officers, commission agents, or employees of any person, firm, or corporation, who hold themselves out to act as intermediaries between the public and those motor carriers of fresh citrus fruits (as that term is defined by Acts 1963, 58th Legislature, page 312, Chapter 117<sup>1</sup>) and fresh vegetables (as that term is defined by Acts 1963, 58th Legislature, page 598, Chapter 218<sup>2</sup>) operating over the public highways of the state, for compensation. Until the Congress of the United States acts, the public welfare requires the regulation and control of such intermediaries between the public and interstate motor carriers as well as between the public and intrastate carriers.

**Definitions**

Sec. 2. In this Act the following words shall mean:

(1) "Motor transportation broker"—any person who, acting either individually or as an officer, commission agent, or employee of a corporation, or as a member of a copartnership, or as a commission agent or employee of another person, sells or offers for sale, or negotiates for or holds himself out as one who sells, furnishes, or provides, transportation of fresh citrus fruits and fresh vegetables over the public highways of this state, when such transportation is furnished, or offered or proposed to be furnished, by a motor carrier.

(2) "Motor carrier"—any person, firm, or corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, transporting or offering or proposing to transport fresh citrus fruits and fresh vegetables for compensation over any portion of the public highways of the state.

(3) "Commission"—the Railroad Commission of Texas.

**Application of act**

Sec. 3. This Act shall not apply to the officers, agents, or employees of any carrier operating for compensation over the public highways of this state who is under the jurisdiction of the commission, or to a person, firm, or corporation engaged in transporting express when such transportation is incidental to the transportation of passengers.

The provisions of this Chapter shall apply whether the transportation sold, or offered to be sold, is interstate or intrastate.

**License; necessity; power to regulate issuance of license**

Sec. 4. It is unlawful for any person, firm, or corporation to engage in the business, or act in the capacity, of a motor transportation broker without first obtaining a license therefor. The commission may administer this Act, with full power to regulate and control the issuance and revocation of motor transportation broker licenses, and may perform all other acts and duties provided in this Act and necessary for its enforcement.

**Copartnerships and corporations; agents or employees;  
joinder in application**

Sec. 5. The commission shall not issue a motor transportation broker license to any copartnership or corporation, it being the intent of this Act to require each person acting as a motor transportation broker to be individually licensed. If an applicant is an officer or commission agent or employee of a corporation, or a member of any copartnership, he shall so state in his application. The corporation, copartnership, or person of which the applicant is an officer, member, or employee, as the case may be, shall join in the applicant's application and shall set forth therein the relationship between the applicant and the person, copartnership, or corporation so joining.

**Form of application; contents**

Sec. 6. An application for a license as a motor transportation broker shall be made in writing to the commission. The application shall be verified and shall be in such form and contain such information as the commission from time to time requires.

**Issuance of license; refusal of license; hearing**

Sec. 7. The commission, without a hearing, may issue the license as prayed for. The commission, with a hearing, may refuse to issue the license or may issue it for the partial exercise of the privilege sought. The commission shall not issue a license when it determines that (a) the applicant is not a fit and proper person to receive the license, or (b) the motor carriers for whom the applicant proposes to sell transportation have not complied, or are not complying, or do not propose to comply, with state or federal laws, or all general orders of the commission, applicable to the operations of the motor carrier.

**Bond**

Sec. 8. No license shall be issued unless the applicant therefor provides a good and sufficient bond in the sum of Ten Thousand Dollars (\$10,000) executed by a solvent bonding company authorized to do busi-

For Annotations and Historical Notes, see V.A.T.S.

ness in the State of Texas, payable to the State of Texas or to any person to whom the applicant furnishes transportation, and be conditioned:

(a) Upon the faithful performance, by the motor carrier or motor agreement of transportation negotiated by the licensee; and carriers for whom the applicant is licensed to act, of the contract or

(b) Upon the honest and faithful performance by the applicant of any undertaking as a licensed motor carrier transportation agent under this Act.

#### Limitation on liability; actions on bond

Sec. 9. Nothing in this Act shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished by any prior recovery.

No suit or action against the surety on any such bond given in compliance with this Act shall be brought later than one (1) year from the accrual of the cause of action thereon. The surety may terminate its liability under the bond by giving thirty (30) days written notice thereof, served either personally or by registered mail, to the principal and to the commission. Upon giving the notice the surety is discharged from all liability under the bond for any act or omission of the principal occurring after the expiration of thirty (30) days from the date of the service of the notice. Unless on or before the expiration of such period the principal files a new bond in like amount and conditioned as the original in substitution of the bond so terminated, the license of the principal shall likewise terminate upon the expiration of the period.

#### Transfer or assignment of license

Sec. 10. No license issued pursuant to this Act gives authority to do any act for which the license is issued, to any person, other than the licensee. The license is not transferable or assignable. No such license authorizes the licensee to do business except in the location stipulated in the license.

#### Fees

Sec. 11. The fees for licenses, and each renewal thereof, are Five Dollars (\$5) a year, or fraction thereof. All applications for licenses shall be accompanied by the fee, and all licenses, subject to the provisions for renewal, which the commission prescribes, shall expire on September 30th of each year.

All fees charged and collected under this Act shall be deposited at least once a month in the State Treasury to the credit of the commission and in augmentation of the current appropriation for the support of the commission, and may be expended by the commission for the administration of this Act.

#### Insuring property

Sec. 12. Each broker licensee provided for in this Act shall insure any property for which he has sold transportation with a solvent insurer authorized to do business in the State of Texas, for the protection of both the shipper and receiver of such property.

#### Powers of commission; proceedings

Sec. 13. All powers vested in the commission relating to hearing and determining matters presented to it, are made applicable to the proceedings under the provisions of this Act.

#### Suspension or revocation of license

Sec. 14. The commission may suspend or revoke any license if it determines that the licensee is not a fit and proper person to hold the

license, or if the commission determines that the licensee, in acting as motor transportation broker, has engaged in false advertising and false representation in violation of the laws of this state, or any political subdivision thereof, or has sold, offered for sale, or negotiated for sale, transportation by any carrier that under the laws of this state is conducted in a manner contrary to the public interest, or without proper authority, or in violation of the provisions of this Act or the general orders or rules of the commission pertaining thereto.

#### Complaints for violations; prosecutions

Sec. 15. The commission may prefer a complaint for violation of this Act before any court of competent jurisdiction and the commission and its counsel, or other official representatives, may assist in presenting facts at the trial. It is the duty of the district attorney of each county in this state to prosecute all violations of the provisions of this Act in their respective counties in which the violations occur, either with or without the request of the commission.

#### Records; inspection

Sec. 16. All motor transportation brokers shall maintain and keep for a period of two (2) years an exact and permanent record of all transactions had by them as such brokers, including the amount paid to the broker for all property transported, the point of destination, and the name of the person, firm or corporation acting as motor carrier. The records shall at all reasonable times be open to inspection by any officer or agent of the state or of any county within the state.

#### Acting as motor transportation broker

Sec. 17. Any person, firm, or corporation, shall be understood to be acting as a motor transportation broker who:

(a) Orally or by card, circular, pamphlet, newspaper, radio, sign, billboard, or any other way, advertises himself, or itself, as one who sells, furnishes, negotiates for, or provides transportation over the public highways of this state when the transportation is furnished or offered, or proposed to be furnished, by motor carriers.

(b) Manages or conducts as a manager, conductor, agent, proprietor, lessor, lessee, or otherwise, a place where transportation is, or is offered, or proposed to be, sold, furnished, negotiated for, or provided by a motor carrier.

(c) Aids and abets, or without being present advises and encourages any person, firm, or corporation in acting as, or to act as, a motor transportation broker.

One act of the nature set forth in this Section shall constitute a person, firm, or corporation doing or committing the act, a motor transportation broker.

#### Acting without license; punishment

Sec. 18. Any person, firm, or corporation, acting as a motor transportation broker without a license is, upon conviction of a first offense thereof, if a person, punishable by a fine of not to exceed Five Hundred Dollars (\$500), or by imprisonment in the county jail for a term not to exceed six (6) months, or both, or if a corporation, punishable by a fine of not to exceed Two Thousand Five Hundred Dollars (\$2,500); and for a second and subsequent offense is, upon conviction, if a person, punishable by a fine of not to exceed One Thousand Dollars (\$1,000), or by imprisonment in the county jail or state prison for a term not to exceed one (1) year, or both, or, if a corporation, is punishable by a fine of not to exceed Five Thousand Dollars (\$5,000).

For Annotations and Historical Notes, see V.A.T.S.

**Violation of act; punishment**

Sec. 19. Any person, licensed as a motor transportation broker, who violates any of the provisions of this Act, is, upon conviction, punishable by a fine not to exceed Five Hundred Dollars (\$500), or by imprisonment in a county jail not to exceed six (6) months, or both; and in addition thereto, the license as motor transportation broker shall be revoked by the commission.

**Right of action by state or commission; cumulative penalties**

Sec. 20. This Act shall not have the effect to release or waive any right of action by the state, the commission, or any person or corporation, for any fine, penalty, or forfeits which may have arisen or accrued, or may hereafter arise or accrue, under any laws of this state. All penalties accruing under this Act are cumulative. Acts 1965, 59th Leg., p. 1153, ch. 544.

<sup>1</sup> Article 118b.

<sup>2</sup> Article 1287—3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the licensing and regulation of motor transportation brokers by the Railroad Commission of Texas; provid-

ing an effective date; providing a severability clause; repealing conflicting laws; and declaring an emergency. Acts 1965, 59th Leg., p. 1153, ch. 544.

## TITLE 28—CITIES, TOWNS AND VILLAGES

## CHAPTER ONE—CITIES AND TOWNS

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| <p>Art.<br/>974a-1. Enforcement of land use restrictions contained in plats; cities of more than 1,000,000 [New].</p> <p>974a-2. Commercial building permits in cities of 900,000 or more [New].</p> | <p>Art.<br/>974d-11. Validation of incorporation; boundary lines; governmental proceedings; cities within extraterritorial jurisdiction of other cities; litigation [New].</p> <p>976c. Validation of certain contracts of cities of 900,000 [New].</p> |
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## Art. 970a. Municipal Annexation Act

## Notice and Hearing—Annexation Proceedings

Sec. 6. Before any city may institute annexation proceedings, the governing body of such city shall provide an opportunity for all interested persons to be heard at a public hearing to be held not more than twenty (20) days nor less than ten (10) days prior to institution of such proceedings. Notice of such hearing shall be published in a newspaper having general circulation in the city and in the territory proposed to be annexed. The notice shall be published at least once in such newspaper not more than twenty (20) days nor less than ten (10) days prior to the hearing. Additional notice by certified mail should be given to railroad companies then serving the city and on the city's tax roll where the right-of-way thereof is included in the territory to be annexed. Annexation of territory by a city shall be brought to completion within ninety (90) days of the date on which the governing body of such city institutes annexation proceedings or be null and void. Provided, however, any period of time during which a city is restrained or enjoined from annexing any such territory by a court of competent jurisdiction shall not be computed in such 90-day limitation period. As amended Acts 1965, 59th Leg., p. 345, ch. 163, § 1 emerg. eff. May 17, 1965.

## Art. 974a—1. Enforcement of land use restrictions contained in plats; cities of more than 1,000,000

## Application

Section 1. This Act applies to incorporated cities, towns, and villages in counties having a population of more than 1,000,000 according to the last preceding or any future federal census if the incorporated city, town, or village does not have zoning ordinances.

## May sue to enforce restrictions

Sec. 2. (a) An incorporated city, town, or village may sue in any court of competent jurisdiction to enjoin or abate violation of a restriction contained or incorporated by reference in a duly recorded plan, plat, replat, or other instrument affecting a subdivision inside its boundaries.

(b) As used in this Act, "restriction" means a limitation which affects the use to which real property may be put, fixes the distance buildings or structures must be set back from property lines, street lines, or lot lines, or affects the size of a lot or the size, type, and number of buildings or structures which may be built on the property.

## Previously recorded plan, plat, replat, or other instrument

Sec. 3. Restrictions contained in a plan, plat, replat, or other instrument duly recorded before the effective date of this Act may be enforced

For Annotations and Historical Notes, see V.A.T.S.

as provided in Section 2 but a violation of a restriction occurring before the effective date of this Act may not be enjoined or abated by the said city, town, or village as long as the nature of the violation remains unchanged. An incorporated city, town, or village may not enforce a restriction that violates the Constitution of the United States or of this State. Acts 1965, 59th Leg., p. 180, ch. 72.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to enforcement of land use restrictions by incorporated cities,

towns, and villages which do not have zoning ordinances in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 180, ch. 72.

**Art. 974a—2. Commercial building permits in cities of 900,000 or more**

**Application of act**

Section 1. This Act applies to cities having a population of more than 900,000 according to the last preceding Federal Census.

**Definitions**

Sec. 2. In this Act, unless the context requires a different meaning:

(1) "department" means the agency of a city which has the authority and responsibility for issuing commercial building permits;

(2) "subdivider" means a person who divides a tract of real property under circumstances to which Chapter 231, Acts of the 40th Legislature, Regular Session, 1927, as amended (codified as Article 974a, Vernon's Texas Civil Statutes and Article 427b, Vernon's Texas Penal Code), is applicable;

(3) "person" includes a firm, partnership, corporation, or other private entity;

(4) "commercial building" means any building other than a single family residence.

**Instrument containing restriction on use or construction on property; filing; issuance of permit**

Sec. 3. (a) A person who desires a commercial building permit shall file with his application a certified copy of any instrument which contains a restriction on the use of or construction on the property described in the application, together with a certified copy of any amendment, judgment, or other document affecting the use of the property.

(b) When an applicant has complied with this Act and local ordinances relating to commercial building permits, the department shall issue a permit for construction or repair which conforms with all restrictions relating to the use of the property described in the application.

**Plat and restrictions; filing by subdivider**

Sec. 4. (a) A subdivider shall, at the time he files the subdivision for recordation, file with the department two copies of the plat and any restrictions pertaining to the property included in the plat.

(b) The department shall keep one copy in a safe place as a permanent file.

(c) A person who desires a commercial building permit for property which is included in any plat or restrictions on file with the department is not required to file a copy of the plat and restrictions with his application.

**Injunction**

Sec. 5. (a) A person who attempts to construct or repair any structure for which a commercial building permit is required without having ob-

tained a permit may be enjoined from any further construction activity until he has complied with this Act.

(b) The city may join with an interested property owner in a suit to enjoin further construction activity by one who does not have a permit issued in compliance with this Act, if the structure or proposed structure is in violation of a restriction contained in the deed or other instrument.

(c) Any commercial permit obtained without full compliance with this Act is void.

**Repair of commercial building; conversion of family residence  
into commercial building**

Sec. 6. Any person, partnership, or corporation in cities having a population of more than 900,000 according to the last preceding Federal Census electing to substantially repair or to remodel a commercial building within a subdivision or proposing to convert a single family residence into a commercial building as defined in Section 2(4) of this Act shall obtain a commercial building permit from the city department issuing building permits. Provided however, that the provisions of this Section shall not apply to violations of restrictive covenants occurring prior to the date of enactment of this Act as long as they retain their existing status. Provided further, that these cities may join with any interested property owner in a suit to enjoin the maintenance of a commercial building by one who does not have a permit in compliance with any Section of this Act.

**Refusal to issue permit; review by court**

Sec. 7. An administrative refusal to issue a commercial permit on the grounds of violation of restrictions contained in a deed or other instrument shall be reviewable by a court of appropriate jurisdiction provided notice of filing of such suit is given the city department responsible for issuing commercial building permits within ninety (90) days. In the event of changed conditions within a subdivision or any other legally sufficient reason that restrictions should be modified a person refused a commercial building permit can petition a court of appropriate jurisdiction to alter the restrictions to better conform with present conditions. Acts 1965, 59th Leg., p. 777, ch. 369, emerg. eff. June 9, 1965.

**Title of Act:**

An Act relating to commercial building emergency. Acts 965, 59th Leg., p. 779, ch. permits in certain cities; and declaring an 369.

**Art. 974d—11. Validation of incorporation; boundary lines; governmental proceedings; cities within extraterritorial jurisdiction of other cities; litigation**

Section 1. The incorporation proceedings of all cities and towns in this State heretofore incorporated or attempted to be incorporated under the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof, are hereby in all things validated.



For Annotations and Historical Notes, see V.A.T.S.

Sec. 3. All governmental proceedings performed by the governing bodies of all such cities and towns and all officers thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town incorporated or attempted to be incorporated from and after August 23, 1963, which is situated in whole or in part within the extraterritorial jurisdiction of another city or town, unless consent or permission to incorporate was obtained in the manner prescribed by Chapter 160, Article I, Acts of the 58th Legislature, Regular Session, 1963, the Municipal Annexation Act, compiled as Article 970a, Vernon's Texas Civil Statutes.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction. Acts 1965, 59th Leg., p. 342, ch. 160, emerg. eff. May 17, 1965.

**Title of Act:**

An Act validating the incorporation of cities and towns heretofore incorporated or attempted to be incorporated under the General Laws of Texas; validating the boundary lines thereof, as said boundaries may have been changed by ordinance since

the original incorporation; validating governmental proceedings; providing certain limitations as to the application of the Act; providing a saving clause; and declaring an emergency. Acts 1965, 59th Leg., p. 342, ch. 160.

**Art. 976c. Validation of certain contracts of cities of 900,000**

Section 1. This Act is applicable only to cities (including Home Rule Cities) having a population in excess of 900,000, according to the last preceding Federal Census or any future Federal Census.

Sec. 2. In every instance where the governing body of an incorporated city (including Home Rule Cities) in this State has, prior to the date when this Act becomes effective, entered into contracts involving terms in excess of five (5) years for the use of land or interest in land owned or to be acquired by such city and for the purchase of services related to garbage disposal and for the disposal of garbage on a contract basis and has, prior to the date when this Act becomes effective, adopted orders or ordinances to authorize or ratify execution of such contracts, all such contracts and all proceedings, governmental acts, ordinances, orders, resolutions and other instruments thus adopted or executed by or in behalf of the governing body of any such incorporated city (including Home Rule Cities) relating thereto are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract executed by any city (including Home Rule Cities) the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 3. The Legislature hereby finds and declares that the enactment of this legislation is in fulfillment of the duty conferred upon it by the Constitution of the State of Texas wherein it is required to pass such laws as may be appropriate for the promotion of the health and public welfare of the inhabitants of this State, and that the contracts and proceedings hereby ratified, confirmed and validated and the contracts hereby authorized to be negotiated are for the protection and preservation of the health and public welfare of the inhabitants of this State, and that the matters herein set forth and the subject matter of this legislation are of public convenience, necessity and use, and essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested and that this legislation is for a public purpose and use and

promotes the public interest and welfare of this State. Acts 1965, 59th Leg., p. 639, ch. 314, emerg. eff. June 1, 1965.

**Title of Act:**

An Act validating certain contracts, instruments, orders, ordinances, resolutions, acts and proceedings of certain incorporated cities; providing that the Act is applicable only to cities having a population in excess of 900,000, according to the last

preceding or any future Federal Census; declaring a public purpose and use; repealing laws in conflict therewith; providing that the provisions of the Act are severable; containing other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 639, ch. 314.

**CHAPTER TWO—OFFICERS AND THEIR ELECTIONS**

Art.  
978a. Date of election in home rule cities [New].

Art.  
980a. Election of governing body on place system in cities of 5,270 to 5,350 [New].

**Art. 978a. Date of election in home rule cities**

Section 1. The governing body of any Home Rule City is authorized to set the date of election of officers of such city.

Sec. 2. Whenever an election of members of the board of school trustees of any school district, all or part of which is located within all or part of the territory of any Home Rule City, is to be held on the same day as an election of city officers of such city the various officers, boards or bodies charged with the duty of appointing the election officers, providing the supplies, canvassing the returns, and paying the expenses of such elections may agree to hold the elections jointly and may agree upon the method for allocating the expenses for the joint election. Resolutions reciting the terms of the agreement shall be adopted by each of the participating boards or bodies. The agreement may provide for use of a single ballot form at each polling place, to contain all the offices to be voted on at that polling place, or for separate ballot forms, provided that all the offices and candidates for each city shall appear on the same ballot and all the offices and candidates for each school district shall appear on the same ballot; provided further, that no voter shall be given a ballot containing the name of any candidate for whom the voter is ineligible to vote. One set of election officers may be appointed to conduct the joint election, and any person otherwise qualified who is a resident of either the Home Rule City or school district concerned shall be eligible to serve as an election officer. Poll lists, tally sheets, and returns forms for the various elections may be combined in any manner convenient and adequate to record and report the results of each election, and one set of ballot boxes and one stub box may be used for receiving all ballots and ballot stubs for the joint election. Returns on joint or separate forms may be made to, and the canvass made by, each officer, board or body designated by law to receive and canvass the returns of each election, or one of such officers, boards or bodies may be designated to receive and canvass the returns for the joint election and to report the results of each election to the proper authority. Where the counted ballots for two or more of the elections are deposited in a single ballot box, the box containing the counted ballots shall be returned to the officer or board designated in the agreement, which shall be an officer or board designated by law to receive and preserve the counted ballots for one of the elections constituting a part of the joint election. Acts 1965, 59th Leg., p. 972, ch. 467.

Effective Aug 30, 1965, 90 days after date of adjournment.

Section 3 of Acts 1965, 59th Leg., p. 972, ch. 467 repealed all conflicting laws and parts of laws to the extent of conflict only.

**Title of Act:**

An Act relating to authorizing the governing body of any Home Rule City to set

the date of election of city officers; providing that Home Rule Cities and certain school districts may conduct joint elections and prescribing certain procedure for the conduct of such joint elections; repealing conflicting laws; and declaring an emergency. Acts 1965, 59th Leg., p. 973, ch. 467.

**Art. 980a. Election of governing body on place system in cities of 5,270 to 5,350**

Section 1. The governing body of a city with a population larger than 5,270 but smaller than 5,350, according to the last preceding Federal Census, may, by ordinance, provide that the members of the governing body shall be elected on the place system rather than the precinct system. Acts 1965, 59th Leg., p. 1095, ch. 526.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing the governing bodies of certain cities to provide that elections

be held on the place system; and declaring an emergency. Acts 1965, 59th Leg., p. 1095, ch. 526.

**Art. 989. [797] [396] [352] Vacancy or vacancies**

In the event of a vacancy or vacancies from any cause in the office of mayor or alderman, such vacancy or vacancies may be filled as follows:

(a) If no more than one vacancy on the city council exists, a majority of the remaining members of the city council may fill such vacancy by appointment, such appointee to serve until the next regular city election; provided, however, in filling such vacancy, the mayor, if any, shall have a vote only in the event of a tie.

(b) In lieu of filling one vacancy on the city council by appointment as provided for in paragraph (a) above, a special election may be called to fill such vacancy.

(c) If two or more vacancies on the city council exist at the same time, a special election shall be called to fill such vacancies.

(d) Any special election to fill a vacancy or vacancies shall be ordered, held, and conducted in accordance with the general laws of the State of Texas.

(e) In the event of a vacancy in any other office in the city, the mayor or acting mayor shall fill such vacancy by appointment, to be confirmed by the city council. As amended Acts 1965, 59th Leg., p. 974, ch. 469, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER FOUR—THE CITY COUNCIL

Art.

1011m. Regional Planning Commissions [New].  
 1015c—2. Swimming pools [New].

Art.

1015g—2. Validation of proceedings for issuance and sale of time warrants for international toll bridges [New].

**Art. 1011m. Regional Planning Commissions**

**Definitions**

Section 1.

A. "City" means any incorporated city, town, or village in the State of Texas.

B. "Governmental Unit" means any county, city, town, village, authority, district or other political subdivision of the State.

C. "Commission" means a Regional Planning Commission created under this Act.

D. "Region," "Area," or "Regional" means a geographic area consisting of a county or part thereof, two or more adjoining counties or adjoining parts thereof, which counties or parts thereof may include one or more cities or other governmental units, or two or more adjoining cities or other governmental units, which have common problems

of transportation, water supply, drainage or land use, similar, common or interrelated forms of urban development or concentration, or special problems of agriculture, forestry, conservation or other matters, or any combination thereof. It is the intention of this Act to permit the greatest possible flexibility among the various participating governmental units to organize and establish regions most suitable to the nature of area problems as they see them, and nothing herein shall be deemed to prevent the formation of Regional Planning Commissions for relatively small regions which may be parts of one or more larger regions, in which case the powers and duties of the several planning commissions shall be determined by the governmental units concerned.

#### **Objectives**

Sec. 2. The purpose of this Act is to encourage and permit local units of government to join and cooperate with one another to improve the health, safety and general welfare of their citizens; to plan for the future development of communities, areas and regions to the end that transportation systems may be more carefully planned; that communities, areas, and regions grow with adequate street, utility, health, educational, recreational, and other essential facilities; that needs of agriculture, business, and industry be recognized; that residential areas provide healthy surroundings for family life; that historical and cultural value be preserved; and that the growth of the communities, areas and regions is commensurate with and promotive of the efficient and economical use of public funds.

#### **Creation**

Sec. 3. Any two or more governmental units may join in the exercise, performance, and cooperation of planning powers, duties, and functions as provided by law for any or all such governmental units. When two or more such governmental units agree, by ordinance, resolution, rule, order, or other means, to cooperate in regional planning, they may establish a Regional Planning Commission. But nothing in the Act shall be construed to limit the powers of the participating governmental units as provided by existing law. The participating governmental units, by appropriate mutual agreement, may establish a Regional Planning Commission for a region designated in such agreement, provided that such region shall consist of territory under their respective jurisdictions, including extraterritorial jurisdictions, if any, but need not include all of the territory of the governmental units participating.

#### **Powers**

Sec. 4. Under this Act, the general purpose of a Regional Planning Commission is to make studies and plans to guide the unified, far-reaching development of the area, to eliminate duplication, and to promote economy and efficiency in the coordinated development of the area. The Commission may make plans for the development of the area which may include recommendations on major thoroughfares, streets, traffic and transportation studies, bridges, airports, parks, recreation sites, school sites, public utilities, land use, water supply, sanitation facilities, drainage, public buildings, population density, open spaces, and other items relating to the effectuation of the general purpose.

The plans and recommendations of the Commission may be adopted in whole or in part by the respective governing bodies of the cooperating governmental units. The Commission may assist the participating governmental units individually or collectively in carrying out any plans or recommendations developed by the Commission. The Commission may assist any participating governmental unit individually in the

preparation of effectuation or local planning consistent with the general purposes of this Act.

#### Operation

Sec. 5. The cooperating governmental units may through joint agreement determine the number and qualifications of the governing body of the Commission. The joint agreement may provide for the manner of cooperation and the means and methods of the operation of the Commission. The joint agreement may provide a method for the employment of the staff and consultants, the apportionment of the cost and expenses, and the purchase of property and materials. The joint agreement may allow for the addition of other governmental units to the cooperative arrangement.

#### Funds

Sec. 6. A Regional Planning Commission is authorized to apply for, contract for, receive and expend for its purposes any funds or grants from any participating governmental unit or from the State of Texas, federal government, or any other source. The Commission shall have no power to levy any character of tax whatever. The participating governmental units may appropriate funds to the Commission for the cost and expenses required in the performance of its purpose.

#### Dissolution

Sec. 7. Unless it has been agreed to the contrary, any participating governmental unit may, by vote of not less than two-thirds of its membership qualified in serving, withdraw from its participation in any Regional Planning Commission.

#### Savings clause

Sec. 8. Nothing in this Act shall be construed to limit the powers of the participating governmental units as provided by law. All legislative power with respect to planning functions shall remain with the respective governing bodies of the participating governmental units as such power is presently delegated by law. Acts 1965, 59th Leg., p. 1248, ch. 570.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act authorizing counties, cities, towns, villages, authorities, districts, and other political subdivisions of the State to establish Regional Planning Commissions; authorizing such Regional Planning Commissions to perform certain planning functions; providing for the operation and financing of such Regional Planning Commissions; prohibiting Regional Planning

Commissions from levying taxes; authorizing counties, cities, towns, villages, authorities, districts, and other political subdivisions of the State to appropriate funds for the operation of Regional Planning Commissions; providing for dissolution; providing a savings clause; providing for severability; and declaring an emergency. Acts 1965, 59th Leg., p. 1248, ch. 570.

### Art. 1015c—2. Swimming pools

#### Power of cities; obligations as debts of cities or towns

Section 1. All cities and towns, including Home Rule Cities, operating under Title 28, Revised Civil Statutes, 1925, as amended, shall have the power to build, purchase, improve, enlarge and repair, to mortgage and encumber their swimming pools and the gross income and revenues thereof, either or both, and everything pertaining thereto acquired or to be acquired, and to evidence the obligation thereof by the issuance of its revenue bonds. No such obligation shall ever be a debt of such city or town, but shall be solely a charge upon the properties or income so encumbered, and such bonds shall never be reckoned in determining the

power of such city or town to issue bonds for any other purpose authorized by law.

#### **Bond issues**

Sec. 2. Except as modified by the provisions of this Act, the issuance of bonds, additional bonds or refunding bonds shall be governed by the provisions of Chapter 10 of Title 28, Revised Civil Statutes of Texas, 1925, as amended, which Chapter is hereby made applicable to the bonds authorized to be issued under the provisions of this Act.

#### **Examination and approval of bonds; registration**

Sec. 3. Prior to delivery thereof, all bonds authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination, and if he finds that they have been issued in accordance with the Constitution and this Act, and that they will be binding special obligations of the city or town authorizing their issuance, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration they shall be incontestable.

#### **Bonds eligible for investment and to secure deposits**

Sec. 4. Such bonds shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

#### **Cumulative effect of law**

Sec. 5. This Act is cumulative of all other Acts on the subject and shall not repeal or affect any other law or part of law relating to such subject unless they are expressly inconsistent and then only to the extent of such inconsistency. It is expressly provided that all existing laws relating to the issuance of revenue bonds by cities and towns, including but not limited to those found in Chapter 10, Title 28 of the Revised Civil Statutes of Texas, 1925, as amended, shall remain unimpaired by the provisions of this Act. Acts 1965, 59th Leg., p. 1452, ch. 640.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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

An Act empowering cities and towns to build, purchase, improve, enlarge and repair, to mortgage and encumber their swimming pools and the gross income and revenues thereof, either or both, to evidence the obligation thereof by the issuance of its revenue bonds; making the provisions of Chapter 10 of Title 28, Revised Civil Statutes of Texas, 1925, as amended, appli-

cable to such bonds, except as modified by this Act; providing for the approval of such bonds by the Attorney General of Texas and their registration by the Comptroller of Public Accounts and prescribing the effect thereof; providing the bonds shall be lawful investments for certain purposes and may secure certain funds; providing this Act shall be cumulative of all other Acts on the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 1452, ch. 640.

**Art. 1015g. Toll bridges over international boundary rivers, powers, respecting****Bonds or warrants to repair, improve, alter or reconstruct toll bridge; issuance**

Sec. 13(b). After any such city or town shall have acquired a toll bridge as defined and used in Section 4 of this Act, it may in the manner prescribed in Section 13 of this Act issue and deliver bonds for the purpose of repairing or improving or altering or reconstructing or replacing the toll bridge, or building an additional or supplementary, or auxiliary bridge, or for any one or more of said purposes, subject only to the restrictions contained in the ordinance authorizing the original issue and/or subsequent issue of toll bridge revenue bonds, or both, and in the deed of indenture securing such original issue or subsequent issue of bonds, or it may issue warrants, including revenue time warrants, in accordance with applicable Texas law, to accomplish any one or more of such purposes, subject to the restrictions contained in ordinances and deed of indenture authorizing prior issue or issues of bonds or warrants. As amended Acts 1965, 59th Leg., p. 770, ch. 361, § 1, emerg. eff. June 9, 1965.

**Revenue bonds or revenue time warrants; charge against pledged revenues**

Sec. 13(c). Revenue bonds or revenue time warrants only may be issued to accomplish the purposes of this Act. Such bonds or warrants shall not constitute indebtedness of any such city or town, but shall be a charge only against the pledged revenues, and against the property comprising the toll bridge if a lien is given on such property. And every such bond or warrant shall contain substantially this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." As amended Acts 1965, 59th Leg., p. 770, ch. 361, § 2, emerg. eff. June 9, 1965.

Sections 3 and 4 of the amendatory act of 1965 provided:

"Sec. 3. Although Chapter 258, Acts of the 49th Legislature, Regular Session, 1945, as amended (codified as Article 1015g, Vernon's Texas Civil Statutes), creates some uncertainty as to whether or not revenue time warrants may be issued by a city in order to accomplish the purposes of the Act, the intent of the Legislature was to authorize the issuance of revenue time warrants to accomplish those

purposes, and the purpose of this Act is to clarify the original Act and not to change it.

"Sec. 4. The provisions of this Act shall not apply to any revenue time warrant nor revenue bonds, the validity of which has been contested or attacked in any pending suit or litigation; nor shall the provisions of this Act affect, in any way, the title to real estate, the ownership of which has been contested or attacked in any pending suit or litigation."

**Art. 1015g—2. Validation of proceedings for issuance and sale of time warrants for international toll bridges**

Section 1. That all proceedings heretofore had by the governing bodies of all cities and towns, including Home Rule Cities in the State of Texas, in the issuance and sale of revenue time warrants under the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas, 1925, as amended, and Chapter 258, Acts of the 49th Legislature, 1945, as amended (Article 1015g, Vernon's Texas Civil Statutes), to finance and undertaking to finance the cost of repairing, improving, reconstructing, or replacing any existing international toll bridge owned by such city or town is hereby in all things fully validated, confirmed, approved, ratified, and legalized, and any such warrants heretofore sold or heretofore authorized but not yet delivered, are in all things fully validated, confirmed, ratified, approved, and legalized and such warrants are hereby declared to be the valid and binding special obligations of such cities or towns, payable only from sources other than taxation and which do not constitute a tax obligation. All orders, resolutions, ordinances, and actions authorizing the issuance of any such warrants and setting aside and pledging the revenues

of any such international toll bridge system are hereby in all things validated, confirmed, approved, ratified, and legalized, and the fact that any city or town, in the issuance and sale of any such obligations or in the pledging of any said revenues of such systems to the payment of such warrants, failed to have or lacked the power and right to do all things necessary to make said obligations legal, shall in no wise impair such obligations nor the pledge of such revenues, but the same are in all things validated, confirmed, ratified, and approved.

Sec. 2. The provisions of this Act shall not apply to any such proceedings or any obligations issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation; nor shall the provisions of this Act affect, in any way, the title to real estate, the ownership of which has been contested or attacked in any pending suit or litigation. Acts 1965, 59th Leg., p. 742, ch. 348, emerg. eff. June 9, 1965.

**Title of Act:**

An Act validating all proceedings by certain cities and towns in the issuance and sale of revenue time warrants pursuant to Articles 1111 to 1118, Revised Civil Statutes of Texas, 1925, as amended, and

Chapter 258, Acts of the 49th Legislature, Regular Session, 1945, as amended, and in the pledging of revenues of any international toll bridge system; providing a non-litigation clause; and declaring an emergency. Acts 1965, 59th Leg., p. 742, ch. 348.

**CHAPTER EIGHT—STREETS AND ALLEYS**

**Art. 1085a. Freeways**

Sec. 2a. The governmental agency which holds the title and property rights to land on which a freeway is located may lease for parking purposes the portions of land situated beneath the elevated sections of the freeway. Added Acts 1965, 59th Leg., p. 780, ch. 370, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**CHAPTER TEN—PUBLIC UTILITIES**

**1. CITY OWNED UTILITIES**

**Art.**

1110d. Improvements to water and sewer systems; purchase of properties of water control and improvement districts [New].

**1. CITY OWNED UTILITIES**

**Art. 1110d. Improvements to water and sewer systems; purchase of properties of water control and improvement districts**

**Application of act**

Section 1. This Act shall apply to any city having a population in excess of 275,000 and whose water and sewer system are operated by a board of trustees or a public service board, and water control and improvement district where all or part of the district is contained within the city and where the district's properties are being separately operated under a contract between the city and the district by a board of trustees or public service board established by the city charter or by ordinance.

**Definitions**

Sec. 2. Words and terms used in this Act shall have the following meanings:

(a) "city" and "district" mean a city or a district to which this Act is applicable;



(b) "improvement bonds" means bonds issued under this Act where the proceeds thereof are to be used for the purchase of district properties as herein authorized;

(c) "district properties" means the water and sewer properties owned by the District or the portion of such properties which could constitute or be used as improvements, extensions or betterments to the City's water and sewer system.

**Issuance of improvement bonds; use of proceeds; pledge of revenues**

Sec. 3. A city is authorized to issue its negotiable improvement bonds for the purpose of improving, extending or bettering the city's water and sewer system and to use the proceeds from the sale of the improvement bonds for the purchase of district properties, if the amount to be paid by the City to the District, together with other applicable funds of the District, is adequate to make provision for the payment of all outstanding bonds of the District. The Improvement Bonds shall be secured by and payable from a pledge of net revenues of the water and sewer system of the City including the District Properties.

**Notice; petition for election**

Sec. 4. Before the issuance of Improvement Bonds the Mayor of the City shall issue a notice of the City's intent to issue such bonds stating the maximum amount thereof, the maximum interest rate and the maximum maturity, and cause such notice to be published in a newspaper having general circulation in the City once each week for two consecutive weeks, the first such publication shall be not less than fourteen days prior to the date upon which the governing body of the city intends to pass the ordinance directing the issuance of the Improvement Bonds. If, by the date specified for the passage of such ordinance, a petition signed by at least ten per cent of the voters qualified to vote in bond elections and requesting an election on the question of the issuance of such Bonds is filed with the City Secretary or City Clerk, the Improvement Bonds shall not be issued unless such election is held and results in a majority vote in favor of the Bonds. If such petition is not filed, no election is required, and the governing body may, on the date specified in the notice or on a later date pass the ordinance directing the issuance of the Improvement Bonds. If an election is called, it shall be called and held and notice thereof given as provided in Chapter 1, Title 22, Revised Civil Statutes of 1925, as amended. The Improvement Bonds shall be approved by the Attorney General of Texas, or may be validated by suit under Chapter 316, Acts of the 56th Legislature, or both, and when so approved or validated they shall be incontestable.

**Sale of district properties; amount**

Sec. 5. The District is authorized to sell District Properties to the City upon payment by the City to the District of an amount of money which, together with other applicable funds of the District, will be sufficient to provide for the payment of all of the outstanding bonds of the District and the interest thereon to the maturity dates of such bonds or to the date to be fixed by the District for prior redemption of its bonds, and to provide for the payment of any required prior redemption premium, and the fees of the bank of payment.

**Interest and sinking fund; investment and deposit**

Sec. 6. Money thus paid by the City to the District, together with other applicable funds of the District, shall be promptly deposited in the interest and sinking fund of the District which fund shall be permanently maintained in the bank where the District's bonds are payable. Said fund shall be invested immediately in direct obligations of the United States Govern-

ment, or deposited in banks or in savings and loan associations to the extent that such deposits are insured by an agency of the United States Government, or in any combination of such investments and deposits. Money and investments deposited with such bank of payment under this Act shall be held by said bank in trust for the benefit of the holders of the outstanding bonds of the District.

**Payment of interest and principal on district bonds**

Sec. 7. The investments made of the District's interest and sinking fund shall be in obligations or deposits which will mature and produce income, without reinvestment, at times and in amounts which will pay the interest on the District's bonds as it becomes due and pay the principal as it becomes due or on the date fixed by the District for prior redemption, and any redemption premium on the redemption date, and the fees of the bank of payment.

**Other indebtedness**

Sec. 8. If the District owes any indebtedness other than bonds and the amount paid by the City to the District is in excess of the amount required for bond requirements as specified in Section 7 hereof, such excess shall be applied to the payment of the other indebtedness.

**Passage of title to city; abolishment of district; operation and management of properties**

Sec. 9. Upon payment of the money by the City to the District and the investment thereof as provided in this Act, the governing body of the City shall pass an ordinance specifying the date as of which title to the District Properties was or shall be vested in the City. The date so specified may, in the discretion of the governing body of the City, be the first day of the then fiscal year of the City. Title to the District Properties shall, for all purposes, be deemed vested in the City on the date specified in said ordinance. The governing body of the City shall also abolish the District by a provision in the ordinance above described or by a subsequent ordinance. Thereafter, the District Properties shall be operated and managed by the board of trustees or the public service board in which the management and operation of the other water and sewer properties of the City is vested.

**Integration or segregation of properties**

Sec. 10. After title to the District Properties is vested in the City and the District is abolished as provided in this Act, the board of trustees or public service board is authorized to integrate the District Properties with the water and sewer system of the City either completely or to the extent provided by the board. It is provided, however, that the payment and security of the outstanding bonds of the District shall not be impaired, and if money is not available at the bank where the bonds of the District are payable sufficient to pay interest on and principal of said bonds as they become due, said board shall segregate the District Properties with all replacements, renewals, improvements and betterments thereof from the remainder of the City's water and sewer system in such manner that the District Properties shall constitute a complete and operating system to serve substantially the same area as it served at the time title passed from the District to the City. Thereafter, said board shall maintain and operate the District system separately, comply with the terms and provisions of the resolutions authorizing the outstanding bonds of the District, and be vested with all of the powers, duties and obligations theretofore vested in the board of directors of the District insofar as maintenance and operation of the District system, the handling of its funds and the payment of outstanding bonds of the District are concerned. For that purpose the board shall constitute a body corporate and occupy the same position as the District and its board of directors.

**Payment of outstanding district bonds; interest and prior redemption premiums**

Sec. 11. After money has been deposited with the bank where the outstanding District bonds are payable as provided in this Act, the District or the City, as the case may be, may, at any time and from time to time, pay off any outstanding District bonds provided that the amount of money and investments then remaining to the credit of the interest and sinking fund will be sufficient to provide for the payment of all of the remaining outstanding bonds of the District and the interest thereon to the maturity dates of such bonds or to the date fixed by the District for prior redemption of its bonds, and to provide for the payment of any required prior redemption premium.

**Excessive cash and investments in interest and sinking fund; payment to board of trustees**

Sec. 12. If, at any time, the cash and investments in the interest and sinking fund are in excess of the amount required by Section 7 of this Act the bank in which said fund is invested shall, upon request of the board of trustees or public service board, pay such excess to said board. Acts 1965, 59th Leg., p. 283, ch. 122, emerg. eff. May 6, 1965.

**Title of Act:**

An Act applicable to certain cities and water control and improvement districts; authorizing any such district to sell and such City to purchase certain district water and sewer properties; authorizing the City to issue its water and sewer system revenue bonds to purchase such properties and prescribing the procedure for the issuance of the bonds; prescribing the provisions to be made for the payment of outstanding bonds of the district and other district indebtedness, if any; providing for

the integration of the district properties with the City's water and sewer system and the operation thereof by the board of trustees or public service board operating the City's system; providing for abolishing the district; making provisions to avoid impairing rights of holders of district bonds by reverting the district properties to separate operation and maintenance; enacting other provisions related to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 283, ch. 122.

## 2. ENCUMBERED CITY SYSTEM

### Art. 1113a. Transfer of revenues to general fund

Section 1. Incorporated cities, towns, and villages of the State of Texas, and their officials and utility trustees, are hereby authorized to transfer to the general fund of the city, town, or village and use for general or special purposes revenues (now on hand or hereafter received) of any municipally owned utility system in the amount and to the extent that may be authorized or permitted in the indenture, deed of trust, or ordinance providing for and securing payment of revenue bonds issued under Articles 1111-1118, Revised Civil Statutes of Texas, 1925, as amended, or other similar laws, notwithstanding any prohibition contained in Article 1113, Revised Civil Statutes of Texas, 1925, as amended, or other similar laws. As amended Acts 1965, 59th Leg., p. 341, ch. 159, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER THIRTEEN—HOME RULE

Art.  
1174a—7. Validation of adoption of charter of home rule city in counties of 500,000 or more; elections and assumption of office; acts of officers [New].

Art.  
1174a—8. Validation of adoption of charter; election; governmental proceedings [New].

**Art. 1174a—7. Validation of adoption of charter of home rule city in counties of 500,000 or more; elections and assumption of office; acts of officers**

Section 1. In each instance where an election has heretofore been held in an incorporated city in counties of five hundred thousand (500,000) or more according to the last preceding Federal Census for the purpose of voting upon the adoption of a home rule charter, where copies of the proposed charter with the date of election shown therein were mailed to each qualified voter in said city as appeared from the tax collector's roll for the year ending January 31 preceding such charter election, and a majority of the qualified voters of such city voting at said election voted in favor of the adoption of such charter as shown by the official canvass of election returns, all proceedings relating to the adoption of said charter are hereby in all things validated, ratified and confirmed, and said charter shall constitute the home rule charter of said city under the Constitution and laws of the State of Texas. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city are hereby in all things validated, except to the extent that such acts have been heretofore invalidated by judgment of a court of competent jurisdiction or are hereafter so invalidated in litigation pending on the effective date of this Act.

Sec. 2. This Act shall not be construed as validating the adoption of any charter or the charter so adopted if the validity of the charter adoption proceedings or of the charter are involved in litigation on the effective date of this Act in a court of competent jurisdiction of this state and such litigation is ultimately determined against the validity thereof. Acts 1962, 57th Leg., 3rd C.S., p. 115, ch. 39, §§ 1, 2.

**Art. 1174a—8. Validation of adoption of charter; elections; governmental proceedings**

Section 1. In each instance where an election has heretofore been held in an incorporated city for the purpose of voting upon the adoption of a Home Rule Charter for such city, and in each instance where a home rule city has previously held an election for the purpose of voting upon the adoption of an amendment or amendments to an existing Home Rule Charter and a majority of the qualified voters (as shown by the canvass of the returns and declaration of the result of said election) participating at said election voted in favor of the adoption of such Charter, amendment or amendments, all of the proceedings relating to such election are hereby in all things ratified, confirmed and validated and said Charter or said Charter as so amended, as the case may be, shall constitute the Home Rule Charter of such city.

Sec. 2. All actions heretofore taken by the governing body of such city in the calling and holding of an election for the selection of members of the governing body of such city so the same shall consist of the number of persons specified in such Charter, amendment or amendments

are hereby ratified and confirmed and the persons so elected and qualified are recognized as the governing body of such city.

Sec. 3. All governmental proceedings of home rule cities, save and except those relating to annexation of territory, are hereby ratified and confirmed and all actions of the governing bodies of home rule cities in calling and holding elections for bonds and in the authorization, issuance and delivery of bonds, warrants, scrip, and certificates of indebtedness or of assessment are hereby ratified and confirmed and said obligations shall have effect according to their purport and tenor.

Sec. 4. This Act shall not be construed as validating any proceedings or actions the validity of which is involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof. Acts 1965, 59th Leg., p. 415, ch. 203, emerg. eff. May 18, 1965.

**Title of Act:**

An Act validating proceedings relating to the adoption of a Home Rule Charter or an amendment or amendments to an existing Home Rule Charter under certain circumstances and conditions; validating proceedings for the election of a governing body of such home rule cities; validating governmental proceedings of home rule cities (except those relating to annexation) ratifying actions of governing bodies of home rule cities in calling bond elections

and in the authorization, issuance and delivery of bonds, warrants, scrip and certificates of indebtedness or assessment; providing that this Act shall not be construed as validating any proceedings or actions the validity of which is involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof; and declaring an emergency. Acts 1965, 59th Leg., p. 415, ch. 203.

**Art. 1176a. Code of civil and criminal ordinances.**

Section 1. Any city of this state, whether incorporated under General or Special Law, shall have the power to codify its civil and criminal ordinances and adopt a civil and criminal code of ordinances, together with appropriate penalties for the violation thereof, which said code when adopted shall have the force and effect of an ordinance regularly enacted with the usual prerequisite of law. As amended Acts 1965, 59th Leg., p. 349, ch. 165, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**CHAPTER TWENTY—MISCELLANEOUS PROVISIONS**

**Art.**

1269j—4.1 Civic centers, auditoriums, exhibition halls and similar build-

ings; cities of 900,000 or more population [New].

**Art. 1269j—4.1. Civic centers, auditoriums, exhibition halls and similar buildings; cities of 900,000 or more population**

**Applicability of act**

Section 1. This Act shall be applicable to all incorporated cities, including Home Rule Cities, having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census.

**Buildings, structures, parking areas and facilities; leases**

Sec. 2. Any such city is hereby authorized to establish, acquire, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries, or other city buildings (either or all), and to establish, acquire, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) structures, parking areas, or facilities,

located at or in the immediate vicinity of such public improvements; to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances; and provided that such city may lease such structures, parking areas or facilities to any person, persons, corporation or corporations on such terms and conditions as said city shall deem appropriate.

**Revenue bonds; ordinance; pledge of revenues; charges for services**

Sec. 3. Any such city is hereby authorized to issue negotiable revenue bonds to provide funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment or repair (any or all) of public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries or other city buildings, either or all, and the establishment, acquisition, purchase, construction, improvement, enlargement, equipment or repair (any or all) of structures, parking areas or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances.

Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of such city and shall be secured by a pledge of and be payable from all or any designated part of the revenues of said public improvements or said parking or storage facilities (any or all), as may be provided in the ordinance or ordinances authorizing the issuance of such bonds. To the extent that such revenues may have been pledged to the payment of revenue or revenue refunding bonds which are still outstanding, the pledge securing the proposed bonds shall be inferior to the previous pledge or pledges. Within the discretion of the governing body of the city, and subject to limitations contained in previous pledges, if any, in addition to the pledge of revenues a lien may be given on all or any part of the physical properties acquired out of the proceeds from the sale of such bonds.

When any of the revenues of such public improvements and facilities are pledged to the payment of bonds issued under this Act, it shall be the duty of the governing body of the city to cause to be fixed, maintained and enforced charges for services rendered by properties and facilities, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants and provisions contained in the ordinance or ordinances authorizing the issuance of said bonds.

**Payment of principal or interest on bonds**

Sec. 4. The owners or holders of such revenue or revenue refunding bonds shall never have the right to demand payment of either the principal or interest on such bonds out of any funds raised or to be raised by taxation.

**Interest and sinking funds; reserve funds**

Sec. 5. In the ordinance or ordinances authorizing the issuance of any revenue or revenue refunding bonds authorized hereunder, the city may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities, the revenues of which are pledged, including provision for the operation or for the leasing of all or any part of said improvements or facilities and the use or pledge of moneys derived from such operation contracts and leases, as it may deem appropriate. Such ordinance or ordinances may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve

the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said ordinance or ordinances. Such ordinance or ordinances may contain other provisions and covenants, as the city may determine, not prohibited by the Constitution of Texas or by this Act, and the city may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of any of said bonds.

**Payment of interest; expense of sale and delivery of bonds;  
investment of proceeds**

Sec. 6. From the proceeds of sale of any bonds issued hereunder, the city may appropriate or set aside, out of the bond proceeds an amount for the payment of interest expected to accrue during the period of construction, an amount or amounts to be deposited into the reserve fund or funds as may be provided in the bond ordinance or ordinances, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds. Until such time or times as the bond proceeds are needed to carry out the bond purpose, such bond proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, or both. Moneys in the interest and sinking fund or funds, in the reserve fund or funds, and in any other fund or funds established or provided for in the bond ordinance or ordinances may be invested in such manner and in such securities as may be provided in the bond ordinance or ordinances.

**Signatures on bonds; maturity dates; examination and  
approval; registration**

Sec. 7. All bonds shall be signed by the Mayor of the city and countersigned by the City Secretary or City Clerk, and shall have the seal of the city impressed thereon; provided, that the bond ordinance or ordinances may provide for the bonds and any attached interest coupons to be signed by facsimile signatures and for the seal of the city on the bonds to be a facsimile as provided by Acts 1961, 57th Legislature, page 406, Chapter 204 (Article 717j—1, V.A.C.S.). Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates and may be sold at a price and under such terms determined by the governing body of the city to be the most advantageous reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the governing body such bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance or ordinances authorizing such bonds. Any such bonds may be made registrable as to principal, or as to both principal and interest. All bonds issued hereunder and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud.

**Revenue refunding bonds; examination and approval; registration**

Sec. 8. Any city to which this Act applies shall have the power and authority to issue revenue refunding bonds to refund either original bonds or revenue refunding bonds theretofore issued by such city under this

Act, and such refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds shall be authorized by ordinance or ordinances and shall be executed and shall mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof the ordinance or ordinances authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on and principal of the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller of Public Accounts, shall be incontestable except for forgery or fraud.

**Legal and authorized investments; securing deposit of public funds**

Sec. 9. All bonds issued under this Act, whether original bonds or refunding bonds, shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Act of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies of every kind or type, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

**Cumulative effect**

Sec. 10. This Act is cumulative of all existing laws of the State of Texas, but to the extent that such existing laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail; and this Act shall take precedence over any and all conflicting or inconsistent city charter provisions. Acts 1965, 59th Leg., p. 148, ch. 63, emerg. eff. April 2, 1965.

**Title of Act:**

An Act authorizing certain cities to establish, acquire, purchase, construct, improve, enlarge, equip, repair, operate and maintain certain public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries, or other city buildings, and to establish, acquire, purchase, construct, improve, enlarge, equip, repair, operate and maintain structures, parking areas or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances; providing that such city may lease such structures, parking areas or facilities to any person, persons, corporation or corporations on such

terms and conditions as said city shall deem appropriate; authorizing such cities to issue negotiable revenue bonds to provide funds for establishing, acquiring, purchasing, constructing, improving, enlarging, equipping and repairing such public improvements and containing provisions relating to such bonds and the revenues pledged in payment thereof; authorizing the issuance of revenue refunding bonds and containing provisions relating to said bonds and the revenues pledged in payment thereof; providing that this Act is cumulative of existing laws but providing that this Act shall take precedence over inconsistent or conflicting laws and over all city charter provisions; providing a severability clause; containing other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 148, ch. 63.



**CHAPTER TWENTY-TWO—CIVIL SERVICE**

**Art. 1269m. Firemen's and Policemen's Civil Service in cities over 10,000**

**Savings Clause**

*Acts 1965, 59th Leg., p. 1153, ch. 546, codified as article 4413 (29aa), provides in section 8 that nothing contained in the Act should be deemed to limit the powers and duties of municipal or county governments, nor to affect the provisions of this article. See art. 4413 (29aa), § 8.*

**TITLE 30—COMMISSION MERCHANTS**

**Art. 1287—3. Regulation of vegetable producers, handlers and dealers**

**Surety bond of commission merchants; amount; form; actions on bonds**

Sec. 6. (a) All commission merchants shall, in addition to the license fee herein prescribed, deliver to the Commissioner, together with their application for license, a good and sufficient surety bond, payable to the Governor of the State of Texas and his successors in office, for the following amounts, based upon the amount of vegetables purchased by said "commission merchant" during the previous year:

- |              |  |
|--------------|--|
| (1) \$5,000  | up to \$25,000 of purchases;                 |
| (2) \$10,000 | between \$25,000 and \$100,000 of purchases; |
| (3) \$25,000 | over \$100,000 of purchases.                 |

(b) In the case of a new business, the bond shall be \$5,000. After experience for six months the amount of the bond shall be redetermined. However, the bond must be obtained before the new "commission merchant" may do business.

(c) The bond furnished shall be in such form as the Commissioner may prescribe and shall be conditioned upon faithful compliance with the terms and provisions of this Act and upon the faithful performance of the conditions and terms of all contracts made by said "commission merchants" pertaining to the handling of vegetables under this Act.

(d) A cause of action may be maintained upon said bond by any person with whom said applicant deals in purchasing, handling, selling and accounting for sales of vegetables as provided in this Act; the aggregate accumulated liability under such bond shall not exceed the face amount thereof, and each such bond shall continue in full force and effect until notice of termination thereof is given by registered mail to the Commissioner. Such fact shall be set forth in the face of said bond, but such notice shall not affect the liability which may have accrued thereon prior to termination.

(e) No license shall be issued to any "commission merchant" prior to the delivery to the Commissioner and the approval by him of the bond required under the provision of this Section. As amended Acts 1965, 59th Leg., p. 411, ch. 200, § 1, emerg. eff. May 18, 1965.



# UNIFORM COMMERCIAL CODE

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Acts 1965, 59th Leg., Chapter 721  
Effective June 30, 1966

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*Disposition Table, see p. 295.*

*Index, see p. 303.*

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## ARTICLE 1. GENERAL PROVISIONS

### PART 1. SHORT TITLE, CONSTRUCTION, APPLICATION AND SUBJECT MATTER OF THE ACT

#### Section

- 1—101. Short Title.
- 1—102. Purposes; Rules of Construction; Variation by Agreement.
- 1—103. Supplementary General Principles of Law Applicable.
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**PART 2. GENERAL DEFINITIONS AND PRINCIPLES  
OF INTERPRETATION**

**Section**

- 1—201. General Definitions.
- 1—202. Prima Facie Evidence by Third Party Documents.
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- 1—208. Option to Accelerate at Will.

**PART 1. SHORT TITLE, CONSTRUCTION, APPLICATION  
AND SUBJECT MATTER OF THE ACT**

**Section 1—101. Short Title**

This Act shall be known and may be cited as Uniform Commercial Code. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 1—102. Purposes; Rules of Construction; Variation by Agreement**

(1) This Act shall be liberally construed and applied to promote its underlying purposes and policies.

(2) Underlying purposes and policies of this Act are

- (a) to simplify, clarify and modernize the law governing commercial transactions;
- (b) to permit the continued expansion of commercial practices through custom, usage and agreement of the parties;
- (c) to make uniform the law among the various jurisdictions.

(3) The effect of provisions of this Act may be varied by agreement, except as otherwise provided in this Act and except that the obligations of good faith, diligence, reasonableness and care prescribed by this Act may not be disclaimed by agreement but the parties may by agreement determine the standards by which the performance of such obligations is to be measured if such standards are not manifestly unreasonable.

(4) The presence in certain provisions of this Act of the words "unless otherwise agreed" or words of similar import does not imply that the effect of other provisions may not be varied by agreement under subsection (3).

(5) In this Act unless the context otherwise requires

- (a) words in the singular number include the plural, and in the plural include the singular;
- (b) words of the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender may refer to any gender.

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 1—103. Supplementary General Principles of Law Applicable**

Unless displaced by the particular provisions of this Act, the principles of law and equity, including the law merchant and the law

relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause shall supplement its provisions. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 1-104. Construction Against Implicit Repeal

This Act being a general act intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 1-105. Territorial Application of the Act; Parties' Power to Choose Applicable Law

(1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this Act applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this Act specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 2-402.

Applicability of the Article on Bank Deposits and Collections. Section 4-102.

Bulk transfers subject to the Article on Bulk Transfers. Section 6-102.

Applicability of the Article on Investment Securities. Section 8-106.

Policy and scope of the Article on Secured Transactions. Sections 9-102 and 9-103.

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 1-106. Remedies to Be Liberally Administered

(1) The remedies provided by this Act shall be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special nor penal damages may be had except as specifically provided in this Act or by other rule of law.

(2) Any right or obligation declared by this Act is enforceable by action unless the provision declaring it specifies a different and limited effect. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 1-107. Waiver or Renunciation of Claim or Right After Breach

Any claim or right arising out of an alleged breach can be discharged in whole or in part without consideration by a written waiver or renunciation signed and delivered by the aggrieved party. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 1-108. Severability

If any provision or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall

not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 1—109. Section Captions

Section captions are parts of this Act. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## PART 2. GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

### § 1—201. General Definitions

Subject to additional definitions contained in the subsequent Articles of this Act which are applicable to specific Articles or Parts thereof, and unless the context otherwise requires, in this Act:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Act (Sections 1—205 and 2—208). Whether an agreement has legal consequences is determined by the provisions of this Act, if applicable; otherwise by the law of contracts (Section 1—103). (Compare "Contract".)

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its non-existence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate

For Annotations and Historical Notes, see V.A.T.S.

ought to have noticed it. A printed heading in capitals (as: Non-Negotiable Bill of Lading) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this Act and any other applicable rules of law. (Compare "Agreement".)

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this Act to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or an investment security drawn, issued or indorsed to him or to his order or to bearer or in blank.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when

(a) he has actual knowledge of it; or

(b) he has received a notice or notification of it; or

(c) from all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this Act.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(a) it comes to his attention; or

(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party", as distinct from "third party", means a person who has engaged in a transaction or made an agreement within this Act.

(30) "Person" includes an individual or an organization (See Section 1—102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (Section 2—401) is limited in effect to a reservation of a "security interest". The term also includes any interest of a buyer of accounts, chattel paper, or contract rights which is subject to Article 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under Section 2—401 is not a "security interest", but a buyer may also acquire a



For Annotations and Historical Notes, see V.A.T.S.

“security interest” by complying with Article 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a “security interest” but a consignment is in any event subject to the provisions on consignment sales (Section 2—326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.

(38) “Send” in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) “Signed” includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) “Surety” includes guarantor.

(41) “Telegram” includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) “Term” means that portion of an agreement which relates to a particular matter.

(43) “Unauthorized” signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) “Value”. Except as otherwise provided with respect to negotiable instruments and bank collections (Sections 3—303, 4—208 and 4—209) a person gives “value” for rights if he acquires them

- (a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or
- (b) as security for or in total or partial satisfaction of a pre-existing claim; or
- (c) by accepting delivery pursuant to a pre-existing contract for purchase; or
- (d) generally, in return for any consideration sufficient to support a simple contract.

(45) “Warehouse receipt” means a receipt issued by a person engaged in the business of storing goods for hire.

(46) “Written” or “writing” includes printing, typewriting or any other intentional reduction to tangible form. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## § 1—202. Prima Facie Evidence by Third Party Documents

A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher’s or inspector’s certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party shall be prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 1-203. Obligation of Good Faith**

Every contract or duty within this Act imposes an obligation of good faith in its performance or enforcement. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 1-204. Time; Reasonable Time; "Seasonably"**

(1) Whenever this Act requires any action to be taken within a reasonable time, any time which is not manifestly unreasonable may be fixed by agreement.

(2) What is a reasonable time for taking any action depends on the nature, purpose and circumstances of such action.

(3) An action is taken "seasonably" when it is taken at or within the time agreed or if no time is agreed at or within a reasonable time. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 1-205. Course of Dealing and Usage of Trade**

(1) A course of dealing is a sequence of previous conduct between the parties to a particular transaction which is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

(2) A usage of trade is any practice or method of dealing having such regularity of observance in a place, vocation or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage are to be proved as facts. If it is established that such a usage is embodied in a written trade code or similar writing the interpretation of the writing is for the court.

(3) A course of dealing between parties and any usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware give particular meaning to and supplement or qualify terms of an agreement.

(4) The express terms of an agreement and an applicable course of dealing or usage of trade shall be construed wherever reasonable as consistent with each other; but when such construction is unreasonable express terms control both course of dealing and usage of trade and course of dealing controls usage of trade.

(5) An applicable usage of trade in the place where any part of performance is to occur shall be used in interpreting the agreement as to that part of the performance.

(6) Evidence of a relevant usage of trade offered by one party is not admissible unless and until he has given the other party such notice as the court finds sufficient to prevent unfair surprise to the latter. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 1-206. Statute of Frauds for Kinds of Personal Property Not Otherwise Covered**

(1) Except in the cases described in subsection (2) of this section a contract for the sale of personal property is not enforceable by way of action or defense beyond five thousand dollars in amount or value of remedy unless there is some writing which indicates that a contract for sale has been made between the parties at a defined or stated price, reasonably identifies the subject matter, and is signed by the party against whom enforcement is sought or by his authorized agent.

For Annotations and Historical Notes, see V.A.T.S.

(2) Subsection (1) of this section does not apply to contracts for the sale of goods (Section 2-201) nor of securities (Section 8-319) nor to security agreements (Section 9-203). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 1-207. Performance or Acceptance Under Reservation of Rights

A party who with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice", "under protest" or the like are sufficient. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 1-208. Option to Accelerate at Will

A term providing that one party or his successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or "when he deems himself insecure" or in words of similar import shall be construed to mean that he shall have power to do so only if he in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against whom the power has been exercised. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**ARTICLE 2. SALES****PART 1. SHORT TITLE, GENERAL CONSTRUCTION  
AND SUBJECT MATTER**

- Section**  
2—101. Short Title.  
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**PART 1. SHORT TITLE, GENERAL CONSTRUCTION AND SUBJECT MATTER****Section 2-101. Short Title**

This Article shall be known and may be cited as Uniform Commercial Code—Sales. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-102. Scope; Certain Security and Other Transactions Excluded From This Article**

Unless the context otherwise requires, this Article applies to transactions in goods; it does not apply to any transaction which although in the form of an unconditional contract to sell or present sale is intended to operate only as a security transaction nor does this

Article impair or repeal any statute regulating sales to consumers, farmers or other specified classes of buyers. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-103. Definitions and Index of Definitions

- (1) In this Article unless the context otherwise requires
- (a) "Buyer" means a person who buys or contracts to buy goods.
  - (b) "Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.
  - (c) "Receipt" of goods means taking physical possession of them.
  - (d) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to this Article or to specified Parts thereof, and the sections in which they appear are:

- "Acceptance". Section 2-606.
- "Banker's credit". Section 2-325.
- "Between merchants". Section 2-104.
- "Cancellation". Section 2-106(4).
- "Commercial unit". Section 2-105.
- "Confirmed credit". Section 2-325.
- "Conforming to contract". Section 2-106.
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- "Entrusting". Section 2-403.
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- "Sale on approval". Section 2-326.
- "Sale or return". Section 2-326.
- "Termination". Section 2-106.

(3) The following definitions in other Articles apply to this Article:

- "Check". Section 3-104.
- "Consignee". Section 7-102.
- "Consignor". Section 7-102.
- "Consumer goods". Section 9-109.
- "Dishonor". Section 3-507.
- "Draft". Section 3-104.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-104. Definitions. "Merchant"; "Between Merchants"; "Financing Agency"

(1) "Merchant" means a person who deals in goods of the kind or otherwise by his occupation holds himself out as having knowledge

or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his employment of an agent or broker or other intermediary who by his occupation holds himself out as having such knowledge or skill.

(2) "Financing agency" means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller's draft or making advances against it or by merely taking it for collection whether or not documents of title accompany the draft. "Financing agency" includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (Section 2—707).

(3) "Between merchants" means in any transaction with respect to which both parties are chargeable with the knowledge or skill of merchants. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—105. Definitions: Transferability; "Goods"; "Future" Goods; "Lot"; "Commercial Unit"**

(1) "Goods" means all things (including specially manufactured goods) which are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities (Article 8) and things in action. "Goods" also includes the unborn young of animals and growing crops and other identified things attached to realty as described in the section on goods to be severed from realty (Section 2—107).

(2) Goods must be both existing and identified before any interest in them can pass. Goods which are not both existing and identified are "future" goods. A purported present sale of future goods or of any interest therein operates as a contract to sell.

(3) There may be a sale of a part interest in existing identified goods.

(4) An undivided share in an identified bulk of fungible goods is sufficiently identified to be sold although the quantity of the bulk is not determined. Any agreed proportion of such a bulk or any quantity thereof agreed upon by number, weight or other measure may to the extent of the seller's interest in the bulk be sold to the buyer who then becomes an owner in common.

(5) "Lot" means a parcel or a single article which is the subject matter of a separate sale or delivery, whether or not it is sufficient to perform the contract.

(6) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of sale and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article (as a machine) or a set of articles (as a suite of furniture or an assortment of sizes) or a quantity (as a bale, gross, or carload) or any other unit treated in use or in the relevant market as a single whole. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—106. Definitions: "Contract"; "Agreement"; "Contract for Sale"; "Sale"; "Present Sale"; "Conforming" to Contract; "Termination"; "Cancellation"**

(1) In this Article unless the context otherwise requires "contract" and "agreement" are limited to those relating to the present



or future sale of goods. "Contract for sale" includes both a present sale of goods and a contract to sell goods at a future time. A "sale" consists in the passing of title from the seller to the buyer for a price (Section 2—401). A "present sale" means a sale which is accomplished by the making of the contract.

(2) Goods or conduct including any part of a performance are "conforming" or conform to the contract when they are in accordance with the obligations under the contract.

(3) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the contract otherwise than for its breach. On "termination" all obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

(4) "Cancellation" occurs when either party puts an end to the contract for breach by the other and its effect is the same as that of "termination" except that the cancelling party also retains any remedy for breach of the whole contract or any unperformed balance. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2—107. Goods to Be Severed From Realty: Recording

(1) A contract for the sale of timber, minerals or the like or a structure or its materials to be removed from realty is a contract for the sale of goods within this Article if they are to be severed by the seller but until severance a purported present sale thereof which is not effective as a transfer of an interest in land is effective only as a contract to sell.

(2) A contract for the sale apart from the land of growing crops or other things attached to realty and capable of severance without material harm thereto but not described in subsection (1) is a contract for the sale of goods within this Article whether the subject matter is to be severed by the buyer or by the seller even though it forms part of the realty at the time of contracting, and the parties can by identification effect a present sale before severance.

(3) The provisions of this section are subject to any third party rights provided by the law relating to realty records, and the contract for sale may be executed and recorded as a document transferring an interest in land and shall then constitute notice to third parties of the buyer's rights under the contract for sale. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## PART 2. FORM, FORMATION AND READJUSTMENT OF CONTRACT

### § 2—201. Formal Requirements; Statute of Frauds

(1) Except as otherwise provided in this section a contract for the sale of goods for the price of \$500 or more is not enforceable by way of action or defense unless there is some writing sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by his authorized agent or broker. A writing is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this paragraph beyond the quantity of goods shown in such writing.

(2) Between merchants if within a reasonable time a writing in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it

satisfies the requirements of subsection (1) against such party unless written notice of objection to its contents is given within ten days after it is received.

(3) A contract which does not satisfy the requirements of subsection (1) but which is valid in other respects is enforceable

- (a) if the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice of repudiation is received and under circumstances which reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; or
- (b) if the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; or
- (c) with respect to goods for which payment has been made and accepted or which have been received and accepted (Sec. 2-606). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-202. Final Written Expression: Parol or Extrinsic Evidence

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented

- (a) by course of dealing or usage of trade (Section 1-205) or by course of performance (Section 2-208); and
- (b) by evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-203. Seals Inoperative

The affixing of a seal to a writing evidencing a contract for sale or an offer to buy or sell goods does not constitute the writing a sealed instrument and the law with respect to sealed instruments does not apply to such a contract or offer. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-204. Formation in General

(1) A contract for sale of goods may be made in any manner sufficient to show agreement, including conduct by both parties which recognizes the existence of such a contract.

(2) An agreement sufficient to constitute a contract for sale may be found even though the moment of its making is undetermined.

(3) Even though one or more terms are left open a contract for sale does not fail for indefiniteness if the parties have intended to make a contract and there is a reasonably certain basis for giving an appropriate remedy. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-205. Firm Offers

An offer by a merchant to buy or sell goods in a signed writing which by its terms gives assurance that it will be held open is not revo-

For Annotations and Historical Notes, see V.A.T.S.

cable, for lack of consideration, during the time stated or if no time is stated for a reasonable time, but in no event may such period of irrevocability exceed three months; but any such term of assurance on a form supplied by the offeree must be separately signed by the offeror. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-206. Offer and Acceptance in Formation of Contract

(1) Unless otherwise unambiguously indicated by the language or circumstances

(a) an offer to make a contract shall be construed as inviting acceptance in any manner and by any medium reasonable in the circumstances;

(b) an order or other offer to buy goods for prompt or current shipment shall be construed as inviting acceptance either by a prompt promise to ship or by the prompt or current shipment of conforming or non-conforming goods, but such a shipment of non-conforming goods does not constitute an acceptance if the seller seasonably notifies the buyer that the shipment is offered only as an accommodation to the buyer.

(2) Where the beginning of a requested performance is a reasonable mode of acceptance an offeror who is not notified of acceptance within a reasonable time may treat the offer as having lapsed before acceptance. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-207. Additional Terms in Acceptance or Confirmation

(1) A definite and seasonable expression of acceptance or a written confirmation which is sent within a reasonable time operates as an acceptance even though it states terms additional to or different from those offered or agreed upon, unless acceptance is expressly made conditional on assent to the additional or different terms.

(2) The additional terms are to be construed as proposals for addition to the contract. Between merchants such terms become part of the contract unless:

(a) the offer expressly limits acceptance to the terms of the offer;

(b) they materially alter it; or

(c) notification of objection to them has already been given or is given within a reasonable time after notice of them is received.

(3) Conduct by both parties which recognizes the existence of a contract is sufficient to establish a contract for sale although the writings of the parties do not otherwise establish a contract. In such case the terms of the particular contract consist of those terms on which the writings of the parties agree, together with any supplementary terms incorporated under any other provisions of this Act. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-208. Course of Performance or Practical Construction

(1) Where the contract for sale involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection shall be relevant to determine the meaning of the agreement.

(2) The express terms of the agreement and any such course of performance, as well as any course of dealing and usage of trade, shall be construed whenever reasonable as consistent with each other; but when such construction is unreasonable, express terms shall

control course of performance and course of performance shall control both course of dealing and usage of trade (Section 1-205).

(3) Subject to the provisions of the next section on modification and waiver, such course of performance shall be relevant to show a waiver or modification of any term inconsistent with such course of performance. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-209. Modification, Rescission and Waiver

(1) An agreement modifying a contract within this Article needs no consideration to be binding.

(2) A signed agreement which excludes modification or rescission except by a signed writing cannot be otherwise modified or rescinded, but except as between merchants such a requirement on a form supplied by the merchant must be separately signed by the other party.

(3) The requirements of the statute of frauds section of this Article (Section 2-201) must be satisfied if the contract as modified is within its provisions.

(4) Although an attempt at modification or rescission does not satisfy the requirements of subsection (2) or (3) it can operate as a waiver.

(5) A party who has made a waiver affecting an executory portion of the contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-210. Delegation of Performance; Assignment of Rights

(1) A party may perform his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) Unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him by his contract, or impair materially his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.

(3) Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

(4) An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(5) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his rights against the assignor demand assurances from the assignee (Section 2-609). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**PART 3. GENERAL OBLIGATION AND CONSTRUCTION  
OF CONTRACT****§ 2-301. General Obligations of Parties**

The obligation of the seller is to transfer and deliver and that of the buyer is to accept and pay in accordance with the contract. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-302. Unconscionable Contract or Clause**

(1) If the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(2) When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose and effect to aid the court in making the determination. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-303. Allocation or Division of Risks**

Where this Article allocates a risk or a burden as between the parties "unless otherwise agreed", the agreement may not only shift the allocation but may also divide the risk or burden. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-304. Price Payable in Money, Goods, Realty, or Otherwise**

(1) The price can be made payable in money or otherwise. If it is payable in whole or in part in goods each party is a seller of the goods which he is to transfer.

(2) Even though all or part of the price is payable in an interest in realty the transfer of the goods and the seller's obligations with reference to them are subject to this Article, but not the transfer of the interest in realty or the transferor's obligations in connection therewith. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-305. Open Price Term**

(1) The parties if they so intend can conclude a contract for sale even though the price is not settled. In such a case the price is a reasonable price at the time for delivery if

- (a) nothing is said as to price; or
- (b) the price is left to be agreed by the parties and they fail to agree; or
- (c) the price is to be fixed in terms of some agreed market or other standard as set or recorded by a third person or agency and it is not so set or recorded.

(2) A price to be fixed by the seller or by the buyer means a price for him to fix in good faith.

(3) When a price left to be fixed otherwise than by agreement of the parties fails to be fixed through fault of one party the other may at his option treat the contract as cancelled or himself fix a reasonable price.

(4) Where, however, the parties intend not to be bound unless the price be fixed or agreed and it is not fixed or agreed there is no contract. In such a case the buyer must return any goods already received or if unable so to do must pay their reasonable value at the time of delivery and the seller must return any portion of the price paid on account. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—306. Output, Requirements and Exclusive Dealings**

(1) A term which measures the quantity by the output of the seller or the requirements of the buyer means such actual output or requirements as may occur in good faith, except that no quantity unreasonably disproportionate to any stated estimate or in the absence of a stated estimate to any normal or otherwise comparable prior output or requirements may be tendered or demanded.

(2) A lawful agreement by either the seller or the buyer for exclusive dealing in the kind of goods concerned imposes unless otherwise agreed an obligation by the seller to use best efforts to supply the goods and by the buyer to use best efforts to promote their sale. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—307. Delivery in Single Lot or Several Lots**

Unless otherwise agreed all goods called for by a contract for sale must be tendered in a single delivery and payment is due only on such tender but where the circumstances give either party the right to make or demand delivery in lots the price if it can be apportioned may be demanded for each lot. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—308. Absence of Specified Place for Delivery**

Unless otherwise agreed

- (a) the place for delivery of goods is the seller's place of business or if he has none his residence; but
- (b) in a contract for sale of identified goods which to the knowledge of the parties at the time of contracting are in some other place, that place is the place for their delivery; and
- (c) documents of title may be delivered through customary banking channels. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—309. Absence of Specific Time Provisions; Notice of Termination**

(1) The time for shipment or delivery or any other action under a contract if not provided in this Article or agreed upon shall be a reasonable time.

(2) Where the contract provides for successive performances but is indefinite in duration it is valid for a reasonable time but unless otherwise agreed may be terminated at any time by either party.

(3) Termination of a contract by one party except on the happening of an agreed event requires that reasonable notification be received by the other party and an agreement dispensing with notification is invalid if its operation would be unconscionable. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—310. Open Time for Payment or Running of Credit; Authority to Ship Under Reservation**

Unless otherwise agreed

- (a) payment is due at the time and place at which the buyer is to receive the goods even though the place of shipment is the place of delivery; and
- (b) if the seller is authorized to send the goods he may ship them under reservation, and may tender the documents of title, but the buyer may inspect the goods after their arrival before payment is due unless such inspection is inconsistent with the terms of the contract (Section 2—513); and
- (c) if delivery is authorized and made by way of documents of title otherwise than by subsection (b) then payment is due at the time and place at which the buyer is to receive the documents regardless of where the goods are to be received; and
- (d) where the seller is required or authorized to ship the goods on credit the credit period runs from the time of shipment but post-dating the invoice or delaying its dispatch will correspondingly delay the starting of the credit period. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—311. Options and Cooperation Respecting Performance**

(1) An agreement for sale which is otherwise sufficiently definite (subsection (3) of Section 2—204) to be a contract is not made invalid by the fact that it leaves particulars of performance to be specified by one of the parties. Any such specification must be made in good faith and within limits set by commercial reasonableness.

(2) Unless otherwise agreed specifications relating to assortment of the goods are at the buyer's option and except as otherwise provided in subsections (1) (c) and (3) of Section 2—319 specifications or arrangements relating to shipment are at the seller's option.

(3) Where such specification would materially affect the other party's performance but is not seasonably made or where one party's cooperation is necessary to the agreed performance of the other but is not seasonably forthcoming, the other party in addition to all other remedies

- (a) is excused for any resulting delay in his own performance; and
- (b) may also either proceed to perform in any reasonable manner or after the time for a material part of his own performance treat the failure to specify or to cooperate as a breach by failure to deliver or accept the goods. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—312. Warranty of Title and Against Infringement; Buyer's Obligation Against Infringement**

(1) Subject to subsection (2) there is in a contract for sale a warranty by the seller that

- (a) the title conveyed shall be good, and its transfer rightful; and
- (b) the goods shall be delivered free from any security interest or other lien or encumbrance of which the buyer at the time of contracting has no knowledge.

(2) A warranty under subsection (1) will be excluded or modified only by specific language or by circumstances which give the buyer reason to know that the person selling does not claim title in himself or that he is purporting to sell only such right or title as he or a third person may have.

(3) Unless otherwise agreed a seller who is a merchant regularly dealing in goods of the kind warrants that the goods shall be delivered free of the rightful claim of any third person by way of infringement or the like but a buyer who furnishes specifications to the seller must hold the seller harmless against any such claim which arises out of compliance with the specifications. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—313. Express Warranties by Affirmation, Promise, Description, Sample**

(1) Express warranties by the seller are created as follows:

- (a) Any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.
- (b) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.
- (c) Any sample or model which is made part of the basis of the bargain creates an express warranty that the whole of the goods shall conform to the sample or model.

(2) It is not necessary to the creation of an express warranty that the seller use formal words such as "warranty" or "guarantee" or that he have a specific intention to make a warranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the seller's opinion or commendation of the goods does not create a warranty. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—314. Implied Warranty: Merchantability; Usage of Trade**

(1) Unless excluded or modified (Section 2—316), a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind. Under this section the serving for value of food or drink to be consumed either on the premises or elsewhere is a sale.

(2) Goods to be merchantable must be at least such as

- (a) pass without objection in the trade under the contract description; and
- (b) in the case of fungible goods, are of fair average quality within the description; and
- (c) are fit for the ordinary purposes for which such goods are used; and
- (d) run, within the variations permitted by the agreement, of even kind, quality and quantity within each unit and among all units involved; and
- (e) are adequately contained, packaged, and labeled as the agreement may require; and
- (f) conform to the promises or affirmations of fact made on the container or label if any.

(3) Unless excluded or modified (Section 2—316) other implied warranties may arise from course of dealing or usage of trade. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.



**§ 2—315. Implied Warranty: Fitness for Particular Purpose**

Where the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is unless excluded or modified under the next section an implied warranty that the goods shall be fit for such purpose. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—316. Exclusion or Modification of Warranties**

(1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit warranty shall be construed wherever reasonable as consistent with each other; but subject to the provisions of this Article on parol or extrinsic evidence (Section 2—202) negation or limitation is inoperative to the extent that such construction is unreasonable.

(2) Subject to subsection (3), to exclude or modify the implied warranty of merchantability or any part of it the language must mention merchantability and in case of a writing must be conspicuous, and to exclude or modify any implied warranty of fitness the exclusion must be by a writing and conspicuous. Language to exclude all implied warranties of fitness is sufficient if it states, for example, that "There are no warranties which extend beyond the description on the face hereof."

(3) Notwithstanding subsection (2)

- (a) unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is", "with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty; and
- (b) when the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to him; and
- (c) an implied warranty can also be excluded or modified by course of dealing or course of performance or usage of trade.

(4) Remedies for breach of warranty can be limited in accordance with the provisions of this Article on liquidation or limitation of damages and on contractual modification of remedy (Sections 2—718 and 2—719). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—317. Cumulation and Conflict of Warranties Express or Implied**

Warranties whether express or implied shall be construed as consistent with each other and as cumulative, but if such construction is unreasonable the intention of the parties shall determine which warranty is dominant. In ascertaining that intention the following rules apply:

- (a) Exact or technical specifications displace an inconsistent sample or model or general language of description.
- (b) A sample from an existing bulk displaces inconsistent general language of description.
- (c) Express warranties displace inconsistent implied warranties other than an implied warranty of fitness for a particular purpose. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—318. Article Neutral on Question of Third Party Beneficiaries of Warranties of Quality and on Need for Privity of Contract**

This Article does not provide whether anyone other than a buyer may take advantage of an express or implied warranty of quality made to the buyer or whether the buyer or anyone entitled to take advantage of a warranty made to the buyer may sue a third party other than the immediate seller for deficiencies in the quality of the goods. These matters are left to the courts for their determination. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—319. F.O.B. and F.A.S. Terms**

(1) Unless otherwise agreed the term F.O.B. (which means "free on board") at a named place, even though used only in connection with the stated price, is a delivery term under which

- (a) when the term is F.O.B. the place of shipment, the seller must at that place ship the goods in the manner provided in this Article (Section 2—504) and bear the expense and risk of putting them into the possession of the carrier; or
- (b) when the term is F.O.B. the place of destination, the seller must at his own expense and risk transport the goods to that place and there tender delivery of them in the manner provided in this Article (Section 2—503);
- (c) when under either (a) or (b) the term is also F.O.B. vessel, car or other vehicle, the seller must in addition at his own expense and risk load the goods on board. If the term is F.O.B. vessel the buyer must name the vessel and in an appropriate case the seller must comply with the provisions of this Article on the form of bill of lading (Section 2—323).

(2) Unless otherwise agreed the term F.A.S. vessel (which means "free alongside") at a named port, even though used only in connection with the stated price, is a delivery term under which the seller must

- (a) at his own expense and risk deliver the goods alongside the vessel in the manner usual in that port or on a dock designated and provided by the buyer; and
- (b) obtain and tender a receipt for the goods in exchange for which the carrier is under a duty to issue a bill of lading.

(3) Unless otherwise agreed in any case falling within subsection (1) (a) or (c) or subsection (2) the buyer must seasonably give any needed instructions for making delivery, including when the term is F.A.S. or F.O.B. the loading berth of the vessel and in an appropriate case its name and sailing date. The seller may treat the failure of needed instructions as a failure of cooperation under this Article (Section 2—311). He may also at his option move the goods in any reasonable manner preparatory to delivery or shipment.

(4) Under the term F.O.B. vessel or F.A.S. unless otherwise agreed the buyer must make payment against tender of the required documents and the seller may not tender nor the buyer demand delivery of the goods in substitution for the documents. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—320. C.I.F. and C. & F. Terms**

(1) The term C.I.F. means that the price includes in a lump sum the cost of the goods and the insurance and freight to the named destination. The term C. & F. or C.F. means that the price so includes cost and freight to the named destination.

For Annotations and Historical Notes, see V.A.T.S.

(2) Unless otherwise agreed and even though used only in connection with the stated price and destination, the term C.I.F. destination or its equivalent requires the seller at his own expense and risk to

- (a) put the goods into the possession of a carrier at the port for shipment and obtain a negotiable bill or bills of lading covering the entire transportation to the named destination; and
- (b) load the goods and obtain a receipt from the carrier (which may be contained in the bill of lading) showing that the freight has been paid or provided for; and
- (c) obtain a policy or certificate of insurance, including any war risk insurance, of a kind and on terms then current at the port of shipment in the usual amount, in the currency of the contract, shown to cover the same goods covered by the bill of lading and providing for payment of loss to the order of the buyer or for the account of whom it may concern; but the seller may add to the price the amount of the premium for any such war risk insurance; and
- (d) prepare an invoice of the goods and procure any other documents required to effect shipment or to comply with the contract; and
- (e) forward and tender with commercial promptness all the documents in due form and with any indorsement necessary to perfect the buyer's rights.

(3) Unless otherwise agreed the term C. & F. or its equivalent has the same effect and imposes upon the seller the same obligations and risks as a C.I.F. term except the obligation as to insurance.

(4) Under the term C.I.F. or C. & F. unless otherwise agreed the buyer must make payment against tender of the required documents and the seller may not tender nor the buyer demand delivery of the goods in substitution for the documents. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-321. C.I.F. or C. & F.: "Net Landed Weights"; "Payment on Arrival"; Warranty of Condition on Arrival

Under a contract containing a term C.I.F. or C. & F.

(1) Where the price is based on or is to be adjusted according to "net landed weights", "delivered weights", "out turn" quantity or quality or the like, unless otherwise agreed the seller must reasonably estimate the price. The payment due on tender of the documents called for by the contract is the amount so estimated, but after final adjustment of the price a settlement must be made with commercial promptness.

(2) An agreement described in subsection (1) or any warranty of quality or condition of the goods on arrival places upon the seller the risk of ordinary deterioration, shrinkage and the like in transportation but has no effect on the place or time of identification to the contract for sale or delivery or on the passing of the risk of loss.

(3) Unless otherwise agreed where the contract provides for payment on or after arrival of the goods the seller must before payment allow such preliminary inspection as is feasible; but if the goods are lost delivery of the documents and payment are due when the goods should have arrived. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-322. Delivery "Ex-Ship"

(1) Unless otherwise agreed a term for delivery of goods "ex-ship" (which means from the carrying vessel) or in equivalent lan-

guage is not restricted to a particular ship and requires delivery from a ship which has reached a place at the named port of destination where goods of the kind are usually discharged.

(2) Under such a term unless otherwise agreed

- (a) the seller must discharge all liens arising out of the carriage and furnish the buyer with a direction which puts the carrier under a duty to deliver the goods; and
- (b) the risk of loss does not pass to the buyer until the goods leave the ship's tackle or are otherwise properly unloaded. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—323. Form of Bill of Lading Required in Overseas Shipment; "Overseas"**

(1) Where the contract contemplates overseas shipment and contains a term C.I.F. or C. & F. or F.O.B. vessel, the seller unless otherwise agreed must obtain a negotiable bill of lading stating that the goods have been loaded on board or, in the case of a term C.I.F. or C. & F., received for shipment.

(2) Where in a case within subsection (1) a bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set

- (a) due tender of a single part is acceptable within the provisions of this Article on cure of improper delivery (subsection (1) of Section 2—508); and
- (b) even though the full set is demanded, if the documents are sent from abroad the person tendering an incomplete set may nevertheless require payment upon furnishing an indemnity which the buyer in good faith deems adequate.

(3) A shipment by water or by air or a contract contemplating such shipment is "overseas" insofar as by usage of trade or agreement it is subject to the commercial, financing or shipping practices characteristic of international deep water commerce. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—324. "No Arrival, No Sale" Term**

Under a term "no arrival, no sale" or terms of like meaning, unless otherwise agreed,

- (a) the seller must properly ship conforming goods and if they arrive by any means he must tender them on arrival but he assumes no obligation that the goods will arrive unless he has caused the non-arrival; and
- (b) where without fault of the seller the goods are in part lost or have so deteriorated as no longer to conform to the contract or arrive after the contract time, the buyer may proceed as if there had been casualty to identified goods (Section 2—613). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—325. "Letter of Credit" Term; "Confirmed Credit"**

(1) Failure of the buyer seasonably to furnish an agreed letter of credit is a breach of the contract for sale.

(2) The delivery to seller of a proper letter of credit suspends the buyer's obligation to pay. If the letter of credit is dishonored, the

seller may on seasonable notification to the buyer require payment directly from him.

(3) Unless otherwise agreed the term "letter of credit" or "banker's credit" in a contract for sale means an irrevocable credit issued by a financing agency of good repute and, where the shipment is overseas, of good international repute. The term "confirmed credit" means that the credit must also carry the direct obligation of such an agency which does business in the seller's financial market. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-326. Sale on Approval and Sale or Return; Consignment Sales and Rights of Creditors

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is

- (a) a "sale on approval" if the goods are delivered primarily for use, and
- (b) a "sale or return" if the goods are delivered primarily for resale.

(2) Except as provided in subsection (3), goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(3) Where goods are delivered to a person for sale and such person maintains a place of business at which he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum". However, this subsection is not applicable if the person making delivery

- (a) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or
- (b) establishes that the person conducting the business is generally known by his creditors to be substantially engaged in selling the goods of others, or
- (c) complies with the filing provisions of the Article on Secured Transactions (Article 9).

(4) Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this Article (Section 2-201) and as contradicting the sale aspect of the contract within the provisions of this Article on parol or extrinsic evidence (Section 2-202). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-327. Special Incidents of Sale on Approval and Sale or Return

- (1) Under a sale on approval unless otherwise agreed
  - (a) although the goods are identified to the contract the risk of loss and the title do not pass to the buyer until acceptance; and
  - (b) use of the goods consistent with the purpose of trial is not acceptance but failure seasonably to notify the seller of election to return the goods is acceptance, and if the goods conform to the contract acceptance of any part is acceptance of the whole; and

- (c) after due notification of election to return, the return is at the seller's risk and expense but a merchant buyer must follow any reasonable instructions.
- (2) Under a sale or return unless otherwise agreed
  - (a) the option to return extends to the whole or any commercial unit of the goods while in substantially their original condition, but must be exercised seasonably; and
  - (b) the return is at the buyer's risk and expense. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2—328. Sale by Auction

(1) In a sale by auction if goods are put up in lots each lot is the subject of a separate sale.

(2) A sale by auction is complete when the auctioneer so announces by the fall of the hammer or in other customary manner. Where a bid is made while the hammer is falling in acceptance of a prior bid the auctioneer may in his discretion reopen the bidding or declare the goods sold under the bid on which the hammer was falling.

(3) Such a sale is with reserve unless the goods are in explicit terms put up without reserve. In an auction with reserve the auctioneer may withdraw the goods at any time until he announces completion of the sale. In an auction without reserve, after the auctioneer calls for bids on an article or lot, that article or lot cannot be withdrawn unless no bid is made within a reasonable time. In either case a bidder may retract his bid until the auctioneer's announcement of completion of the sale, but a bidder's retraction does not revive any previous bid.

(4) If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures such a bid, and notice has not been given that liberty for such bidding is reserved, the buyer may at his option avoid the sale or take the goods at the price of the last good faith bid prior to the completion of the sale. This subsection shall not apply to any bid at a forced sale. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## PART 4. TITLE, CREDITORS AND GOOD FAITH PURCHASERS

### § 2—401. Passing of Title; Reservation for Security; Limited Application of This Section

Each provision of this Article with regard to the rights, obligations and remedies of the seller, the buyer, purchasers or other third parties applies irrespective of title to the goods except where the provision refers to such title. Insofar as situations are not covered by the other provisions of this Article and matters concerning title become material the following rules apply:

(1) Title to goods cannot pass under a contract for sale prior to their identification to the contract (Section 2—501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by this Act. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the Article on Secured Transactions (Article 9), title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

For Annotations and Historical Notes, see V.A.T.S.

(2) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading

(a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(b) if the contract requires delivery at destination, title passes on tender there.

(3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods,

(a) if the seller is to deliver a document of title, title passes at the time when and the place where he delivers such documents; or

(b) if the goods are at the time of contracting already identified and no documents are to be delivered, title passes at the time and place of contracting.

(4) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance reverts title to the goods in the seller. Such reversion occurs by operation of law and is not a "sale". Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-402. Rights of Seller's Creditors Against Sold Goods

(1) Except as provided in subsections (2) and (3), rights of unsecured creditors of the seller with respect to goods which have been identified to a contract for sale are subject to the buyer's rights to recover the goods under this Article (Sections 2-502 and 2-716).

(2) A creditor of the seller may treat a sale or an identification of goods to a contract for sale as void if as against him a retention of possession by the seller is fraudulent under any rule of law of the state where the goods are situated, except that retention of possession in good faith and current course of trade by a merchant-seller for a commercially reasonable time after a sale or identification is not fraudulent.

(3) Nothing in this Article shall be deemed to impair the rights of creditors of the seller

(a) under the provisions of the Article on Secured Transactions (Article 9); or

(b) where identification to the contract or delivery is made not in current course of trade but in satisfaction of or as security for a pre-existing claim for money, security or the like and is made under circumstances which under any rule of law of the state where the goods are situated would apart from this Article constitute the transaction a fraudulent transfer or voidable preference. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-403. Power to Transfer; Good Faith Purchase of Goods; "Entrusting"

(1) A purchaser of goods acquires all title which his transferor had or had power to transfer except that a purchaser of a limited interest acquires rights only to the extent of the interest purchased. A person with voidable title has power to transfer a good title to a good

faith purchaser for value. When goods have been delivered under a transaction of purchase the purchaser has such power even though

- (a) the transferor was deceived as to the identity of the purchaser, or
- (b) the delivery was in exchange for a check which is later dishonored, or
- (c) it was agreed that the transaction was to be a "cash sale", or
- (d) the delivery was procured through fraud punishable as larcenous under the criminal law.

(2) Any entrusting of possession of goods to a merchant who deals in goods of that kind gives him power to transfer all rights of the entruster to a buyer in ordinary course of business.

(3) "Entrusting" includes any delivery and any acquiescence in retention of possession regardless of any condition expressed between the parties to the delivery or acquiescence and regardless of whether the procurement of the entrusting or the possessor's disposition of the goods have been such as to be larcenous under the criminal law.

(4) The rights of other purchasers of goods and of lien creditors are governed by the Articles on Secured Transactions (Article 9), Bulk Transfers (Article 6) and Documents of Title (Article 7). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## PART 5. PERFORMANCE

### § 2—501. Insurable Interest in Goods; Manner of Identification of Goods

(1) The buyer obtains a special property and an insurable interest in goods by identification of existing goods as goods to which the contract refers even though the goods so identified are non-conforming and he has an option to return or reject them. Such identification can be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement identification occurs

- (a) when the contract is made if it is for the sale of goods already existing and identified;
- (b) if the contract is for the sale of future goods other than those described in paragraph (c), when goods are shipped, marked or otherwise designated by the seller as goods to which the contract refers;
- (c) when the crops are planted or otherwise become growing crops or the young are conceived if the contract is for the sale of unborn young to be born within twelve months after contracting or for the sale of crops to be harvested within twelve months or the next normal harvest season after contracting whichever is longer.

(2) The seller retains an insurable interest in goods so long as title to or any security interest in the goods remains in him and where the identification is by the seller alone he may until default or insolvency or notification to the buyer that the identification is final substitute other goods for those identified.

(3) Nothing in this section impairs any insurable interest recognized under any other statute or rule of law. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.



**§ 2-502. Buyer's Right to Goods on Seller's Insolvency**

(1) Subject to subsection (2) and even though the goods have not been shipped a buyer who has paid a part or all of the price of goods in which he has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if the seller becomes insolvent within ten days after receipt of the first installment on their price.

(2) If the identification creating his special property has been made by the buyer he acquires the right to recover the goods only if they conform to the contract for sale. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-503. Manner of Seller's Tender of Delivery**

(1) Tender of delivery requires that the seller put and hold conforming goods at the buyer's disposition and give the buyer any notification reasonably necessary to enable him to take delivery. The manner, time and place for tender are determined by the agreement and this Article, and in particular

(a) tender must be at a reasonable hour, and if it is of goods they must be kept available for the period reasonably necessary to enable the buyer to take possession; but

(b) unless otherwise agreed the buyer must furnish facilities reasonably suited to the receipt of the goods.

(2) Where the case is within the next section respecting shipment tender requires that the seller comply with its provisions.

(3) Where the seller is required to deliver at a particular destination tender requires that he comply with subsection (1) and also in any appropriate case tender documents as described in subsections (4) and (5) of this section.

(4) Where goods are in the possession of a bailee and are to be delivered without being moved

(a) tender requires that the seller either tender a negotiable document of title covering such goods or procure acknowledgement by the bailee of the buyer's right to possession of the goods; but

(b) tender to the buyer of a non-negotiable document of title or of a written direction to the bailee to deliver is sufficient tender unless the buyer seasonably objects, and receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the non-negotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

(5) Where the contract requires the seller to deliver documents

(a) he must tender all such documents in correct form, except as provided in this Article with respect to bills of lading in a set (subsection (2) of Section 2-323); and

(b) tender through customary banking channels is sufficient and dishonor of a draft accompanying the documents constitutes non-acceptance or rejection. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-504. Shipment by Seller**

Where the seller is required or authorized to send the goods to the buyer and the contract does not require him to deliver them at a particular destination, then unless otherwise agreed he must

- (a) put the goods in the possession of such a carrier and make such a contract for their transportation as may be reasonable having regard to the nature of the goods and other circumstances of the case; and
- (b) obtain and promptly deliver or tender in due form any document necessary to enable the buyer to obtain possession of the goods or otherwise required by the agreement or by usage of trade; and
- (c) promptly notify the buyer of the shipment.

Failure to notify the buyer under paragraph (c) or to make a proper contract under paragraph (a) is a ground for rejection only if material delay or loss ensues. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-505. Seller's Shipment Under Reservation**

(1) Where the seller has identified goods to the contract by or before shipment:

- (a) his procurement of a negotiable bill of lading to his own order or otherwise reserves in him a security interest in the goods. His procurement of the bill to the order of a financing agency or of the buyer indicates in addition only the seller's expectation of transferring that interest to the person named.
- (b) a non-negotiable bill of lading to himself or his nominee reserves possession of the goods as security but except in a case of conditional delivery (subsection (2) of Section 2-507) a non-negotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession of the bill of lading.

(2) When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation within the preceding section but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-506. Rights of Financing Agency**

(1) A financing agency by paying or purchasing for value a draft which relates to a shipment of goods acquires to the extent of the payment or purchase and in addition to its own rights under the draft and any document of title securing it any rights of the shipper in the goods including the right to stop delivery and the shipper's right to have the draft honored by the buyer.

(2) The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular on its face. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-507. Effect of Seller's Tender; Delivery on Condition**

(1) Tender of delivery is a condition to the buyer's duty to accept the goods and, unless otherwise agreed, to his duty to pay for

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them. Tender entitles the seller to acceptance of the goods and to payment according to the contract.

(2) Where payment is due and demanded on the delivery to the buyer of goods or documents of title, his right as against the seller to retain or dispose of them is conditional upon his making the payment due. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-508. Cure by Seller of Improper Tender or Delivery; Replacement

(1) Where any tender or delivery by the seller is rejected because non-conforming and the time for performance has not yet expired, the seller may seasonably notify the buyer of his intention to cure and may then within the contract time make a conforming delivery.

(2) Where the buyer rejects a non-conforming tender which the seller had reasonable grounds to believe would be acceptable with or without money allowance the seller may if he seasonably notifies the buyer have a further reasonable time to substitute a conforming tender. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-509. Risk of Loss in the Absence of Breach

(1) Where the contract requires or authorizes the seller to ship the goods by carrier

- (a) if it does not require him to deliver them at a particular destination, the risk of loss passes to the buyer when the goods are duly delivered to the carrier even though the shipment is under reservation (Section 2-505); but
- (b) if it does require him to deliver them at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the buyer when the goods are there duly so tendered as to enable the buyer to take delivery.

(2) Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer

- (a) on his receipt of a negotiable document of title covering the goods; or
- (b) on acknowledgement by the bailee of the buyer's right to possession of the goods; or
- (c) after his receipt of a non-negotiable document of title or other written direction to deliver, as provided in subsection (4) (b) of Section 2-503.

(3) In any case not within subsection (1) or (2), the risk of loss passes to the buyer on his receipt of the goods if the seller is a merchant; otherwise the risk passes to the buyer on tender of delivery.

(4) The provisions of this section are subject to contrary agreement of the parties and to the provisions of this Article on sale on approval (Section 2-327) and on effect of breach on risk of loss (Section 2-510). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-510. Effect of Breach on Risk of Loss

(1) Where a tender or delivery of goods so fails to conform to the contract as to give a right of rejection the risk of their loss remains on the seller until cure or acceptance.

(2) Where the buyer rightfully revokes acceptance he may to the extent of any deficiency in his effective insurance coverage treat the risk of loss as having rested on the seller from the beginning.

(3) Where the buyer as to conforming goods already identified to the contract for sale repudiates or is otherwise in breach before risk of their loss has passed to him, the seller may to the extent of any deficiency in his effective insurance coverage treat the risk of loss as resting on the buyer for a commercially reasonable time. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2—511. Tender of Payment by Buyer; Payment by Check

(1) Unless otherwise agreed tender of payment is a condition to the seller's duty to tender and complete any delivery.

(2) Tender of payment is sufficient when made by any means or in any manner current in the ordinary course of business unless the seller demands payment in legal tender and gives any extension of time reasonably necessary to procure it.

(3) Subject to the provisions of this Act on the effect of an instrument on an obligation (Section 3—802), payment by check is conditional and is defeated as between the parties by dishonor of the check on due presentment. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2—512. Payment by Buyer Before Inspection

(1) Where the contract requires payment before inspection non-conformity of the goods does not excuse the buyer from so making payment unless

(a) the non-conformity appears without inspection; or

(b) despite tender of the required documents the circumstances would justify injunction against honor under the provisions of this Act (Section 5—114).

(2) Payment pursuant to subsection (1) does not constitute an acceptance of goods or impair the buyer's right to inspect or any of his remedies. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2—513. Buyer's Right to Inspection of Goods

(1) Unless otherwise agreed and subject to subsection (3), where goods are tendered or delivered or identified to the contract for sale, the buyer has a right before payment or acceptance to inspect them at any reasonable place and time and in any reasonable manner. When the seller is required or authorized to send the goods to the buyer, the inspection may be after their arrival.

(2) Expenses of inspection must be borne by the buyer but may be recovered from the seller if the goods do not conform and are rejected.

(3) Unless otherwise agreed and subject to the provisions of this Article on C.I.F. contracts (subsection (3) of Section 2—321), the buyer is not entitled to inspect the goods before payment of the price when the contract provides

(a) for delivery "C.O.D." or on other like terms; or

(b) for payment against documents of title, except where such payment is due only after the goods are to become available for inspection.

(4) A place or method of inspection fixed by the parties is presumed to be exclusive but unless otherwise expressly agreed it does

not postpone identification or shift the place for delivery or for passing the risk of loss. If compliance becomes impossible, inspection shall be as provided in this section unless the place or method fixed was clearly intended as an indispensable condition failure of which avoids the contract. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-514. When Documents Deliverable on Acceptance; When on Payment**

Unless otherwise agreed documents against which a draft is drawn are to be delivered to the drawee on acceptance of the draft if it is payable more than three days after presentment; otherwise, only on payment. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-515. Preserving Evidence of Goods in Dispute**

In furtherance of the adjustment of any claim or dispute

- (a) either party on reasonable notification to the other and for the purpose of ascertaining the facts and preserving evidence has the right to inspect, test and sample the goods including such of them as may be in the possession or control of the other; and
- (b) the parties may agree to a third party inspection or survey to determine the conformity or condition of the goods and may agree that the findings shall be binding upon them in any subsequent litigation or adjustment. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**PART 6. BREACH, REPUDIATION AND EXCUSE**

**§ 2-601. Buyer's Rights on Improper Delivery**

Subject to the provisions of this Article on breach in installment contracts (Section 2-612) and unless otherwise agreed under the sections on contractual limitations of remedy (Sections 2-718 and 2-719), if the goods or the tender of delivery fail in any respect to conform to the contract, the buyer may

- (a) reject the whole; or
- (b) accept the whole; or
- (c) accept any commercial unit or units and reject the rest. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-602. Manner and Effect of Rightful Rejection**

(1) Rejection of goods must be within a reasonable time after their delivery or tender. It is ineffective unless the buyer seasonably notifies the seller.

(2) Subject to the provisions of the two following sections on rejected goods (Sections 2-603 and 2-604),

- (a) after rejection any exercise of ownership by the buyer with respect to any commercial unit is wrongful as against the seller; and
- (b) if the buyer has before rejection taken physical possession of goods in which he does not have a security interest under the provisions of this Article (subsection (3) of Section 2-711), he is under a duty after rejection to hold them with reasonable care at the seller's disposition for a time sufficient to permit the seller to remove them; but
- (c) the buyer has no further obligations with regard to goods rightfully rejected.

(3) The seller's rights with respect to goods wrongfully rejected are governed by the provisions of this Article on Seller's remedies in general (Section 2-703). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-603. Merchant Buyer's Duties as to Rightfully Rejected Goods

(1) Subject to any security interest in the buyer (subsection (3) of Section 2-711), when the seller has no agent or place of business at the market of rejection a merchant buyer is under a duty after rejection of goods in his possession or control to follow any reasonable instructions received from the seller with respect to the goods and in the absence of such instructions to make reasonable efforts to sell them for the seller's account if they are perishable or threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

(2) When the buyer sells goods under subsection (1), he is entitled to reimbursement from the seller or out of the proceeds for reasonable expenses of caring for and selling them, and if the expenses include no selling commission then to such commission as is usual in the trade or if there is none to a reasonable sum not exceeding ten per cent on the gross proceeds.

(3) In complying with this section the buyer is held only to good faith and good faith conduct hereunder is neither acceptance nor conversion nor the basis of an action for damages. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-604. Buyer's Options as to Salvage of Rightfully Rejected Goods

Subject to the provisions of the immediately preceding section on perishables if the seller gives no instructions within a reasonable time after notification of rejection the buyer may store the rejected goods for the seller's account or reship them to him or resell them for the seller's account with reimbursement as provided in the preceding section. Such action is not acceptance or conversion. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-605. Waiver of Buyer's Objections by Failure to Particularize

(1) The buyer's failure to state in connection with rejection a particular defect which is ascertainable by reasonable inspection precludes him from relying on the unstated defect to justify rejection or to establish breach

- (a) where the seller could have cured it if stated seasonably; or
- (b) between merchants when the seller has after rejection made a request in writing for a full and final written statement of all defects on which the buyer proposes to rely.

(2) Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent on the face of the documents. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-606. What Constitutes Acceptance of Goods

(1) Acceptance of goods occurs when the buyer

- (a) after a reasonable opportunity to inspect the goods signifies to the seller that the goods are conforming or that he will take or retain them in spite of their non-conformity; or

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- (b) fails to make an effective rejection (subsection (1) of Section 2—602), but such acceptance does not occur until the buyer has had a reasonable opportunity to inspect them; or
  - (c) does any act inconsistent with the seller's ownership; but if such act is wrongful as against the seller it is an acceptance only if ratified by him.
- (2) Acceptance of a part of any commercial unit is acceptance of that entire unit. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—607. Effect of Acceptance; Notice of Breach; Burden of Establishing Breach After Acceptance; Notice of Claim or Litigation to Person Answerable Over**

- (1) The buyer must pay at the contract rate for any goods accepted.
- (2) Acceptance of goods by the buyer precludes rejection of the goods accepted and if made with knowledge of a non-conformity cannot be revoked because of it unless the acceptance was on the reasonable assumption that the non-conformity would be seasonably cured but acceptance does not of itself impair any other remedy provided by this Article for non-conformity.
- (3) Where a tender has been accepted
- (a) the buyer must within a reasonable time after he discovers or should have discovered any breach notify the seller of breach or be barred from any remedy; and
  - (b) if the claim is one for infringement or the like (subsection (3) of Section 2—312) and the buyer is sued as a result of such a breach he must so notify the seller within a reasonable time after he receives notice of the litigation or be barred from any remedy over for liability established by the litigation.
- (4) The burden is on the buyer to establish any breach with respect to the goods accepted.
- (5) Where the buyer is sued for breach of a warranty or other obligation for which his seller is answerable over
- (a) he may give his seller written notice of the litigation. If the notice states that the seller may come in and defend and that if the seller does not do so he will be bound in any action against him by his buyer by any determination of fact common to the two litigations, then unless the seller after seasonable receipt of the notice does come in and defend he is so bound.
  - (b) if the claim is one for infringement or the like (subsection (3) of Section 2—312) the original seller may demand in writing that his buyer turn over to him control of the litigation including settlement or else be barred from any remedy over and if he also agrees to bear all expense and to satisfy any adverse judgment, then unless the buyer after seasonable receipt of the demand does turn over control the buyer is so barred.
- (6) The provisions of subsections (3), (4) and (5) apply to any obligation of a buyer to hold the seller harmless against infringement or the like (subsection (3) of section 2—312). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—608. Revocation of Acceptance in Whole or in Part**

(1) The buyer may revoke his acceptance of a lot or commercial unit whose non-conformity substantially impairs its value to him if he has accepted it

- (a) on the reasonable assumption that its non-conformity would be cured and it has not been seasonably cured; or
- (b) without discovery of such non-conformity if his acceptance was reasonably induced either by the difficulty of discovery before acceptance or by the seller's assurances.

(2) Revocation of acceptance must occur within a reasonable time after the buyer discovers or should have discovered the ground for it and before any substantial change in condition of the goods which is not caused by their own defects. It is not effective until the buyer notifies the seller of it.

(3) A buyer who so revokes has the same rights and duties with regard to the goods involved as if he had rejected them. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—609. Right to Adequate Assurance of Performance**

(1) A contract for sale imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party the other may in writing demand adequate assurance of due performance and until he receives such assurance may if commercially reasonable suspend any performance for which he has not already received the agreed return.

(2) Between merchants the reasonableness of grounds for insecurity and the adequacy of any assurance offered shall be determined according to commercial standards.

(3) Acceptance of any improper delivery or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

(4) After receipt of a justified demand failure to provide within a reasonable time not exceeding thirty days such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of the contract. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—610. Anticipatory Repudiation**

When either party repudiates the contract with respect to a performance not yet due the loss of which will substantially impair the value of the contract to the other, the aggrieved party may

- (a) for a commercially reasonable time await performance by the repudiating party; or
- (b) resort to any remedy for breach (Section 2—703 or Section 2—711), even though he has notified the repudiating party that he would await the latter's performance and has urged retraction; and
- (c) in either case suspend his own performance or proceed in accordance with the provisions of this Article on the seller's right to identify goods to the contract notwithstanding breach or to salvage unfinished goods (Section 2—704). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.



**§ 2-611. Retraction of Anticipatory Repudiation**

(1) Until the repudiating party's next performance is due he can retract his repudiation unless the aggrieved party has since the repudiation cancelled or materially changed his position or otherwise indicated that he considers the repudiation final.

(2) Retraction may be by any method which clearly indicates to the aggrieved party that the repudiating party intends to perform, but must include any assurance justifiably demanded under the provisions of this Article (Section 2-609).

(3) Retraction reinstates the repudiating party's rights under the contract with due excuse and allowance to the aggrieved party for any delay occasioned by the repudiation. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-612. "Installment Contract"; Breach**

(1) An "installment contract" is one which requires or authorizes the delivery of goods in separate lots to be separately accepted, even though the contract contains a clause "each delivery is a separate contract" or its equivalent.

(2) The buyer may reject any installment which is non-conforming if the non-conformity substantially impairs the value of that installment and cannot be cured or if the non-conformity is a defect in the required documents; but if the non-conformity does not fall within subsection (3) and the seller gives adequate assurance of its cure the buyer must accept that installment.

(3) Whenever non-conformity or default with respect to one or more installments substantially impairs the value of the whole contract there is a breach of the whole. But the aggrieved party reinstates the contract if he accepts a non-conforming installment without seasonably notifying of cancellation or if he brings an action with respect only to past installments or demands performance as to future installments. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-613. Casualty to Identified Goods**

Where the contract requires for its performance goods identified when the contract is made, and the goods suffer casualty without fault of either party before the risk of loss passes to the buyer, or in a proper case under a "no arrival, no sale" term (Section 2-324) then

- (a) if the loss is total the contract is avoided; and
- (b) if the loss is partial or the goods have so deteriorated as no longer to conform to the contract the buyer may nevertheless demand inspection and at his option either treat the contract as avoided or accept the goods with due allowance from the contract price for the deterioration or the deficiency in quantity but without further right against the seller. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-614. Substituted Performance**

(1) Where without fault of either party the agreed berthing, loading, or unloading facilities fail or an agreed type of carrier becomes unavailable or the agreed manner of delivery otherwise becomes commercially impracticable but a commercially reasonable substitute is available, such substitute performance must be tendered and accepted.

(2) If the agreed means or manner of payment fails because of domestic or foreign governmental regulation, the seller may withhold or stop delivery unless the buyer provides a means or manner of payment which is commercially a substantial equivalent. If delivery has already been taken, payment by the means or in the manner provided by the regulation discharges the buyer's obligation unless the regulation is discriminatory, oppressive or predatory. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2—615. Excuse by Failure of Presupposed Conditions

Except so far as a seller may have assumed a greater obligation and subject to the preceding section on substituted performance:

- (a) Delay in delivery or non-delivery in whole or in part by a seller who complies with paragraphs (b) and (c) is not a breach of his duty under a contract for sale if performance as agreed has been made impracticable by the occurrence of a contingency the non-occurrence of which was a basic assumption on which the contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it later proves to be invalid.
- (b) Where the causes mentioned in paragraph (a) affect only a part of the seller's capacity to perform, he must allocate production and deliveries among his customers but may at his option include regular customers not then under contract as well as his own requirements for further manufacture. He may so allocate in any manner which is fair and reasonable.
- (c) The seller must notify the buyer seasonably that there will be delay or non-delivery and, when allocation is required under paragraph (b), of the estimated quota thus made available for the buyer. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2—616. Procedure on Notice Claiming Excuse

(1) Where the buyer receives notification of a material or indefinite delay or an allocation justified under the preceding section he may by written notification to the seller as to any delivery concerned, and where the prospective deficiency substantially impairs the value of the whole contract under the provisions of this Article relating to breach of installment contracts (Section 2—612), then also as to the whole,

- (a) terminate and thereby discharge any unexecuted portion of the contract; or
- (b) modify the contract by agreeing to take his available quota in substitution.

(2) If after receipt of such notification from the seller the buyer fails so to modify the contract within a reasonable time not exceeding thirty days the contract lapses with respect to any deliveries affected.

(3) The provisions of this section may not be negated by agreement except in so far as the seller has assumed a greater obligation under the preceding section. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## PART 7. REMEDIES

**§ 2-701. Remedies for Breach of Collateral Contracts Not Impaired**

Remedies for breach of any obligation or promise collateral or ancillary to a contract for sale are not impaired by the provisions of this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-702. Seller's Remedies on Discovery of Buyer's Insolvency**

(1) Where the seller discovers the buyer to be insolvent he may refuse delivery except for cash including payment for all goods theretofore delivered under the contract, and stop delivery under this Article (Section 2-705).

(2) Where the seller discovers that the buyer has received goods on credit while insolvent he may reclaim the goods upon demand made within ten days after the receipt, but if misrepresentation of solvency has been made to the particular seller in writing within three months before delivery the ten day limitation does not apply. Except as provided in this subsection the seller may not base a right to reclaim goods on the buyer's fraudulent or innocent misrepresentation of solvency or of intent to pay.

(3) The seller's right to reclaim under subsection (2) is subject to the rights of a buyer in ordinary course or other good faith purchaser or lien creditor under this Article (Section 2-403). Successful reclamation of goods excludes all other remedies with respect to them. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-703. Seller's Remedies in General**

Where the buyer wrongfully rejects or revokes acceptance of goods or fails to make a payment due on or before delivery or repudiates with respect to a part or the whole, then with respect to any goods directly affected and, if the breach is of the whole contract (Section 2-612), then also with respect to the whole undelivered balance, the aggrieved seller may

- (a) withhold delivery of such goods;
- (b) stop delivery by any bailee as hereafter provided (Section 2-705);
- (c) proceed under the next section respecting goods still unidentified to the contract;
- (d) resell and recover damages as hereafter provided (Section 2-706);
- (e) recover damages for non-acceptance (Section 2-708) or in a proper case the price (Section 2-709);
- (f) cancel. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-704. Seller's Right to Identify Goods to the Contract Notwithstanding Breach or to Salvage Unfinished Goods**

- (1) An aggrieved seller under the preceding section may
  - (a) identify to the contract conforming goods not already identified if at the time he learned of the breach they are in his possession or control;
  - (b) treat as the subject of resale goods which have demonstrably been intended for the particular contract even though those goods are unfinished.

(2) Where the goods are unfinished an aggrieved seller may in the exercise of reasonable commercial judgment for the purposes of avoiding loss and of effective realization either complete the manufacture and wholly identify the goods to the contract or cease manufacture and resell for scrap or salvage value or proceed in any other reasonable manner. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2—705. Seller's Stoppage of Delivery in Transit or Otherwise

(1) The seller may stop delivery of goods in the possession of a carrier or other bailee when he discovers the buyer to be insolvent (Section 2—702) and may stop delivery of carload, truckload, plane-load or larger shipments of express or freight when the buyer repudiates or fails to make a payment due before delivery or if for any other reason the seller has a right to withhold or reclaim the goods.

(2) As against such buyer the seller may stop delivery until

- (a) receipt of the goods by the buyer; or
- (b) acknowledgment to the buyer by any bailee of the goods except a carrier that the bailee holds the goods for the buyer; or
- (c) such acknowledgment to the buyer by a carrier by reshipment or as warehouseman; or
- (d) negotiation to the buyer of any negotiable document of title covering the goods.

(3) (a) To stop delivery the seller must so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(b) After such notification the bailee must hold and deliver the goods according to the directions of the seller but the seller is liable to the bailee for any ensuing charges or damages.

(c) If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of the document.

(d) A carrier who has issued a non-negotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2—706. Seller's Resale Including Contract for Resale

(1) Under the conditions stated in Section 2—703 on seller's remedies, the seller may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner the seller may recover the difference between the resale price and the contract price together with any incidental damages allowed under the provisions of this Article (Section 2—710), but less expenses saved in consequence of the buyer's breach.

(2) Except as otherwise provided in subsection (3) or unless otherwise agreed resale may be at public or private sale including sale by way of one or more contracts to sell or of identification to an existing contract of the seller. Sale may be as a unit or in parcels and at any time and place and on any terms but every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable. The resale must be reasonably identified as referring to the broken contract, but it is not necessary that the goods be in existence or that any or all of them have been identified to the contract before the breach.

(3) Where the resale is at private sale the seller must give the buyer reasonable notification of his intention to resell.

- (4) Where the resale is at public sale
- (a) only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and
  - (b) it must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the seller must give the buyer reasonable notice of the time and place of the resale; and
  - (c) if the goods are not to be within the view of those attending the sale the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective bidders; and
  - (d) the seller may buy.

(5) A purchaser who buys in good faith at a resale takes the goods free of any rights of the original buyer even though the seller fails to comply with one or more of the requirements of this section.

(6) The seller is not accountable to the buyer for any profit made on any resale. A person in the position of a seller (Section 2-707) or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his security interest, as hereinafter defined (subsection (3) of Section 2-711). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-707. "Person in the Position of a Seller"

(1) A "person in the position of a seller" includes as against a principal an agent who has paid or become responsible for the price of goods on behalf of his principal or anyone who otherwise holds a security interest or other right in goods similar to that of a seller.

(2) A person in the position of a seller may as provided in this Article withhold or stop delivery (Section 2-705) and resell (Section 2-706) and recover incidental damages (Section 2-710). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-708. Seller's Damages for Non-acceptance or Repudiation

(1) Subject to subsection (2) and to the provisions of this Article with respect to proof of market price (Section 2-723), the measure of damages for non-acceptance or repudiation by the buyer is the difference between the market price at the time and place for tender and the unpaid contract price together with any incidental damages provided in this Article (Section 2-710), but less expenses saved in consequence of the buyer's breach.

(2) If the measure of damages provided in subsection (1) is inadequate to put the seller in as good a position as performance would have done then the measure of damages is the profit (including reasonable overhead) which the seller would have made from full performance by the buyer, together with any incidental damages provided in this Article (Section 2-710), due allowance for costs reasonably incurred and due credit for payments or proceeds of resale. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-709. Action for the Price

(1) When the buyer fails to pay the price as it becomes due the seller may recover, together with any incidental damages under the next section, the price

- (a) of goods accepted or of conforming goods lost or damaged within a commercially reasonable time after risk of their loss has passed to the buyer; and
- (b) of goods identified to the contract if the seller is unable after reasonable effort to resell them at a reasonable price or the circumstances reasonably indicate that such effort will be unavailing.

(2) Where the seller sues for the price he must hold for the buyer any goods which have been identified to the contract and are still in his control except that if resale becomes possible he may resell them at any time prior to the collection of the judgment. The net proceeds of any such resale must be credited to the buyer and payment of the judgment entitles him to any goods not resold.

(3) After the buyer has wrongfully rejected or revoked acceptance of the goods or has failed to make a payment due or has repudiated (Section 2—610), a seller who is held not entitled to the price under this section shall nevertheless be awarded damages for non-acceptance under the preceding section. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2—710. Seller's Incidental Damages

Incidental damages to an aggrieved seller include any commercially reasonable charges, expenses or commissions incurred in stopping delivery, in the transportation, care and custody of goods after the buyer's breach, in connection with return or resale of the goods or otherwise resulting from the breach. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2—711. Buyer's Remedies in General; Buyer's Security Interest in Rejected Goods

(1) Where the seller fails to make delivery or repudiates or the buyer rightfully rejects or justifiably revokes acceptance then with respect to any goods involved, and with respect to the whole if the breach goes to the whole contract (Section 2—612), the buyer may cancel and whether or not he has done so may in addition to recovering so much of the price as has been paid

- (a) "cover" and have damages under the next section as to all the goods affected whether or not they have been identified to the contract; or
- (b) recover damages for non-delivery as provided in this Article (Section 2—713).

(2) Where the seller fails to deliver or repudiates the buyer may also

- (a) if the goods have been identified recover them as provided in this Article (Section 2—502); or
- (b) in a proper case obtain specific performance or replevy the goods as provided in this Article (Section 2—716).

(3) On rightful rejection or justifiable revocation of acceptance a buyer has a security interest in goods in his possession or control for any payments made on their price and any expenses reasonably incurred in their inspection, receipt, transportation, care and custody and may hold such goods and resell them in like manner as an aggrieved seller (Section 2—706). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—712. “Cover”; Buyer’s Procurement of Substitute Goods**

(1) After a breach within the preceding section the buyer may “cover” by making in good faith and without unreasonable delay any reasonable purchase of or contract to purchase goods in substitution for those due from the seller.

(2) The buyer may recover from the seller as damages the difference between the cost of cover and the contract price together with any incidental or consequential damages as hereinafter defined (Section 2—715), but less expenses saved in consequence of the seller’s breach.

(3) Failure of the buyer to effect cover within this section does not bar him from any other remedy. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—713. Buyer’s Damages for Non-Delivery or Repudiation**

(1) Subject to the provisions of this Article with respect to proof of market price (Section 2—723), the measure of damages for non-delivery or repudiation by the seller is the difference between the market price at the time when the buyer learned of the breach and the contract price together with any incidental and consequential damages provided in this Article (Section 2—715), but less expenses saved in consequence of the seller’s breach.

(2) Market price is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—714. Buyer’s Damages for Breach in Regard to Accepted Goods**

(1) Where the buyer has accepted goods and given notification (subsection (3) of Section 2—607) he may recover as damages for any non-conformity of tender the loss resulting in the ordinary course of events from the seller’s breach as determined in any manner which is reasonable.

(2) The measure of damages for breach of warranty is the difference at the time and place of acceptance between the value of the goods accepted and the value they would have had if they had been as warranted, unless special circumstances show proximate damages of a different amount.

(3) In a proper case any incidental and consequential damages under the next section may also be recovered. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2—715. Buyer’s Incidental and Consequential Damages**

(1) Incidental damages resulting from the seller’s breach include expenses reasonably incurred in inspection, receipt, transportation and care and custody of goods rightfully rejected, any commercially reasonable charges, expenses or commissions in connection with effecting cover and any other reasonable expense incident to the delay or other breach.

(2) Consequential damages resulting from the seller’s breach include

(a) any loss resulting from general or particular requirements and needs of which the seller at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

- (b) injury to person or property proximately resulting from any breach of warranty. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-716. Buyer's Right to Specific Performance or Replevin

(1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-717. Deduction of Damages From the Price

The buyer on notifying the seller of his intention to do so may deduct all or any part of the damages resulting from any breach of the contract from any part of the price still due under the same contract. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-718. Liquidation or Limitation of Damages; Deposits

(1) Damages for breach by either party may be liquidated in the agreement but only at an amount which is reasonable in the light of the anticipated or actual harm caused by the breach, the difficulties of proof of loss, and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy. A term fixing unreasonably large liquidated damages is void as a penalty.

(2) Where the seller justifiably withholds delivery of goods because of the buyer's breach, the buyer is entitled to restitution of any amount by which the sum of his payments exceeds

(a) the amount to which the seller is entitled by virtue of terms liquidating the seller's damages in accordance with subsection (1), or

(b) in the absence of such terms, twenty per cent of the value of the total performance for which the buyer is obligated under the contract or \$500, whichever is smaller.

(3) The buyer's right to restitution under subsection (2) is subject to offset to the extent that the seller establishes

(a) a right to recover damages under the provisions of this Article other than subsection (1), and

(b) the amount or value of any benefits received by the buyer directly or indirectly by reason of the contract.

(4) Where a seller has received payment in goods their reasonable value or the proceeds of their resale shall be treated as payments for the purposes of subsection (2); but if the seller has notice of the buyer's breach before reselling goods received in part performance, his resale is subject to the conditions laid down in this Article on resale by an aggrieved seller (Section 2-706). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-719. Contractual Modification or Limitation of Remedy

(1) Subject to the provisions of subsections (2) and (3) of this section and of the preceding section on liquidation and limitation of damages,



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- (a) the agreement may provide for remedies in addition to or in substitution for those provided in this Article and may limit or alter the measure of damages recoverable under this Article, as by limiting the buyer's remedies to return of the goods and repayment of the price or to repair and replacement of non-conforming goods or parts; and
- (b) resort to a remedy as provided is optional unless the remedy is expressly agreed to be exclusive, in which case it is the sole remedy.

(2) Where circumstances cause an exclusive or limited remedy to fail of its essential purpose, remedy may be had as provided in this Act.

(3) Consequential damages may be limited or excluded unless the limitation or exclusion is unconscionable. Limitation of consequential damages for injury to the person in the case of consumer goods is prima facie unconscionable but limitation of damages where the loss is commercial is not. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-720. Effect of "Cancellation" or "Rescission" on Claims for Antecedent Breach

Unless the contrary intention clearly appears, expressions of "cancellation" or "rescission" of the contract or the like shall not be construed as a renunciation or discharge of any claim in damages for an antecedent breach. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-721. Remedies for Fraud

Remedies for material misrepresentation or fraud include all remedies available under this Article for non-fraudulent breach. Neither rescission or a claim for rescission of the contract for sale nor rejection or return of the goods shall bar or be deemed inconsistent with a claim for damages or other remedy. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 2-722. Who Can Sue Third Parties for Injury to Goods

Where a third party so deals with goods which have been identified to a contract for sale as to cause actionable injury to a party to that contract

- (a) a right of action against the third party is in either party to the contract for sale who has title to or a security interest or a special property or an insurable interest in the goods; and if the goods have been destroyed or converted a right of action is also in the party who either bore the risk of loss under the contract for sale or has since the injury assumed that risk as against the other;
- (b) if at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the contract for sale and there is no arrangement between them for disposition of the recovery, his suit or settlement is, subject to his own interest, as a fiduciary for the other party to the contract;
- (c) either party may with the consent of the other sue for the benefit of whom it may concern. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-723. Proof of Market Price: Time and Place**

(1) If an action based on anticipatory repudiation comes to trial before the time for performance with respect to some or all of the goods, any damages based on market price (Section 2-708 or Section 2-713) shall be determined according to the price of such goods prevailing at the time when the aggrieved party learned of the repudiation.

(2) If evidence of a price prevailing at the times or places described in this Article is not readily available the price prevailing within any reasonable time before or after the time described or at any other place which in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the cost of transporting the goods to or from such other place.

(3) Evidence of a relevant price prevailing at a time or place other than the one described in this Article offered by one party is not admissible unless and until he has given the other party such notice as the court finds sufficient to prevent unfair surprise. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-724. Admissibility of Market Quotations**

Whenever the prevailing price or value of any goods regularly bought and sold in any established commodity market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of such market shall be admissible in evidence. The circumstances of the preparation of such a report may be shown to affect its weight but not its admissibility. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 2-725. Statute of Limitations in Contracts for Sale**

(1) An action for breach of any contract for sale must be commenced within four years after the cause of action has accrued. By the original agreement the parties may reduce the period of limitation to not less than one year but may not extend it.

(2) A cause of action accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach. A breach of warranty occurs when tender of delivery is made, except that where a warranty explicitly extends to future performance of the goods and discovery of the breach must await the time of such performance the cause of action accrues when the breach is or should have been discovered.

(3) Where an action commenced within the time limited by subsection (1) is so terminated as to leave available a remedy by another action for the same breach such other action may be commenced after the expiration of the time limited and within six months after the termination of the first action unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute.

(4) This section does not alter the law on tolling of the statute of limitations nor does it apply to causes of action which have accrued before this Act becomes effective. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## ARTICLE 3. COMMERCIAL PAPER

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| 3-101.  | Short Title.  |
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| 3-103.  | Limitations on Scope of Article.  |
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| 3-105.  | When Promise or Order Unconditional.  |
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## PART 1. SHORT TITLE, FORM AND INTERPRETATION

## Section 3-101. Short Title

This Article shall be known and may be cited as Uniform Commercial Code—Commercial Paper. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## § 3-102. Definitions and Index of Definitions

- (1) In this Article unless the context otherwise requires
  - (a) "Issue" means the first delivery of an instrument to a holder or a remitter.
  - (b) An "order" is a direction to pay and must be more than an authorization or request. It must identify the person to pay with reasonable certainty. It may be addressed to one or more such persons jointly or in the alternative but not in succession.
  - (c) A "promise" is an undertaking to pay and must be more than an acknowledgment of an obligation.
  - (d) "Secondary party" means a drawer or endorser.
  - (e) "Instrument" means a negotiable instrument.
- (2) Other definitions applying to this Article and the sections in which they appear are:
  - "Acceptance". Section 3-410.
  - "Accommodation party". Section 3-415.
  - "Alteration". Section 3-407.
  - "Certificate of deposit". Section 3-104.
  - "Certification". Section 3-411.
  - "Check". Section 3-104.
  - "Definite time". Section 3-109.
  - "Dishonor". Section 3-507.
  - "Draft". Section 3-104.
  - "Holder in due course". Section 3-302.
  - "Negotiation". Section 3-202.
  - "Note". Section 3-104.
  - "Notice of dishonor". Section 3-508.
  - "On demand". Section 3-108.
  - "Presentment". Section 3-504.
  - "Protest". Section 3-509.
  - "Restrictive Indorsement". Section 3-205.
  - "Signature". Section 3-401.
- (3) The following definitions in other Articles apply to this Article:
  - "Account". Section 4-104.
  - "Banking Day". Section 4-104.
  - "Clearing house". Section 4-104.
  - "Collecting bank". Section 4-105.

- “Customer”. Section 4—104.
- “Depository Bank”. Section 4—105.
- “Documentary Draft”. Section 4—104.
- “Intermediary Bank”. Section 4—105.
- “Item”. Section 4—104.
- “Midnight deadline”. Section 4—104.
- “Payor bank”. Section 4—105.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—103. Limitations on Scope of Article

(1) This Article does not apply to money, documents of title or investment securities.

(2) The provisions of this Article are subject to the provisions of the Article on Bank Deposits and Collections (Article 4) and Secured Transactions (Article 9). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—104. Form of Negotiable Instruments; “Draft”; “Check”; “Certificate of Deposit”; “Note”

(1) Any writing to be a negotiable instrument within this Article must

- (a) be signed by the maker or drawer; and
- (b) contain an unconditional promise or order to pay a sum certain in money and no other promise, order, obligation or power given by the maker or drawer except as authorized by this Article; and
- (c) be payable on demand or at a definite time; and
- (d) be payable to order or to bearer.

(2) A writing which complies with the requirements of this section is

- (a) a “draft” (“bill of exchange”) if it is an order;
- (b) a “check” if it is a draft drawn on a bank and payable on demand;
- (c) a “certificate of deposit” if it is an acknowledgment by a bank of receipt of money with an engagement to repay it;
- (d) a “note” if it is a promise other than a certificate of deposit.

(3) As used in other Articles of this Act, and as the context may require, the terms “draft”, “check”, “certificate of deposit” and “note” may refer to instruments which are not negotiable within this Article as well as to instruments which are so negotiable. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—105. When Promise or Order Unconditional

(1) A promise or order otherwise unconditional is not made conditional by the fact that the instrument

- (a) is subject to implied or constructive conditions; or
- (b) states its consideration, whether performed or promised, or the transaction which gave rise to the instrument, or that the promise or order is made or the instrument matures in accordance with or “as per” such transaction; or
- (c) refers to or states that it arises out of a separate agreement or refers to a separate agreement for rights as to prepayment or acceleration; or
- (d) states that it is drawn under a letter of credit; or

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- (e) states that it is secured, whether by mortgage, reservation of title or otherwise; or
  - (f) indicates a particular account to be debited or any other fund or source from which reimbursement is expected; or
  - (g) is limited to payment out of a particular fund or the proceeds of a particular source, if the instrument is issued by a government or governmental agency or unit; or
  - (h) is limited to payment out of the entire assets of a partnership, unincorporated association, trust or estate by or on behalf of which the instrument is issued.
- (2) A promise or order is not unconditional if the instrument
- (a) states that it is subject to or governed by any other agreement; or
  - (b) states that it is to be paid only out of a particular fund or source except as provided in this section. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—106. Sum Certain

- (1) The sum payable is a sum certain even though it is to be paid
- (a) with stated interest or by stated installments; or
  - (b) with stated different rates of interest before and after default or a specified date; or
  - (c) with a stated discount or addition if paid before or after the date fixed for payment; or
  - (d) with exchange or less exchange, whether at a fixed rate or at the current rate; or
  - (e) with costs of collection or an attorney's fee or both upon default.
- (2) Nothing in this section shall validate any term which is otherwise illegal. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—107. Money

(1) An instrument is payable in money if the medium of exchange in which it is payable is money at the time the instrument is made. An instrument payable in "currency" or "current funds" is payable in money.

(2) A promise or order to pay a sum stated in a foreign currency is for a sum certain in money and, unless a different medium of payment is specified in the instrument, may be satisfied by payment of that number of dollars which the stated foreign currency will purchase at the buying sight rate for that currency on the day on which the instrument is payable or, if payable on demand, on the day of demand. If such an instrument specifies a foreign currency as the medium of payment the instrument is payable in that currency. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—108. Payable on Demand

Instruments payable on demand include those payable at sight or on presentation and those in which no time for payment is stated. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—109. Definite Time

(1) An instrument is payable at a definite time if by its terms it is payable

- (a) on or before a stated date or at a fixed period after a stated date; or
- (b) at a fixed period after sight; or
- (c) at a definite time subject to any acceleration; or
- (d) at a definite time subject to extension at the option of the holder, or to extension to a further definite time at the option of the maker or acceptor or automatically upon or after a specified act or event.

(2) An instrument which by its terms is otherwise payable only upon an act or event uncertain as to time of occurrence is not payable at a definite time even though the act or event has occurred. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—110. Payable to Order

(1) An instrument is payable to order when by its terms it is payable to the order or assigns of any person therein specified with reasonable certainty, or to him or his order, or when it is conspicuously designated on its face as "exchange" or the like and names a payee. It may be payable to the order of

- (a) the maker or drawer; or
- (b) the drawee; or
- (c) a payee who is not maker, drawer or drawee; or
- (d) two or more payees together or in the alternative; or
- (e) an estate, trust or fund, in which case it is payable to the order of the representative of such estate, trust or fund or his successors; or
- (f) an office, or an officer by his title as such in which case it is payable to the principal but the incumbent of the office or his successors may act as if he or they were the holder; or
- (g) a partnership or unincorporated association, in which case it is payable to the partnership or association and may be indorsed or transferred by any person thereto authorized.

(2) An instrument not payable to order is not made so payable by such words as "payable upon return of this instrument properly indorsed."

(3) An instrument made payable both to order and to bearer is payable to order unless the bearer words are handwritten or type-written. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—111. Payable to Bearer

An instrument is payable to bearer when by its terms it is payable to

- (a) bearer or the order of bearer; or
- (b) a specified person or bearer; or
- (c) "cash" or the order of "cash", or any other indication which does not purport to designate a specific payee. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—112. Terms and Omissions Not Affecting Negotiability

- (1) The negotiability of an instrument is not affected by
  - (a) the omission of a statement of any consideration or of the place where the instrument is drawn or payable; or
  - (b) a statement that collateral has been given to secure obligations either on the instrument or otherwise of an obligor on the instrument or that in case of default on those obligations the holder may realize on or dispose of the collateral; or



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- (c) a promise or power to maintain or protect collateral or to give additional collateral; or
- (d) a term authorizing a confession of judgment on the instrument if it is not paid when due; or
- (e) a term purporting to waive the benefit of any law intended for the advantage or protection of any obligor; or
- (f) a term in a draft providing that the payee by indorsing or cashing it acknowledges full satisfaction of an obligation of the drawer; or
- (g) a statement in a draft drawn in a set of parts (Section 3—801) to the effect that the order is effective only if no other part has been honored.

(2) Nothing in this section shall validate any term which is otherwise illegal. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—113. Seal

An instrument otherwise negotiable is within this Article even though it is under a seal. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—114. Date, Antedating, Postdating

(1) The negotiability of an instrument is not affected by the fact that it is undated, antedated or postdated.

(2) Where an instrument is antedated or postdated the time when it is payable is determined by the stated date if the instrument is payable on demand or at a fixed period after date.

(3) Where the instrument or any signature thereon is dated, the date is presumed to be correct. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—115. Incomplete Instruments

(1) When a paper whose contents at the time of signing show that it is intended to become an instrument is signed while still incomplete in any necessary respect it cannot be enforced until completed, but when it is completed in accordance with authority given it is effective as completed.

(2) If the completion is unauthorized the rules as to material alteration apply (Section 3—407), even though the paper was not delivered by the maker or drawer; but the burden of establishing that any completion is unauthorized is on the party so asserting. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—116. Instruments Payable to Two or More Persons

An instrument payable to the order of two or more persons

- (a) if in the alternative is payable to any one of them and may be negotiated, discharged or enforced by any of them who has possession of it;
- (b) if not in the alternative is payable to all of them and may be negotiated, discharged or enforced only by all of them. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—117. Instruments Payable With Words of Description

An instrument made payable to a named person with the addition of words describing him

- (a) as agent or officer of a specified person is payable to his principal but the agent or officer may act as if he were the holder;
- (b) as any other fiduciary for a specified person or purpose is payable to the payee and may be negotiated, discharged or enforced by him;
- (c) in any other manner is payable to the payee unconditionally and the additional words are without effect on subsequent parties. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—118. Ambiguous Terms and Rules of Construction

The following rules apply to every instrument:

- (a) Where there is doubt whether the instrument is a draft or a note the holder may treat it as either. A draft drawn on the drawer is effective as a note.
- (b) Handwritten terms control typewritten and printed terms, and typewritten control printed.
- (c) Words control figures except that if the words are ambiguous figures control.
- (d) Unless otherwise specified a provision for interest means interest at the judgment rate at the place of payment from the date of the instrument, or if it is undated from the date of issue.
- (e) Unless the instrument otherwise specifies two or more persons who sign as maker, acceptor or drawer or indorser and as a part of the same transaction are jointly and severally liable even though the instrument contains such words as "I promise to pay."
- (f) Unless otherwise specified consent to extension authorizes a single extension for not longer than the original period. A consent to extension, expressed in the instrument, is binding on secondary parties and accommodation makers. A holder may not exercise his option to extend an instrument over the objection of a maker or acceptor or other party who in accordance with Section 3—604 tenders full payment when the instrument is due. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—119. Other Writings Affecting Instrument

(1) As between the obligor and his immediate obligee or any transferee the terms of an instrument may be modified or affected by any other written agreement executed as a part of the same transaction, except that a holder in due course is not affected by any limitation of his rights arising out of the separate written agreement if he had no notice of the limitation when he took the instrument.

(2) A separate agreement does not affect the negotiability of an instrument. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—120. Instruments "Payable Through" Bank

An instrument which states that it is "payable through" a bank or the like designates that bank as a collecting bank to make presentment but does not of itself authorize the bank to pay the instrument. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—121. Instruments Payable at Bank

A note or acceptance which states that it is payable at a bank is the equivalent of a draft drawn on the bank payable when it falls due

out of any funds of the maker or acceptor in current account or otherwise available for such payment. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—122. Accrual of Cause of Action

- (1) A cause of action against a maker or an acceptor accrues
  - (a) in the case of a time instrument on the day after maturity;
  - (b) in the case of a demand instrument upon its date or, if no date is stated, on the date of issue.
- (2) A cause of action against the obligor of a demand or time certificate of deposit accrues upon demand, but demand on a time certificate may not be made until on or after the date of maturity.
- (3) A cause of action against a drawer of a draft or an indorser of any instrument accrues upon demand following dishonor of the instrument. Notice of dishonor is a demand.
- (4) Unless an instrument provides otherwise, interest runs at the rate provided by law for a judgment
  - (a) in the case of a maker, acceptor or other primary obligor of a demand instrument, from the date of demand;
  - (b) in all other cases from the date of accrual of the cause of action. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## PART 2. TRANSFER AND NEGOTIATION

### § 3—201. Transfer: Right to Indorsement

- (1) Transfer of an instrument vests in the transferee such rights as the transferor has therein, except that a transferee who has himself been a party to any fraud or illegality affecting the instrument or who as a prior holder had notice of a defense or claim against it cannot improve his position by taking from a later holder in due course.
- (2) A transfer of a security interest in an instrument vests the foregoing rights in the transferee to the extent of the interest transferred.
- (3) Unless otherwise agreed any transfer for value of an instrument not then payable to bearer gives the transferee the specifically enforceable right to have the unqualified indorsement of the transferor. Negotiation takes effect only when the indorsement is made and until that time there is no presumption that the transferee is the owner. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—202. Negotiation

- (1) Negotiation is the transfer of an instrument in such form that the transferee becomes a holder. If the instrument is payable to order it is negotiated by delivery with any necessary indorsement; if payable to bearer it is negotiated by delivery.
- (2) An indorsement must be written by or on behalf of the holder and on the instrument or on a paper so firmly affixed thereto as to become a part thereof.
- (3) An indorsement is effective for negotiation only when it conveys the entire instrument or any unpaid residue. If it purports to be of less it operates only as a partial assignment.
- (4) Words of assignment, condition, waiver, guaranty, limitation or disclaimer of liability and the like accompanying an indorsement do not affect its character as an indorsement. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3—203. Wrong or Misspelled Name**

Where an instrument is made payable to a person under a misspelled name or one other than his own he may indorse in that name or his own or both; but signature in both names may be required by a person paying or giving value for the instrument. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3—204. Special Indorsement; Blank Indorsement**

(1) A special indorsement specifies the person to whom or to whose order it makes the instrument payable. Any instrument specially indorsed becomes payable to the order of the special indorsee and may be further negotiated only by his indorsement.

(2) An indorsement in blank specifies no particular indorsee and may consist of a mere signature. An instrument payable to order and indorsed in blank becomes payable to bearer and may be negotiated by delivery alone until specially indorsed.

(3) The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3—205. Restrictive Indorsements**

An indorsement is restrictive which either

- (a) is conditional; or
- (b) purports to prohibit further transfer of the instrument; or
- (c) includes the words "for collection", "for deposit", "pay any bank", or like terms signifying a purpose of deposit or collection; or
- (d) otherwise states that it is for the benefit or use of the indorser or of another person. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3—206. Effect of Restrictive Indorsement**

(1) No restrictive indorsement prevents further transfer or negotiation of the instrument.

(2) An intermediary bank, or a payor bank which is not the depository bank, is neither given notice nor otherwise affected by a restrictive indorsement of any person except the bank's immediate transferor or the person presenting for payment.

(3) Except for an intermediary bank, any transferee under an indorsement which is conditional or includes the words "for collection", "for deposit", "pay any bank", or like terms (subparagraphs (a) and (c) of Section 3—205) must pay or apply any value given by him for or on the security of the instrument consistently with the indorsement and to the extent that he does so he becomes a holder for value. In addition such transferee is a holder in due course if he otherwise complies with the requirements of Section 3—302 on what constitutes a holder in due course.

(4) The first taker under an indorsement for the benefit of the indorser or another person (subparagraph (d) of Section 3—205) must pay or apply any value given by him for or on the security of the instrument consistently with the indorsement and to the extent that he does so he becomes a holder for value. In addition such taker is a holder in due course if he otherwise complies with the requirements of Section 3—302 on what constitutes a holder in due course. A later

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holder for value is neither given notice nor otherwise affected by such restrictive indorsement unless he has knowledge that a fiduciary or other person has negotiated the instrument in any transaction for his own benefit or otherwise in breach of duty (subsection (2) of Section 3—304). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—207. Negotiation Effective Although It May Be Rescinded

(1) Negotiation is effective to transfer the instrument although the negotiation is

- (a) made by an infant, a corporation exceeding its powers, or any other person without capacity; or
- (b) obtained by fraud, duress or mistake of any kind; or
- (c) part of an illegal transaction; or
- (d) made in breach of duty.

(2) Except as against a subsequent holder in due course such negotiation is in an appropriate case subject to rescission, the declaration of a constructive trust or any other remedy permitted by law. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—208. Reacquisition

Where an instrument is returned to or reacquired by a prior party he may cancel any indorsement which is not necessary to his title and reissue or further negotiate the instrument, but any intervening party is discharged as against the reacquiring party and subsequent holders not in due course and if his indorsement has been cancelled is discharged as against subsequent holders in due course as well. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## PART 3. RIGHTS OF A HOLDER

### § 3—301. Rights of a Holder

The holder of an instrument whether or not he is the owner may transfer or negotiate it and, except as otherwise provided in Section 3—603 on payment or satisfaction, discharge it or enforce payment in his own name. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—302. Holder in Due Course

- (1) A holder in due course is a holder who takes the instrument
  - (a) for value; and
  - (b) in good faith; and
  - (c) without notice that it is overdue or has been dishonored or of any defense against or claim to it on the part of any person.
- (2) A payee may be a holder in due course.
- (3) A holder does not become a holder in due course of an instrument:
  - (a) by purchase of it at judicial sale or by taking it under legal process; or
  - (b) by acquiring it in taking over an estate; or
  - (c) by purchasing it as part of a bulk transaction not in regular course of business of the transferor.
- (4) A purchaser of a limited interest can be a holder in due course only to the extent of the interest purchased. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3—303. Taking for Value**

A holder takes the instrument for value

- (a) to the extent that the agreed consideration has been performed or that he acquires a security interest in or a lien on the instrument otherwise than by legal process; or
- (b) when he takes the instrument in payment of or as security for an antecedent claim against any person whether or not the claim is due; or
- (c) when he gives a negotiable instrument for it or makes an irrevocable commitment to a third person. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3—304. Notice to Purchaser**

- (1) The purchaser has notice of a claim or defense if
  - (a) the instrument is so incomplete, bears such visible evidence of forgery or alteration, or is otherwise so irregular as to call into question its validity, terms or ownership or to create an ambiguity as to the party to pay; or
  - (b) the purchaser has notice that the obligation of any party is voidable in whole or in part, or that all parties have been discharged.
- (2) The purchaser has notice of a claim against the instrument when he has knowledge that a fiduciary has negotiated the instrument in payment of or as security for his own debt or in any transaction for his own benefit or otherwise in breach of duty.
- (3) The purchaser has notice that an instrument is overdue if he has reason to know
  - (a) that any part of the principal amount is overdue or that there is an uncured default in payment of another instrument of the same series; or
  - (b) that acceleration of the instrument has been made; or
  - (c) that he is taking a demand instrument after demand has been made or more than a reasonable length of time after its issue. A reasonable time for a check drawn and payable within the states and territories of the United States and the District of Columbia is presumed to be thirty days.
- (4) Knowledge of the following facts does not of itself give the purchaser notice of a defense or claim
  - (a) that the instrument is antedated or postdated;
  - (b) that it was issued or negotiated in return for an executory promise or accompanied by a separate agreement, unless the purchaser has notice that a defense or claim has arisen from the terms thereof;
  - (c) that any party has signed for accommodation;
  - (d) that an incomplete instrument has been completed, unless the purchaser has notice of any improper completion;
  - (e) that any person negotiating the instrument is or was a fiduciary;
  - (f) that there has been default in payment of interest on the instrument or in payment of any other instrument, except one of the same series.
- (5) The filing or recording of a document does not of itself constitute notice within the provisions of this Article to a person who would otherwise be a holder in due course.
- (6) To be effective notice must be received at such time and in such manner as to give a reasonable opportunity to act on it. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—305. Rights of a Holder in Due Course

To the extent that a holder is a holder in due course he takes the instrument free from

- (1) all claims to it on the part of any person; and
- (2) all defenses of any party to the instrument with whom the holder has not dealt except
  - (a) infancy, to the extent that it is a defense to a simple contract; and
  - (b) such other incapacity, or duress, or illegality of the transaction, as renders the obligation of the party a nullity; and
  - (c) such misrepresentation as has induced the party to sign the instrument with neither knowledge nor reasonable opportunity to obtain knowledge of its character or its essential terms; and
  - (d) discharge in insolvency proceedings; and
  - (e) any other discharge of which the holder has notice when he takes the instrument. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—306. Rights of One Not Holder in Due Course

Unless he has the rights of a holder in due course any person takes the instrument subject to

- (a) all valid claims to it on the part of any person; and
- (b) all defenses of any party which would be available in an action on a simple contract; and
- (c) the defenses of want or failure of consideration, non-performance of any condition precedent, non-delivery, or delivery for a special purpose (Section 3—408); and
- (d) the defense that he or a person through whom he holds the instrument acquired it by theft, or that payment or satisfaction to such holder would be inconsistent with the terms of a restrictive indorsement. The claim of any third person to the instrument is not otherwise available as a defense to any party liable thereon unless the third person himself defends the action for such party. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—307. Burden of Establishing Signatures, Defenses and Due Course

(1) Unless specifically denied in the pleadings each signature on an instrument is admitted. When the effectiveness of a signature is put in issue

- (a) the burden of establishing it is on the party claiming under the signature; but
- (b) the signature is presumed to be genuine or authorized except where the action is to enforce the obligation of a purported signer who has died or become incompetent before proof is required.

(2) When signatures are admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defense.

(3) After it is shown that a defense exists a person claiming the rights of a holder in due course has the burden of establishing that he or some person under whom he claims is in all respects a holder in due course. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## PART 4. LIABILITY OF PARTIES

## § 3—401. Signature

(1) No person is liable on an instrument unless his signature appears thereon.

(2) A signature is made by use of any name, including any trade or assumed name, upon an instrument, or by any word or mark used in lieu of a written signature. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## § 3—402. Signature in Ambiguous Capacity

Unless the instrument clearly indicates that a signature is made in some other capacity it is an indorsement. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## § 3—403. Signature by Authorized Representative

(1) A signature may be made by an agent or other representative, and his authority to make it may be established as in other cases of representation. No particular form of appointment is necessary to establish such authority.

(2) An authorized representative who signs his own name to an instrument

(a) is personally obligated if the instrument neither names the person represented nor shows that the representative signed in a representative capacity;

(b) except as otherwise established between the immediate parties, is personally obligated if the instrument names the person represented but does not show that the representative signed in a representative capacity, or if the instrument does not name the person represented but does show that the representative signed in a representative capacity.

(3) Except as otherwise established the name of an organization preceded or followed by the name and office of an authorized individual is a signature made in a representative capacity. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## § 3—404. Unauthorized Signatures

(1) Any unauthorized signature is wholly inoperative as that of the person whose name is signed unless he ratifies it or is precluded from denying it; but it operates as the signature of the unauthorized signer in favor of any person who in good faith pays the instrument or takes it for value.

(2) Any unauthorized signature may be ratified for all purposes of this Article. Such ratification does not of itself affect any rights of the person ratifying against the actual signer. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## § 3—405. Impostors; Signature in Name of Payee

(1) An indorsement by any person in the name of a named payee is effective if

(a) an impostor by use of the mails or otherwise has induced the maker or drawer to issue the instrument to him or his confederate in the name of the payee; or



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- (b) a person signing as or on behalf of a maker or drawer intends the payee to have no interest in the instrument; or
- (c) an agent or employee of the maker or drawer has supplied him with the name of the payee intending the latter to have no such interest.

(2) Nothing in this section shall affect the criminal or civil liability of the person so indorsing. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3-406. Negligence Contributing to Alteration or Unauthorized Signature

Any person who by his negligence substantially contributes to a material alteration of the instrument or to the making of an unauthorized signature is precluded from asserting the alteration or lack of authority against a holder in due course or against a drawee or other payor who pays the instrument in good faith and in accordance with the reasonable commercial standards of the drawee's or payor's business. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3-407. Alteration

(1) Any alteration of an instrument is material which changes the contract of any party thereto in any respect, including any such change in

- (a) the number or relations of the parties; or
- (b) an incomplete instrument, by completing it otherwise than as authorized; or
- (c) the writing as signed, by adding to it or by removing any part of it.

(2) As against any person other than a subsequent holder in due course

- (a) alteration by the holder which is both fraudulent and material discharges any party whose contract is thereby changed unless that party assents or is precluded from asserting the defense;
- (b) no other alteration discharges any party and the instrument may be enforced according to its original tenor, or as to incomplete instruments according to the authority given.

(3) A subsequent holder in due course may in all cases enforce the instrument according to its original tenor, and when an incomplete instrument has been completed, he may enforce it as completed. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3-408. Consideration

Want or failure of consideration is a defense as against any person not having the rights of a holder in due course (Section 3-305), except that no consideration is necessary for an instrument or obligation thereon given in payment of or as security for an antecedent obligation of any kind. Nothing in this section shall be taken to displace any statute outside this Act under which a promise is enforceable notwithstanding lack or failure of consideration. Partial failure of consideration is a defense pro tanto whether or not the failure is in an ascertained or liquidated amount. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3-409. Draft Not an Assignment**

(1) A check or other draft does not of itself operate as an assignment of any funds in the hands of the drawee available for its payment, and the drawee is not liable on the instrument until he accepts it.

(2) Nothing in this section shall affect any liability in contract, tort or otherwise arising from any letter of credit or other obligation or representation which is not an acceptance. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3-410. Definition and Operation of Acceptance**

(1) Acceptance is the drawee's signed engagement to honor the draft as presented. It must be written on the draft, and may consist of his signature alone. It becomes operative when completed by delivery or notification.

(2) A draft may be accepted although it has not been signed by the drawer or is otherwise incomplete or is overdue or has been dishonored.

(3) Where the draft is payable at a fixed period after sight and the acceptor fails to date his acceptance the holder may complete it by supplying a date in good faith. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3-411. Certification of a Check**

(1) Certification of a check is acceptance. Where a holder procures certification the drawer and all prior indorsers are discharged.

(2) Unless otherwise agreed a bank has no obligation to certify a check.

(3) A bank may certify a check before returning it for lack of proper indorsement. If it does so the drawer is discharged. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3-412. Acceptance Varying Draft**

(1) Where the drawee's proffered acceptance in any manner varies the draft as presented the holder may refuse the acceptance and treat the draft as dishonored in which case the drawee is entitled to have his acceptance cancelled.

(2) The terms of the draft are not varied by an acceptance to pay at any particular bank or place in the United States, unless the acceptance states that the draft is to be paid only at such bank or place.

(3) Where the holder assents to an acceptance varying the terms of the draft each drawer and indorser who does not affirmatively assent is discharged. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3-413. Contract of Maker, Drawer and Acceptor**

(1) The maker or acceptor engages that he will pay the instrument according to its tenor at the time of his engagement or as completed pursuant to Section 3-115 on incomplete instruments.

(2) The drawer engages that upon dishonor of the draft and any necessary notice of dishonor or protest he will pay the amount of

the draft to the holder or to any indorser who takes it up. The drawer may disclaim this liability by drawing without recourse.

(3) By making, drawing or accepting the party admits as against all subsequent parties including the drawee the existence of the payee and his then capacity to indorse. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3-414. Contract of Indorser; Order of Liability

(1) Unless the indorsement otherwise specifies (as by such words as "without recourse") every indorser engages that upon dishonor and any necessary notice of dishonor and protest he will pay the instrument according to its tenor at the time of his indorsement to the holder or to any subsequent indorser who takes it up, even though the indorser who takes it up was not obligated to do so.

(2) Unless they otherwise agree indorsers are liable to one another in the order in which they indorse, which is presumed to be the order in which their signatures appear on the instrument. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3-415. Contract of Accommodation Party

(1) An accommodation party is one who signs the instrument in any capacity for the purpose of lending his name to another party to it.

(2) When the instrument has been taken for value before it is due the accommodation party is liable in the capacity in which he has signed even though the taker knows of the accommodation.

(3) As against a holder in due course and without notice of the accommodation oral proof of the accommodation is not admissible to give the accommodation party the benefit of discharges dependent on his character as such. In other cases the accommodation character may be shown by oral proof.

(4) An indorsement which shows that it is not in the chain of title is notice of its accommodation character.

(5) An accommodation party is not liable to the party accommodated, and if he pays the instrument has a right of recourse on the instrument against such party. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3-416. Contract of Guarantor

(1) "Payment guaranteed" or equivalent words added to a signature mean that the signer engages that if the instrument is not paid when due he will pay it according to its tenor without resort by the holder to any other party.

(2) "Collection guaranteed" or equivalent words added to a signature mean that the signer engages that if the instrument is not paid when due he will pay it according to its tenor, but only after the holder has reduced his claim against the maker or acceptor to judgment and execution has been returned unsatisfied, or after the maker or acceptor has become insolvent or it is otherwise apparent that it is useless to proceed against him.

(3) Words of guaranty which do not otherwise specify guarantee payment.

(4) No words of guaranty added to the signature of a sole maker or acceptor affect his liability on the instrument. Such words added

to the signature of one of two or more makers or acceptors create a presumption that the signature is for the accommodation of the others.

(5) When words of guaranty are used presentment, notice of dishonor and protest are not necessary to charge the user.

(6) Any guaranty written on the instrument is enforceable notwithstanding any statute of frauds. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—417. Warranties on Presentment and Transfer

(1) Any person who obtains payment or acceptance and any prior transferor warrants to a person who in good faith pays or accepts that

- (a) he has a good title to the instrument or is authorized to obtain payment or acceptance on behalf of one who has a good title; and
- (b) he has no knowledge that the signature of the maker or drawer is unauthorized, except that this warranty is not given by a holder in due course acting in good faith
  - (i) to a maker with respect to the maker's own signature; or
  - (ii) to a drawer with respect to the drawer's own signature, whether or not the drawer is also the drawee; or
  - (iii) to an acceptor of a draft if the holder in due course took the draft after the acceptance or obtained the acceptance without knowledge that the drawer's signature was unauthorized; and
- (c) the instrument has not been materially altered, except that this warranty is not given by a holder in due course acting in good faith
  - (i) to the maker of a note; or
  - (ii) to the drawer of a draft whether or not the drawer is also the drawee; or
  - (iii) to the acceptor of a draft with respect to an alteration made prior to the acceptance if the holder in due course took the draft after the acceptance, even though the acceptance provided "payable as originally drawn" or equivalent terms; or
  - (iv) to the acceptor of a draft with respect to an alteration made after the acceptance.

(2) Any person who transfers an instrument and receives consideration warrants to his transferee and if the transfer is by indorsement to any subsequent holder who takes the instrument in good faith that

- (a) he has a good title to the instrument or is authorized to obtain payment or acceptance on behalf of one who has a good title and the transfer is otherwise rightful; and
- (b) all signatures are genuine or authorized; and
- (c) the instrument has not been materially altered; and
- (d) no defense of any party is good against him; and
- (e) he has no knowledge of any insolvency proceeding instituted with respect to the maker or acceptor or the drawer of an unaccepted instrument.

(3) By transferring "without recourse" the transferor limits the obligation stated in subsection (2) (d) to a warranty that he has no knowledge of such a defense.

(4) A selling agent or broker who does not disclose the fact that he is acting only as such gives the warranties provided in this section, but if he makes such disclosure warrants only his good faith and authority. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—418. Finality of Payment or Acceptance

Except for recovery of bank payments as provided in the Article on Bank Deposits and Collections (Article 4) and except for liability for breach of warranty on presentment under the preceding section, payment or acceptance of any instrument is final in favor of a holder in due course, or a person who has in good faith changed his position in reliance on the payment. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—419. Conversion of Instrument; Innocent Representative

- (1) An instrument is converted when
- (a) a drawee to whom it is delivered for acceptance refuses to return it on demand; or
  - (b) any person to whom it is delivered for payment refuses on demand either to pay or to return it; or
  - (c) it is paid on a forged indorsement.

(2) In an action against a drawee under subsection (1) the measure of the drawee's liability is the face amount of the instrument. In any other action under subsection (1) the measure of liability is presumed to be the face amount of the instrument.

(3) Subject to the provisions of this Act concerning restrictive indorsements a representative, including a depository or collecting bank, who has in good faith and in accordance with the reasonable commercial standards applicable to the business of such representative dealt with an instrument or its proceeds on behalf of one who was not the true owner is not liable in conversion or otherwise to the true owner beyond the amount of any proceeds remaining in his hands.

(4) An intermediary bank or payor bank which is not a depository bank is not liable in conversion solely by reason of the fact that proceeds of an item indorsed restrictively (Sections 3—205 and 3—206) are not paid or applied consistently with the restrictive indorsement of an indorser other than its immediate transferor. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## PART 5. PRESENTMENT, NOTICE OF DISHONOR AND PROTEST

### § 3—501. When Presentment, Notice of Dishonor, and Protest Necessary or Permissible

- (1) Unless excused (Section 3—511) presentment is necessary to charge secondary parties as follows:
- (a) presentment for acceptance is necessary to charge the drawer and indorsers of a draft where the draft so provides, or is payable elsewhere than at the residence or place of business of the drawee, or its date of payment depends upon such presentment. The holder may at his option present for acceptance any other draft payable at a stated date;
  - (b) presentment for payment is necessary to charge any indorser;

- (c) in the case of any drawer, the acceptor of a draft payable at a bank or the maker of a note payable at a bank, presentment for payment is necessary, but failure to make presentment discharges such drawer, acceptor or maker only as stated in Section 3—502(1) (b).
- (2) Unless excused (Section 3—511)
  - (a) notice of any dishonor is necessary to charge any indorser;
  - (b) in the case of any drawer, the acceptor of a draft payable at a bank or the maker of a note payable at a bank, notice of any dishonor is necessary, but failure to give such notice discharges such drawer, acceptor or maker only as stated in Section 3—502(1) (b).
- (3) Unless excused (Section 3—511) protest of any dishonor is necessary to charge the drawer and indorsers of any draft which on its face appears to be drawn or payable outside of the states and territories of the United States and the District of Columbia. The holder may at his option make protest of any dishonor of any other instrument and in the case of a foreign draft may on insolvency of the acceptor before maturity make protest for better security.
- (4) Notwithstanding any provision of this section, neither presentment nor notice of dishonor nor protest is necessary to charge an indorser who has indorsed an instrument after maturity. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—502. Unexcused Delay; Discharge

- (1) Where without excuse any necessary presentment or notice of dishonor is delayed beyond the time when it is due
  - (a) any indorser is discharged; and
  - (b) any drawer or the acceptor of a draft payable at a bank or the maker of a note payable at a bank who because the drawee or payor bank becomes insolvent during the delay is deprived of funds maintained with the drawee or payor bank to cover the instrument may discharge his liability by written assignment to the holder of his rights against the drawee or payor bank in respect of such funds, but such drawer, acceptor or maker is not otherwise discharged.
- (2) Where without excuse a necessary protest is delayed beyond the time when it is due any drawer or indorser is discharged. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—503. Time of Presentment

- (1) Unless a different time is expressed in the instrument the time for any presentment is determined as follows:
  - (a) where an instrument is payable at or a fixed period after a stated date any presentment for acceptance must be made on or before the date it is payable;
  - (b) where an instrument is payable after sight it must either be presented for acceptance or negotiated within a reasonable time after date or issue whichever is later;
  - (c) where an instrument shows the date on which it is payable presentment for payment is due on that date;
  - (d) where an instrument is accelerated presentment for payment is due within a reasonable time after the acceleration;
  - (e) with respect to the liability of any secondary party presentment for acceptance or payment of any other instrument is due within a reasonable time after such party becomes liable thereon.

For Annotations and Historical Notes, see V.A.T.S.

(2) A reasonable time for presentment is determined by the nature of the instrument, any usage of banking or trade and the facts of the particular case. In the case of an uncertified check which is drawn and payable within the United States and which is not a draft drawn by a bank the following are presumed to be reasonable periods within which to present for payment or to initiate bank collection:

- (a) with respect to the liability of the drawer, thirty days after date or issue whichever is later; and
- (b) with respect to the liability of an endorser, seven days after his indorsement.

(3) Where any presentment is due on a day which is not a full business day for either the person making presentment or the party to pay or accept, presentment is due on the next following day which is a full business day for both parties.

(4) Presentment to be sufficient must be made at a reasonable hour, and if at a bank during its banking day. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—504. How Presentment Made

(1) Presentment is a demand for acceptance or payment made upon the maker, acceptor, drawee or other payor by or on behalf of the holder.

(2) Presentment may be made

- (a) by mail, in which event the time of presentment is determined by the time of receipt of the mail; or
- (b) through a clearing house; or
- (c) at the place of acceptance or payment specified in the instrument or if there be none at the place of business or residence of the party to accept or pay. If neither the party to accept or pay nor anyone authorized to act for him is present or accessible at such place presentment is excused.

(3) It may be made

- (a) to any one of two or more makers, acceptors, drawees or other payors; or
- (b) to any person who has authority to make or refuse the acceptance or payment.

(4) A draft accepted or a note made payable at a bank in the United States must be presented at such bank.

(5) In the cases described in Section 4—210 presentment may be made in the manner and with the result stated in that section. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—505. Rights of Party to Whom Presentment Is Made

(1) The party to whom presentment is made may without dishonor require

- (a) exhibition of the instrument; and
- (b) reasonable identification of the person making presentment and evidence of his authority to make it if made for another; and
- (c) that the instrument be produced for acceptance or payment at a place specified in it, or if there be none at any place reasonable in the circumstances; and
- (d) a signed receipt on the instrument for any partial or full payment and its surrender upon full payment.

(2) Failure to comply with any such requirement invalidates the presentment but the person presenting has a reasonable time in

which to comply and the time for acceptance or payment runs from the time of compliance. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—506. Time Allowed for Acceptance or Payment

(1) Acceptance may be deferred without dishonor until the close of the next business day following presentment. The holder may also in a good faith effort to obtain acceptance and without either dishonor of the instrument or discharge of secondary parties allow postponement of acceptance for an additional business day.

(2) Except as a longer time is allowed in the case of documentary drafts drawn under a letter of credit, and unless an earlier time is agreed to by the party to pay, payment of an instrument may be deferred without dishonor pending reasonable examination to determine whether it is properly payable, but payment must be made in any event before the close of business on the day of presentment. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—507. Dishonor; Holder's Right of Recourse; Term Allowing Re-Presentation

(1) An instrument is dishonored when

- (a) a necessary or optional presentment is duly made and due acceptance or payment is refused or cannot be obtained within the prescribed time or in case of bank collections the instrument is seasonably returned by the midnight deadline (Section 4—301); or
- (b) presentment is excused and the instrument is not duly accepted or paid.

(2) Subject to any necessary notice of dishonor and protest, the holder has upon dishonor an immediate right of recourse against the drawers and indorsers.

(3) Return of an instrument for lack of proper indorsement is not dishonor.

(4) A term in a draft or an indorsement thereof allowing a stated time for re-presentation in the event of any dishonor of the draft by nonacceptance if a time draft or by nonpayment if a sight draft gives the holder as against any secondary party bound by the term an option to waive the dishonor without affecting the liability of the secondary party and he may present again up to the end of the stated time. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—508. Notice of Dishonor

(1) Notice of dishonor may be given to any person who may be liable on the instrument by or on behalf of the holder or any party who has himself received notice, or any other party who can be compelled to pay the instrument. In addition an agent or bank in whose hands the instrument is dishonored may give notice to his principal or customer or to another agent or bank from which the instrument was received.

(2) Any necessary notice must be given by a bank before its midnight deadline and by any other person before midnight of the third business day after dishonor or receipt of notice of dishonor.

(3) Notice may be given in any reasonable manner. It may be oral or written and in any terms which identify the instrument and state that it has been dishonored. A misdescription which does not mislead the party notified does not vitiate the notice. Sending the



instrument bearing a stamp, ticket or writing stating that acceptance or payment has been refused or sending a notice of debit with respect to the instrument is sufficient.

(4) Written notice is given when sent although it is not received.

(5) Notice to one partner is notice to each although the firm has been dissolved.

(6) When any party is in insolvency proceedings instituted after the issue of the instrument notice may be given either to the party or to the representative of his estate.

(7) When any party is dead or incompetent notice may be sent to his last known address or given to his personal representative.

(8) Notice operates for the benefit of all parties who have rights on the instrument against the party notified. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—509. Protest; Noting for Protest

(1) A protest is a certificate of dishonor made under the hand and seal of a United States consul or vice consul or a notary public or other person authorized to certify dishonor by the law of the place where dishonor occurs. It may be made upon information satisfactory to such person.

(2) The protest must identify the instrument and certify either that due presentment has been made or the reason why it is excused and that the instrument has been dishonored by nonacceptance or nonpayment.

(3) The protest may also certify that notice of dishonor has been given to all parties or to specified parties.

(4) Subject to subsection (5) any necessary protest is due by the time that notice of dishonor is due.

(5) If, before protest is due, an instrument has been noted for protest by the officer to make protest, the protest may be made at any time thereafter as of the date of the noting. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—510. Evidence of Dishonor and Notice of Dishonor

The following are admissible as evidence and create a presumption of dishonor and of any notice of dishonor therein shown:

- (a) a document regular in form as provided in the preceding section which purports to be a protest;
- (b) the purported stamp or writing of the drawee, payor bank or presenting bank on the instrument or accompanying it stating that acceptance or payment has been refused for reasons consistent with dishonor;
- (c) any book or record of the drawee, payor bank, or any collecting bank kept in the usual course of business which shows dishonor, even though there is no evidence of who made the entry. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3—511. Waived or Excused Presentment, Protest or Notice of Dishonor or Delay Therein

(1) Delay in presentment, protest or notice of dishonor is excused when the party is without notice that it is due or when the delay is caused by circumstances beyond his control and he exercises reasonable diligence after the cause of the delay ceases to operate.

(2) Presentment or notice or protest as the case may be is entirely excused when

- (a) the party to be charged has waived it expressly or by implication either before or after it is due; or
- (b) such party has himself dishonored the instrument or has countermanded payment or otherwise has no reason to expect or right to require that the instrument be accepted or paid; or
- (c) by reasonable diligence the presentment or protest cannot be made or the notice given.

(3) Presentment is also entirely excused when

- (a) the maker, acceptor or drawee of any instrument except a documentary draft is dead or in insolvency proceedings instituted after the issue of the instrument; or
- (b) acceptance or payment is refused but not for want of proper presentment.

(4) Where a draft has been dishonored by nonacceptance a later presentment for payment and any notice of dishonor and protest for nonpayment are excused unless in the meantime the instrument has been accepted.

(5) A waiver of protest is also a waiver of presentment and of notice of dishonor even though protest is not required.

(6) Where a waiver of presentment or notice or protest is embodied in the instrument itself it is binding upon all parties; but where it is written above the signature of an indorser it binds him only. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## PART 6. DISCHARGE

### § 3—601. Discharge of Parties

(1) The extent of the discharge of any party from liability on an instrument is governed by the sections on

- (a) payment or satisfaction (Section 3—603); or
- (b) tender of payment (Section 3—604); or
- (c) cancellation or renunciation (Section 3—605); or
- (d) impairment of right of recourse or of collateral (Section 3—606); or
- (e) reacquisition of the instrument by a prior party (Section 3—208); or
- (f) fraudulent and material alteration (Section 3—407); or
- (g) certification of a check (Section 3—411); or
- (h) acceptance varying a draft (Section 3—412); or
- (i) unexcused delay in presentment or notice of dishonor or protest (Section 3—502).

(2) Any party is also discharged from his liability on an instrument to another party by any other act or agreement with such party which would discharge his simple contract for the payment of money.

(3) The liability of all parties is discharged when any party who has himself no right of action or recourse on the instrument

- (a) reacquires the instrument in his own right; or
- (b) is discharged under any provision of this Article, except as otherwise provided with respect to discharge for impairment of recourse or of security (Section 3—606). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3—602. Effect of Discharge Against Holder in Due Course**

No discharge of any party provided by this Article is effective against a subsequent holder in due course unless he has notice thereof when he takes the instrument. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3—603. Payment or Satisfaction**

(1) The liability of any party is discharged to the extent of his payment or satisfaction to the holder even though it is made with knowledge of a claim of another person to the instrument unless prior to such payment or satisfaction the person making the claim either supplies indemnity deemed adequate by the party seeking the discharge or enjoins payment or satisfaction by order of a court of competent jurisdiction in an action in which the adverse claimant and the holder are parties. This subsection does not, however, result in the discharge of the liability.

(a) of a party who in bad faith pays or satisfies a holder who acquired the instrument by theft or who (unless having the rights of a holder in due course) holds through one who so acquired it; or

(b) of a party (other than an intermediary bank or a payor bank which is not a depository bank) who pays or satisfies the holder of an instrument which has been restrictively indorsed in a manner not consistent with the terms of such restrictive indorsement.

(2) Payment or satisfaction may be made with the consent of the holder by any person including a stranger to the instrument. Surrender of the instrument to such a person gives him the rights of a transferee (Section 3—201). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3—604. Tender of Payment**

(1) Any party making tender of full payment to a holder when or after it is due is discharged to the extent of all subsequent liability for interest, costs and attorney's fees.

(2) The holder's refusal of such tender wholly discharges any party who has a right of recourse against the party making the tender.

(3) Where the maker or acceptor of an instrument payable otherwise than on demand is able and ready to pay at every place of payment specified in the instrument when it is due, it is equivalent to tender. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3—605. Cancellation and Renunciation**

(1) The holder of an instrument may even without consideration discharge any party

(a) in any manner apparent on the face of the instrument or the indorsement, as by intentionally cancelling the instrument or the party's signature by destruction or mutilation, or by striking out the party's signature; or

(b) by renouncing his rights by a writing signed and delivered or by surrender of the instrument to the party to be discharged.

(2) Neither cancellation nor renunciation without surrender of the instrument affects the title thereto. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 3-606. Impairment of Recourse or of Collateral**

- (1) The holder discharges any party to the instrument to the extent that without such party's consent the holder
- (a) without express reservation of rights releases or agrees not to sue any person against whom the party has to the knowledge of the holder a right of recourse or agrees to suspend the right to enforce against such person the instrument or collateral or otherwise discharges such person, except that failure or delay in effecting any required presentment, protest or notice of dishonor with respect to any such person does not discharge any party as to whom presentment, protest or notice of dishonor is effective or unnecessary; or
  - (b) unjustifiably impairs any collateral for the instrument given by or on behalf of the party or any person against whom he has a right of recourse.
- (2) By express reservation of rights against a party with a right of recourse the holder preserves
- (a) all his rights against such party as of the time when the instrument was originally due; and
  - (b) the right of the party to pay the instrument as of that time; and
  - (c) all rights of such party to recourse against others. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**PART 7. ADVICE OF INTERNATIONAL SIGHT DRAFT****§ 3-701. Letter of Advice of International Sight Draft**

- (1) A "letter of advice" is a drawer's communication to the drawee that a described draft has been drawn.
- (2) Unless otherwise agreed when a bank receives from another bank a letter of advice of an international sight draft the drawee bank may immediately debit the drawer's account and stop the running of interest pro tanto. Such a debit and any resulting credit to any account covering outstanding drafts leaves in the drawer full power to stop payment or otherwise dispose of the amount and creates no trust or interest in favor of the holder.
- (3) Unless otherwise agreed and except where a draft is drawn under a credit issued by the drawee, the drawee of an international sight draft owes the drawer no duty to pay an unadvised draft but if it does so and the draft is genuine, may appropriately debit the drawer's account. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**PART 8. MISCELLANEOUS****§ 3-801. Drafts in a Set**

- (1) Where a draft is drawn in a set of parts, each of which is numbered and expressed to be an order only if no other part has been honored, the whole of the parts constitutes one draft but a taker of any part may become a holder in due course of the draft.
- (2) Any person who negotiates, indorses or accepts a single part of a draft drawn in a set thereby becomes liable to any holder in due course of that part as if it were the whole set, but as between different holders in due course to whom different parts have been negotiated the holder whose title first accrues has all rights to the draft and its proceeds.

(3) As against the drawee the first presented part of a draft drawn in a set is the part entitled to payment, or if a time draft to acceptance and payment. Acceptance of any subsequently presented part renders the drawee liable thereon under subsection (2). With respect both to a holder and to the drawer payment of a subsequently presented part of a draft payable at sight has the same effect as payment of a check notwithstanding an effective stop order (Section 4-407).

(4) Except as otherwise provided in this section, where any part of a draft in a set is discharged by payment or otherwise the whole draft is discharged. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3-802. Effect of Instrument on Obligation for Which It Is Given

(1) Unless otherwise agreed where an instrument is taken for an underlying obligation

- (a) the obligation is pro tanto discharged if a bank is drawer, maker or acceptor of the instrument and there is no recourse on the instrument against the underlying obligor; and
- (b) in any other case the obligation is suspended pro tanto until the instrument is due or if it is payable on demand until its presentment. If the instrument is dishonored action may be maintained on either the instrument or the obligation; discharge of the underlying obligor on the instrument also discharges him on the obligation.

(2) The taking in good faith of a check which is not postdated does not of itself so extend the time on the original obligation as to discharge a surety. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3-803. Notice to Third Party

Where a defendant is sued for breach of an obligation for which a third person is answerable over under this Article he may give the third person written notice of the litigation, and the person notified may then give similar notice to any other person who is answerable over to him under this Article. If the notice states that the person notified may come in and defend and that if the person notified does not do so he will in any action against him by the person giving the notice be bound by any determination of fact common to the two litigations, then unless after seasonable receipt of the notice the person notified does come in and defend he is so bound. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3-804. Lost, Destroyed or Stolen Instruments

The owner of an instrument which is lost, whether by destruction, theft or otherwise, may maintain an action in his own name and recover from any party liable thereon upon due proof of his ownership, the facts which prevent his production of the instrument and its terms. The court may require security indemnifying the defendant against loss by reason of further claims on the instrument. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 3-805. Instruments Not Payable to Order or to Bearer

This Article applies to any instrument whose terms do not preclude transfer and which is otherwise negotiable within this Article but which is not payable to order or to bearer, except that there can be no holder in due course of such an instrument. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**ARTICLE 4. BANK DEPOSITS AND COLLECTIONS****PART 1. GENERAL PROVISIONS AND DEFINITIONS****Section**

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- 4—102. Applicability.
- 4—103. Variation by Agreement; Measure of Damages; Certain Action Constituting Ordinary Care.
- 4—104. Definitions and Index of Definitions.
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**PART 2. COLLECTION OF ITEMS: DEPOSITORY AND COLLECTING BANKS**

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**PART 3. COLLECTION OF ITEMS: PAYOR BANKS**

- 4—301. Deferred Posting; Recovery of Payment by Return of Items; Time of Dishonor.
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**PART 4. RELATIONSHIP BETWEEN PAYOR BANK  
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- 4—401. When Bank May Charge Customer's Account.
- 4—402. Bank's Liability to Customer for Wrongful Dishonor.
- 4—403. Customer's Right to Stop Payment; Burden of Proof of Loss.
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- 4—406. Customer's Duty to Discover and Report Unauthorized Signature or Alteration.
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**PART 5. COLLECTION OF DOCUMENTARY DRAFTS**

- 4—501. Handling of Documentary Drafts; Duty to Send for Presentment and to Notify Customer of Dishonor.
- 4—502. Presentment of "On Arrival" Drafts.
- 4—503. Responsibility of Presenting Bank for Documents and Goods; Report of Reasons for Dishonor; Referee in Case of Need.
- 4—504. Privilege of Presenting Bank to Deal with Goods; Security Interest for Expenses.

**PART 1. GENERAL PROVISIONS AND DEFINITIONS****Section 4—101. Short Title**

This Article shall be known and may be cited as Uniform Commercial Code—Bank Deposits and Collections. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—102. Applicability**

(1) To the extent that items within this Article are also within the scope of Articles 3 and 8, they are subject to the provisions of those Articles. In the event of conflict the provisions of this Article govern those of Article 3 but the provisions of Article 8 govern those of this Article.

(2) The liability of a bank for action or non-action with respect to any item handled by it for purposes of presentment, payment or collection is governed by the law of the place where the bank is located. In the case of action or non-action by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—103. Variation by Agreement; Measure of Damages; Certain Action Constituting Ordinary Care**

(1) The effect of the provisions of this Article may be varied by agreement except that no agreement can disclaim a bank's responsibility for its own lack of good faith or failure to exercise ordinary care or can limit the measure of damages for such lack or failure; but the parties may by agreement determine the standards by which such responsibility is to be measured if such standards are not manifestly unreasonable.

(2) Federal Reserve regulations and operating letters, clearing house rules, and the like, have the effect of agreements under subsection (1), whether or not specifically assented to by all parties interested in items handled.

(3) Action or non-action approved by this Article or pursuant to Federal Reserve regulations or operating letters constitutes the exercise of ordinary care and, in the absence of special instructions, action or non-action consistent with clearing house rules and the like or with a general banking usage not disapproved by this Article, prima facie constitutes the exercise of ordinary care.

(4) The specification or approval of certain procedures by this Article does not constitute disapproval of other procedures which may be reasonable under the circumstances.

(5) The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount which could not have been realized by the use of ordinary care, and where there is bad faith it includes other damages, if any, suffered by the party as a proximate consequence. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 4—104. Definitions and Index of Definitions

(1) In this Article unless the context otherwise requires

- (a) "Account" means any account with a bank and includes a checking, time, interest or savings account;
- (b) "Afternoon" means the period of a day between noon and midnight;
- (c) "Banking day" means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions;
- (d) "Clearing house" means any association of banks or other payors regularly clearing items;
- (e) "Customer" means any person having an account with a bank or for whom a bank has agreed to collect items and includes a bank carrying an account with another bank;
- (f) "Documentary draft" means any negotiable or non-negotiable draft with accompanying documents, securities or other papers to be delivered against honor of the draft;
- (g) "Item" means any instrument for the payment of money even though it is not negotiable but does not include money;
- (h) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;
- (i) "Properly payable" includes the availability of funds for payment at the time of decision to pay or dishonor;
- (j) "Settle" means to pay in cash, by clearing house settlement, in a charge or credit or by remittance, or otherwise as instructed. A settlement may be either provisional or final;
- (k) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(2) Other definitions applying to this Article and the sections in which they appear are:

"Collecting bank"	Section 4—105.
"Depositary bank"	Section 4—105.
"Intermediary bank"	Section 4—105.
"Payor bank"	Section 4—105.
"Presenting bank"	Section 4—105.
"Remitting bank"	Section 4—105.



(3) The following definitions in other Articles apply to this Article:

"Acceptance"	Section 3-410.
"Certificate of deposit"	Section 3-104.
"Certification"	Section 3-411.
"Check"	Section 3-104.
"Draft"	Section 3-104.
"Holder in due course"	Section 3-302.
"Notice of dishonor"	Section 3-508.
"Presentment"	Section 3-504.
"Protest"	Section 3-509.
"Secondary party"	Section 3-102.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 4-105. "Depository Bank"; "Intermediary Bank"; "Collecting Bank"; "Payor Bank"; "Presenting Bank"; "Remitting Bank"

In this Article unless the context otherwise requires:

- (a) "Depository bank" means the first bank to which an item is transferred for collection even though it is also the payor bank;
- (b) "Payor bank" means a bank by which an item is payable as drawn or accepted;
- (c) "Intermediary bank" means any bank to which an item is transferred in course of collection except the depository or payor bank;
- (d) "Collecting bank" means any bank handling the item for collection except the payor bank;
- (e) "Presenting bank" means any bank presenting an item except a payor bank;
- (f) "Remitting bank" means any payor or intermediary bank remitting for an item. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 4-106. Separate Office of a Bank

A branch or separate office of a bank is a separate bank for the purpose of computing the time within which and determining the place at or to which action may be taken or notices or orders shall be given under this Article and under Article 3. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 4-107. Time of Receipt of Items

(1) For the purpose of allowing time to process items, prove balances and make the necessary entries on its books to determine its position for the day, a bank may fix an afternoon hour of two P.M. or later as a cut-off hour for the handling of money and items and the making of entries on its books.

(2) Any item or deposit of money received on any day after a cut-off hour so fixed or after the close of the banking day may be treated as being received at the opening of the next banking day. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4-108. Delays**

(1) Unless otherwise instructed, a collecting bank in a good faith effort to secure payment may, in the case of specific items and with or without the approval of any person involved, waive, modify or extend time limits imposed or permitted by this Act for a period not in excess of an additional banking day without discharge of secondary parties and without liability to its transferor or any prior party.

(2) Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by this Act or by instructions is excused if caused by interruption of communication facilities, suspension of payments by another bank, war, emergency conditions or other circumstances beyond the control of the bank provided it exercises such diligence as the circumstances require. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4-109. Process of Posting**

The "process of posting" means the usual procedure followed by a payor bank in determining to pay an item and in recording the payment including one or more of the following or other steps as determined by the bank:

- (a) verification of any signature;
- (b) ascertaining that sufficient funds are available;
- (c) affixing a "paid" or other stamp;
- (d) entering a charge or entry to a customer's account;
- (e) correcting or reversing an entry or erroneous action with respect to the item. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**PART 2. COLLECTION OF ITEMS: DEPOSITARY AND COLLECTING BANKS****§ 4-201. Presumption and Duration of Agency Status of Collecting Banks and Provisional Status of Credits; Applicability of Article; Item Indorsed "Pay Any Bank"**

(1) Unless a contrary intent clearly appears and prior to the time that a settlement given by a collecting bank for an item is or becomes final (subsection (3) of Section 4-211 and Sections 4-212 and 4-213) the bank is an agent or sub-agent of the owner of the item and any settlement given for the item is provisional. This provision applies regardless of the form of indorsement or lack of indorsement and even though credit given for the item is subject to immediate withdrawal as of right or is in fact withdrawn; but the continuance of ownership of an item by its owner and any rights of the owner to proceeds of the item are subject to rights of a collecting bank such as those resulting from outstanding advances on the item and valid rights of setoff. When an item is handled by banks for purposes of presentment, payment and collection, the relevant provisions of this Article apply even though action of parties clearly establishes that a particular bank has purchased the item and is the owner of it.

(2) After an item has been indorsed with the words "pay any bank" or the like, only a bank may acquire the rights of a holder

- (a) until the item has been returned to the customer initiating collection; or
- (b) until the item has been specially indorsed by a bank to a person who is not a bank. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—202. Responsibility for Collection; When Action Seasonable**

- (1) A collecting bank must use ordinary care in
  - (a) presenting an item or sending it for presentment; and
  - (b) sending notice of dishonor or non-payment or returning an item other than a documentary draft to the bank's transferor or directly to the depository bank under subsection (2) of Section 4—212 after learning that the item has not been paid or accepted, as the case may be; and
  - (c) settling for an item when the bank receives final settlement; and
  - (d) making or providing for any necessary protest; and
  - (e) notifying its transferor of any loss or delay in transit within a reasonable time after discovery thereof.

(2) A collecting bank taking proper action before its midnight deadline following receipt of an item, notice or payment acts seasonably; taking proper action within a reasonably longer time may be reasonable but the bank has the burden of so establishing.

(3) Subject to subsection (1) (a), a bank is not liable for the insolvency, neglect, misconduct, mistake or default of another bank or person or for loss or destruction of an item in transit or in the possession of others. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—203. Effect of Instructions**

Subject to the provisions of Article 3 concerning conversion of instruments (Section 3—419) and the provisions of both Article 3 and this Article concerning restrictive indorsements only a collecting bank's transferor can give instructions which affect the bank or constitute notice to it and a collecting bank is not liable to prior parties for any action taken pursuant to such instructions or in accordance with any agreement with its transferor. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—204. Methods of Sending and Presenting; Sending Direct to Payor Bank**

(1) A collecting bank must send items by reasonably prompt method taking into consideration any relevant instructions, the nature of the item, the number of such items on hand, and the cost of collection involved and the method generally used by it or others to present such items.

- (2) A collecting bank may send
  - (a) any item direct to the payor bank;
  - (b) any item to any non-bank payor if authorized by its transferor; and
  - (c) any item other than documentary drafts to any non-bank payor, if authorized by Federal Reserve regulation or operating letter, clearing house rule or the like.

(3) Presentment may be made by a presenting bank at a place where the payor bank has requested that presentment be made. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—205. Supplying Missing Indorsement; No Notice From Prior Indorsement**

(1) A depository bank which has taken an item for collection may supply any indorsement of the customer which is necessary to

title unless the item contains the words "payee's indorsement required" or the like. In the absence of such a requirement a statement placed on the item by the depository bank to the effect that the item was deposited by a customer or credited to his account is effective as the customer's indorsement.

(2) An intermediary bank, or payor bank which is not a depository bank, is neither given notice nor otherwise affected by a restrictive indorsement of any person except the bank's immediate transferor. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 4—206. Transfer Between Banks

Any agreed method which identifies the transferor bank is sufficient for the item's further transfer to another bank. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 4—207. Warranties of Customer and Collecting Bank on Transfer or Presentment of Items; Time for Claims

(1) Each customer or collecting bank who obtains payment or acceptance of an item and each prior customer and collecting bank warrants to the payor bank or other payor who in good faith pays or accepts the item that

(a) he has a good title to the item or is authorized to obtain payment or acceptance on behalf of one who has a good title; and

(b) he has no knowledge that the signature of the maker or drawer is unauthorized, except that this warranty is not given by any customer or collecting bank that is a holder in due course and acts in good faith

(i) to a maker with respect to the maker's own signature; or

(ii) to a drawer with respect to the drawer's own signature, whether or not the drawer is also the drawee; or

(iii) to an acceptor of an item if the holder in due course took the item after the acceptance or obtained the acceptance without knowledge that the drawer's signature was unauthorized; and

(c) the item has not been materially altered, except that this warranty is not given by any customer or collecting bank that is a holder in due course and acts in good faith

(i) to the maker of a note; or

(ii) to the drawer of a draft whether or not the drawer is also the drawee; or

(iii) to the acceptor of an item with respect to an alteration made prior to the acceptance if the holder in due course took the item after the acceptance, even though the acceptance provided "payable as originally drawn" or equivalent terms; or

(iv) to the acceptor of an item with respect to an alteration made after the acceptance.

(2) Each customer and collecting bank who transfers an item and receives a settlement or other consideration for it warrants to his transferee and to any subsequent collecting bank who takes the item in good faith that

(a) he has a good title to the item or is authorized to obtain payment or acceptance on behalf of one who has a good title and the transfer is otherwise rightful; and

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- (b) all signatures are genuine or authorized; and
- (c) the item has not been materially altered; and
- (d) no defense of any party is good against him; and
- (e) he has no knowledge of any insolvency proceeding instituted with respect to the maker or acceptor or the drawer of an unaccepted item.

In addition each customer and collecting bank so transferring an item and receiving a settlement or other consideration engages that upon dishonor and any necessary notice of dishonor and protest he will take up the item.

(3) The warranties and the engagement to honor set forth in the two preceding subsections arise notwithstanding the absence of indorsement or words of guaranty or warranty in the transfer or presentment and a collecting bank remains liable for their breach despite remittance to its transferor. Damages for breach of such warranties or engagement to honor shall not exceed the consideration received by the customer or collecting bank responsible plus finance charges and expenses related to the item, if any.

(4) Unless a claim for breach of warranty under this section is made within a reasonable time after the person claiming learns of the breach, the person liable is discharged to the extent of any loss caused by the delay in making claim. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 4—208. Security Interest of Collecting Bank in Items, Accompanying Documents and Proceeds

(1) A bank has a security interest in an item and any accompanying documents or the proceeds of either

- (a) in case of an item deposited in an account to the extent to which credit given for the item has been withdrawn or applied;
- (b) in case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given whether or not the credit is drawn upon and whether or not there is a right of charge-back; or
- (c) if it makes an advance on or against the item.

(2) When credit which has been given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(3) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents and proceeds. To the extent and so long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues and is subject to the provisions of Article 9 except that

- (a) no security agreement is necessary to make the security interest enforceable (subsection (1) (b) of Section 9—203); and
- (b) no filing is required to perfect the security interest; and
- (c) the security interest has priority over conflicting perfected security interests in the item, accompanying documents or proceeds. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—209. When Bank Gives Value for Purposes of Holder in Due Course**

For purposes of determining its status as a holder in due course, the bank has given value to the extent that it has a security interest in an item provided that the bank otherwise complies with the requirements of Section 3—302 on what constitutes a holder in due course. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—210. Presentment by Notice of Item Not Payable by, Through or at a Bank; Liability of Secondary Parties**

(1) Unless otherwise instructed, a collecting bank may present an item not payable by, through or at a bank by sending to the party to accept or pay a written notice that the bank holds the item for acceptance or payment. The notice must be sent in time to be received on or before the day when presentment is due and the bank must meet any requirement of the party to accept or pay under Section 3—505 by the close of the bank's next banking day after it knows of the requirement.

(2) Where presentment is made by notice and neither honor nor request for compliance with a requirement under Section 3—505 is received by the close of business on the day after maturity or in the case of demand items by the close of business on the third banking day after notice was sent, the presenting bank may treat the item as dishonored and charge any secondary party by sending him notice of the facts. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—211. Media of Remittance; Provisional and Final Settlement in Remittance Cases**

- (1) A collecting bank may take in settlement of an item
- (a) a check of the remitting bank or of another bank on any bank except the remitting bank; or
  - (b) a cashier's check or similar primary obligation of a remitting bank which is a member of or clears through a member of the same clearing house or group as the collecting bank; or
  - (c) appropriate authority to charge an account of the remitting bank or of another bank with the collecting bank; or
  - (d) if the item is drawn upon or payable by a person other than a bank, a cashier's check, certified check or other bank check or obligation.

(2) If before its midnight deadline the collecting bank properly dishonors a remittance check or authorization to charge on itself or presents or forwards for collection a remittance instrument of or on another bank which is of a kind approved by subsection (1) or has not been authorized by it, the collecting bank is not liable to prior parties in the event of the dishonor of such check, instrument or authorization.

(3) A settlement for an item by means of a remittance instrument or authorization to charge is or becomes a final settlement as to both the person making and the person receiving the settlement

- (a) if the remittance instrument or authorization to charge is of a kind approved by subsection (1) or has not been authorized by the person receiving the settlement and in either case the person receiving the settlement acts seasonably before its midnight deadline in presenting, forwarding for collec-

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- tion or paying the instrument or authorization,—at the time the remittance instrument or authorization is finally paid by the payor by which it is payable;
- (b) if the person receiving the settlement has authorized remittance by a non-bank check or obligation or by a cashier's check or similar primary obligation of or a check upon the payor or other remitting bank which is not of a kind approved by subsection (1) (b),—at the time of the receipt of such remittance check or obligation; or
  - (c) if in a case not covered by sub-paragraphs (a) or (b) the person receiving the settlement fails to seasonably present, forward for collection, pay or return a remittance instrument or authorization to it to charge before its midnight deadline,—at such midnight deadline. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 4—212. Right of Charge-Back or Refund

(1) If a collecting bank has made provisional settlement with its customer for an item and itself fails by reason of dishonor, suspension of payments by a bank or otherwise to receive a settlement for the item which is or becomes final, the bank may revoke the settlement given by it, charge back the amount of any credit given for the item to its customer's account or obtain refund from its customer whether or not it is able to return the items if by its midnight deadline or within a longer reasonable time after it learns the facts it returns the item or sends notification of the facts. These rights to revoke, charge-back and obtain refund terminate if and when a settlement for the item received by the bank is or becomes final (subsection (3) of Section 4—211 and subsections (2) and (3) of Section 4—213).

(2) Within the time and manner prescribed by this section and Section 4—301, an intermediary or payor bank, as the case may be, may return an unpaid item directly to the depository bank and may send for collection a draft on the depository bank and obtain reimbursement. In such case, if the depository bank has received provisional settlement for the item, it must reimburse the bank drawing the draft and any provisional credits for the item between banks shall become and remain final.

(3) A depository bank which is also the payor may charge-back the amount of an item to its customer's account or obtain refund in accordance with the section governing return of an item received by a payor bank for credit on its books (Section 4—301).

(4) The right to charge-back is not affected by

- (a) prior use of the credit given for the item; or
- (b) failure by any bank to exercise ordinary care with respect to the item but any bank so failing remains liable.

(5) A failure to charge-back or claim refund does not affect other rights of the bank against the customer or any other party.

(6) If credit is given in dollars as the equivalent of the value of an item payable in a foreign currency the dollar amount of any charge-back or refund shall be calculated on the basis of the buying sight rate for the foreign currency prevailing on the day when the person entitled to the charge-back or refund learns that it will not receive payment in ordinary course. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—213. Final Payment of Item by Payor Bank; When Provisional Debits and Credits Become Final; When Certain Credits Become Available for Withdrawal**

(1) An item is finally paid by a payor bank when the bank has done any of the following, whichever happens first:

- (a) paid the item in cash; or
- (b) settled for the item without reserving a right to revoke the settlement and without having such right under statute, clearing house rule or agreement; or
- (c) completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith; or
- (d) made a provisional settlement for the item and failed to revoke the settlement in the time and manner permitted by statute, clearing house rule or agreement.

Upon a final payment under subparagraphs (b), (c) or (d) the payor bank shall be accountable for the amount of the item.

(2) If provisional settlement for an item between the presenting and payor banks is made through a clearing house or by debits or credits in an account between them, then to the extent that provisional debits or credits for the item are entered in accounts between the presenting and payor banks or between the presenting and successive prior collecting banks seriatim, they become final upon final payment of the item by the payor bank.

(3) If a collecting bank receives a settlement for an item which is or becomes final (subsection (3) of Section 4—211, subsection (2) of Section 4—213) the bank is accountable to its customer for the amount of the item and any provisional credit given for the item in an account with its customer becomes final.

(4) Subject to any right of the bank to apply the credit to an obligation of the customer, credit given by a bank for an item in an account with its customer becomes available for withdrawal as of right

- (a) in any case where the bank has received a provisional settlement for the item,—when such settlement becomes final and the bank has had a reasonable time to learn that the settlement is final;
- (b) in any case where the bank is both a depository bank and a payor bank and the item is finally paid,—at the opening of the bank's second banking day following receipt of the item.

(5) A deposit of money in a bank is final when made but, subject to any right of the bank to apply the deposit to an obligation of the customer, the deposit becomes available for withdrawal as of right at the opening of the bank's next banking day following receipt of the deposit. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—214. Insolvency and Preference**

(1) Any item in or coming into the possession of a payor or collecting bank which suspends payment and which item is not finally paid shall be returned by the receiver, trustee or agent in charge of the closed bank to the presenting bank or the closed bank's customer.

(2) If a payor bank finally pays an item and suspends payments without making a settlement for the item with its customer or the presenting bank which settlement is or becomes final, the owner of the item has a preferred claim against the payor bank.

(3) If a payor bank gives or a collecting bank gives or receives a provisional settlement for an item and thereafter suspends pay-



ments, the suspension does not prevent or interfere with the settlement becoming final if such finality occurs automatically upon the lapse of certain time or the happening of certain events (subsection (3) of Section 4—211, subsections (1) (d), (2) and (3) of Section 4—213).

(4) If a collecting bank receives from subsequent parties settlement for an item which settlement is or becomes final and suspends payments without making a settlement for the item with its customer which is or becomes final, the owner of the item has a preferred claim against such collecting bank. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### PART 3. COLLECTION OF ITEMS: PAYOR BANKS

#### § 4—301. Deferred Posting; Recovery of Payment by Return of Items; Time of Dishonor

(1) Where an authorized settlement for a demand item (other than a documentary draft) received by a payor bank otherwise than for immediate payment over the counter has been made before midnight of the banking day of receipt the payor bank may revoke the settlement and recover any payment if before it has made final payment (subsection (1) of Section 4—213) and before its midnight deadline it

- (a) returns the item; or
- (b) sends written notice of dishonor or nonpayment if the item is held for protest or is otherwise unavailable for return.

(2) If a demand item is received by a payor bank for credit on its books it may return such item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in the preceding subsection.

(3) Unless previous notice of dishonor has been sent an item is dishonored at the time when for purposes of dishonor it is returned or notice sent in accordance with this section.

(4) An item is returned:

- (a) as to an item received through a clearing house, when it is delivered to the presenting or last collecting bank or to the clearing house or is sent or delivered in accordance with its rules; or
- (b) in all other cases, when it is sent or delivered to the bank's customer or transferor or pursuant to his instructions. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 4—302. Payor Bank's Responsibility for Late Return of Item

In the absence of a valid defense such as breach of a presentment warranty (subsection (1) of Section 4—207), settlement effected or the like, if an item is presented on and received by a payor bank the bank is accountable for the amount of

- (a) a demand item other than a documentary draft whether properly payable or not if the bank, in any case where it is not also the depositary bank, retains the item beyond midnight of the banking day of receipt without settling for it or, regardless of whether it is also the depositary bank, does not pay or return the item or send notice of dishonor until after its midnight deadline; or

- (b) any other properly payable item unless within the time allowed for acceptance or payment of that item the bank either accepts or pays the item or returns it and accompanying documents. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—303. When Items Subject to Notice, Stop-Order, Legal Process or Setoff; Order in Which Items May Be Charged or Certified**

(1) Any knowledge, notice or stop-order received by, legal process served upon or setoff exercised by a payor bank, whether or not effective under other rules of law to terminate, suspend or modify the bank's right or duty to pay an item or to charge its customer's account for the item, comes too late to so terminate, suspend or modify such right or duty if the knowledge, notice, stop-order or legal process is received or served and a reasonable time for the bank to act thereon expires or the setoff is exercised after the bank has done any of the following:

- (a) accepted or certified the item;
- (b) paid the item in cash;
- (c) settled for the item without reserving a right to revoke the settlement and without having such right under statute, clearing house rule or agreement;
- (d) completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith or otherwise has evidenced by examination of such indicated account and by action its decision to pay the item; or
- (e) become accountable for the amount of the item under subsection (1) (d) of Section 4—213 and Section 4—302 dealing with the payor bank's responsibility for late return of items.

(2) Subject to the provisions of subsection (1) items may be accepted, paid, certified or charged to the indicated account of its customer in any order convenient to the bank. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**PART 4. RELATIONSHIP BETWEEN PAYOR BANK AND ITS CUSTOMER**

**§ 4—401. When Bank May Charge Customer's Account**

(1) As against its customer, a bank may charge against his account any item which is otherwise properly payable from that account even though the charge creates an overdraft.

(2) A bank which in good faith makes payment to a holder may charge the indicated account of its customer according to

- (a) the original tenor of his altered item; or
- (b) the tenor of his completed item, even though the bank knows the item has been completed unless the bank has notice that the completion was improper. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—402. Bank's Liability to Customer for Wrongful Dishonor**

A payor bank is liable to its customer for damages proximately caused by the wrongful dishonor of an item. When the dishonor occurs through mistake liability is limited to actual damages proved. If

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so proximately caused and proved damages may include damages for an arrest or prosecution of the customer or other consequential damages. Whether any consequential damages are proximately caused by the wrongful dishonor is a question of fact to be determined in each case. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—403. Customer's Right to Stop Payment; Burden of Proof of Loss**

(1) A customer may by order to his bank stop payment of any item payable for his account but the order must be received at such time and in such manner as to afford the bank a reasonable opportunity to act on it prior to any action by the bank with respect to the item described in Section 4—303.

(2) An order is binding upon the bank only if it is in writing, dated, signed, and describes the item with certainty. An order is effective for only six months unless renewed in writing.

(3) The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a binding stop payment order is on the customer. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—404. Bank Not Obligated to Pay Check More Than Six Months Old**

A bank is under no obligation to a customer having a checking account to pay a check, other than a certified check, which is presented more than six months after its date, but it may charge its customer's account for a payment made thereafter in good faith. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—405. Death or Incompetence of Customer**

(1) A payor or collecting bank's authority to accept, pay or collect an item or to account for proceeds of its collection if otherwise effective is not rendered ineffective by incompetence of a customer of either bank existing at the time the item is issued or its collection is undertaken if the bank does not know of an adjudication of incompetence. Neither death nor incompetence of a customer revokes such authority to accept, pay, collect or account until the bank knows of the fact of death or of an adjudication of incompetence and has reasonable opportunity to act on it.

(2) Even with knowledge a bank may for ten days after the date of death pay or certify checks drawn on or prior to that date unless ordered to stop payment by a person claiming an interest in the account. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 4—406. Customer's Duty to Discover and Report Unauthorized Signature or Alteration**

(1) When a bank sends to its customer a statement of account accompanied by items paid in good faith in support of the debit entries or holds the statement and items pursuant to a request or instructions of its customer or otherwise in a reasonable manner makes the statement and items available to the customer, the customer must exercise reasonable care and promptness to examine the statement and items to discover his unauthorized signature or any alteration on an item and must notify the bank promptly after discovery thereof.

(2) If the bank establishes that the customer failed with respect to an item to comply with the duties imposed on the customer by subsection (1) the customer is precluded from asserting against the bank

- (a) his unauthorized signature or any alteration on the item if the bank also establishes that it suffered a loss by reason of such failure; and
- (b) an unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank after the first item and statement was available to the customer for a reasonable period not exceeding fourteen calendar days and before the bank receives notification from the customer of any such unauthorized signature or alteration.

(3) The preclusion under subsection (2) does not apply if the customer establishes lack of ordinary care on the part of the bank in paying the item(s).

(4) Without regard to care or lack of care of either the customer or the bank a customer who does not within one year from the time the statement and items are made available to the customer (subsection (1)) discover and report his unauthorized signature or any alteration on the face or back of the item or does not within three years from that time discover and report any unauthorized indorsement is precluded from asserting against the bank such unauthorized signature or indorsement or such alteration.

(5) If under this section a payor bank has a valid defense against a claim of a customer upon or resulting from payment of an item and waives or fails upon request to assert the defense the bank may not assert against any collecting bank or other prior party presenting or transferring the item a claim based upon the unauthorized signature or alteration giving rise to the customer's claim. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 4-407. Payor Bank's Right to Subrogation on Improper Payment

If a payor bank has paid an item over the stop payment order of the drawer or maker or otherwise under circumstances giving a basis for objection by the drawer or maker, to prevent unjust enrichment and only to the extent necessary to prevent loss to the bank by reason of its payment of the item, the payor bank shall be subrogated to the rights

- (a) of any holder in due course on the item against the drawer or maker; and
- (b) of the payee or any other holder of the item against the drawer or maker either on the item or under the transaction out of which the item arose; and
- (c) of the drawer or maker against the payee or any other holder of the item with respect to the transaction out of which the item arose. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### PART 5. COLLECTION OF DOCUMENTARY DRAFTS

#### § 4-501. Handling of Documentary Drafts; Duty to Send for Presentment and to Notify Customer of Dishonor

A bank which takes a documentary draft for collection must present or send the draft and accompanying documents for presentment and upon learning that the draft has not been paid or accepted in due course must seasonably notify its customer of such fact even

though it may have discounted or bought the draft or extended credit available for withdrawal as of right. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 4—502. Presentment of "On Arrival" Drafts

When a draft or the relevant instructions require presentment "on arrival", "when goods arrive" or the like, the collecting bank need not present until in its judgment a reasonable time for arrival of the goods has expired. Refusal to pay or accept because the goods have not arrived is not dishonor; the bank must notify its transferor of such refusal but need not present the draft again until it is instructed to do so or learns of the arrival of the goods. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 4—503. Responsibility of Presenting Bank for Documents and Goods; Report of Reasons for Dishonor; Referee in Case of Need

Unless otherwise instructed and except as provided in Article 5 a bank presenting a documentary draft

- (a) must deliver the documents to the drawee on acceptance of the draft if it is payable more than three days after presentment; otherwise, only on payment; and
- (b) upon dishonor, either in the case of presentment for acceptance or presentment for payment, may seek and follow instructions from any referee in case of need designated in the draft or if the presenting bank does not choose to utilize his services it must use diligence and good faith to ascertain the reason for dishonor, must notify its transferor of the dishonor and of the results of its effort to ascertain the reasons therefor and must request instructions.

But the presenting bank is under no obligation with respect to goods represented by the documents except to follow any reasonable instructions seasonably received; it has a right to reimbursement for any expense incurred in following instructions and to prepayment of or indemnity for such expenses. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 4—504. Privilege of Presenting Bank to Deal With Goods; Security Interest for Expenses

(1) A presenting bank which, following the dishonor of a documentary draft, has seasonably requested instructions but does not receive them within a reasonable time may store, sell, or otherwise deal with the goods in any reasonable manner.

(2) For its reasonable expenses incurred by action under subsection (1) the presenting bank has a lien upon the goods or their proceeds, which may be foreclosed in the same manner as an unpaid seller's lien. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**ARTICLE 5. LETTERS OF CREDIT****Section**

- 5—101. Short Title.
- 5—102. Scope.
- 5—103. Definitions.
- 5—104. Formal Requirements; Signing.
- 5—105. Consideration.
- 5—106. Time and Effect of Establishment of Credit.
- 5—107. Advice of Credit; Confirmation; Error in Statement of Terms.
- 5—108. "Notation Credit"; Exhaustion of Credit.
- 5—109. Issuer's Obligation to Its Customer.
- 5—110. Availability of Credit in Portions; Presenter's Reservation of Lien or Claim.
- 5—111. Warranties on Transfer and Presentment.
- 5—112. Time Allowed for Honor or Rejection; Withholding Honor or Rejection by Consent; "Presenter".
- 5—113. Indemnities.
- 5—114. Issuer's Duty and Privilege to Honor; Right to Reimbursement.
- 5—115. Remedy for Improper Dishonor or Anticipatory Repudiation.
- 5—116. Transfer and Assignment.
- 5—117. Insolvency of Bank Holding Funds for Documentary Credit.

**Section 5—101. Short Title**

This Article shall be known and may be cited as Uniform Commercial Code—Letters of Credit. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 5—102. Scope**

(1) This Article applies

- (a) to a credit issued by a bank if the credit requires a documentary draft or a documentary demand for payment; and
- (b) to a credit issued by a person other than a bank if the credit requires that the draft or demand for payment be accompanied by a document of title; and
- (c) to a credit issued by a bank or other person if the credit is not within subparagraphs (a) or (b) but conspicuously states that it is a letter of credit or is conspicuously so entitled.

(2) Unless the engagement meets the requirements of subsection (1), this Article does not apply to engagements to make advances or to honor drafts or demands for payment, to authorities to pay or purchase, to guarantees or to general agreements.

(3) This Article deals with some but not all of the rules and concepts of letters of credit as such rules or concepts have developed prior to this act or may hereafter develop. The fact that this Article states a rule does not by itself require, imply or negate application of the same or a converse rule to a situation not provided for or to a person not specified by this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 5—103. Definitions**

(1) In this Article unless the context otherwise requires

- (a) "Credit" or "letter of credit" means an engagement by a bank or other person made at the request of a customer and of a kind within the scope of this Article (Section 5—102)

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that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the credit. A credit may be either revocable or irrevocable. The engagement may be either an agreement to honor or a statement that the bank or other person is authorized to honor.

- (b) A "documentary draft" or a "documentary demand for payment" is one honor of which is conditioned upon the presentation of a document or documents. "Document" means any paper including document of title, security, invoice, certificate, notice of default and the like.
- (c) An "issuer" is a bank or other person issuing a credit.
- (d) A "beneficiary" of a credit is a person who is entitled under its terms to draw or demand payment.
- (e) An "advising bank" is a bank which gives notification of the issuance of a credit by another bank.
- (f) A "confirming bank" is a bank which engages either that it will itself honor a credit already issued by another bank or that such a credit will be honored by the issuer or a third bank.
- (g) A "customer" is a buyer or other person who causes an issuer to issue a credit. The term also includes a bank which procures issuance or confirmation on behalf of that bank's customer.

(2) Other definitions applying to this Article and the sections in which they appear are:

"Notation of Credit".	Section 5—108.
"Presenter".	Section 5—112(3).

(3) Definitions in other Articles applying to this Article and the sections in which they appear are:

"Accept" or "Acceptance".	Section 3—410.
"Contract for sale".	Section 2—106.
"Draft".	Section 3—104.
"Holder in due course".	Section 3—302.
"Midnight deadline".	Section 4—104.
"Security".	Section 8—102.

(4) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 5—104. Formal Requirements; Signing

(1) Except as otherwise required in subsection (1)(c) of Section 5—102 on scope, no particular form of phrasing is required for a credit. A credit must be in writing and signed by the issuer and a confirmation must be in writing and signed by the confirming bank. A modification of the terms of a credit or confirmation must be signed by the issuer or confirming bank.

(2) A telegram may be a sufficient signed writing if it identifies its sender by an authorized authentication. The authentication may be in code and the authorized naming of the issuer in an advice of credit is a sufficient signing. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 5—105. Consideration

No consideration is necessary to establish a credit or to enlarge or otherwise modify its terms. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 5—106. Time and Effect of Establishment of Credit**

- (1) Unless otherwise agreed a credit is established
  - (a) as regards the customer as soon as a letter of credit is sent to him or the letter of credit or an authorized written advice of its issuance is sent to the beneficiary; and
  - (b) as regards the beneficiary when he receives a letter of credit or an authorized written advice of its issuance.
- (2) Unless otherwise agreed once an irrevocable credit is established as regards the customer it can be modified or revoked only with the consent of the customer and once it is established as regards the beneficiary it can be modified or revoked only with his consent.
- (3) Unless otherwise agreed after a revocable credit is established it may be modified or revoked by the issuer without notice to or consent from the customer or beneficiary.
- (4) Notwithstanding any modification or revocation of a revocable credit any person authorized to honor or negotiate under the terms of the original credit is entitled to reimbursement for or honor of any draft or demand for payment duly honored or negotiated before receipt of notice of the modification or revocation and the issuer in turn is entitled to reimbursement from its customer. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 5—107. Advice of Credit; Confirmation; Error in Statement of Terms**

- (1) Unless otherwise specified an advising bank by advising a credit issued by another bank does not assume any obligation to honor drafts drawn or demands for payment made under the credit but it does assume obligation for the accuracy of its own statement.
- (2) A confirming bank by confirming a credit becomes directly obligated on the credit to the extent of its confirmation as though it were its issuer and acquires the rights of an issuer.
- (3) Even though an advising bank incorrectly advises the terms of a credit it has been authorized to advise the credit is established as against the issuer to the extent of its original terms.
- (4) Unless otherwise specified the customer bears as against the issuer all risks of transmission and reasonable translation or interpretation of any message relating to a credit. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 5—108. "Notation Credit"; Exhaustion of Credit**

- (1) A credit which specifies that any person purchasing or paying drafts drawn or demands for payment made under it must note the amount of the draft or demand on the letter or advice of credit is a "notation of credit".
- (2) Under a notation credit
  - (a) a person paying the beneficiary or purchasing a draft or demand for payment from him acquires a right to honor only if the appropriate notation is made and by transferring or forwarding for honor the documents under the credit such a person warrants to the issuer that the notation has been made; and
  - (b) unless the credit or a signed statement that an appropriate notation has been made accompanies the draft or demand for payment the issuer may delay honor until evidence of



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notation has been procured which is satisfactory to it but its obligation and that of its customer continue for a reasonable time not exceeding thirty days to obtain such evidence.

- (3) If the credit is not a notation credit
- (a) the issuer may honor complying drafts or demands for payment presented to it in the order in which they are presented and is discharged pro tanto by honor of any such draft or demand;
  - (b) as between competing good faith purchasers of complying drafts or demands the person first purchasing has priority over a subsequent purchaser even though the later purchased draft or demand has been first honored. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 5-109. Issuer's Obligation to Its Customer

(1) An issuer's obligation to its customer includes good faith and observance of any general banking usage but unless otherwise agreed does not include liability or responsibility

- (a) for performance of the underlying contract for sale or other transaction between the customer and the beneficiary; or
- (b) for any act or omission of any person other than itself or its own branch or for loss or destruction of a draft, demand or document in transit or in the possession of others; or
- (c) based on knowledge or lack of knowledge of any usage of any particular trade.

(2) An issuer must examine documents with care so as to ascertain that on their face they appear to comply with the terms of the credit but unless otherwise agreed assumes no liability or responsibility for the genuineness, falsification or effect of any document which appears on such examination to be regular on its face.

(3) A non-bank issuer is not bound by any banking usage of which it has no knowledge. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 5-110. Availability of Credit in Portions; Presenter's Reservation of Lien or Claim

(1) Unless otherwise specified a credit may be used in portions in the discretion of the beneficiary.

(2) Unless otherwise specified a person by presenting a documentary draft or demand for payment under a credit relinquishes upon its honor all claims to the documents and a person by transferring such draft or demand or causing such presentment authorizes such relinquishment. An explicit reservation of claim makes the draft or demand non-complying. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 5-111. Warranties on Transfer and Presentment

(1) Unless otherwise agreed the beneficiary by transferring or presenting a documentary draft or demand for payment warrants to all interested parties that the necessary conditions of the credit have been complied with. This is in addition to any warranties arising under Articles 3, 4, 7 and 8.

(2) Unless otherwise agreed a negotiating, advising, confirming, collecting or issuing bank presenting or transferring a draft or demand for payment under a credit warrants only the matters warranted by a collecting bank under Article 4 and any such bank transferring

a document warrants only the matters warranted by an intermediary under Articles 7 and 8. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 5—112. Time Allowed for Honor or Rejection; Withholding Honor or Rejection by Consent; "Presenter"**

(1) A bank to which a documentary draft or demand for payment is presented under a credit may without dishonor of the draft, demand or credit

- (a) defer honor until the close of the third banking day following receipt of the documents; and
- (b) further defer honor if the presenter has expressly or impliedly consented thereto.

Failure to honor within the time here specified constitutes dishonor of the draft or demand and of the credit except as otherwise provided in subsection (4) of Section 5—114 on conditional payment.

(2) Upon dishonor the bank may unless otherwise instructed fulfill its duty to return the draft or demand and the documents by holding them at the disposal of the presenter and sending him an advice to that effect.

(3) "Presenter" means any person presenting a draft or demand for payment for honor under a credit even though that person is a confirming bank or other correspondent which is acting under an issuer's authorization. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 5—113. Indemnities**

(1) A bank seeking to obtain (whether for itself or another) honor, negotiation or reimbursement under a credit may give an indemnity to induce such honor, negotiation or reimbursement.

(2) An indemnity agreement inducing honor, negotiation or reimbursement

- (a) unless otherwise explicitly agreed applies to defects in the documents but not in the goods; and
- (b) unless a longer time is explicitly agreed expires at the end of ten business days following receipt of the documents by the ultimate customer unless notice of objection is sent before such expiration date. The ultimate customer may send notice of objection to the person from whom he received the documents and any bank receiving such notice is under a duty to send notice to its transferor before its midnight deadline. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 5—114. Issuer's Duty and Privilege to Honor; Right to Reimbursement**

(1) An issuer must honor a draft or demand for payment which complies with the terms of the relevant credit regardless of whether the goods or documents conform to the underlying contract for sale or other contract between the customer and the beneficiary. The issuer is not excused from honor of such a draft or demand by reason of an additional general term that all documents must be satisfactory to the issuer, but an issuer may require that specified documents must be satisfactory to it.

(2) Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer

For Annotations and Historical Notes, see V.A.T.S.

of a document of title (Section 7—507) or of a security (Section 8—306) or is forged or fraudulent or there is fraud in the transaction

- (a) the issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (Section 3—302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (Section 7—502) or a bona fide purchaser of a security (Section 8—302); and
- (b) in all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents but a court of appropriate jurisdiction may enjoin such honor.

(3) Unless otherwise agreed an issuer which has duly honored a draft or demand for payment is entitled to immediate reimbursement of any payment made under the credit and to be put in effectively available funds not later than the day before maturity of any acceptance made under the credit.

(4) When a credit provides for payment by the issuer on receipt of notice that the required documents are in the possession of a correspondent or other agent of the issuer

- (a) any payment made on receipt of such notice is conditional; and
- (b) the issuer may reject documents which do not comply with the credit if it does so within three banking days following its receipt of the documents; and
- (c) in the event of such rejection, the issuer is entitled by charge back or otherwise to return of the payment made.

(5) In the case covered by subsection (4) failure to reject documents within the time specified in sub-paragraph (b) constitutes acceptance of the documents and makes the payment final in favor of the beneficiary. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 5—115. Remedy for Improper Dishonor or Anticipatory Repudiation

(1) When an issuer wrongfully dishonors a draft or demand for payment presented under a credit the person entitled to honor has with respect to any documents the rights of a person in the position of a seller (Section 2—707) and may recover from the issuer the face amount of the draft or demand together with incidental damages under Section 2—710 on seller's incidental damages and interest but less any amount realized by resale or other use or disposition of the subject matter of the transaction. In the event no resale or other utilization is made the documents, goods or other subject matter involved in the transaction must be turned over to the issuer on payment of judgment.

(2) When an issuer wrongfully cancels or otherwise repudiates a credit before presentment of a draft or demand for payment drawn under it the beneficiary has the rights of a seller after anticipatory repudiation by the buyer under Section 2—610 if he learns of the repudiation in time reasonably to avoid procurement of the required documents. Otherwise the beneficiary has an immediate right of action for wrongful dishonor. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 5—116. Transfer and Assignment**

(1) The right to draw under a credit can be transferred or assigned only when the credit is expressly designated as transferable or assignable.

(2) Even though the credit specifically states that it is nontransferable or nonassignable the beneficiary may before performance of the conditions of the credit assign his right to proceeds. Such an assignment is an assignment of a contract right under Article 9 on Secured Transactions and is governed by that Article except that

- (a) the assignment is ineffective until the letter of credit or advice of credit is delivered to the assignee which delivery constitutes perfection of the security interest under Article 9; and
- (b) the issuer may honor drafts or demands for payment drawn under the credit until it receives a notification of the assignment signed by the beneficiary which reasonably identifies the credit involved in the assignment and contains a request to pay the assignee; and
- (c) after what reasonably appears to be such a notification has been received the issuer may without dishonor refuse to accept or pay even to a person otherwise entitled to honor until the letter of credit or advice of credit is exhibited to the issuer.

(3) Except where the beneficiary has effectively assigned his right to draw or his right to proceeds, nothing in this section limits his right to transfer or negotiate drafts or demands drawn under the credit. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 5—117. Insolvency of Bank Holding Funds for Documentary Credit**

(1) Where an issuer or an advising or confirming bank or a bank which has for a customer procured issuance of a credit by another bank becomes insolvent before final payment under the credit and the credit is one to which this Article is made applicable by paragraphs (a) or (b) of Section 5—102(1) on scope, the receipt or allocation of funds or collateral to secure or meet obligations under the credit shall have the following results:

- (a) to the extent of any funds or collateral turned over after or before the insolvency as indemnity against or specifically for the purpose of payment of drafts or demands for payment drawn under the designated credit, the drafts or demands are entitled to payment in preference over depositors or other general creditors of the issuer or bank; and
- (b) on expiration of the credit or surrender of the beneficiary's rights under it unused any person who has given such funds or collateral is similarly entitled to return thereof; and
- (c) a charge to a general or current account with a bank if specifically consented to for the purpose of indemnity against or payment of drafts or demands for payment drawn under the designated credit falls under the same rules as if the funds had been drawn out in cash and then turned over with specific instructions.

(2) After honor or reimbursement under this section the customer or other person for whose account the insolvent bank has acted is entitled to receive the documents involved. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**ARTICLE 6. BULK TRANSFERS****Section**

- 6—101. Short Title.
- 6—102. "Bulk Transfer"; Transfers of Equipment; Enterprises Subject to This Article; Bulk Transfers Subject to This Article.
- 6—103. Transfers Excepted From This Article.
- 6—104. Schedule of Property, List of Creditors.
- 6—105. Notice to Creditors.
- 6—106. Application of the Proceeds.
- 6—107. The Notice.
- 6—108. Auction Sales; "Auctioneer".
- 6—109. What Creditors Protected; Credit for Payment to Particular Creditors.
- 6—110. Subsequent Transfers.
- 6—111. Limitation of Actions and Levies.

**Section 6—101. Short Title**

This Article shall be known and may be cited as Uniform Commercial Code—Bulk Transfers. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 6—102. "Bulk Transfer"; Transfers of Equipment; Enterprises Subject to This Article; Bulk Transfers Subject to This Article**

(1) A "bulk transfer" is any transfer in bulk and not in the ordinary course of the transferor's business of a major part of the materials, supplies, merchandise or other inventory (Section 9—109) of an enterprise subject to this Article.

(2) A transfer of a substantial part of the equipment (Section 9—109) of such an enterprise is a bulk transfer if it is made in connection with a bulk transfer of inventory, but not otherwise.

(3) The enterprises subject to this Article are all those whose principal business is the sale of merchandise from stock, including those who manufacture what they sell.

(4) Except as limited by the following section all bulk transfers of goods located within this state are subject to this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 6—103. Transfers Excepted From This Article**

The following transfers are not subject to this Article:

- (1) Those made to give security for the performance of an obligation;
- (2) General assignments for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;
- (3) Transfers in settlement or realization of a lien or other security interest;
- (4) Sales by executors, administrators, receivers, trustees in bankruptcy, or any public officer under judicial process;
- (5) Sales made in the course of judicial or administrative proceedings for the dissolution or reorganization of a corporation and of which notice is sent to the creditors of the corporation pursuant to order of the court or administrative agency;

(6) Transfers to a person maintaining a known place of business in this State who becomes bound to pay the debts of the transferor in full and gives public notice of that fact, and who is solvent after becoming so bound;

(7) A transfer to a new business enterprise organized to take over and continue the business, if public notice of the transaction is given and the new enterprise assumes the debts of the transferor and he receives nothing from the transaction except an interest in the new enterprise junior to the claims of creditors;

(8) Transfers of property which is exempt from execution.

Public notice under subsection (6) or subsection (7) may be given by publishing once a week for two consecutive weeks in a newspaper of general circulation where the transferor had its principal place of business in this state an advertisement including the names and addresses of the transferor and transferee and the effective date of the transfer. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 6—104. Schedule of Property, List of Creditors

(1) Except as provided with respect to auction sales (Section 6—108), a bulk transfer subject to this Article is ineffective against any creditor of the transferor unless:

- (a) The transferee requires the transferor to furnish a list of his existing creditors prepared as stated in this section; and
- (b) The parties prepare a schedule of the property transferred sufficient to identify it; and
- (c) The transferee preserves the list and schedule for six months next following the transfer and permits inspection of either or both and copying therefrom at all reasonable hours by any creditor of the transferor, or files the list and schedule in the office of the County Clerk of the county in which the transferor had its principal place of business in this state.

(2) The list of creditors must be signed and sworn to or affirmed by the transferor or his agent. It must contain the names and business addresses of all creditors of the transferor, with the amounts when known, and also the names of all persons who are known to the transferor to assert claims against him even though such claims are disputed. If the transferor is the obligor of an outstanding issue of bonds, debentures or the like as to which there is an indenture trustee, the list of creditors need include only the name and address of the indenture trustee and the aggregate outstanding principal amount of the issue.

(3) Responsibility for the completeness and accuracy of the list of creditors rests on the transferor, and the transfer is not rendered ineffective by errors or omissions therein unless the transferee is shown to have had knowledge. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 6—105. Notice to Creditors

In addition to the requirements of the preceding section, any bulk transfer subject to this Article except one made by auction sale (Section 6—108) is ineffective against any creditor of the transferor unless at least ten days before he takes possession of the goods or pays for them, whichever happens first, the transferee gives notice of the transfer in the manner and to the persons hereafter provided (Section 6—107). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 6—106. Application of the Proceeds**

In addition to the requirements of the two preceding sections:

(1) Upon every bulk transfer subject to this Article for which new consideration becomes payable except those made by sale at auction it is the duty of the transferee to assure that such consideration is applied so far as necessary to pay those debts of the transferor which are either shown on the list furnished by the transferor (Section 6—104) or filed in writing in the place stated in the notice (Section 6—107) within thirty days after the mailing of such notice. This duty of the transferee runs to all the holders of such debts, and may be enforced by any of them for the benefit of all.

(2) If any of said debts are in dispute the necessary sum may be withheld from distribution until the dispute is settled or adjudicated.

(3) If the consideration payable is not enough to pay all of the said debts in full distribution shall be made pro rata. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 6—107. The Notice**

(1) The notice to creditors (Section 6—105) shall state:

- (a) that a bulk transfer is about to be made; and
- (b) the names and business addresses of the transferor and transferee, and all other business names and addresses used by the transferor within three years last past so far as known to the transferee; and
- (c) whether or not all the debts of the transferor are to be paid in full as they fall due as a result of the transaction, and if so, the address to which creditors should send their bills.

(2) If the debts of the transferor are not to be paid in full as they fall due or if the transferee is in doubt on that point then the notice shall state further:

- (a) the location and general description of the property to be transferred and the estimated total of the transferor's debts;
- (b) the address where the schedule of property and list of creditors (Section 6—104) may be inspected;
- (c) whether the transfer is to pay existing debts and if so the amount of such debts and to whom owing;
- (d) whether the transfer is for new consideration and if so the amount of such consideration and the time and place of payment; and
- (e) if for new consideration the time and place where creditors of the transferor are to file their claims.

(3) The notice in any case shall be delivered personally or sent by registered or certified mail to all the persons shown on the list of creditors furnished by the transferor (Section 6—104) and to all other persons who are known to the transferee to hold or assert claims against the transferor. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 6—108. Auction Sales; "Auctioneer"**

(1) A bulk transfer is subject to this Article even though it is by sale at auction, but only in the manner and with the results stated in this section.

(2) The transferor shall furnish a list of his creditors and assist in the preparation of a schedule of the property to be sold, both prepared as before stated (Section 6—104).

(3) The person or persons other than the transferor who direct, control or are responsible for the auction are collectively called the "auctioneer". The auctioneer shall:

- (a) receive and retain the list of creditors and prepare and retain the schedule of property for the period stated in this Article (Section 6—104);
- (b) give notice of the auction personally or by registered or certified mail at least ten days before it occurs to all persons shown on the list of creditors and to all other persons who are known to him to hold or assert claims against the transferor; and
- (c) assure that the net proceeds of the auction are applied as provided in this Article (Section 6—106).

(4) Failure of the auctioneer to perform any of these duties does not affect the validity of the sale or the title of the purchasers, but if the auctioneer knows that the auction constitutes a bulk transfer such failure renders the auctioneer liable to the creditors of the transferor as a class for the sums owing to them from the transferor up to but not exceeding the net proceeds of the auction. If the auctioneer consists of several persons their liability is joint and several. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 6—109. What Creditors Protected; Credit for Payment to Particular Creditors

(1) The creditors of the transferor mentioned in this Article are those holding claims based on transactions or events occurring before the bulk transfer, but creditors who become such after notice to creditors is given (Sections 6—105 and 6—107) are not entitled to notice.

(2) Against the aggregate obligation imposed by the provisions of this Article concerning the application of the proceeds (Section 6—106 and subsection (3) (c) of 6—108) the transferee or auctioneer is entitled to credit for sums paid to particular creditors of the transferor, not exceeding the sums believed in good faith at the time of the payment to be properly payable to such creditors. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 6—110. Subsequent Transfers

When the title of a transferee to property is subject to a defect by reason of his non-compliance with the requirements of this Article, then:

(1) a purchaser of any of such property from such transferee who pays no value or who takes with notice of such non-compliance takes subject to such defect, but

(2) a purchaser for value in good faith and without such notice takes free of such defect. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 6—111. Limitation of Actions and Levies

No action under this Article shall be brought nor levy made more than six months after the date on which the transferee took possession of the goods unless the transfer has been concealed. If the transfer has been concealed, actions may be brought or levies made within six months after its discovery. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.



## ARTICLE 7. WAREHOUSE RECEIPTS, BILLS OF LADING AND OTHER DOCUMENTS OF TITLE

### PART 1. GENERAL

**Section**

- 7—101. Short Title.
- 7—102. Definitions and Index of Definitions.
- 7—103. Relation of Article to Treaty, Statute, Tariff, Classification or Regulation.
- 7—104. Negotiable and Non-Negotiable Warehouse Receipt, Bill of Lading or Other Document of Title.
- 7—105. Construction Against Negative Implication.

### PART 2. WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

- 7—201. Who May Issue a Warehouse Receipt; Storage Under Government Bond.
- 7—202. Form of Warehouse Receipt; Essential Terms; Optional Terms.
- 7—203. Liability for Non-Receipt or Misdescription.
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**PART 1. GENERAL**

**Section 7—101. Short Title**

This Article shall be known and may be cited as Uniform Commercial Code—Documents of Title. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 7—102. Definitions and Index of Definitions**

- (1) In this Article, unless the context otherwise requires:
- (a) "Bailee" means the person who by a warehouse receipt, bill of lading or other document of title acknowledges possession of goods and contracts to deliver them.
  - (b) "Consignee" means the person named in a bill to whom or to whose order the bill promises delivery.
  - (c) "Consignor" means the person named in a bill as the person from whom the goods have been received for shipment.
  - (d) "Delivery order" means a written order to deliver goods directed to a warehouseman, carrier or other person who in the ordinary course of business issues warehouse receipts or bills of lading.
  - (e) "Document" means document of title as defined in the general definitions in Article 1 (Section 1—201).
  - (f) "Goods" means all things which are treated as movable for the purposes of a contract of storage or transportation.
  - (g) "Issuer" means a bailee who issues a document except that in relation to an unaccepted delivery order it means the person who orders the possessor of goods to deliver. Issuer includes any person for whom an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, notwithstanding that the issuer received no goods or that the goods were misdescribed or that in any other respect the agent or employee violated his instructions.
  - (h) "Warehouseman" is a person engaged in the business of storing goods for hire.
- (2) Other definitions applying to this Article or to specified Parts thereof, and the sections in which they appear are:

"Duly negotiate". Section 7-501.

"Person entitled under the document". Section 7-403(4).

(3) Definitions in other Articles applying to this Article and the sections in which they appear are:

"Contract for sale". Section 2-106.

"Overseas". Section 2-323.

"Receipt" of goods. Section 2-103.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7-103. Relation of Article to Treaty, Statute, Tariff, Classification or Regulation

To the extent that any treaty or statute of the United States, regulatory statute of this State or tariff, classification or regulation filed or issued pursuant thereto is applicable, the provisions of this Article are subject thereto. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7-104. Negotiable and Non-Negotiable Warehouse Receipt, Bill of Lading or Other Document of Title

(1) A warehouse receipt, bill of lading or other document of title is negotiable

(a) if by its terms the goods are to be delivered to bearer or to the order of a named person; or

(b) where recognized in overseas trade, if it runs to a named person or assigns.

(2) Any other document is non-negotiable. A bill of lading in which it is stated that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against a written order signed by the same or another named person. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7-105. Construction Against Negative Implication

The omission from either Part 2 or Part 3 of this Article of a provision corresponding to a provision made in the other Part does not imply that a corresponding rule of law is not applicable. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## PART 2. WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

### § 7-201. Who May Issue a Warehouse Receipt; Storage Under Government Bond

(1) A warehouse receipt may be issued by any warehouseman.

(2) Where goods including distilled spirits and agricultural commodities are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods has like effect as a warehouse receipt even though issued by a person who is the owner of the goods and is not a warehouseman. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 7—202. Form of Warehouse Receipt; Essential Term; Optional Terms**

- (1) A warehouse receipt need not be in any particular form.
- (2) Unless a warehouse receipt embodies within its written or printed terms each of the following, the warehouseman is liable for damages caused by the omission to a person injured thereby:
- (a) the location of the warehouse where the goods are stored;
  - (b) the date of issue of the receipt;
  - (c) the consecutive number of the receipt;
  - (d) a statement whether the goods received will be delivered to the bearer, to a specified person, or to a specified person or his order;
  - (e) the rate of storage and handling charges, except that where goods are stored under a field warehousing arrangement a statement of that fact is sufficient on a non-negotiable receipt;
  - (f) a description of the goods or of the packages containing them;
  - (g) the signature of the warehouseman, which may be made by his authorized agent;
  - (h) if the receipt is issued for goods of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; and
  - (i) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien or security interest (Section 7—209). If the precise amount of such advances made or of such liabilities incurred is, at the time of the issue of the receipt, unknown to the warehouseman or to his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof is sufficient.
- (3) A warehouseman may insert in his receipt any other terms which are not contrary to the provisions of this Act and do not impair his obligation of delivery (Section 7—403) or his duty of care (Section 7—204). Any contrary provisions shall be ineffective. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 7—203. Liability for Non-Receipt or Misdescription**

A party to or purchaser for value in good faith of a document of title other than a bill of lading relying in either case upon the description therein of the goods may recover from the issuer damages caused by the non-receipt or misdescription of the goods, except to the extent that the document conspicuously indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, as where the description is in terms of marks or labels or kind, quantity or condition, or the receipt or description is qualified by "contents, condition and quality unknown", "said to contain" or the like, if such indication be true, or the party or purchaser otherwise has notice. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 7—204. Duty of Care; Contractual Limitation of Warehouseman's Liability**

- (1) A warehouseman is liable for damages for loss of or injury to the goods caused by his failure to exercise such care in regard to them as a reasonably careful man would exercise under like circumstances but unless otherwise agreed he is not liable for damages which could not have been avoided by the exercise of such care.

For Annotations and Historical Notes, see V.A.T.S.

(2) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage, and setting forth a specific liability per article or item, or value per unit of weight, beyond which the warehouseman shall not be liable; provided, however, that such liability may on written request of the bailor at the time of signing such storage agreement or within a reasonable time after receipt of the warehouse receipt be increased on part or all of the goods thereunder, in which event increased rates may be charged based on such increased valuation, but that no such increase shall be permitted contrary to a lawful limitation of liability contained in the warehouseman's tariff, if any. No such limitation is effective with respect to the warehouseman's liability for conversion to his own use.

(3) Reasonable provisions as to the time and manner of presenting claims and instituting actions based on the bailment may be included in the warehouse receipt or tariff.

(4) This section does not impair or repeal Texas Revised Civil Statutes of 1925, Articles 5545 and 5546. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7-205. Title Under Warehouse Receipt Defeated in Certain Cases

A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouseman who is also in the business of buying and selling such goods takes free of any claim under a warehouse receipt even though it has been duly negotiated. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7-206. Termination of Storage at Warehouseman's Option

(1) A warehouseman may on notifying the person on whose account the goods are held and any other person known to claim an interest in the goods require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document, or, if no period is fixed, within a stated period not less than thirty days after the notification. If the goods are not removed before the date specified in the notification, the warehouseman may sell them in accordance with the provisions of the section on enforcement of a warehouseman's lien (Section 7-210).

(2) If a warehouseman in good faith believes that the goods are about to deteriorate or decline in value to less than the amount of his lien within the time prescribed in subsection (1) for notification, advertisement and sale, the warehouseman may specify in the notification any reasonable shorter time for removal of the goods and in case the goods are not removed, may sell them at public sale held not less than one week after a single advertisement or posting.

(3) If as a result of a quality or condition of the goods of which the warehouseman had no notice at the time of deposit the goods are a hazard to other property or to the warehouse or to persons, the warehouseman may sell the goods at public or private sale without advertisement on reasonable notification to all persons known to claim an interest in the goods. If the warehouseman after a reasonable effort is unable to sell the goods he may dispose of them in any lawful manner and shall incur no liability by reason of such disposition.

(4) The warehouseman must deliver the goods to any person entitled to them under this Article upon due demand made at any time prior to sale or other disposition under this section.

(5) The warehouseman may satisfy his lien from the proceeds of any sale or disposition under this section but must hold the balance for delivery on the demand of any person to whom he would have been bound to deliver the goods. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7—207. Goods Must Be Kept Separate; Fungible Goods

(1) Unless the warehouse receipt otherwise provides, a warehouseman must keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods except that different lots of fungible goods may be commingled.

(2) Fungible goods so commingled are owned in common by the persons entitled thereto and the warehouseman is severally liable to each owner for that owner's share. Where because of overissue a mass of fungible goods is insufficient to meet all the receipts which the warehouseman has issued against it, the persons entitled include all holders to whom overissued receipts have been duly negotiated. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7—208. Altered Warehouse Receipts

Where a blank in a negotiable warehouse receipt has been filled in without authority, a purchaser for value and without notice of the want of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any receipt enforceable against the issuer according to its original tenor. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7—209. Lien of Warehouseman

(1) (a) A warehouseman has a lien against the bailor on the goods covered by a warehouse receipt or on the proceeds thereof in his possession for charges for storage or transportation (including demurrage and terminal charges), insurance, labor, or charges present or future in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law.

(b) If the person on whose account the goods are held is liable for like charges or expenses in relation to other goods whenever deposited and it is stated in the receipt that a lien is claimed for charges and expenses in relation to other goods, the warehouseman also has a lien against him for such charges and expenses whether or not the other goods have been delivered by the warehouseman. But against a person to whom a negotiable warehouse receipt is duly negotiated a warehouseman's lien is limited to charges in an amount or at a rate specified on the receipt or if no charges are so specified then to a reasonable charge for storage of the goods covered by the receipt subsequent to the date of the receipt.

(2) The warehouseman may also reserve a security interest against the bailor for a maximum amount specified on the receipt for charges other than those specified in subsection (1), such as for money advanced and interest. Such a security interest is governed by the Article on Secured Transactions (Article 9).

(3) A warehouseman's lien for charges and expenses under subsection (1) or a security interest under subsection (2) is also effective against any person who so entrusted the bailor with possession of the goods that a pledge of them by him to a good faith purchaser for value would have been valid but is not effective against a person as to whom

the document confers no right in the goods covered by it under Section 7—503. However, the warehouseman's specific lien for charges and expenses under subsection (1) (a) is effective against any security interest. If the warehouseman learns of a perfected security interest owned by a person as to whom the document confers no right in the goods covered by it under Section 7—503 against the goods and fails thereafter to give such secured party (Section 9—105) written notice of the accrued and unpaid charges and expenses at the time when they have accrued for between two and six months, then the warehouseman's specific lien under subsection (1) (a) is effective as against such secured party only with respect to unpaid charges and expenses which have accrued by the end of six months.

(4) A warehouseman loses his lien on any goods which he voluntarily delivers or which he unjustifiably refuses to deliver. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7—210. Enforcement of Warehouseman's Lien

(1) Except as provided in subsection (2), a warehouseman's lien may be enforced by public or private sale of the goods in block or in parcels, at any time or place and on any terms which are commercially reasonable, after notifying all persons known to claim an interest in the goods. Such notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the warehouseman is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the warehouseman either sells the goods in the usual manner in any recognized market therefor, or if he sells at the price current in such market at the time of his sale, or if he has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold, he has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to insure satisfaction of the obligation is not commercially reasonable except in cases covered by the preceding sentence.

(2) A warehouseman's lien on goods other than goods stored by a merchant in the course of his business may be enforced only as follows:

- (a) All persons known to claim an interest in the goods must be notified.
- (b) The notification must be delivered in person or sent by registered or certified letter to the last known address of any person to be notified.
- (c) The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than ten days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.
- (d) The sale must conform to the terms of the notification.
- (e) The sale must be held at the nearest suitable place to that where the goods are held or stored.
- (f) After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for two weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on

whose account they are being held, and the time and place of the sale. The sale must take place at least fifteen days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least ten days before the sale in not less than six conspicuous places in the neighborhood of the proposed sale.

(3) Before any sale pursuant to this section any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section. In that event the goods must not be sold, but must be retained by the warehouseman subject to the terms of the receipt and this Article.

(4) The warehouseman may buy at any public sale pursuant to this section.

(5) A purchaser in good faith of goods sold to enforce a warehouseman's lien takes the goods free of any rights of persons against whom the lien was valid, despite noncompliance by the warehouseman with the requirements of this section.

(6) The warehouseman may satisfy his lien from the proceeds of any sale pursuant to this section but must hold the balance, if any, for delivery on demand to any person to whom he would have been bound to deliver the goods.

(7) The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against his debtor.

(8) Where a lien is on goods stored by a merchant in the course of his business the lien may be enforced in accordance with either subsection (1) or (2).

(9) The warehouseman is liable for damages caused by failure to comply with the requirements for sale under this section and in case of willful violation is liable for conversion. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### PART 3. BILLS OF LADING: SPECIAL PROVISIONS

#### § 7-301. Liability for Non-Receipt or Misdescription; "Said to Contain"; "Shipper's Load and Count"; Improper Handling

(1) A consignee of a non-negotiable bill who has given value in good faith or a holder to whom a negotiable bill has been duly negotiated relying in either case upon the description therein of the goods, or upon the date therein shown, may recover from the issuer damages caused by the misdating of the bill or the non-receipt or misdescription of the goods, except to the extent that the document indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, as where the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load and count" or the like, if such indication be true.

(2) When goods are loaded by an issuer who is a common carrier, the issuer must count the packages of goods if package freight and ascertain the kind and quantity if bulk freight. In such cases "shipper's weight, load and count" or other words indicating that the description was made by the shipper are ineffective except as to freight concealed by packages.



For Annotations and Historical Notes, see V.A.T.S.

(3) When bulk freight is loaded by a shipper who makes available to the issuer adequate facilities for weighing such freight, an issuer who is a common carrier must ascertain the kind and quantity within a reasonable time after receiving the written request of the shipper to do so. In such cases "shipper's weight" or other words of like purport are ineffective.

(4) The issuer may by inserting in the bill the words "shipper's weight, load and count" or other words of like purport indicate that the goods were loaded by the shipper; and if such statement be true the issuer shall not be liable for damages caused by the improper loading. But their omission does not imply liability for such damages.

(5) The shipper shall be deemed to have guaranteed to the issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition and weight, as furnished by him; and the shipper shall indemnify the issuer against damage caused by inaccuracies in such particulars. The right of the issuer to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7—302. Through Bills of Lading and Similar Documents

(1) The issuer of a through bill of lading or other document embodying an undertaking to be performed in part by persons acting as its agents or by connecting carriers is liable to anyone entitled to recover on the document for any breach by such other persons or by a connecting carrier of its obligation under the document but to the extent that the bill covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation this liability may be varied by agreement of the parties.

(2) Where goods covered by a through bill of lading or other document embodying an undertaking to be performed in part by persons other than the issuer are received by any such person, he is subject with respect to his own performance while the goods are in his possession to the obligation of the issuer. His obligation is discharged by delivery of the goods to another such person pursuant to the document, and does not include liability for breach by any other such persons or by the issuer.

(3) The issuer of such through bill of lading or other document shall be entitled to recover from the connecting carrier or such other person in possession of the goods when the breach of the obligation under the document occurred, the amount it may be required to pay to anyone entitled to recover on the document therefor, as may be evidenced by any receipt, judgment, or transcript thereof, and the amount of any expense reasonably incurred by it in defending any action brought by anyone entitled to recover on the document therefor. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7—303. Diversion; Reconsignment; Change of Instructions

(1) Unless the bill of lading otherwise provides, the carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods on instructions from

(a) the holder of a negotiable bill; or

(b) the consignor on a non-negotiable bill notwithstanding contrary instructions from the consignee; or

- (c) the consignee on a non-negotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the bill; or
- (d) the consignee on a non-negotiable bill if he is entitled as against the consignor to dispose of them.

(2) Unless such instructions are noted on a negotiable bill of lading, a person to whom the bill is duly negotiated can hold the bailee according to the original terms. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7-304. Bills of Lading in a Set

(1) Except where customary in overseas transportation, a bill of lading must not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

(2) Where a bill of lading is lawfully drawn in a set of parts, each of which is numbered and expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitute one bill.

(3) Where a bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to whom the first due negotiation is made prevails as to both the document and the goods even though any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by surrender of his part.

(4) Any person who negotiates or transfers a single part of a bill of lading drawn in a set is liable to holders of that part as if it were the whole set.

(5) The bailee is obliged to deliver in accordance with Part 4 of this Article against the first presented part of a bill of lading lawfully drawn in a set. Such delivery discharges the bailee's obligation on the whole bill. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7-305. Destination Bills

(1) Instead of issuing a bill of lading to the consignor at the place of shipment a carrier may at the request of the consignor procure the bill to be issued at destination or at any other place designated in the request.

(2) Upon request of anyone entitled as against the carrier to control the goods while in transit and on surrender of any outstanding bill of lading or other receipt covering such goods, the issuer may procure a substitute bill to be issued at any place designated in the request. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7-306. Altered Bills of Lading

An unauthorized alteration or filling in of a blank in a bill of lading leaves the bill enforceable according to its original tenor. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7-307. Lien of Carrier

(1) A carrier has a lien on the goods covered by a bill of lading for charges subsequent to the date of its receipt of the goods for storage or transportation (including demurrage and terminal charges) and for expenses necessary for preservation of the goods incident to

their transportation or reasonably incurred in their sale pursuant to law. But against a purchaser for value of a negotiable bill of lading a carrier's lien is limited to charges stated in the bill or the applicable tariffs, or if no charges are stated then to a reasonable charge.

(2) A lien for charges and expenses under subsection (1) on goods which the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to such charges and expenses. Any other lien under subsection (1) is effective against the consignor and any person who permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked such authority.

(3) A carrier loses his lien on any goods which he voluntarily delivers or which he unjustifiably refuses to deliver. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7—308. Enforcement of Carrier's Lien

(1) A carrier's lien may be enforced by public or private sale of the goods, in bloc or in parcels, at any time or place and on any terms which are commercially reasonable, after notifying all persons known to claim an interest in the goods. Such notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the carrier either sells the goods in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold he has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable except in cases covered by the preceding sentence.

(2) Before any sale pursuant to this section any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section. In that event the goods must not be sold, but must be retained by the carrier subject to the terms of the bill and this Article.

(3) The carrier may buy at any public sale pursuant to this section.

(4) A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free of any rights of persons against whom the lien was valid, despite noncompliance by the carrier with the requirements of this section.

(5) The carrier may satisfy his lien from the proceeds of any sale pursuant to this section but must hold the balance, if any, for delivery on demand to any person to whom he would have been bound to deliver the goods.

(6) The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against his debtor.

(7) A carrier's lien may be enforced in accordance with either subsection (1) or the procedure set forth in subsection (2) of Section 7—210.

(8) The carrier is liable for damages caused by failure to comply with the requirements for sale under this section and in case of willful

violation is liable for conversion. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 7—309. Duty of Care; Contractual Limitation of Carrier's Liability**

(1) A carrier who issues a bill of lading whether negotiable or non-negotiable must exercise the degree of care in relation to the goods which a reasonably careful man would exercise under like circumstances. This subsection does not repeal or change any law or rule of law which imposes liability upon a common carrier for damages not caused by its negligence.

(2) Damages may be limited by a provision that the carrier's liability shall not exceed a value stated in the document if the carrier's rates are dependent upon value and the consignor by the carrier's tariff is afforded an opportunity to declare a higher value or a value as lawfully provided in the tariff, or where no tariff is filed he is otherwise advised of such opportunity; but no such limitation is effective with respect to the carrier's liability for conversion to its own use.

(3) Reasonable provisions as to the time and manner of presenting claims and instituting actions based on the shipment may be included in a bill of lading or tariff. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**PART 4. WAREHOUSE RECEIPTS AND BILLS OF LADING:  
GENERAL OBLIGATIONS**

**§ 7—401. Irregularities in Issue of Receipt or Bill or Conduct of Issuer**

The obligations imposed by this Article on an issuer apply to a document of title regardless of the fact that

- (a) the document may not comply with the requirements of this Article or of any other law or regulation regarding its issue, form or content; or
- (b) the issuer may have violated laws regulating the conduct of his business; or
- (c) the goods covered by the document were owned by the bailee at the time the document was issued; or
- (d) the person issuing the document does not come within the definition of warehouseman if it purports to be a warehouse receipt. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 7—402. Duplicate Receipt or Bill; Overissue**

Neither a duplicate nor any other document of title purporting to cover goods already represented by an outstanding document of the same issuer confers any right in the goods, except as provided in the case of bills in a set, overissue of documents for fungible goods and substitutes for lost, stolen or destroyed documents. But the issuer is liable for damages caused by his overissue or failure to identify a duplicate document as such by conspicuous notation on its face. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7—403. Obligation of Warehouseman or Carrier to Deliver; Excuse

(1) The bailee must deliver the goods to a person entitled under the document who complies with subsections (2) and (3), unless and to the extent that the bailee establishes any of the following:

- (a) delivery of the goods to a person whose receipt was rightful as against the claimant;
- (b) damage to or delay, loss or destruction of the goods for which the bailee is not liable, but the burden of establishing negligence in case of damage or destruction by fire is on the person entitled under the document;
- (c) previous sale or other disposition of the goods in lawful enforcement of a lien or on warehouseman's lawful termination of storage;
- (d) the exercise by a seller of his right to stop delivery pursuant to the provisions of the Article on Sales (Section 2—705);
- (e) a diversion, reconsignment or other disposition pursuant to the provisions of this Article (Section 7—303) or tariff regulating such right;
- (f) release, satisfaction or any other fact affording a personal defense against the claimant;
- (g) any other lawful excuse.

(2) A person claiming goods covered by a document of title must satisfy the bailee's lien where the bailee so requests or where the bailee is prohibited by law from delivering the goods until the charges are paid.

(3) Unless the person claiming is one against whom the document confers no right under Sec. 7—503 (1), he must surrender for cancellation or notation of partial deliveries any outstanding negotiable document covering the goods, and the bailee must cancel the document or conspicuously note the partial delivery thereon or be liable to any person to whom the document is duly negotiated.

(4) "Person entitled under the document" means holder in the case of a negotiable document, or the person to whom delivery is to be made by the terms of or pursuant to written instructions under a non-negotiable document. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7—404. No Liability for Good Faith Delivery Pursuant to Receipt or Bill

A bailee who in good faith including observance of reasonable commercial standards has received goods and delivered or otherwise disposed of them according to the terms of the document of title or pursuant to this Article is not liable therefor. This rule applies even though the person from whom he received the goods had no authority to procure the document or to dispose of the goods and even though the person to whom he delivered the goods had no authority to receive them. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## PART 5. WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION AND TRANSFER

### § 7—501. Form of Negotiation and Requirements of "Due Negotiation"

(1) A negotiable document of title running to the order of a named person is negotiated by his indorsement and delivery. After

his indorsement in blank or to bearer any person can negotiate it by delivery alone.

(2) (a) A negotiable document of title is also negotiated by delivery alone when by its original terms it runs to bearer.

(b) When a document running to the order of a named person is delivered to him the effect is the same as if the document had been negotiated.

(3) Negotiation of a negotiable document of title after it has been indorsed to a specified person requires indorsement by the special indorsee as well as delivery.

(4) A negotiable document of title is "duly negotiated" when it is negotiated in the manner stated in this section to a holder who purchases it in good faith without notice of any defense against or claim to it on the part of any person and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a money obligation.

(5) Indorsement of a non-negotiable document neither makes it negotiable nor adds to the transferee's rights.

(6) The naming in a negotiable bill of a person to be notified of the arrival of the goods does not limit the negotiability of the bill nor constitute notice to a purchaser thereof of any interest of such person in the goods. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7—502. Rights Acquired by Due Negotiation

(1) Subject to the following section and to the provisions of Section 7—205 on fungible goods, a holder to whom a negotiable document of title has been duly negotiated acquires thereby:

(a) title to the document;

(b) title to the goods;

(c) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(d) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by him except those arising under the terms of the document or under this Article. In the case of a delivery order the bailee's obligation accrues only upon acceptance and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2) Subject to the following section, title and rights so acquired are not defeated by any stoppage of the goods represented by the document or by surrender of such goods by the bailee, and are not impaired even though the negotiation or any prior negotiation constituted a breach of duty or even though any person has been deprived of possession of the document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion, or even though a previous sale or other transfer of the goods or document has been made to a third person. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 7—503. Document of Title to Goods Defeated in Certain Cases

(1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither

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- (a) delivered or entrusted them or any document of title covering them to the bailor or his nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this Article (Section 7—403) or with power of disposition under this Act (Sections 2—403 and 9—307) or other statute or rule of law; nor
- (b) acquiesced in the procurement by the bailor or his nominee of any document of title.

(2) Title to goods based upon an unaccepted delivery order is subject to the rights of anyone to whom a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. Such a title may be defeated under the next section to the same extent as the rights of the issuer or a transferee from the issuer.

(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of anyone to whom a bill issued by the freight forwarder is duly negotiated; but delivery by the carrier in accordance with Part 4 of this Article pursuant to its own bill of lading discharges the carrier's obligation to deliver. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 7—504. Rights Acquired in the Absence of Due Negotiation; Effect of Diversion; Seller's Stoppage of Delivery

(1) A transferee of a document, whether negotiable or non-negotiable, to whom the document has been delivered but not duly negotiated, acquires the title and rights which his transferor had or had actual authority to convey.

(2) In the case of a non-negotiable document, until but not after the bailee receives notification of the transfer, the rights of the transferee may be defeated

- (a) by those creditors of the transferor who could treat the sale as void under Section 2—402; or
- (b) by a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of his rights; or
- (c) as against the bailee by good faith dealings of the bailee with the transferor.

(3) A diversion or other change of shipping instructions by the consignor in a non-negotiable bill of lading which causes the bailee not to deliver to the consignee defeats the consignee's title to the goods if they have been delivered to a buyer in ordinary course of business and in any event defeats the consignee's rights against the bailee.

(4) Delivery pursuant to a non-negotiable document may be stopped by a seller under Section 2—705, and subject to the requirement of due notification there provided. A bailee honoring the seller's instructions is entitled to be indemnified by the seller against any resulting loss or expense. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 7—505. Indorser Not a Guarantor for Other Parties

The indorsement of a document of title issued by a bailee does not make the indorser liable for any default by the bailee or by previous indorsers. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 7-506. Delivery Without Indorsement: Right to Compel Indorsement**

The transferee of a negotiable document of title has a specifically enforceable right to have his transferor supply any necessary indorsement but the transfer becomes a negotiation only as of the time the indorsement is supplied. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 7-507. Warranties on Negotiation or Transfer of Receipt or Bill**

Where a person negotiates or transfers a document of title for value otherwise than as a mere intermediary under the next following section, then unless otherwise agreed he warrants to his immediate purchaser only in addition to any warranty made in selling the goods

- (a) that the document is genuine; and
- (b) that he has no knowledge of any fact which would impair its validity or worth; and
- (c) that his negotiation or transfer is rightful and fully effective with respect to the title to the document and the goods it represents. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 7-508. Warranties of Collecting Bank as to Documents**

A collecting bank or other intermediary known to be entrusted with documents on behalf of another or with collection of a draft or other claim against delivery of documents warrants by such delivery of the documents only its own good faith and authority. This rule applies even though the intermediary has purchased or made advances against the claim or draft to be collected. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 7-509. Receipt or Bill: When Adequate Compliance With Commercial Contract**

The question whether a document is adequate to fulfill the obligations of a contract for sale or the conditions of a credit is governed by the Articles on Sales (Article 2) and on Letters of Credit (Article 5). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**PART 6. WAREHOUSE RECEIPTS AND BILLS OF LADING:  
MISCELLANEOUS PROVISIONS**

**§ 7-601. Lost and Missing Documents**

(1) If a document has been lost, stolen or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with such order. If the document was negotiable the claimant must post security approved by the court to indemnify any person who may suffer loss as a result of non-surrender of the document. If the document was not negotiable, such security may be required at the discretion of the court. The court may also in its discretion order payment of the bailee's reasonable costs and counsel fees.

(2) A bailee who without court order delivers goods to a person claiming under a missing negotiable document is liable to any person injured thereby, and if the delivery is not in good faith becomes liable for conversion. Delivery in good faith is not conversion if made in



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accordance with a filed classification or tariff or, where no classification or tariff is filed, if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery who files a notice of claim within one year after the delivery. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 7-602. Attachment of Goods Covered by a Negotiable Document**

Except where the document was originally issued upon delivery of the goods by a person who had no power to dispose of them, no lien attaches by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless the document be first surrendered to the bailee or its negotiation enjoined, and the bailee shall not be compelled to deliver the goods pursuant to process until the document is surrendered to him or impounded by the court. One who purchases the document for value without notice of the process or injunction takes free of the lien imposed by judicial process. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 7-603. Conflicting Claims; Interpleader**

If more than one person claims title or possession of the goods, the bailee is excused from delivery until he has had a reasonable time to ascertain the validity of the adverse claims or to bring an action to compel all claimants to interplead and may compel such interpleader, either in defending an action for non-delivery of the goods, or by original action, whichever is appropriate. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**ARTICLE 8. INVESTMENT SECURITIES****PART 1. SHORT TITLE AND GENERAL MATTERS**

- Section  
8—101. Short Title.  
8—102. Definitions and Index of Definitions.  
8—103. Issuer's Lien.  
8—104. Effect of Overissue; "Overissue".  
8—105. Securities Negotiable; Presumptions.  
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**PART 2. ISSUE—ISSUER**

- 8—201. "Issuer".  
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**PART 3. PURCHASE**

- 8—301. Rights Acquired by Purchaser; "Adverse Claim"; Title Acquired by Bona Fide Purchaser.  
8—302. "Bona Fide Purchaser".  
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**PART 4. REGISTRATION**

**Section**

- 8—401. Duty of Issuer to Register Transfer.
- 8—402. Assurance That Indorsements Are Effective.
- 8—403. Limited Duty of Inquiry.
- 8—404. Liability and Non-Liability for Registration.
- 8—405. Lost, Destroyed and Stolen Securities.
- 8—406. Duty of Authenticating Trustee, Transfer Agent or Registrar.

**PART 1. SHORT TITLE AND GENERAL MATTERS**

**Section 8—101. Short Title**

This Article shall be known and may be cited as Uniform Commercial Code—Investment Securities. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8—102. Definitions and Index of Definitions**

- (1) In this Article unless the context otherwise requires
- (a) A “security” is an instrument which
    - (i) is issued in bearer or registered form; and
    - (ii) is of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment; and
    - (iii) is either one of a class or series or by its terms is divisible into a class or series of instruments; and
    - (iv) evidences a share, participation or other interest in property or in an enterprise or evidences an obligation of the issuer.
  - (b) A writing which is a security is governed by this Article and not by Uniform Commercial Code-Commercial Paper even though it also meets the requirements of that Article. This Article does not apply to money.
  - (c) A security is in “registered form” when it specifies a person entitled to the security or to the rights it evidences and when its transfer may be registered upon books maintained for that purpose by or on behalf of an issuer or the security so states.
  - (d) A security is in “bearer form” when it runs to bearer according to its terms and not by reason of any indorsement.
- (2) A “subsequent purchaser” is a person who takes other than by original issue.
- (3) A “clearing corporation” is a corporation all of the capital stock of which is held by or for a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934.<sup>1</sup>
- (4) A “custodian bank” is any bank or trust company which is supervised and examined by state or federal authority having supervision over banks and which is acting as custodian for a clearing corporation.

<sup>1</sup> 15 U.S.C.A. § 75 et seq.

(5) Other definitions applying to this Article or to specified Parts thereof and the sections in which they appear are:

"Adverse claim".	Section 8—301.
"Bona fide purchaser".	Section 8—302.
"Broker".	Section 8—303.
"Guarantee of the signature".	Section 8—402.
"Intermediary bank".	Section 4—105.
"Issuer".	Section 8—201.
"Overissue".	Section 8—104.

(6) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—103. Issuer's Lien

A lien upon a security in favor of an issuer thereof is valid against a purchaser only if the right of the issuer to such lien is noted conspicuously on the security. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—104. Effect of Overissue; "Overissue"

(1) The provisions of this Article which validate a security or compel its issue or reissue do not apply to the extent that validation, issue or reissue would result in overissue; but

- (a) if an identical security which does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase and deliver such a security to him against surrender of the security, if any, which he holds; or
- (b) if a security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or the last purchaser for value paid for it with interest from the date of his demand.

(2) "Overissue" means the issue of securities in excess of the amount which the issuer has corporate power to issue. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—105. Securities Negotiable; Presumptions

(1) Securities governed by this Article are negotiable instruments.

(2) In any action on a security

- (a) unless specifically denied in the pleadings, each signature on the security or in a necessary indorsement is admitted;
- (b) when the effectiveness of a signature is put in issue the burden of establishing it is on the party claiming under the signature but the signature is presumed to be genuine or authorized;
- (c) when signatures are admitted or established production of the instrument entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security; and
- (d) after it is shown that a defense or defect exists the plaintiff has the burden of establishing that he or some person under whom he claims is a person against whom the defense or defect is ineffective (Section 8—202). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8-106. Applicability**

The validity of a security and the rights and duties of the issuer with respect to registration of transfer are governed by the law (including the conflict of laws rules) of the jurisdiction of organization of the issuer. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8-107. Securities Deliverable; Action for Price**

(1) Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to deliver securities may deliver any security of the specified issue in bearer form or registered in the name of the transferee or indorsed to him or in blank.

(2) When the buyer fails to pay the price as it comes due under a contract of sale the seller may recover the price

- (a) of securities accepted by the buyer; and
- (b) of other securities if efforts at their resale would be unduly burdensome or if there is no readily available market for their resale. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**PART 2. ISSUE—ISSUER****§ 8-201. "Issuer"**

(1) With respect to obligations on or defenses to a security "issuer" includes a person who

- (a) places or authorizes the placing of his name on a security (otherwise than as authenticating trustee, registrar, transfer agent or the like) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty to perform an obligation evidenced by the security; or
- (b) directly or indirectly creates fractional interests in his rights or property which fractional interests are evidenced by securities; or
- (c) becomes responsible for or in place of any other person described as an issuer in this section.

(2) With respect to obligations on or defenses to a security a guarantor is an issuer to the extent of his guaranty whether or not his obligation is noted on the security.

(3) With respect to registration of transfer (Part 4 of this Article) "issuer" means a person on whose behalf transfer books are maintained. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8-202. Issuer's Responsibility and Defenses; Notice of Defect or Defense**

(1) Even against a purchaser for value and without notice, the terms of a security include those stated on the security and those made part of the security by reference to another instrument, indenture or document or to a constitution, statute, ordinance, rule, regulation, order or the like to the extent that the terms so referred to do not conflict with the stated terms. Such a reference does not of itself charge a purchaser for value with notice of a defect going to the validity of the security even though the security expressly states that a person accepting it admits such notice.

- (2) (a) A security other than one issued by a government or governmental agency or unit even though issued with a defect going to its validity is valid in the hands of a purchaser for value and without notice of the particular defect unless the defect involves a violation of constitutional provisions in which case the security is valid in the hands of a subsequent purchaser for value and without notice of the defect.
- (b) The rule of subparagraph (a) applies to an issuer which is a government or governmental agency or unit only if either there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.
- (3) Except as otherwise provided in the case of certain unauthorized signatures on issue (Section 8—205), lack of genuineness of a security is a complete defense even against a purchaser for value and without notice.
- (4) All other defenses of the issuer including nondelivery and conditional delivery of the security are ineffective against a purchaser for value who has taken without notice of the particular defense.
- (5) Nothing in this section shall be construed to affect the right of a party to a “when, as and if issued” or a “when distributed” contract to cancel the contract in the event of a material change in the character of the security which is the subject of the contract or in the plan or arrangement pursuant to which such security is to be issued or distributed. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—203. Staleness as Notice of Defects or Defenses

- (1) After an act or event which creates a right to immediate performance of the principal obligation evidenced by the security or which sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer
- (a) if the act or event is one requiring the payment of money or the delivery of securities or both on presentation or surrender of the security and such funds or securities are available on the date set for payment or exchange and he takes the security more than one year after that date; and
- (b) if the act or event is not covered by paragraph (a) and he takes the security more than two years after the date set for surrender or presentation or the date on which such performance became due.
- (2) A call which has been revoked is not within subsection (1). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—204. Effect of Issuer's Restrictions on Transfer

Unless noted conspicuously on the security a restriction on transfer imposed by the issuer even though otherwise lawful is ineffective except against a person with actual knowledge of it. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—205. Effect of Unauthorized Signature on Issue

An unauthorized signature placed on a security prior to or in the course of issue is ineffective except that the signature is effective in

favor of a purchaser for value and without notice of the lack of authority if the signing has been done by

- (a) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security or of similar securities or their immediate preparation for signing; or
- (b) an employee of the issuer or of any of the foregoing entrusted with responsible handling of the security. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8—206. Completion or Alteration of Instrument**

- (1) Where a security contains the signatures necessary to its issue or transfer but is incomplete in any other respect
  - (a) any person may complete it by filling in the blanks as authorized; and
  - (b) even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of such incorrectness.
- (2) A complete security which has been improperly altered even though fraudulently remains enforceable but only according to its original terms. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8—207. Rights of Issuer With Respect to Registered Owners**

- (1) Prior to due presentment for registration of transfer of a security in registered form the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, to receive notifications and otherwise to exercise all the rights and powers of an owner.
- (2) Nothing in this Article shall be construed to affect the liability of the registered owner of a security for calls, assessments or the like. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8—208. Effect of Signature of Authenticating Trustee, Registrar or Transfer Agent**

- (1) A person placing his signature upon a security as authenticating trustee, registrar, transfer agent or the like warrants to a purchaser for value without notice of the particular defect that
  - (a) the security is genuine; and
  - (b) his own participation in the issue of the security is within his capacity and within the scope of the authorization received by him from the issuer; and
  - (c) he has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.
- (2) Unless otherwise agreed, a person by so placing his signature does not assume responsibility for the validity of the security in other respects. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**PART 3. PURCHASE**

**§ 8—301. Rights Acquired by Purchaser; "Adverse Claim";  
 Title Acquired by Bona Fide Purchaser**

- (1) Upon delivery of a security the purchaser acquires the rights in the security which his transferor had or had actual authority to

convey except that a purchaser who has himself been a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve his position by taking from a later bona fide purchaser. "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.

(2) A bona fide purchaser in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim.

(3) A purchaser of a limited interest acquires rights only to the extent of the interest purchased. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8-302. "Bona Fide Purchaser"

A "bona fide purchaser" is a purchaser for value in good faith and without notice of any adverse claim who takes delivery of a security in bearer form or of one in registered form issued to him or indorsed to him or in blank. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8-303. "Broker"

"Broker" means a person engaged for all or part of his time in the business of buying and selling securities, who in the transaction concerned acts for, or buys a security from or sells a security to a customer. Nothing in this Article determines the capacity in which a person acts for purposes of any other statute or rule to which such person is subject. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8-304. Notice to Purchaser of Adverse Claims

(1) A purchaser (including a broker for the seller or buyer but excluding an intermediary bank) of a security is charged with notice of adverse claims if

- (a) the security whether in bearer or registered form has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or
- (b) the security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor. The mere writing of a name on a security is not such a statement.

(2) The fact that the purchaser (including a broker for the seller or buyer) has notice that the security is held for a third person or is registered in the name of or indorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute notice of adverse claims. If, however, the purchaser (excluding an intermediary bank) has knowledge that the proceeds are being used or that the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8-305. Staleness as Notice of Adverse Claims

An act or event which creates a right to immediate performance of the principal obligation evidenced by the security or which sets a date on or after which the security is to be presented or surrendered for redemption or exchange does not of itself constitute any notice of adverse claims except in the case of a purchase

- (a) after one year from any date set for such presentment or surrender for redemption or exchange; or



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- (b) after six months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—306. Warranties on Presentment and Transfer

(1) A person who presents a security for registration of transfer or for payment or exchange warrants to the issuer that he is entitled to the registration, payment or exchange. But a purchaser for value without notice of adverse claims who receives a new, reissued or re-registered security on registration of transfer warrants only that he has no knowledge of any unauthorized signature (Section 8—311) in a necessary indorsement.

(2) A person by transferring a security to a purchaser for value warrants only that

- (a) his transfer is effective and rightful; and
- (b) the security is genuine and has not been materially altered; and
- (c) he knows no fact which might impair the validity of the security.

(3) Where a security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against such delivery, the intermediary by such delivery warrants only his own good faith and authority even though he has purchased or made advances against the claim to be collected against the delivery.

(4) A pledgee or other holder for security who redelivers the security received, or after payment and on order of the debtor delivers that security to a third person makes only the warranties of an intermediary under subsection (3).

(5) A broker gives to his customer and to the issuer and a purchaser the warranties provided in this section and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of his customer. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—307. Effect of Delivery Without Indorsement; Right to Compel Indorsement

Where a security in registered form has been delivered to a purchaser without a necessary indorsement he may become a bona fide purchaser only as of the time the indorsement is supplied, but against the transferor the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—308. Indorsement, How Made; Special Indorsement; Indorser Not a Guarantor; Partial Assignment

(1) An indorsement of a security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or when the signature of such person is written without more upon the back of the security.

(2) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorse-

ment specifies the person to whom the security is to be transferred, or who has power to transfer it. A holder may convert a blank indorsement into a special indorsement.

(3) "An appropriate person" in subsection (1) means

- (a) the person specified by the security or by special indorsement to be entitled to the security; or
- (b) where the person so specified is described as a fiduciary but is no longer serving in the described capacity,—either that person or his successor; or
- (c) where the security or indorsement so specifies more than one person as fiduciaries and one or more are no longer serving in the described capacity,—the remaining fiduciary or fiduciaries, whether or not a successor has been appointed or qualified; or
- (d) where the person so specified is an individual and is without capacity to act by virtue of death, incompetence, infancy or otherwise,—his executor, administrator, guardian or like fiduciary; or
- (e) where the security or indorsement so specifies more than one person as tenants by the entirety or with right of survivorship and by reason of death all cannot sign,—the survivor or survivors; or
- (f) a person having power to sign under applicable law or controlling instrument; or
- (g) to the extent that any of the foregoing persons may act through an agent,—his authorized agent.

(4) Unless otherwise agreed the indorser by his indorsement assumes no obligation that the security will be honored by the issuer.

(5) An indorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

(6) Whether the person signing is appropriate is determined as of the date of signing and an indorsement by such a person does not become unauthorized for the purposes of this Article by virtue of any subsequent change of circumstances.

(7) Failure of a fiduciary to comply with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, does not render his indorsement unauthorized for the purposes of this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—309. Effect of Indorsement Without Delivery

An indorsement of a security whether special or in blank does not constitute a transfer until delivery of the security on which it appears or if the indorsement is on a separate document until delivery of both the document and the security. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—310. Indorsement of Security in Bearer Form

An indorsement of a security in bearer form may give notice of adverse claims (Section 8—304) but does not otherwise affect any right to registration the holder may possess. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8—311. Effect of Unauthorized Indorsement**

Unless the owner has ratified an unauthorized indorsement or is otherwise precluded from asserting its ineffectiveness

- (a) he may assert its ineffectiveness against the issuer or any purchaser other than a purchaser for value and without notice of adverse claims who has in good faith received a new, reissued or re-registered security on registration of transfer; and
- (b) an issuer who registers the transfer of a security upon the unauthorized indorsement is subject to liability for improper registration (Section 8—404). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8—312. Effect of Guaranteeing Signature or Indorsement**

(1) Any person guaranteeing a signature of an indorser of a security warrants that at the time of signing

- (a) the signature was genuine; and
- (b) the signer was an appropriate person to indorse (Section 8—308); and
- (c) the signer had legal capacity to sign.

But the guarantor does not otherwise warrant the rightfulness of the particular transfer.

(2) Any person may guarantee an indorsement of a security and by so doing warrants not only the signature (subsection 1) but also the rightfulness of the particular transfer in all respects. But no issuer may require a guarantee of indorsement as a condition to registration of transfer.

(3) The foregoing warranties are made to any person taking or dealing with the security in reliance on the guarantee and the guarantor is liable to such person for any loss resulting from breach of the warranties. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8—313. When Delivery to the Purchaser Occurs; Purchaser's Broker as Holder**

(1) Delivery to a purchaser occurs when

- (a) he or a person designated by him acquires possession of a security; or
- (b) his broker acquires possession of a security specially indorsed to or issued in the name of the purchaser; or
- (c) his broker sends him confirmation of the purchase and also by book entry or otherwise identifies a specific security in the broker's possession as belonging to the purchaser; or
- (d) with respect to an identified security to be delivered while still in the possession of a third person when that person acknowledges that he holds for the purchaser; or
- (e) appropriate entries on the books of a clearing corporation are made under Section 8—320.

(2) The purchaser is the owner of a security held for him by his broker, but is not the holder except as specified in subparagraphs (b), (c) and (e) of subsection (1). Where a security is part of a fungible bulk the purchaser is the owner of a proportionate proprietary interest in the fungible bulk.

(3) Notice of an adverse claim received by the broker or by the purchaser after the broker takes delivery as a holder for value is not effective either as to the broker or as to the purchaser. However, as between the broker and the purchaser the purchaser may demand de-

livery of an equivalent security as to which no notice of an adverse claim has been received. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—314. Duty to Deliver, When Completed

(1) Unless otherwise agreed where a sale of a security is made on an exchange or otherwise through brokers

(a) the selling customer fulfills his duty to deliver when he places such a security in the possession of the selling broker or of a person designated by the broker or if requested causes an acknowledgment to be made to the selling broker that it is held for him; and

(b) the selling broker including a correspondent broker acting for a selling customer fulfills his duty to deliver by placing the security or a like security in the possession of the buying broker or a person designated by him or by effecting clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

(2) Except as otherwise provided in this section and unless otherwise agreed, a transferor's duty to deliver a security under a contract of purchase is not fulfilled until he places the security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by him or at the purchaser's request causes an acknowledgment to be made to the purchaser that it is held for him. Unless made on an exchange a sale to a broker purchasing for his own account is within this subsection and not within subsection (1). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—315. Action Against Purchaser Based Upon Wrongful Transfer

(1) Any person against whom the transfer of a security is wrongful for any reason, including his incapacity, may against anyone except a bona fide purchaser reclaim possession of the security or obtain possession of any new security evidencing all or part of the same rights or have damages.

(2) If the transfer is wrongful because of an unauthorized indorsement, the owner may also reclaim or obtain possession of the security or new security even from a bona fide purchaser if the ineffectiveness of the purported indorsement can be asserted against him under the provisions of this Article on unauthorized indorsements (Section 8—311).

(3) The right to obtain or reclaim possession of a security may be specifically enforced and its transfer enjoined and the security impounded pending the litigation. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—316. Purchaser's Right to Requisites for Registration of Transfer on Books

Unless otherwise agreed the transferor must on due demand supply his purchaser with any proof of his authority to transfer or with any other requisite which may be necessary to obtain registration of the transfer of the security but if the transfer is not for value a transferor need not do so unless the purchaser furnishes the necessary expenses. Failure to comply with a demand made within a reasonable time gives the purchaser the right to reject or rescind the transfer. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8—317. Attachment or Levy Upon Security**

(1) No attachment or levy upon a security or any share or other interest evidenced thereby which is outstanding shall be valid until the security is actually seized by the officer making the attachment or levy but a security which has been surrendered to the issuer may be attached or levied upon at the source.

(2) A creditor whose debtor is the owner of a security shall be entitled to such aid from courts of appropriate jurisdiction, by injunction or otherwise, in reaching such security or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8—318. No Conversion by Good Faith Delivery**

An agent or bailee who in good faith (including observance of reasonable commercial standards if he is in the business of buying, selling or otherwise dealing with securities) has received securities and sold, pledged or delivered them according to the instructions of his principal is not liable for conversion or for participation in breach of fiduciary duty although the principal had no right to dispose of them. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8—319. Statute of Frauds**

A contract for the sale of securities is not enforceable by way of action or defense unless

- (a) there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price; or
- (b) delivery of the security has been accepted or payment has been made but the contract is enforceable under this provision only to the extent of such delivery or payment; or
- (c) within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under paragraph (a) has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within ten days after its receipt; or
- (d) the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract was made for sale of a stated quantity of described securities at a defined or stated price. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8—320. Transfer or Pledge within a Central Depository System**

- (1) If a security
  - (a) is in the custody of a clearing corporation or of a custodian bank or a nominee of either subject to the instructions of the clearing corporation; and
  - (b) is in bearer form or indorsed in blank by an appropriate person or registered in the name of the clearing corporation or custodian bank or a nominee of either; and
  - (c) is shown on the account of a transferor or pledgor on the books of the clearing corporation;

then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries on the books of the clearing corporation reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.

(2) Under this section entries may be with respect to like securities or interests therein as a part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number or the like and, in appropriate cases, may be on a net basis taking into account other transfers or pledges of the same security.

(3) A transfer or pledge under this section has the effect of a delivery of a security in bearer form or duly indorsed in blank (Section 8—301) representing the amount of the obligation or the number of shares or rights transferred or pledged. If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the pledgee or a secured party (Sections 9—304 and 9—305). A transferee or pledgee under this section is a holder.

(4) A transfer or pledge under this section does not constitute a registration of transfer under Part 4 of this Article.

(5) That entries made on the books of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations of the clearing corporation to any person adversely affected thereby. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### PART 4. REGISTRATION

##### § 8—401. Duty of Issuer to Register Transfer

(1) Where a security in registered form is presented to the issuer with a request to register transfer, the issuer is under a duty to register the transfer as requested if

- (a) the security is indorsed by the appropriate person or persons (Section 8—308); and
- (b) reasonable assurance is given that those indorsements are genuine and effective (Section 8—402); and
- (c) the issuer has no duty to inquire into adverse claims or has discharged any such duty (Section 8—403); and
- (d) any applicable law relating to the collection of taxes has been complied with; and
- (e) the transfer is in fact rightful or is to a bona fide purchaser.

(2) Where an issuer is under a duty to register a transfer of a security the issuer is also liable to the person presenting it for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

##### § 8—402. Assurance That Indorsements Are Effective

(1) The issuer may require the following assurance that each necessary indorsement (Section 8—308) is genuine and effective

- (a) in all cases, a guarantee of the signature (subsection (1) of Section 8—312) of the person indorsing; and

For Annotations and Historical Notes, see V.A.T.S.

- (b) where the indorsement is by an agent, appropriate assurance of authority to sign;
- (c) where the indorsement is by a fiduciary, appropriate evidence of appointment or incumbency;
- (d) where there is more than one fiduciary, reasonable assurance that all who are required to sign have done so;
- (e) where the indorsement is by a person not covered by any of the foregoing, assurance appropriate to the case corresponding as nearly as may be to the foregoing.

(2) A "guarantee of the signature" in subsection (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible. The issuer may adopt standards with respect to responsibility provided such standards are not manifestly unreasonable.

(3) "Appropriate evidence of appointment or incumbency" in subsection (1) means

- (a) in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within sixty days before the date of presentation for transfer; or
- (b) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the issuer to be responsible or, in the absence of such a document or certificate, other evidence reasonably deemed by the issuer to be appropriate. The issuer may adopt standards with respect to such evidence provided such standards are not manifestly unreasonable. The issuer is not charged with notice of the contents of any document obtained pursuant to this paragraph (b) except to the extent that the contents relate directly to the appointment or incumbency.

(4) The issuer may elect to require reasonable assurance beyond that specified in this section but if it does so and for a purpose other than that specified in subsection 3(b) both requires and obtains a copy of a will, trust, indenture, articles of co-partnership, by-laws or other controlling instrument it is charged with notice of all matters contained therein affecting the transfer. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 8—403. Limited Duty of Inquiry

(1) An issuer to whom a security is presented for registration is under a duty to inquire into adverse claims if

- (a) a written notification of an adverse claim is received at a time and in a manner which affords the issuer a reasonable opportunity to act on it prior to the issuance of a new, re-issued or re-registered security and the notification identifies the claimant, the registered owner and the issue of which the security is a part and provides an address for communications directed to the claimant; or
- (b) the issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under subsection (4) of Section 8—402.

(2) The issuer may discharge any duty of inquiry by any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by him or if there be no such address at his residence or regular place of business that the security has been presented for registration of transfer by a named person,

and that the transfer will be registered unless within thirty days from the date of mailing the notification, either

- (a) an appropriate restraining order, injunction or other process issues from a court of competent jurisdiction; or
- (b) an indemnity bond sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar or other agent of the issuer involved, from any loss which it or they may suffer by complying with the adverse claim is filed with the issuer.

(3) Unless an issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under subsection (4) of Section 8—402 or receives notification of an adverse claim under subsection (1) of this section, where a security presented for registration is indorsed by the appropriate person or persons the issuer is under no duty to inquire into adverse claims. In particular

- (a) an issuer registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;
- (b) an issuer registering transfer on an indorsement by a fiduciary is not bound to inquire whether the transfer is made in compliance with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and
- (c) the issuer is not charged with notice of the contents of any court record or file or other recorded or unrecorded document even though the document is in its possession and even though the transfer is made on the indorsement of a fiduciary to the fiduciary himself or to his nominee. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### § 8—404. Liability and Non-Liability for Registration

(1) Except as otherwise provided in any law relating to the collection of taxes, the issuer is not liable to the owner or any other person suffering loss as a result of the registration of a transfer of a security if

- (a) there were on or with the security the necessary indorsements (Section 8—308); and
- (b) the issuer had no duty to inquire into adverse claims or has discharged any such duty (Section 8—403).

(2) Where an issuer has registered a transfer of a security to a person not entitled to it the issuer on demand must deliver a like security to the true owner unless

- (a) the registration was pursuant to subsection (1); or
- (b) the owner is precluded from asserting any claim for registering the transfer under subsection (1) of the following section; or
- (c) such delivery would result in overissue, in which case the issuer's liability is governed by Section 8—104. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.



**§ 8—405. Lost, Destroyed and Stolen Securities**

(1) Where a security has been lost, apparently destroyed or wrongfully taken and the owner fails to notify the issuer of that fact within a reasonable time after he has notice of it and the issuer registers a transfer of the security before receiving such a notification, the owner is precluded from asserting against the issuer any claim for registering the transfer under the preceding section or any claim to a new security under this section.

(2) Where the owner of a security claims that the security has been lost, destroyed or wrongfully taken, the issuer must issue a new security in place of the original security if the owner

- (a) so requests before the issuer has notice that the security has been acquired by a bona fide purchaser; and
- (b) files with the issuer a sufficient indemnity bond; and
- (c) satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of the new security, a bona fide purchaser of the original security presents it for registration of transfer, the issuer must register the transfer unless registration would result in overissue, in which event the issuer's liability is governed by Section 8—104. In addition to any rights on the indemnity bond, the issuer may recover the new security from the person to whom it was issued or any person taking under him except a bona fide purchaser. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 8—406. Duty of Authenticating Trustee, Transfer Agent or Registrar**

(1) Where a person acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities

- (a) he is under a duty to the issuer to exercise good faith and due diligence in performing his functions; and
- (b) he has with regard to the particular functions he performs the same obligation to the holder or owner of the security and has the same rights and privileges as the issuer has in regard to those functions.

(2) Notice to an authenticating trustee, transfer agent, registrar or other such agent is notice to the issuer with respect to the functions performed by the agent. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## ARTICLE 9. SECURED TRANSACTIONS; SALES OF ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER

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**Section**

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**PART 1. SHORT TITLE, APPLICABILITY AND DEFINITIONS**

**Section 9—101. Short Title**

This Article shall be known and may be cited as Uniform Commercial Code—Secured Transactions. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—102. Policy and Scope of Article**

(1) Except as otherwise provided in Section 9—103 on multiple state transactions and in Section 9—104 on excluded transactions, this Article applies so far as concerns any personal property and fixtures within the jurisdiction of this State

- (a) to any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper, accounts or contract rights; and also
- (b) to any sale of accounts, contract rights or chattel paper.

(2) This Article applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This Article does not apply to statutory liens except as provided in Section 9—310.

(3) The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—103. Accounts, Contract Rights, General Intangibles and Equipment Relating to Another Jurisdiction; and Incoming Goods Already Subject to a Security Interest**

(1) If the office where the assignor of accounts or contract rights keeps his records concerning them is in this state, the validity and perfection of a security interest therein and the possibility and effect of proper filing is governed by this Article; otherwise by the law (including the conflict of laws rules) of the jurisdiction where such office is located.

(2) If the chief place of business of a debtor is in this state, this Article governs the validity and perfection of a security interest and the possibility and effect of proper filing with regard to general intangibles or with regard to goods of a type which are normally used in more than one jurisdiction (such as automotive equipment, rolling stock, airplanes, road building equipment, commercial harvesting equipment, construction machinery and the like) if such goods are classified as equipment or classified as inventory by reason of their being leased by the debtor to others. Otherwise, the law (including the conflict of laws rules) of the jurisdiction where such chief place of business is located shall govern. If the chief place of business is located in a jurisdiction which does not provide for perfection of the security interest by filing or recording in that jurisdiction, then the security interest may be perfected by filing in this state. For the purpose of determining the validity and perfection of a security interest in an airplane, the chief place of business of a debtor who is a foreign air carrier under the Federal Aviation Act of 1958, as amended, is the designated office of the agent upon whom service of process may be made on behalf of the debtor.

(3) If personal property other than that governed by subsections (1) and (2) is already subject to a security interest when it is brought into this state, the validity of the security interest in this state is to be determined by the law (including the conflict of laws rules) of the jurisdiction where the property was when the security interest attached. However, if the parties to the transaction under-

stood at the time that the security interest attached that the property would be kept in this state and it was brought into this state within 30 days after the security interest attached for purposes other than transportation through this state, then the validity of the security interest in this state is to be determined by the law of this state. If the security interest was already perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, the security interest continues perfected in this state for four months and also thereafter if within the four month period it is perfected in this state. The security interest may also be perfected in this state after the expiration of the four month period; in such case perfection dates from the time of perfection in this state. If the security interest was not perfected under the law of the jurisdiction where the property was when the security interest attached and before being brought into this state, it may be perfected in this state; in such case perfection dates from the time of perfection in this state.

(4) Notwithstanding subsections (2) and (3), if personal property is covered by certificate of title issued under a statute of this state or any other jurisdiction which requires indication on a certificate of title of any security interest in the property as a condition of perfection, then the perfection is governed by the law of the jurisdiction which issued the certificate.

(5) Notwithstanding subsection (1) and Section 9—302, if the office where the assignor of accounts or contract rights keeps his records concerning them is not located in a jurisdiction which is a part of the United States, its territories or possessions, and the accounts or contract rights are within the jurisdiction of this state or the transaction which creates the security interest otherwise bears an appropriate relation to this state, this Article governs the validity and perfection of the security interest and the security interest may only be perfected by notification to the account debtor. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

## § 9—104. Transactions Excluded From Article

This Article does not apply

- (a) to a security interest subject to any statute of the United States such as the Ship Mortgage Act, 1920,<sup>1</sup> to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or
- (b) to a landlord's lien; or
- (c) to a lien given by statute or other rule of law for services or materials except as provided in Section 9—310 on priority of such liens; or
- (d) to a transfer of a claim for wages, salary or other compensation of an employee; or
- (e) to an equipment trust covering railway rolling stock; or
- (f) to a sale of accounts, contract rights or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts, contract rights or chattel paper which is for the purpose of collection only, or a transfer of a contract right to an assignee who is also to do the performance under the contract; or
- (g) to a transfer of an interest or claim in or under any policy of insurance; or

<sup>1</sup> 46 U.S.C.A. § 911 et seq.

- (h) to a right represented by a judgment; or
- (i) to any right of set-off; or
- (j) except to the extent that provision is made for fixtures in Section 9—313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder; or
- (k) to a transfer in whole or in part of any of the following: any claim arising out of tort; any deposit, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—105. Definitions and Index of Definitions

(1) In this Article unless the context otherwise requires:

- (a) "Account debtor" means the person who is obligated on an account, chattel paper, contract right or general intangible;
- (b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;
- (c) "Collateral" means the property subject to a security interest, and includes accounts, contract rights and chattel paper which have been sold;
- (d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts, contract rights or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the Article dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;
- (e) "Document" means document of title as defined in the general definitions of Article 1 (Section 1—201);
- (f) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (Section 9—313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, contract rights and other things in action. "Goods" also include the unborn young of animals and growing crops;
- (g) "Instrument" means a negotiable instrument (defined in Section 3—104), or a security (defined in Section 8—102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;
- (h) "Security agreement" means an agreement which creates or provides for a security interest;
- (i) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts, contract rights or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

For Annotations and Historical Notes, see V.A.T.S.

(2) Other definitions applying to this Article and the sections in which they appear are:

"Account".	Section 9—106.
"Consumer goods".	Section 9—109(1).
"Contract right".	Section 9—106.
"Equipment".	Section 9—109(2).
"Farm products".	Section 9—109(3).
"General intangibles".	Section 9—106.
"Inventory".	Section 9—109(4).
"Lien creditor".	Section 9—301(3).
"Proceeds".	Section 9—306(1).
"Purchase money security interest".	Section 9—107.

(3) The following definitions in other Articles apply to this Article:

"Check".	Section 3—104.
"Contract for sale".	Section 2—106.
"Holder in due course".	Section 3—302.
"Note".	Section 3—104.
"Sale".	Section 2—106.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—106. Definitions: "Account"; "Contract Right"; "General Intangibles"

"Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper. "Contract right" means any right to payment under a contract not yet earned by performance and not evidenced by an instrument or chattel paper. "General intangibles" means any personal property (including things in action) other than goods, accounts, contract rights, chattel paper, documents and instruments. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—107. Definitions: "Purchase Money Security Interest"

A security interest is a "purchase money security interest" to the extent that it is

- (a) taken or retained by the seller of the collateral to secure all or part of its price; or
  - (b) taken by a person who by making advances or incurring an obligation gives value to enable the debtor to acquire rights in or the use of collateral if such value is in fact so used.
- Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—108. When After-Acquired Collateral Not Security for Antecedent Debt

Where a secured party makes an advance, incurs an obligation, releases a perfected security interest, or otherwise gives new value which is to be secured in whole or in part by after-acquired property his security interest in the after-acquired collateral shall be deemed to be taken for new value and not as security for an antecedent debt if the debtor acquires his rights in such collateral either in the ordinary course of his business or under a contract of purchase made pursuant to the security agreement within a reasonable time after new value is given. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—109. Classification of Goods; “Consumer Goods”; “Equipment”; “Farm Products”; “Inventory”**

Goods are

(1) “consumer goods” if they are used or bought for use primarily for personal, family or household purposes;

(2) “equipment” if they are used or bought for use primarily in business (including farming or a profession) or by a debtor who is a non-profit organization or a governmental subdivision or agency or if the goods are not included in the definitions of inventory, farm products or consumer goods:

(3) “farm products” if they are crops or livestock or supplies used or produced in farming operations or if they are products of crops or livestock in their unmanufactured states (such as ginned cotton, wool-clip, maple syrup, milk and eggs), and if they are in the possession of a debtor engaged in raising, fattening, grazing or other farming operations. If goods are farm products they are neither equipment nor inventory;

(4) “inventory” if they are held by a person who holds them for sale or lease or to be furnished under contracts of service or if he has so furnished them, or if they are raw materials, work in process or materials used or consumed in a business. Inventory of a person is not to be classified as his equipment. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—110. Sufficiency of Description**

For the purposes of this Article any description of personal property or real estate is sufficient whether or not it is specific if it reasonably identifies what is described. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—111. Applicability of Bulk Transfer Laws**

The creation of a security interest is not a bulk transfer under Article 6 (see Section 6—103). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—112. Where Collateral Is Not Owned by Debtor**

Unless otherwise agreed, when a secured party knows that collateral is owned by a person who is not the debtor, the owner of the collateral is entitled to receive from the secured party any surplus under Section 9—502(2) or under Section 9—504(1), and is not liable for the debt or for any deficiency after resale, and he has the same right as the debtor

(a) to receive statements under Section 9—208;

(b) to receive notice of and to object to a secured party's proposal to retain the collateral in satisfaction of the indebtedness under Section 9—505;

(c) to redeem the collateral under Section 9—506;

(d) to obtain injunctive or other relief under Section 9—507(1); and

(e) to recover losses caused to him under Section 9—208(2). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.



**§ 9—113. Security Interests Arising Under Article on Sales**

A security interest arising solely under the Article on Sales (Article 2) is subject to the provisions of this Article except that to the extent that and so long as the debtor does not have or does not lawfully obtain possession of the goods

- (a) no security agreement is necessary to make the security interest enforceable; and
- (b) no filing is required to perfect the security interest; and
- (c) the rights of the secured party on default by the debtor are governed by the Article on Sales (Article 2). Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**PART 2. VALIDITY OF SECURITY AGREEMENT  
AND RIGHTS OF PARTIES THERETO****§ 9—201. General Validity of Security Agreement**

Except as otherwise provided by this Act a security agreement is effective according to its terms between the parties, against purchasers of the collateral and against creditors. Nothing in this Article validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail installment sales, or the like, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—202. Title to Collateral Immaterial**

Each provision of this Article with regard to rights, obligations and remedies applies whether title to collateral is in the secured party or in the debtor. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—203. Enforceability of Security Interest; Proceeds, Formal Requisites**

(1) Subject to the provisions of Section 4—208 on the security interest of a collecting bank and Section 9—113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties unless

- (a) the collateral is in the possession of the secured party; or
- (b) the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops or oil, gas or minerals to be extracted or timber to be cut, a description of the land concerned. In describing collateral, the word "proceeds" is sufficient without further description to cover proceeds of any character.

(2) A transaction, although subject to this Article, is also subject to the Texas Regulatory Loan Act, Texas Laws, 1963, Chap. 205, p. 550 (compiled as Vern.Tex.Civ.Stat.Ann., Art. 6165b), and in the case of conflict between the provisions of this Article and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—204. When Security Interest Attaches; After-Acquired Property; Future Advances**

(1) A security interest cannot attach until there is agreement (subsection (3) of Section 1—201) that it attach and value is given and the debtor has rights in the collateral. It attaches as soon as all of the events in the preceding sentence have taken place unless explicit agreement postpones the time of attaching.

(2) For the purposes of this section the debtor has no rights

- (a) in crops until they are planted or otherwise become growing crops, in the young of livestock until they are conceived;
- (b) in fish until caught, in oil, gas or minerals until they are extracted, in timber until it is cut;
- (c) in a contract right until the contract has been made;
- (d) in an account until it comes into existence.

(3) Except as provided in subsection (4) a security agreement may provide that collateral, whenever acquired, shall secure all obligations covered by the security agreement.

(4) No security interest attaches under an after-acquired property clause

(a) to crops which become such more than three years after the security agreement is executed except that a security interest in crops which is given in conjunction with a lease or a land purchase or improvement transaction evidenced by a contract, mortgage or deed of trust may if so agreed attach to crops to be grown on the land concerned during the period of such real estate transaction;

(b) to consumer goods other than accessions (Section 9—314) when given as additional security unless the debtor acquires rights in them within ten days after the secured party gives value.

(5) Obligations covered by a security agreement may include future advances or other value whether or not the advances or value are given pursuant to commitment. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—205. Use or Disposition of Collateral Without Accounting Permissible**

A security interest is not invalid or fraudulent against creditors by reason of liberty in the debtor to use, commingle or dispose of all or part of the collateral (including returned or repossessed goods) or to collect or compromise accounts, contract rights or chattel paper, or to accept the return of goods or make repossessions, or to use, commingle or dispose of proceeds, or by reason of the failure of the secured party to require the debtor to account for proceeds or replace collateral. This section does not relax the requirements of possession where perfection of a security interest depends upon possession of the collateral by the secured party or by a bailee. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—206. Agreement Not to Assert Defenses Against Assignee; Modification of Sales Warranties Where Security Agreement Exists**

(1) Subject to any statute or decision which establishes a different rule for buyers or lessees of consumer goods, an agreement by a

For Annotations and Historical Notes, see V.A.T.S.

buyer or lessee that he will not assert against an assignee any claim or defense which he may have against the seller or lessor is enforceable by an assignee who takes his assignment for value, in good faith and without notice of a claim or defense, except as to defenses of a type which may be asserted against a holder in due course of a negotiable instrument under the Article on Commercial Paper (Article 3). A buyer who as part of one transaction signs both a negotiable instrument and a security agreement makes such an agreement.

(2) When a seller retains a purchase money security interest in goods the Article on Sales (Article 2) governs the sale and any disclaimer, limitation or modification of the seller's warranties. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—207. Rights and Duties When Collateral Is in Secured Party's Possession

(1) A secured party must use reasonable care in the custody and preservation of collateral in his possession. In the case of an instrument or chattel paper reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Unless otherwise agreed, when collateral is in the secured party's possession

- (a) reasonable expenses (including the cost of any insurance and payment of taxes or other charges) incurred in the custody, preservation, use or operation of the collateral are chargeable to the debtor and are secured by the collateral;
- (b) the risk of accidental loss or damage is on the debtor to the extent of any deficiency in any effective insurance coverage;
- (c) the secured party may hold as additional security any increase or profits (except money) received from the collateral, but money so received, unless remitted to the debtor, shall be applied in reduction of the secured obligation;
- (d) the secured party must keep the collateral identifiable but fungible collateral may be commingled;
- (e) the secured party may repledge the collateral upon terms which do not impair the debtor's right to redeem it.

(3) A secured party is liable for any loss caused by his failure to meet any obligation imposed by the preceding subsections but does not lose his security interest.

(4) A secured party may use or operate the collateral for the purpose of preserving the collateral or its value or pursuant to the order of a court of appropriate jurisdiction or, except in the case of consumer goods, in the manner and to the extent provided in the security agreement. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—208. Request for Statement of Account or List of Collateral

(1) A debtor may sign a statement indicating what he believes to be the aggregate amount of unpaid indebtedness as of a specified date and may send it to the secured party with a request that the statement be approved or corrected and returned to the debtor. When the security agreement or any other record kept by the secured party identifies the collateral a debtor may similarly request the secured party to approve or correct a list of the collateral.

(2) The secured party must comply with such a request within two weeks after receipt by sending a written correction or approval. If the secured party claims a security interest in all of a particular type of collateral owned by the debtor he may indicate that fact in his

reply and need not approve or correct an itemized list of such collateral. If the secured party without reasonable excuse fails to comply he is liable for any loss caused to the debtor thereby; and if the debtor has properly included in his request a good faith statement of the obligation or a list of the collateral or both the secured party may claim a security interest only as shown in the statement against persons misled by his failure to comply. If he no longer has an interest in the obligation or collateral at the time the request is received he must disclose the name and address of any successor in interest known to him and he is liable for any loss caused to the debtor as a result of failure to disclose. A successor in interest is not subject to this section until a request is received by him.

(3) A debtor is entitled to such a statement once every six months without charge. The secured party may require payment of a charge not exceeding \$10 for each additional statement furnished. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### PART 3. RIGHTS OF THIRD PARTIES; PERFECTED AND UNPERFECTED SECURITY INTERESTS; RULES OF PRIORITY

#### § 9—301. Persons Who Take Priority Over Unperfected Security Interests; "Lien Creditor"

(1) Except as otherwise provided in subsection (2), an unperfected security interest is subordinate to the rights of

- (a) persons entitled to priority under Section 9—312;
- (b) a person who becomes a lien creditor without knowledge of the security interests and before it is perfected;
- (c) in the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;
- (d) in the case of accounts, contract rights, and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within ten days after the collateral comes into possession of the debtor, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment. Unless all the creditors represented had knowledge of the security interests such a representative of creditors is a lien creditor without knowledge even though he personally has knowledge of the security interest. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—302. When Filing Is Required to Perfect Security Interest; Security Interests to Which Filing Provisions of This Article Do Not Apply**

(1) A financing statement must be filed to perfect all security interests except the following:

- (a) a security interest in collateral in possession of the secured party under Section 9—305;
- (b) a security interest temporarily perfected in instruments or documents without delivery under Section 9—304 or in proceeds for a 10 day period under Section 9—306;
- (c) a purchase money security interest in farm equipment having a purchase price not in excess of \$2500; but filing is required for a fixture under Section 9—313 or for a motor vehicle required to be licensed;
- (d) a purchase money security interest in consumer goods; but filing is required for a fixture under Section 9—313 or for a motor vehicle required to be licensed;
- (e) an assignment of accounts or contract rights which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts or contract rights of the assignor;
- (f) a security interest of a collecting bank (Section 4—208) or arising under the Article on Sales (see Section 9—113) or covered in subsection (3) of this section.

(2) If a secured party assigns a perfected security interest, no filing under this Article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing provisions of this Article do not apply to a security interest in property subject to a statute

- (a) of the United States which provides for a national registration or filing of all security interests in such property; or
- (b) of this state which provides for central filing of, or which requires indication on a certificate of title of, such security interests in such property.

(4) A security interest in property covered by a statute described in subsection (3) can be perfected only by registration or filing under that statute or by indication of the security interest on a certificate of title or a duplicate thereof by a public official.

(5) Where the debtor is a person engaged in this State in one or more of the following activities, a security interest granted by or on behalf of the debtor may be perfected by filing in the place and manner described in Acts 52nd Legislature, 1951, Chapter 195, as amended (compiled as Vernon's Texas Civil Statutes Anno. Art. 1438a):

- (i) the generation, manufacture, transmission or distribution and sale of electric energy and power;
- (ii) the transportation, distribution and sale through local distribution system of natural or other gas for domestic, commercial, industrial or any other use;
- (iii) the ownership or operation of any pipeline for the transportation or sale of natural gas, crude oil or petroleum products to other pipeline companies, refineries, local distributing systems, municipalities or industrial consumers;
- (iv) the provision of telephone or telegraph service to others;
- (v) the production, transmission or distribution and sale of steam or water; and
- (vi) the operation of a railroad. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—303. When Security Interest Is Perfected; Continuity of Perfection**

(1) A security interest is perfected when it has attached and when all of the applicable steps required for perfection have been taken. Such steps are specified in Sections 9—302, 9—304, 9—305 and 9—306. If such steps are taken before the security interest attaches, it is perfected at the time when it attaches.

(2) If a security interest is originally perfected in any way permitted under this Article and is subsequently perfected in some other way under this Article, without an intermediate period when it was unperfected, the security interest shall be deemed to be perfected continuously for the purposes of this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—304. Perfection of Security Interest in Instruments, Documents and Goods Covered by Documents; Perfection by Permissive Filing; Temporary Perfection Without Filing or Transfer of Possession**

(1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5).

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

- (a) makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange; or
- (b) delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the 21 day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—305. When Possession by Secured Party Perfects Security Interest Without Filing

A security interest in letters of credit and advices of credit (subsection (2) (a) of Section 5—116), goods, instruments, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—306. "Proceeds"; Secured Party's Rights on Disposition of Collateral

(1) "Proceeds" includes whatever is received when collateral or proceeds is sold, exchanged, collected or otherwise disposed of. The term also includes the account arising when the right to payment is earned under a contract right. Money, checks and the like are "cash proceeds". All other proceeds are "non-cash proceeds".

(2) Except where this Article otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof by the debtor unless his action was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected ten days after receipt of the proceeds by the debtor unless

- (a) a filed financing statement covering the original collateral also covers proceeds; or
- (b) the security interest in the proceeds is perfected before the expiration of the ten day period.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest

- (a) in identifiable non-cash proceeds;
- (b) in identifiable cash proceeds in the form of money which is not commingled with other money or deposited in a bank account prior to the insolvency proceedings;
- (c) in identifiable cash proceeds in the form of checks and the like which are not deposited in a bank account prior to the insolvency proceedings; and
- (d) in all cash and bank accounts of the debtor, if other cash proceeds have been commingled or deposited in a bank account, but the perfected security interest under this paragraph (d) is
  - (i) subject to any right of set-off; and
  - (ii) limited to an amount not greater than the amount of any cash proceeds received by the debtor within ten days before the institution of the insolvency proceedings and commingled or deposited in a bank account prior to the insolvency proceedings less the amount of cash

proceeds received by the debtor and paid over to the secured party during the ten day period.

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

- (a) If the goods were collateral at the time of sale for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.
- (b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) to the extent that the transferee of the chattel paper was entitled to priority under Section 9—308.
- (c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a).
- (d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—307. Protection of Buyers of Goods

(1) A buyer in ordinary course of business (subsection (9) of Section 1—201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) In the case of consumer goods and in the case of farm equipment having an original purchase price not in excess of \$2500 (other than fixtures, see Section 9—313), a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes or his own farming operations unless prior to the purchase the secured party has filed a financing statement covering such goods. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—308. Purchase of Chattel Paper and Non-Negotiable Instruments

A purchaser of chattel paper or a non-negotiable instrument who gives new value and takes possession of it in the ordinary course of his business and without knowledge that the specific paper or instrument is subject to a security interest has priority over a security interest which is perfected under Section 9—304 (permissive filing and temporary perfection). A purchaser of chattel paper who gives new value and takes possession of it in the ordinary course of his business has priority over a security interest in chattel paper which is claimed merely as proceeds of inventory subject to a security interest (Section 9—



306), even though he knows that the specific paper is subject to the security interest. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—309. Protection of Purchasers of Instruments and Documents

Nothing in this Article limits the rights of a holder in due course of a negotiable instrument (Section 3—302) or a holder to whom a negotiable document of title has been duly negotiated (Section 7—501) or a bona fide purchaser of a security (Section 8—301) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this Article does not constitute notice of the security interest to such holders or purchasers. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—310. Priority of Certain Liens Arising by Operation of Law

When a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a security interest, a lien upon goods in the possession of such person given by statute or rule of law for such materials or services takes priority over a perfected security interest unless the lien is statutory and the statute expressly provides otherwise. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—311. Alienability of Debtor's Rights: Judicial Process

The debtor's rights in collateral may be voluntarily or involuntarily transferred (by way of sale, creation of a security interest, attachment, levy, garnishment or other judicial process) notwithstanding a provision in the security agreement prohibiting any transfer or making the transfer constitute a default. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—312. Priorities Among Conflicting Security Interests in the Same Collateral

(1) The rules of priority stated in the following sections shall govern where applicable: Section 4—208 with respect to the security interest of collecting banks in items being collected, accompanying documents and proceeds; Section 9—301 on certain priorities; Section 9—304 on goods covered by documents; Section 9—306 on proceeds and repossessions; Section 9—307 on buyers of goods; Section 9—308 on possessory against non-possessory interests in chattel paper or non-negotiable instruments; Section 9—309 on security interests in negotiable instruments, documents or securities; Section 9—310 on priorities between perfected security interests and liens by operation of law; Section 9—313 on security interests in fixtures as against interests in real estate; Section 9—314 on security interests in accessions as against interest in goods; Section 9—315 on conflicting security interests where goods lose their identity or become part of a product; and Section 9—316 on contractual subordination.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A purchase money security interest in inventory collateral has priority over a conflicting security interest in the same collateral if

- (a) the purchase money security interest is perfected at the time the debtor receives possession of the collateral; and
- (b) any secured party whose security interest is known to the holder of the purchase money security interest or who, prior to the date of the filing made by the holder of the purchase money security interest, had filed a financing statement covering the same items or type of inventory, has received notification of the purchase money security interest before the debtor receives possession of the collateral covered by the purchase money security interest; and
- (c) such notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within ten days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined as follows:

- (a) in the order of filing if both are perfected by filing, regardless of which security interest attached first under Section 9—204(1) and whether it attached before or after filing;
- (b) in the order of perfection unless both are perfected by filing, regardless of which security interest attached first under Section 9—204(1) and, in the case of a filed security interest, whether it attached before or after filing; and
- (c) in the order of attachment under Section 9—204(1) so long as neither is perfected.

(6) For the purpose of the priority rules of the immediately preceding subsection, a continuously perfected security interest shall be treated at all times as if perfected by filing if it was originally so perfected and it shall be treated at all times as if perfected otherwise than by filing if it was originally perfected otherwise than by filing. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—313. Priority of Security Interests in Fixtures

(1) The rules of this section do not apply to goods incorporated into a structure in the manner of lumber, bricks, tile, cement, glass, metal work and the like and no security interest in them exists under this Article unless the structure remains personal property under applicable law. The law of this state other than this Act determines whether and when other goods become fixtures. This Act does not prevent creation of an encumbrance upon fixtures or real estate pursuant to the law applicable to real estate.

(2) A security interest which attaches to goods before they become fixtures takes priority as to the goods over the claims of all persons who have an interest in the real estate except as stated in subsection (4).

(3) A security interest which attaches to goods after they become fixtures is valid against all persons subsequently acquiring interests

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in the real estate except as stated in subsection (4) but is invalid against any person with an interest in the real estate at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as fixtures.

(4) The security interests described in subsections (2) and (3) do not take priority over

- (a) a subsequent purchaser for value of any interest in the real estate; or
- (b) a creditor with a lien on the real estate subsequently obtained by judicial proceedings; or
- (c) a creditor with a prior encumbrance of record on the real estate to the extent that he makes subsequent advances if the subsequent purchase is made, the lien by judicial proceedings is obtained, or the subsequent advance under the prior encumbrance is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the real estate at a foreclosure sale other than an encumbrancer purchasing at his own foreclosure sale is a subsequent purchaser within this section.

(5) When under subsections (2) or (3) and (4) a secured party has priority over the claims of all persons who have interests in the real estate, he may, on default, subject to the provisions of Part 5, remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9-314. Accessions

(1) A security interest in goods which attaches before they are installed in or affixed to other goods takes priority as to the goods installed or affixed (called in this section "accessions") over the claims of all persons to the whole except as stated in subsection (3) and subject to Section 9-315(1).

(2) A security interest which attaches to goods after they become part of a whole is valid against all persons subsequently acquiring interests in the whole except as stated in subsection (3) but is invalid against any person with an interest in the whole at the time the security interest attaches to the goods who has not in writing consented to the security interest or disclaimed an interest in the goods as part of the whole.

(3) The security interests described in subsections (1) and (2) do not take priority over

- (a) a subsequent purchaser for value of any interest in the whole; or
- (b) a creditor with a lien on the whole subsequently obtained by judicial proceedings; or
- (c) a creditor with a prior perfected security interest in the whole to the extent that he makes subsequent advances

if the subsequent purchase is made, the lien by judicial proceedings obtained or the subsequent advance under the prior perfected security interest is made or contracted for without knowledge of the security interest and before it is perfected. A purchaser of the whole at a fore-

closure sale other than the holder of a perfected security interest purchasing at his own foreclosure sale is a subsequent purchaser within this section.

(4) When under subsections (1) or (2) and (3) a secured party has an interest in accessions which has priority over the claims of all persons who have interests in the whole, he may on default subject to the provisions of Part 5 remove his collateral from the whole but he must reimburse any encumbrancer or owner of the whole who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—315. Priority When Goods Are Commingled or Processed

(1) If a security interest in goods was perfected and subsequently the goods or a part thereof have become part of a product or mass, the security interest continues in the product or mass if

- (a) the goods are so manufactured, processed, assembled or commingled that their identity is lost in the product or mass; or
- (b) a financing statement covering the original goods also covers the product into which the goods have been manufactured, processed or assembled.

In a case to which paragraph (b) applies, no separate security interest in that part of the original goods which has been manufactured, processed or assembled into the product may be claimed under Section 9—314.

(2) When under subsection (1) more than one security interest attaches to the product or mass, they rank equally according to the ratio that the cost of the goods to which each interest originally attached bears to the cost of the total product or mass. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—316. Priority Subject to Subordination

Nothing in this Article prevents subordination by agreement by any person entitled to priority. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—317. Secured Party Not Obligated on Contract of Debtor

The mere existence of a security interest or authority given to the debtor to dispose of or use collateral does not impose contract or tort liability upon the secured party for the debtor's acts or omissions. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—318. Defenses Against Assignee; Modification of Contract After Notification of Assignment; Term Prohibiting Assignment Ineffective; Identification and Proof of Assignment

(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims arising out of a sale as provided in Section 9—206 the rights of an assignee are subject to

- (a) all the terms of the contract between the account debtor and assignor and any defense or claim arising therefrom; and

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- (b) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives notification of the assignment.
- (2) So far as the right to payment under an assigned contract right has not already become an account, and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith and in accordance with reasonable commercial standards is effective against an assignee unless the account debtor has otherwise agreed but the assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that such modification or substitution is a breach by the assignor.
- (3) The account debtor is authorized to pay the assignor until the account debtor receives notification that the account has been assigned and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the account debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the account debtor may pay the assignor.
- (4) A term in any contract between an account debtor and an assignor which prohibits assignment of an account or contract right to which they are parties is ineffective. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

#### PART 4. FILING

### § 9—401. Place of Filing; Erroneous Filing; Removal of Collateral

- (1) The proper place to file in order to perfect a security interest is as follows:
- (a) when the collateral is equipment used in farming operations, or farm products, or accounts, contract rights or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the County Clerk in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the County Clerk in the county where the goods are kept, and in addition when the collateral is crops in the office of the County Clerk in the county where the land on which the crops are growing or to be grown is located;
  - (b) when the collateral is goods which at the time the security interest attaches are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded;
  - (c) in all other cases, in the office of the Secretary of State.
- (2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this Article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.
- (3) A filing which is made in the proper county continues effective for four months after a change to another county of the debtor's residence or place of business or the location of the collateral, whichever controlled the original filing. It becomes ineffective thereafter unless a copy of the financing statement signed by the secured party is filed in the new county within said period. The security interest

may also be perfected in the new county after the expiration of the four-month period; in such case perfection dates from the time of perfection in the new county. A change in the use of the collateral does not impair the effectiveness of the original filing.

(4) If collateral is brought into this state from another jurisdiction, the rules stated in Section 9—103 determine whether filing is necessary in this state. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—402. Formal Requisites of Financing Statement; Amendments**

(1) A financing statement is sufficient if it is signed by the debtor and the secured party, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown or goods which are or are to become fixtures, the statement must also contain a description of the real estate concerned. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by both parties.

(2) A financing statement which otherwise complies with subsection (1) is sufficient although it is signed only by the secured party when it is filed to perfect a security interest in

- (a) collateral already subject to a security interest in another jurisdiction when it is brought into this state. Such a financing statement must state that the collateral was brought into this state under such circumstances.
- (b) proceeds under Section 9—306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral.

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor) .....  
 Address .....  
 Name of secured party (or assignee) .....  
 Address .....  
 1. This financing statement covers the following types (or items) of property:  
     (Describe) .....  
 2. (If collateral is crops) The above described crops are growing or are to be grown on:  
     (Describe Real Estate) .....  
 3. (If collateral is goods which are or are to become fixtures) The above described goods are affixed or to be affixed to:  
     (Describe Real Estate) .....  
 4. (If proceeds or products of collateral are claimed) Proceeds —Products of the collateral are also covered.  
     Signature of Debtor (or Assignor) .....  
     Signature of Secured Party (or Assignee) .....

(4) The term “financing statement” as used in this Article means the original financing statement and any amendments but if any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment.

(5) A financing statement substantially complying with the requirements of this section is effective even though it contains minor

errors which are not seriously misleading. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—403. What Constitutes Filing; Duration of Filing; Effect of Lapsed Filing; Duties of Filing Officer**

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

(2) A filed financing statement which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of sixty days. Any other filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such sixty day period after a stated maturity date or on the expiration of such five year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected. A filed financing statement which states that the obligation secured is payable on demand is effective for five years from the date of filing.

(3) A continuation statement may be filed by the secured party (i) within six months before and sixty days after a stated maturity date of five years or less, and (ii) otherwise within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.

(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be \$1.00. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—404. Termination Statement**

(1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof shall be \$0.75. If the affected secured party fails to send

such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement he must note it in the index. The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto.

(3) The uniform fee for filing and indexing a termination statement including sending or delivering the financing statement shall be \$1.00. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—405. Assignment of Security Interest; Duties of Filing Officer; Fees**

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in Section 9—403(4). The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be \$1.50.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be \$1.00.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—406. Release of Collateral; Duties of Filing Officer; Fees**

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be \$1.00. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.



**§ 9—407. Information From Filing Officer**

(1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be \$1.00 plus \$1.00 for each financing statement and for each statement of assignment reported therein. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of \$1.00 per page. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9—408. Prescribed Forms; Appropriation of Fees to Secretary of State**

(1) The Secretary of State may prescribe the forms to be used in making any filing or in requesting any information of the filing officer under this Article. Where the Secretary of State has prescribed the form and a person fails to use this form, the fee shall be twice that specified in the preceding sections.

(2) The filing and other fees paid to the Secretary of State under this Article shall be deposited in the General Revenue Fund of the State Treasury. For the administration of this Act's provisions respecting the Secretary of State, there is hereby appropriated from the General Revenue Fund to the Secretary of State the amount of \$15,150 for personal services, consumable supplies and materials, current and recurring operating expense and capital outlay for the fiscal year ending August 31, 1966; and \$20,880 for those same purposes for the fiscal year ending August 31, 1967. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**PART 5. DEFAULT****§ 9—501. Default; Procedure When Security Agreement Covers Both Real and Personal Property**

(1) When a debtor is in default under a security agreement, a secured party has the rights and remedies provided in this Part and except as limited by subsection (3) those provided in the security agreement. He may reduce his claim to judgment, foreclose or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies and duties provided in Section 9—207. The rights and remedies referred to in this subsection are cumulative.

(2) After default, the debtor has the rights and remedies provided in this Part, those provided in the security agreement and those provided in Section 9—207.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subsections referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (subsection (1) of Section 9—505) and with respect to redemption of collateral (Section 9—506) but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

- (a) subsection (2) of Section 9—502 and subsection (2) of Section 9—504 insofar as they require accounting for surplus proceeds of collateral;
- (b) subsection (3) of Section 9—504 and subsection (1) of Section 9—505 which deal with disposition of collateral;
- (c) subsection (2) of Section 9—505 which deals with acceptance of collateral as discharge of obligation;
- (d) Section 9—506 which deals with redemption of collateral; and
- (e) subsection (1) of Section 9—507 which deals with the secured party's liability for failure to comply with this Part.

(4) If the security agreement covers both real and personal property, the secured party may proceed under this Part as to the personal property or he may proceed as to both the real and the personal property in accordance with his rights and remedies in respect of the real property in which case the provisions of this Part do not apply.

(5) When a secured party has reduced his claim to judgment the lien of any levy which may be made upon his collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—502. Collection Rights of Secured Party

(1) When so agreed and in any event on default the secured party is entitled to notify an account debtor or the obligor on an instrument to make payment to him whether or not the assignor was theretofore making collections on the collateral, and also to take control of any proceeds to which he is entitled under Section 9—306.

(2) A secured party who by agreement is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor and who undertakes to collect from the account debtors or obligors must proceed in a commercially reasonable manner and may deduct his reasonable expenses of realization from the collections. If the security agreement secures an indebtedness, the secured party must account to the debtor for any surplus, and unless otherwise agreed, the debtor is liable for any deficiency. But, if the underlying transaction was a sale of accounts, contract rights, or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—503. Secured Party's Right to Take Possession After Default

Unless otherwise agreed a secured party has on default the right to take possession of the collateral. In taking possession a secured

party may proceed without judicial process if this can be done without breach of the peace or may proceed by action. If the security agreement so provides the secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties. Without removal a secured party may render equipment unusable, and may dispose of collateral on the debtor's premises under Section 9—504. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—504. Secured Party's Right to Dispose of Collateral After Default; Effect of Disposition

(1) A secured party after default may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing. Any sale of goods is subject to the Article on Sales (Article 2). The proceeds of disposition shall be applied in the order following to

- (a) the reasonable expenses of retaking, holding, preparing for sale, selling and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;
- (b) the satisfaction of indebtedness secured by the security interest under which the disposition is made;
- (c) the satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the secured party need not comply with his demand.

(2) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus, and, unless otherwise agreed, the debtor is liable for any deficiency. But if the underlying transaction was a sale of accounts, contract rights, or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor, and except in the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or who is known by the secured party to have a security interest in the collateral. The secured party may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he may buy at private sale.

(4) When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor's rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. The

purchaser takes free of all such rights and interests even though the secured party fails to comply with the requirements of this Part or of any judicial proceedings

- (a) in the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he does not buy in collusion with the secured party, other bidders or the person conducting the sale; or
- (b) in any other case, if the purchaser acts in good faith.

(5) A person who is liable to a secured party under a guaranty, indorsement, repurchase agreement or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party. Such a transfer of collateral is not a sale or disposition of the collateral under this Article. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—505. Compulsory Disposition of Collateral; Acceptance of the Collateral as Discharge of Obligation

(1) If the debtor has paid sixty per cent of the cash price in the case of a purchase money security interest in consumer goods or sixty per cent of the loan in the case of another security interest in consumer goods, and has not signed after default a statement renouncing or modifying his rights under this Part a secured party who has taken possession of collateral must dispose of it under Section 9—504 and if he fails to do so within ninety days after he takes possession the debtor at his option may recover in conversion or under Section 9—507(1) on secured party's liability.

(2) In any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent to the debtor and except in the case of consumer goods to any other secured party who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state or is known by the secured party in possession to have a security interest in it. If the debtor or other person entitled to receive notification objects in writing within thirty days from the receipt of the notification or if any other secured party objects in writing within thirty days after the secured party obtains possession the secured party must dispose of the collateral under Section 9—504. In the absence of such written objection the secured party may retain the collateral in satisfaction of the debtor's obligation. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 9—506. Debtor's Right to Redeem Collateral

At any time before the secured party has disposed of collateral or entered into a contract for its disposition under Section 9—504 or before the obligation has been discharged under Section 9—505(2) the debtor or any other secured party may unless otherwise agreed in writing after default redeem the collateral by tendering fulfillment of all obligations secured by the collateral as well as the expenses reasonably incurred by the secured party in retaking, holding and preparing the collateral for disposition, in arranging for the sale, and to the extent provided in the agreement and not prohibited by law, his reasonable attorneys' fees and legal expenses. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 9-507. Secured Party's Liability for Failure to Comply With This Part**

(1) If it is established that the secured party is not proceeding in accordance with the provisions of this Part disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by a failure to comply with the provisions of this Part. If the collateral is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus ten per cent of the principal amount of the debt or the time price differential plus ten per cent of the cash price.

(2) The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the secured party is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the secured party either sells the collateral in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he has sold in a commercially reasonable manner. The principles stated in the two preceding sentences with respect to sales also apply as may be appropriate to other types of disposition. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**ARTICLE 10. EFFECTIVE DATE AND REPEALER**

**Section**

- 10—101. Effective Date.
- 10—102. Specific Repealer; Provision for Transition.
- 10—103. General Repealer.
- 10—104. Laws Not Repealed.
- 10—105. Emergency Clause.

**Section 10—101. Effective Date**

This Act shall become effective at midnight on June 30, 1966. It applies to transactions entered into and events occurring after that date. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

**§ 10—102. Specific Repealer; Provision for Transition**

(1) The following acts and all other acts and parts of acts inconsistent herewith are hereby repealed:

Tex.Rev.Civ.Stat. arts. 5932-48 (1925), as amended by Tex.Sess. Laws 1961, ch. 109.

Tex.Rev.Civ.Stat. art. 567 (1925), as amended by Tex.Sess.Laws 1935, ch. 269.

Tex.Rev.Civ.Stat. arts. 568-571, 575, 576 (1925).

Tex.Sess.Laws 1943, ch. 97, chap. VII, arts. 1-6, 11, 12, as amended Tex.Sess.Laws 1957, ch. 434 (compiled as Vern.Tex.Civ. Stat. Ann. arts. 342-701-706; and arts. 342-711 and 342-712).

Tex.Rev.Civ.Stat. art. 4000 (1925), as amended Tex.Sess.Laws 1949, ch. 82 and Tex.Sess.Laws 1935, ch. 115.

Tex.Rev.Civ.Stat. arts. 4001-03 (1925), as amended by Tex.Sess. Laws 1961, ch. 328.

Tex.Rev.Civ.Stat. arts. 890-98 (1925).

Tex.Rev.Civ.Stat. arts. 5612-65 (1925).

Tex.Rev.Civ.Stat. arts. 5575-76 (1925).

Tex.Rev.Civ.Stat. arts. 5604-07, 5609.

Tex.Sess.Laws 1961, ch. 205, arts. 6.01-.24; (compiled as Vern. Tex.Civ.Stat. Ann. arts. 1302-6.01-1302-6.24).

Tex.Sess.Laws 1959, ch. 303 (compiled as Vern.Tex.Civ.Stat. Ann. art. 5499a-51).

Tex.Rev.Civ.Stat. arts. 5489-99 (1925), as amended and supplemented by Tex.Sess.Laws 1947, ch. 261; Tex.Sess.Laws 1933, ch. 117; Tex.Sess.Laws 1953, ch. 291.

Tex.Sess.Laws 1945, ch. 463,<sup>1</sup> as amended by Tex.Sess.Laws 1955, ch. 305; Tex.Sess.Laws 1957, ch. 348; (compiled as Vern. Tex.Civ.Stat. Ann. arts. 260-1).

Tex.Sess.Laws 1947, ch. 180, as amended by Tex.Sess.Laws 1955, ch. 173; (compiled as Vern.Tex.Civ.Stat. Ann. art. 5506c).

(2) Transactions validly entered into before the effective date specified in Section 10—101 and the rights, duties and interests flowing from them remain valid thereafter and may be terminated, completed, consummated or enforced as required or permitted by any statute or other law amended or repealed by this Act as though such repeal or amendment had not occurred. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

<sup>1</sup> Probably should read "Laws 1945, ch. 293, p. 463."

### § 10—103. General Repealer

Except as provided in the following section, all acts and parts of acts inconsistent with this Act are hereby repealed. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 10—104. Laws Not Repealed

(1) The Article on Documents of Title (Article 7) does not repeal or modify any laws prescribing the form or contents of documents of title or the services or facilities to be afforded by bailees, or otherwise regulating bailees' businesses in respects not specifically dealt with herein; but the fact that such laws are violated does not affect the status of a document of title which otherwise complies with the definition of a document of title (Section 1—201).

(2) This Act does not repeal Tex.Rev.Civ.Stat.Ann. art. 582—1, cited as the Uniform Act for the Simplification of Fiduciary Security Transfers, and if in any respect there is any inconsistency between that Act and the Article of this Act on investment securities (Article 8) the provisions of the former Act shall control.

(3) This Act does not repeal nor diminish Chapter 269, Acts 55th Legislature, 1957, as amended (compiled as Vernon's Texas Civil Statutes Annotated, Article 581—1 through 581—39, and known as The Texas Securities Act). If in any respect there is any inconsistency between that Act and this Act the provisions of the former Act control.

(4) Acts 52nd Legislature, 1951, Chapter 195, is amended to read as follows:

“Section 1. APPLICATION OF LAW. The provisions of this Act apply to mortgages, deeds of trust and other security instruments and agreements executed by and to secure the payment of bonds, notes, or other obligations of any person (See Section 1—201), engaged in this State in one or more of the following activities:

(a) the generation, manufacture, transmission or distribution and sale of electric energy and power;

(b) the transportation, distribution and sale through local distribution system of natural or other gas for domestic, commercial, industrial or any other use;

(c) the ownership or operation of any pipeline for the transportation or sale of natural gas, crude oil or petroleum products to other pipeline companies, refineries, local distributing systems, municipalities or industrial consumers;

(d) the provision of telephone or telegraph service to others; and

(e) the production, transmission or distribution and sale of steam or water; and

(f) the operation of a railroad.

“Section 2. FILING REQUIREMENTS. Any mortgage, deed of trust or other security instrument or agreement executed by any person described in Section 1 which by its terms subjects to the lien thereof property then owned or property to be acquired by the person subsequent to the execution by it of the security instrument or agreement, or both kinds of property, upon the deposit thereof for record in the office of the county clerk of any county and payment of the statutory recording fees constitutes notice of the lien as to the property situated in that county and described in the instrument or agreement and upon compliance

with the provisions of Section 3 of this Act also constitutes notice of the lien as to the property in that county acquired by the person subsequent to the execution and deposit for record in the county of the security instrument or agreement. The county clerk shall maintain a separate index with respect to the liens upon property concerning which notice is given by complying with this Act.

**“Section 3. AFTER-ACQUIRED PROPERTY CLAUSE.** Any security instrument or agreement described in Section 2 which grants a lien upon after-acquired property constitutes notice of the lien thereof as to any property acquired by the person subsequent to the execution of the security instrument or agreement upon the deposit for record in the office of the county clerk of

(a) the mortgage, deed of trust, or other security instrument or agreement; and

(b) an affidavit of the president, vice president, treasurer or secretary of the person which executed the security instrument or agreement setting forth that the person which executed the security instrument or agreement is one of the persons described in Section 1, which affidavit shall follow immediately after the signatures and acknowledgment of those executing the security instrument or agreement.

Each security instrument or agreement of the class to which the provisions of this section apply shall have typed or printed conspicuously on the title page the following: ‘This Instrument Contains After-acquired Property Provisions.’

**“Section 4. CHANGE OF MORTGAGOR’S CORPORATE NAME.** Any person described in Section 1 which has executed a security instrument or agreement within the terms of this Act which, subsequent to the execution and deposit for record of the security instrument or agreement, changes its name or merges or consolidates with another person, shall promptly deposit for record in the office of the county clerk in each county in which is situated property of the person an affidavit or other evidence of the change of name, merger or consolidation, setting forth the name of the person after the change, merger or consolidation. Until the affidavit or other evidence of change of name, merger or consolidation is deposited as required, the security instrument or agreement deposited for record does not constitute notice as to property acquired by the person succeeding the original mortgagor.

**“Section 5. DURATION OF RECORDATION AS NOTICE.** With respect to a lien granted upon goods which are fixtures or are to become fixtures and upon personal property (See Section 9—102(1)) which is granted by a security instrument or agreement falling within the terms of this Act, a security instrument or agreement deposited for record in accordance with this Act is effective as notice of the lien for ten years from the date of the deposit for record. Within six months prior to the expiration of this ten-year period, the mortgagee or mortgagor may deposit for record a continuation statement. The continuation statement must be signed by the mortgagee or mortgagor, identify the security instrument or agreement and any supplements by file number or by recording data and state that the security instrument or agreement, as supplemented, is still effective. Upon a timely filing for record of the continuation statement with the county clerk in the county in which property upon which a lien is



For Annotations and Historical Notes, see V.A.T.S.

claimed or sought is situated, the effectiveness of the security instrument or agreement, as supplemented, is continued for ten years after the last date to which the recordation was effective whereupon it again lapses unless another continuation statement is filed for record prior to the lapse. However, any lien upon goods which are fixtures or are to become fixtures and upon personal property which was perfected by complying with the provisions of this Act before July 1, 1967 shall remain perfected until July 1, 1977 without depositing for record the continuation statement described in this section. To continue such a lien beyond July 1, 1977, a continuation statement must be deposited in accordance with this section by July 1, 1977.

“Section 6. ACT CUMULATIVE. The provisions of this Act are cumulative of other laws concerning the executive, filing and recording of mortgages, deeds of trust and other security instruments or agreements. No lien perfected by the filing or recording of the security instrument or agreement prior to the effective date of this Act is impaired, invalidated or otherwise affected by any provision of this Act.” Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.

### § 10-105. Emergency Clause

Because a majority of the states in this nation, including all major commercial states and three of the states which border this State, have adopted laws substantially similar to this Act and uniformity with these states in the commercial law of this State, as well as certainty and clarity in many areas which are now unclear, are essential to the commercial life of this State, an imperative public necessity and an emergency exist, due to which the Constitutional Rule requiring that bills be read on three several days in each House is hereby suspended. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721.



# DISPOSITION TABLE

## Former Texas Statutes to Uniform Commercial Code

Where there are no relevant sections in the Texas Uniform Commercial Code, that fact is noted by the use of the abbreviation "N" for "None".

The letter "S" before a section of the Uniform Commercial Code means "Sec.". The abbreviation "Cf." before a section means "Compare."

### ACCOUNTS RECEIVABLE

Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.	Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.
260-1, § 1	N.	1-201(11)	260-1, § 5	N.	9-403
		9-105(1) (d)			9-404
		9-106	§ 6	N.	9-201
		9-306(5)			9-302
§ 2	N.	9-204			9-306
		9-302			9-318
		S. 9-405	§ 7	N.	9-306
§ 3	N.	9-203			9-318
		9-302	§ 8	N.	9-205
		9-402			9-306
§ 4	N.	9-303			
		9-401			
		9-403			
		9-407			

### COLLECTIONS

Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.	Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.
342-701	N.	1-201(4)	342-704	N.	4-301
		4-104	342-705	N.	4-213
		4-105	342-706	N.	4-214
342-702	N.	4-201	342-711	N.	4-406
342-703	N.	4-103	342-712	N.	4-303
		4-201			4-403
		4-202			

BILLS AND NOTES

Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.	Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.
567	N.	3-413	571	N.	S. 3-122
568	N.	3-122			S. 3-202
		3-201			S. 3-306
		3-302	575	N.	3-501
		3-305			3-502
		3-409			3-509
569	N.	1-103	576	N.	3-509
		3-409			3-510
570	N.	3-122			
		3-304			
		3-409			

BILLS OF LADING

Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.	Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.
890	N.	S. 7-102	893	N.	S. 7-104
		S. 7-301	894	N.	N.
891	N.	7-104	895	N.	7-304
		7-309			7-403
892	N.	1-201(6)	896	N.	7-403
		7-104	897	N.	7-601
		7-304	898	N.	7-308
		7-402			7-403

STOCK TRANSFERS

Vernon's Ann. Civ.Stats. Article	U.S.T.A.1 Sec.	Texas U.C.C. Sec.	Vernon's Ann. Civ.Stats. Article	U.S.T.A.1 Sec.	Texas U.C.C. Sec.
1302-6.02	1	8-309	1302-6.17	16	8-206
1302-6.03	2	N.	1302-6.18	17	8-405
1302-6.04	3	8-207	1302-6.19	18	1-103
1302-6.05	4	N.	1302-6.20	19	1-102(1)
1302-6.06	5	N.	1302-6.21	20	8-308
1302-6.07	6	N.	1302-6.22	21	N.
1302-6.08	7	8-301	1302-6.23	N.	N.
		8-315	1302-6.24	22	1-201(19)
1302-6.09	8	S. 8-308(5)			1-201(28)
1302-6.10	9	8-307			1-201(30)
1302-6.11	10	8-309			1-201(32)
1302-6.12	11	8-306			1-201(33)
1302-6.13	12	8-306			1-201(44)
1302-6.14	13	8-317			8-313
1302-6.15	14	8-317	1302-6.01	26	S. 8-101
1302-6.16	15	8-103			
		8-204			

1. Uniform Stock Transfer Act.

FRAUDULENT CONVEYANCES

Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.	Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.
4000	N.	9-201	4001	N.	6-105
		9-202			6-106
4001	N.	6-102	4002	N.	6-104
		6-103			6-106
		6-104	4003	N.	6-103

## CHATTEL MORTGAGES

Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.	Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.
5489	N.	9-204	5495	N.	9-404
5490	N.	9-201	5496	N.	N.
		9-301	5497	N.	9-401
		9-302	5497a	N.	S. 9-301
		9-401			S. 9-312
		9-403	5498	N.	S. 9-401
5492	N.	9-403(4)			S. 9-403
5493	N.	N.	5499	N.	N.
5494	N.	9-403(4)	5499a	N.	N.

## TRUST RECEIPTS

Vernon's Ann. Civ.Stats. Article	U.T.R.A.1 Sec.	Texas U.C.C. Sec.	Vernon's Ann. Civ.Stats. Article	U.T.R.A.1 Sec.	Texas U.C.C. Sec.
5499a-51, § 1	1	1-201(9)	5499a-51, § 8	8	9-301(1)
		1-201(15)			9-302
		1-201(28)			9-311
		1-201(30)	§ 8(1)	8(1)	9-304
		1-201(32)	§ 8(2)	8(2)	9-301
		1-201(33)	§ 9	9	2-403
		1-201(37)	§ 9(1)		
		1-201(44)	(a)	9(1) (a)	9-308
		S. 2-403			9-309
		9-105	§ 9(2)	9(2)	2-403
		9-301(3)			9-307
§ 2	2	9-110	§ 9(2)		
		9-203	(b)	9(2) (b)	9-301
§ 3	3	9-201	§ 9(3)	9(3)	9-318
		9-304	§ 10	10	9-306
§ 4	4	9-401			9-308
§ 5	5	9-201	§ 11	11	9-310
§ 6	6	9-207(2) (a)	§ 12	12	9-317
		9-501	§ 13	13	9-401
		9-503			9-402
		9-504	§ 13(3)	13(3)	9-402
		9-505			9-403
§ 7	7	9-302(1)	§ 13(4)	13(4)	9-402
		9-304			9-403
		9-501	§§ 14 to 22		
			(incl.)	14 to 22 (incl.)	N.

1. Uniform Trust Receipts Act.

## LIENS

Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.	Vernon's Ann. Civ.Stats. Article	Prior Uniform Act Sec.	Texas U.C.C. Sec.
5506c, § 1	N.	9-109	5506c, § 4	N.	9-310
§ 2	N.	9-110			9-317
		9-201	§ 5	N.	9-403
		9-203			9-404
		9-207(2) (a)	§ 6	N.	9-205
		9-301			9-306
		9-302	§ 7	N.	9-302
		9-303	§ 8	N.	S. 9-302
		9-401			9-401
§ 3	N.	9-401	§ 9	N.	N.
		9-403	§ 10	N.	9-307
§ 4	N.	9-303			9-310
		9-307(1)			

WAREHOUSE RECEIPTS

Vernon's Ann.		Texas	Vernon's Ann.		Texas
Civ.Stats.	U.W.R.A.1	U.C.C.	Civ.Stats.	U.W.R.A.1	U.C.C.
Article	Sec.	Sec.	Article	Sec.	Sec.
5575	N.	S. 7-202	5639	28	7-209
		S. 7-204			7-307
5576	N.	7-104	5640	29	7-209
		S. 7-205			7-307
		7-501	5641	30	7-209
		7-502			7-307
5604	N.	7-209	5642	31	7-209
5605	N.	7-210			7-307
5606	N.	S. 7-209	5643	32	7-209
5607	N.	7-206			7-210(7)
		7-403			7-307
5609	N.	7-104	5644	33	7-206
		7-501			7-210
		7-502			7-308
5612	1	1-201(45)	5645	34	7-206
		7-201	5646	35	7-210(7)
		7-401	5647	36	7-403(1) (c)
5613	2	7-104	5648	37	7-501
		7-202	5649	38	7-501
		7-209(2)	5650	39	7-501
5614	3	7-104	5651	40	7-501
		7-204	5652	41	7-502
5615	4	7-104			7-503
5616	5	7-104			7-504
5617	6	7-402	5653	42	7-504
5618	7	7-104	5654	43	7-506
5619	8	7-403	5655	44	7-507
5620	9	S. 2-705	5656	45	7-505
		7-403	5657	46	2-506(2)
5621	10	7-403			7-508
		7-404	5658	47	7-501
5622	11	2-705			7-502
		7-403	5659	48	7-502
5623	12	7-403	5660	49	S. 2-705
5624	13	7-208			7-502
5625	14	7-601	5661	N.	N.
5626	15	N.	5662	N.	N.
5627	16	7-403	5663	56	1-103
		7-603		57	1-102(1)
5628	17	7-603	5664	58	S. 1-201(1)
5629	18	7-603			1-201(14)
5630	19	7-403			S. 1-201(17)
5631	20	7-203			S. 1-201(19)
		7-401			S. 1-201(20)
5632	21	7-204			1-201(28)
5633	22	7-207			1-201(30)
5634	23	7-207			1-201(32)
5635	24	7-207(2)			1-201(33)
5636	25	7-602			1-201(44)
5637	26	N.			7-102
5638	27	7-209	5665	62	S. 7-101
		7-307			

1. Uniform Warehouse Receipts Act.

## DISPOSITION TABLE

## NEGOTIABLE INSTRUMENTS

Vernon's Ann.		Texas	Vernon's Ann.		Texas
Civ.Stats.	U.N.I.L.1	U.C.C.	Civ.Stats.	U.N.I.L.1	U.C.C.
Article	Sec.	Sec.	Article	Sec.	Sec.
5932, § 1	1	3-104	5933, § 28	28	3-306
	1(5)	3-102			3-408
5932, § 2	2	3-106			3-415
5932, § 3	3	3-105	5933, § 29	29	8-202
5932, § 4	4	3-109			3-415
5932, § 5	5	3-104	5934, § 30	30	8-201
		3-112			3-102
5932, § 6	6	3-112			3-202
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## TITLE 32—CORPORATIONS

CHAPTER ONE—TEXAS MISCELLANEOUS  
CORPORATION LAWS ACT

Art. 1302—6.01. Repealed. Acts 1965, 59th Leg., p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed art. 1302—6.01 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

Art. 1302—6.02. How Title Transferred

C. For the purposes of this Article 4:

(1) "Clearing corporation" means a corporation, all of the capital stock of which is held by or for a national securities exchange registered under the Securities Exchange Act of 1934, as amended.

(2) "Custodian" means a national bank, or a bank or trust company organized under or subject to the banking law, acting as custodian for a clearing corporation.

(3) Notwithstanding the other provisions of this Article or any other applicable law, if a certificate or instrument evidencing shares of stock, or rights to purchase or subscribe to shares of stock, is in the custody of a clearing corporation or of a custodian subject to the instructions of a clearing corporation, title to any such certificate or instrument or to any interest therein and to the shares or rights evidenced by such certificate, instrument or interest may be transferred by the making of entries on the books of the clearing corporation reducing the account of the transferor by the number of shares or rights transferred and increasing the account of the transferee by such number of shares or rights. A transfer of title so made shall for all purposes have the same effect as if the transferor had delivered to the transferee a certificate or instrument evidencing the shares or rights transferred, duly indorsed in blank.

A valid pledge may be made of any such certificate or instrument or of any interest therein and of the shares or rights evidenced by such certificate, instrument or interest by

(a) the giving by the pledgor to the clearing corporation of notice of the pledge and of instructions that, until receipt by the clearing corporation of notice to the contrary from the pledgee, such certificate, instrument or interest therein and the shares or rights evidenced by such certificate, instrument or interest, shall be held by the clearing corporation (either directly or through the custodian) for the account of the pledgee, and

(b) by the making of entries on the books of the clearing corporation reducing the account of the pledgor by the number of shares or rights pledged and increasing the account of the pledgee by such number of shares or rights. A pledge so made shall for all purposes be as valid and effective as one made by transfer of actual possession of a certificate or instrument evidencing the shares or rights pledged from the pledgor to the pledgee. Added Acts 1965, 59th Leg., p. 807, ch. 392, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed art. 1302—6.02 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

**Art. 1302—6.03.** Repealed. Acts 1965, 59th Leg., p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed art. 1302—6.03 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

**Art. 1302—6.04.** Corporation not forbidden to treat registered holder as owner; rights of survivorship

A. Nothing in this part shall be construed as forbidding a corporation:

(1) To recognize the exclusive right of a person registered on its books as the owner of shares.

B. Whenever shares are registered on the books of a corporation in the names of two or more persons as joint owners with the right of survivorship, upon the death of any such joint owner, the surviving joint owner or owners shall have the power to transfer full legal and equitable title to such shares to any person, firm or corporation and may receive any dividends declared upon said shares as if such surviving joint owner or owners were the absolute owners of such shares prior to such time as the corporation receives actual written notice that parties other than such surviving joint owner or owners claim an interest in such shares or dividends, and the corporation permitting such transfer by and paying such dividends to such surviving joint owner or owners prior to the receipt of such written notice from other parties claiming an interest in such shares or dividends shall be discharged from all liability for the transfer or payment so made; provided, however, that the discharge of such corporation from liability and the transfer of full legal and equitable title of the shares shall in no way affect, reduce or limit any cause of action existing in favor of any owner of an interest in such shares or dividends against such surviving joint owner or owners. As amended Acts 1963, 58th Leg., p. 1162, ch. 451, § 1; Acts 1965, 59th Leg., p. 718, ch. 340, § 1, emerg. eff. June 9, 1965.

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed art. 1302—6.04 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

**Arts. 1302—6.05 to 1302—6.24.** Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed arts. 1302—6.05 to 1302—6.24 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

## CHAPTER NINE—NON-PROFIT, RELIGIOUS, CHARITABLE AND EDUCATIONAL

**Art. 1396—3.02.** Articles of incorporation

A. The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) A statement that the corporation is a non-profit corporation.
- (3) The period of duration, which may be perpetual.
- (4) The purpose or purposes for which the corporation is organized.

For Annotations and Historical Notes, see V.A.T.S.

(5) If the corporation is to have no members, a statement to that effect.

(6) If the corporation is a church and the management of its affairs is to be vested in its members pursuant to Article 2.14 C of this Act, a statement to that effect.

(7) Any provision, not inconsistent with law, including any provision which under this Act is required or permitted to be set forth in the bylaws, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation.

(8) The street address of its initial registered office and the name of its initial registered agent at such street address.

(9) The number of directors or trustees constituting the initial board of directors or trustees, and the names and addresses of the persons who are to serve as the initial directors or trustees. A church vesting management of its affairs in its members pursuant to Article 2.14 C of this Act may, in lieu of providing for a board of directors or trustees, set forth in the articles of incorporation the officers or other body designated pursuant to Article 2.20 D of this Act.

(10) The name and street address of each incorporator. As amended Acts 1965, 59th Leg., p. 1294, ch. 597, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Art. 1396—7.01. Involuntary Dissolution

A. A corporation may be dissolved involuntarily by a decree of the district court of the county in which the registered office of the corporation is situated or in any district court in Travis County in an action filed by the Attorney General when it is established that it is in default in any of the following particulars:

(1) The corporation or its incorporators have failed to comply with a condition precedent to incorporation; or

(2) The corporation has failed to pay any fees or penalties prescribed by law, when the same have become due and payable; or

(3) The original articles of incorporation or any amendments thereof were procured through fraud; or

(4) The corporation has continued to act beyond the scope of the purpose or purposes of the incorporation as expressed in its articles of incorporation; or

(5) The corporation has failed to maintain a registered agent in this State as required by law; or

(6) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this Act. As amended Acts 1965, 59th Leg., p. 533, ch. 276, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

B. A corporation may be dissolved involuntarily without judicial action, in accordance with the procedures set forth in Article 9.02 of this Act, if the corporation has failed to file the report requested by the Secretary of State under the provisions of Article 9.01 of this Act. Added Acts 1965, 59th Leg., p. 533, ch. 276, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 1396—7.02. Notification to Attorney General, notice to corporation and opportunity to cure default**

A. The Secretary of State shall certify to the Attorney General, from time to time, the names of all corporations which have given cause for dissolution or revocation of their certificates of authority as provided in Section A of Article 7.01 and Section A of Article 8.15 of this Act, together with the facts pertinent thereto. As amended Acts 1965, 59th Leg., p. 533, ch. 276, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 1396—8.15. Revocation of certificate of authority**

A. The certificate of authority of a foreign corporation to conduct affairs in this State may be revoked by a decree of the district court for the county in which the registered office of the corporation in this State is situated or of any district court in Travis County in action filed by the Attorney General when it is established that:

(1) The corporation has failed to comply with a condition precedent to the issuance of its certificate of authority or a renewal or amendment thereof; or

(2) The corporation has failed to pay any fees or penalties prescribed by law when the same have become due and payable; or

(3) The certificate of authority to conduct affairs in this State or any amendment thereof was procured through fraud; or

(4) The corporation has continued to conduct affairs beyond the scope of the purpose or purposes expressed in its certificate of authority to conduct affairs in this State; or

(5) The corporation has failed to maintain a registered agent in this State as required by law; or

(6) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation as required by law; or

(7) The corporation has failed to file in the office of the Secretary of State any amendment to its articles of incorporation or any articles of merger or consolidation within the time prescribed by this Act; or

(8) The corporation has changed its corporate name and has failed to file with the Secretary of State, within thirty (30) days after such change of name became effective, an application for an amended certificate of authority, or that the corporation has changed its corporate name and that the newly adopted name is not available for use in this State. As amended Acts 1965, 59th Leg., p. 533, ch. 276, § 4.

Effective Aug. 30, 1965, 90 days after date of adjournment.

B. The certificate of authority of a foreign corporation may be revoked without judicial action, in accordance with the procedures set forth in Article 9.02 of this Act, if the corporation has failed to file the report requested by the Secretary of State under the provisions of Article 9.01 of this Act. Added Acts 1965, 59th Leg., p. 533, ch. 276, § 5.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 1396—9.02. Failure to file reports; forfeiture; right of corporation to cure default**

C. Any corporation whose right to conduct affairs may have been forfeited as provided in this Act, shall be relieved from such forfeiture by filing the required report with the Secretary of State within 120



For Annotations and Historical Notes, see V.A.T.S.

days of the date of mailing such notice of forfeiture, together with a late filing fee of One Dollar (\$1) for each month, or fractional part thereof, which shall have elapsed after such forfeiture of its right to conduct affairs; provided, that such amount shall in no case be less than Five Dollars (\$5) nor more than Twenty-five Dollars (\$25). As amended Acts 1965, 59th Leg., p. 533, ch. 276, § 6.

Effective Aug. 30, 1965, 90 days after date of adjournment.

E. If any corporation whose right to conduct affairs within this State shall hereafter be forfeited under the provisions of this Act shall fail to file such report and pay to the Secretary of State the required revival fee within one hundred and twenty (120) days after the date of mailing of the notice of such forfeiture, such failure shall constitute sufficient ground for the involuntary dissolution of the corporation or the revocation of its certificate of authority, which dissolution or revocation shall be consummated without judicial ascertainment, by the Secretary of State entering upon the record of such corporation filed in his office, the word "Forfeited" giving the date thereof and citing this Act as authority therefor. As amended Acts 1965, 59th Leg., p. 533, ch. 276, § 7.

Effective Aug. 30, 1965, 90 days after date of adjournment.

F. Any corporation which is involuntarily dissolved or whose certificate of authority is revoked without judicial ascertainment, as provided in Section E hereof, and which has filed all franchise tax returns as required by law and paid all franchise taxes, penalties and interest due thereon, may be relieved from such dissolution or revocation by filing the required report with the Secretary of State within one year after such dissolution or revocation, together with a late filing fee of One Dollar (\$1) for each month, or fractional part thereof, which shall have elapsed after the forfeiture of its right to conduct affairs; provided, that such amount shall in no case be less than Five Dollars (\$5) nor more than Twenty-five Dollars (\$25). Added Acts 1965, 59th Leg., p. 533, ch. 276, § 8.

Effective Aug. 30, 1965, 90 days after date of adjournment.

G. When such report shall be filed and the revival fee shall be paid to the Secretary of State, he shall reinstate the certificate of incorporation or charter or certificate of authority without judicial ascertainment, cancelling the word "Forfeited" upon his record, and endorsing thereon the words "Set Aside" and the date of such reinstatement; provided, if such dissolution or revocation is to be set aside, the corporation shall ascertain from the Secretary of State whether the name of the corporation is available, and if not available, amend its corporate name pursuant to the provisions of this Act. Added Acts 1965, 59th Leg., p. 533, ch. 276, § 9.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER TEN—PUBLIC UTILITIES

## 3. TRADE ZONES [NEW]

Art.

1446.1 Laredo Trade Zone Corporation.

1446.2 McAllen Trade Zone Corporation.

1446.3 Harlingen Trade Zone Corporations.

## 4. GAS AND LIGHT

## Art. 1438a. Mortgages covering after acquired property

**Application of law**

Section 1. The provisions of this Act apply to mortgages, deeds of trust and other security instruments and agreements executed by and to secure the payment of bonds, notes, or other obligations of any person (See Section 1—201), engaged in this State in one or more of the following activities:

- (a) the generation, manufacture, transmission or distribution and sale of electric energy and power;
- (b) the transportation, distribution and sale through local distribution system of natural or other gas for domestic, commercial, industrial or any other use;
- (c) the ownership or operation of any pipeline for the transportation or sale of natural gas, crude oil or petroleum products to other pipeline companies, refineries, local distributing systems, municipalities or industrial consumers;
- (d) the provision of telephone or telegraph service to others; and
- (e) the production, transmission or distribution and sale of steam or water; and
- (f) the operation of a railroad.

**Filing requirements**

Sec. 2. Any mortgage, deed of trust or other security instrument or agreement executed by any person described in Section 1 which by its terms subjects to the lien thereof property then owned or property to be acquired by the person subsequent to the execution by it of the security instrument or agreement, or both kinds of property, upon the deposit thereof for record in the office of the county clerk of any county and payment of the statutory recording fees constitutes notice of the lien as to the property situated in that county and described in the instrument or agreement and upon compliance with the provisions of Section 3 of this Act also constitutes notice of the lien as to the property in that county acquired by the person subsequent to the execution and deposit for record in the county of the security instrument or agreement. The county clerk shall maintain a separate index with respect to the liens upon property concerning which notice is given by complying with this Act.

**After-acquired property clause**

Sec. 3. Any security instrument or agreement described in Section 2 which grants a lien upon after-acquired property constitutes notice of the lien thereof as to any property acquired by the person subsequent to the execution of the security instrument or agreement upon the deposit for record in the office of the county clerk of

- (a) the mortgage, deed of trust, or other security instrument or agreement; and

For Annotations and Historical Notes, see V.A.T.S.

(b) an affidavit of the president, vice president, treasurer or secretary of the person which executed the security instrument or agreement setting forth that the person which executed the security instrument or agreement is one of the persons described in Section 1, which affidavit shall follow immediately after the signatures and acknowledgment of those executing the security instrument or agreement.

Each security instrument or agreement of the class to which the provisions of this section apply shall have typed or printed conspicuously on the title page the following: "This Instrument Contains After-acquired Property Provisions."

#### Change of Mortgagor's Corporate Name

Sec. 4. Any person described in Section 1 which has executed a security instrument or agreement within the terms of this Act which, subsequent to the execution and deposit for record of the security instrument or agreement, changes its name or merges or consolidates with another person, shall promptly deposit for record in the office of the county clerk in each county in which is situated property of the person an affidavit or other evidence of the change of name, merger or consolidation, setting forth the name of the person after the change, merger or consolidation. Until the affidavit or other evidence of change of name, merger or consolidation is deposited as required, the security instrument or agreement deposited for record does not constitute notice as to property acquired by the person succeeding the original mortgagor.

#### Duration of recordation as notice

Sec. 5. With respect to a lien granted upon goods which are fixtures or are to become fixtures and upon personal property (See Section 9—102 (1)) which is granted by a security instrument or agreement falling within the terms of this Act, a security instrument or agreement deposited for record in accordance with this Act is effective as notice of the lien for ten years from the date of the deposit for record. Within six months prior to the expiration of this ten-year period, the mortgagee or mortgagor may deposit for record a continuation statement. The continuation statement must be signed by the mortgagee or mortgagor, identify the security instrument or agreement and any supplements by file number or by recording data and state that the security instrument or agreement, as supplemented, is still effective. Upon a timely filing for record of the continuation statement with the county clerk in the county in which property upon which a lien is claimed or sought is situated, the effectiveness of the security instrument or agreement, as supplemented, is continued for ten years after the last date to which the recordation was effective whereupon it again lapses unless another continuation statement is filed for record prior to the lapse. However, any lien upon goods which are fixtures or are to become fixtures and upon personal property which was perfected by complying with the provisions of this Act before July 1, 1967 shall remain perfected until July 1, 1977 without depositing for record the continuation statement described in this section. To continue such a lien beyond July 1, 1977, a continuation statement must be deposited in accordance with this section by July 1, 1977.

#### Act Cumulative

Sec. 6. The provisions of this Act are cumulative of other laws concerning the executive, filing and recording of mortgages, deeds of trust and other security instruments or agreements. No lien perfected by the filing or recording of the security instrument or agreement prior to the effective date of this Act is impaired, invalidated or otherwise affected by any provision of this Act. As amended Acts 1965, 59th Leg., p. 180 (UCC), c. 721, § 10—104, eff. June 30, 1966.

Acts 1965, 59th Leg., p. 180, c. 721 (UCC) § 10-104 amending this article enacts the

Uniform Commercial Code effective at midnight June 30, 1966.

## 9. TRADE ZONES

## Art. 1446.1. Laredo Trade Zone Corporation

Section 1. The Laredo Trade Zone Corporation, organized and incorporated under the laws of the State of Texas, with offices at San Antonio, Bexar County, Texas, is authorized to apply for and accept a grant to establish, operate and maintain a foreign trade zone at the Laredo Port of Entry, and other sub-zones, subject to the requirements of federal law and regulations of the Foreign Trade Zones Board. Acts 1965, 59th Leg., p. 236, ch. 102, emerg. eff. April 27, 1965.

The preamble to Acts 1965, 59th Leg., p. 236, ch. 102 provided:

"WHEREAS, To facilitate the interchange of commodities in domestic and foreign commerce, the 73rd Congress of the United States on June 18, 1934, approved Public Law No. 397, subsequently amended by Public Law 566, 81st Congress, on June 17, 1950, (Chapter 1A, Title 19, Sections 81a-81u, United States Code Annotated), to provide regulations governing the establishment, operation, maintenance and administration of foreign trade zones and sub-zones in the United States; and

"WHEREAS, The term "foreign trade zone" is described in the Act as an isolated, enclosed, and policed area, under the supervision of a designated board of federal officials, operated as a public utility by a corporation in or adjacent to a port of entry, without resident population, furnished with the necessary facilities for loading and unloading, for storing goods and for reshipping them by land and water; an area into which goods may be brought, stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated; if reshipped to foreign ports, the goods may leave the restricted trade zone

without payment of duties and without the intervention of customs officials, except under certain conditions, although products cannot leave the trade zone for domestic use or consumption without full compliance with existing customs laws; and

"WHEREAS, The law governing the establishment, operation, maintenance and administration of foreign trade zones in the United States provides that grants to private corporations will not be approved unless the corporation has been authorized by an Act of the State Legislature to operate under the grant of the Foreign Trade Zones Board; now, therefore,"

## Title of Act:

An Act authorizing the Laredo Trade Zone Corporation to establish, operate and maintain a foreign trade zone at Laredo, Webb County, Texas, and other sub-zones; authorizing the Laredo Trade Zone Corporation to apply to the Foreign Trade Zone Board, Washington, D. C., for a grant to permit the establishment, operation and maintenance of the foreign trade zone and sub-zones in accordance with federal laws and the regulations of the Federal Trade Zones Board; authorizing the acceptance of such grant; and declaring an emergency. Acts 1965, 59th Leg., p. 236, ch. 102.

## Art. 1446.2. McAllen Trade Zone Corporation

Section 1. The McAllen Trade Zone, Inc., organized and incorporated under the laws of the State of Texas, with offices at McAllen, Hidalgo County, Texas, is authorized to apply for and accept a grant to establish, operate and maintain a foreign trade zone at the McAllen Port of Entry, and other sub-zones, subject to the requirements of federal law and regulations of the Foreign Trade Zones Board. Acts 1965, 59th Leg., p. 528, ch. 272, emerg. eff. May 28, 1965.

## Title of Act:

An Act authorizing the McAllen Trade Zone, Inc., to establish, operate and maintain a foreign trade zone at McAllen, Hidalgo County, Texas, and other sub-zones; authorizing the McAllen Trade Zone, Inc., to apply to the Foreign Trade Zone Board, Washington, D. C., for a grant to permit

the establishment, operation and maintenance of the foreign trade zone and sub-zones in accordance with federal laws and the regulations of the Federal Trade Zones Board; authorizing the acceptance of such grant; and declaring an emergency. Acts 1965, 59th Leg., p. 528, ch. 272.

## Art. 1446.3. Harlingen Trade Zone Corporation

Section 1. The Harlingen Trade Zone, Inc., organized and incorporated under the laws of the State of Texas, with offices at or near Harlingen, Cameron County, Texas, is authorized to apply for and accept a grant to establish, operate and maintain a foreign trade zone adjacent to any port of entry in Cameron County, Texas, and other sub-zones, subject

For Annotations and Historical Notes, see V.A.T.S.

to the requirements of federal law and regulations of the Foreign Trade Zones Board. Acts 1965, 59th Leg., p. 741, ch. 347, emerg. eff. June 9, 1965.

The preamble to Acts 1965, 59th Leg., p. 741, ch. 347 provided:

"WHEREAS, To facilitate the interchange of commodities in domestic and foreign commerce, the 73rd Congress of the United States on June 18, 1934, approved Public Law No. 397, subsequently amended by Public Law 566, 81st Congress, on June 17, 1950, (Chapter 1A, Title 19, Sections 81a-81u, United States Code Annotated), to provide regulations governing the establishment, operation, maintenance and administration of foreign trade zones and sub-zones in the United States; and

"WHEREAS, The term "foreign trade zone" is described in the Act as an isolated, enclosed, and policed area, under the supervision of a designated board of federal officials, operated as a public utility by a corporation in or adjacent to a port of entry, without resident population, furnished with the necessary facilities for loading and unloading, for storing goods, and for reshipping them by land and water; an area into which goods may be brought, stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated; if reshipped to foreign ports, the goods may leave the restricted trade zone without payment of duties and without

the intervention of customs officials except under certain conditions, although products cannot leave the trade zone for domestic use or consumption without full compliance with existing customs laws; and

"WHEREAS, The law governing the establishment, operation, maintenance and administration of foreign trade zones in the United States provides that grants to private corporations will not be approved unless the corporation has been authorized by an act of the State Legislature to operate under the grant of the Foreign Trade Zones Board; now, therefore,"

Title of Act:

An Act authorizing the Harlingen Trade Zone, Inc., to establish, operate and maintain a foreign trade zone adjacent to Harlingen, Cameron County, Texas, and other sub-zones; authorizing the Harlingen Trade Zone, Inc., to apply to the Foreign Trade Zone Board, Washington, D. C., for a grant to permit the establishment, operation and maintenance of the foreign trade zone and sub-zones in accordance with federal laws and the regulations of the Federal Trade Zones Board; authorizing the acceptance of such grant; and declaring an emergency. Acts 1965, 59th Leg., p. 741, ch. 347.

## BUSINESS CORPORATION ACT

### PART FIVE

Art.  
5.14 Deposit of costs in suit by shareholders on behalf of corporation [New].

Art.  
5.15 Antitrust Laws; Dissenting Stockholders; Savings Clause.

### PART FIVE

#### Art. 5.14. Deposit of costs in suit by shareholders on behalf of corporation

In any action instituted or maintained in the right of any domestic or foreign corporation by the holder or holders of shares, or of voting trust certificates representing shares of such corporation having a total par value or stated capital value of less than two per cent of the aggregate par value or stated capital value of all the outstanding shares of stock of every class of such a corporation where the aggregate par value or stated capital value of all of such corporations' stock of every class does not exceed \$250,000, unless the shares or voting trust certificates held by such holder or holders have a market value in excess of \$25,000, or in such an action instituted by the holder or holders of shares, or of voting trust certificates representing shares of such corporation having a total par value or stated capital value of less than five per cent of the aggregate par value or stated capital value of all the outstanding shares of stock of every class of such a corporation where the aggregate par value or stated capital value of all such corporations stock of every class exceeds \$250,000, unless the shares or voting

trust certificates held by such holder or holders have a market value in excess of \$50,000, the corporation in whose right such action is brought shall be entitled, at any state of the proceeding before final judgment, to require the complainant or complainants to give security for the reasonable expenses, including counsel fees which may be incurred by it in connection with such action and by the other parties defendant in connection therewith for which it may become subject pursuant to law, its certificate of incorporation, its bylaws or under equitable principles, to which the corporation shall have recourse in such amount as the court having jurisdiction shall determine upon the termination of such action. The amount of such security may thereafter from time to time, be increased or decreased in the discretion of the court having jurisdiction of such action upon showing the security provided has or may become inadequate or is excessive. Provided, however, this Act shall not affect, modify, or in any way apply to the rights of a person making an affidavit of inability to give security for costs under Rule 145 of Texas Rules of Civil Procedure. Added Acts 1965, 59th Leg., p. 698, ch. 332, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment. ch. 64, was reenacted and renumbered article 5.15 by Acts 1965, 59th Leg., p. 698, ch. 332, § 2.

Former article 5.14, a savings clause, derived from Acts 1955, 54th Leg., p. 239,

**Art. 5.15. Antitrust Laws; Dissenting Stockholders; Savings Clause**

Nothing contained in Part 5 of this Act shall ever be construed as affecting, nullifying or repealing the Anti-trust laws or as abridging any right or rights of a dissenting stockholder under existing laws. Formerly art. 5.14, added by Acts 1955, 54th Leg., p. 239, ch. 64. Renumbered art. 5.15 by Acts 1965, 59th Leg., p. 698, ch. 332, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**TITLE 33—COUNTIES AND COUNTY SEATS**

**CHAPTER THREE—CORPORATE RIGHTS AND POWERS**

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| <p>Art. 1577c. Validation of sales or conveyances of abandoned right-of-way property [New].</p> <p>1578a. Contracts with United States for improvements in counties of 240,000 to 310,000 [New].</p> | <p>Art. 1581g. County industrial commissions in counties of 140,000 to 145,000 [New].</p> |
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**Art. 1577c. Validation of sales or conveyances of abandoned right-of-way property**

Section 1. In all cases where the Commissioners Court in any county of this State has sold or conveyed or attempted to sell or convey, in accordance with the provisions of and priorities established in Article 1577, Revised Civil Statutes of Texas, 1925, as last amended by Chapter 133, page 447, Acts of the 53rd Legislature, Regular Session, 1953, the right, title and interest of any such county in and to abandoned right-of-way property no longer needed for highway or road purposes, such sales or conveyances and attempted sales and conveyances hereby are in all things validated and the right, title and interest in such abandoned right-of-way property conveyed by any such county hereby are confirmed in the grantee in such sale or conveyance.

Sec. 2. This Act shall not apply to any sale or conveyance or attempted sale or conveyance the validity of which is involved in litigation pending at the time this Act becomes effective. Acts 1965, 59th Leg., p. 759, ch. 352, emerg. eff. June 9, 1965.

**Title of Act:**

An Act validating all sales or conveyances or attempted sales or conveyances of abandoned right-of-way property made by counties of this State under the provisions of and priorities established in Article 1577, Revised Civil Statutes of Texas, 1925, as last amended by Chapter 133, page 447,

Acts of the 53rd Legislature, Regular Session, 1953; providing that this Act shall not apply to any sale or conveyance which is involved in litigation pending on the effective date of this Act; and declaring an emergency. Acts 1965, 59th Leg., p. 759, ch. 352.

**Art. 1578a. Contracts with United States for improvements in counties of 240,000 to 310,000**

Section 1. Any county in this State is authorized and empowered, within the discretion of its governing body, to contract with the United States Government, or its agencies, for the joint construction or improvement of roads, bridges, or other county improvements, and for the maintenance of the same, and to pay the county's portion of such expense out of available county funds.

Sec. 2. The provisions of this Act shall apply only to counties having a population in excess of 240,000 inhabitants and less than 310,000 inhabitants, according to the latest preceding or any future Federal Census. Acts 1965, 59th Leg., p. 1647, ch. 710.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing counties of this State to contract with the United States Government or its agencies for the joint construction or improvement of roads, bridges, and other county improvements and for the maintenance of the same, and to pay the county's portion of such expense out of

available county funds; providing this Act shall apply only to counties having a population in excess of 240,000 inhabitants and less than 310,000 inhabitants according to the latest preceding or any future Federal Census; and declaring an emergency. Acts 1965, 59th Leg., p. 1647, ch. 710.

## Art. 1580. [1373] [797] [684] Agents to contract for county

Counties of 74,000 or more

Acts 1939, 46th Leg., Spec.L., p. 602, § 1 as amended by Acts 1939, 46th Leg., Spec. L., p. 605, § 1; Acts 1947, 50th Leg., p. 491, ch. 288, § 1; Acts 1949, 51st Leg., p. 713, ch. 376, § 1; Acts 1955, 54th Leg., p. 315, ch. 302, § 1; Acts 1957, 55th Leg., p. 382, ch. 185, § 1; Acts 1959, 56th Leg., p. 913, ch. 418, § 1; Acts 1965, 59th Leg., p. 343, ch. 161, § 1, read as follows:

"Section 1. (a) In all counties of this State having a population of seventy-four thousand (74,000) or more inhabitants according to the last preceding Federal Census, a majority of a Board composed of the Judges of the District Courts and the County Judge of such county, may appoint a suitable person who shall act as the County Purchasing Agent for such county, who shall hold office, unless removed by said Judges, for a period of two (2) years, or until his successor is appointed and qualified, who shall execute a bond in the sum of Five Thousand Dollars (\$5,000), payable to said county, for the faithful performance of his duties.

"(b) It shall be the duty of such Agent to make all purchases for such county of all supplies materials and equipment required or used by such county or by a subdivision, officer, or employee thereof, excepting such purchases as may by law be required to be made by competitive bid, and to contract for all repairs to property used by such county, its subdivisions, officers, and employees, except such as by law are required to be contracted for by competitive bid. All purchases made by such Agent shall be paid for by warrants drawn by the County Auditor on the County Treasurer of such county as in the manner now provided by law.

"(c) It shall be unlawful for any person, firm or corporation, other than such Purchasing Agent, to purchase any supplies, materials and equipment for, or to contract for any repairs to property used by, such county or subdivision, officer, or employee thereof, and no warrant shall be drawn by the County Auditor or honored

by the County Treasurer of any such county for any purchases except by such Agent and those made by competitive bid as now provided by law.

"(d) On the first day of July of each year, such Purchasing Agent shall file with the County Auditor and each of said Judges of such county an inventory of all property of the county and of each subdivision, officer, or employee thereof then on hand, and it shall be the duty of the County Auditor to examine carefully such inventory and to make an accounting for all property purchased or previously inventoried and not appearing in such inventory.

"(e) In order to prevent unnecessary purchases, such Agent shall have authority and it shall be his duty to transfer county supplies, materials, and equipment from any subdivision, department, officer, or employee of the county when such supplies, materials, or equipment are not actually needed or used by such subdivision, department, officer, or employee that may require such supplies and materials, or the use of such equipment and such Agent shall furnish to the County Auditor a list of such supplies, materials, and equipment so transferred.

"(f) Such Agent shall receive as compensation for his services a salary of not less than Five Thousand Dollars (\$5,000) nor more than Fifteen Thousand Dollars (\$15,000) per year, payable in equal monthly installments. The salary of the County Purchasing Agent shall be paid out of the General Fund and/or the Road and Bridge Fund of such county by warrants drawn on the County Treasurer and shall be set by the Board as designated in Section 1(a) of this Act.

"(g) Said Agent may have assistants to aid in the performance of his duties as County Purchasing Agent.

"(h) Said Agent and said Assistants may have such help, equipment, supplies and traveling expenses with the approval of said Board of Judges, as they may deem advisable, the amount of said expenses to be approved by said Board."

## Art. 1581g. County industrial commissions in counties of 140,000 to 145,000

Section 1. The County Judge of any county having a population of more than 140,000 and less than 145,000, according to the last preceding Federal Census, may appoint a County Industrial Commission to consist of at least seven residents of the county who have exhibited interest in the industrial development of the county to serve for a term of two (2) years. The county is hereby authorized to pay the necessary expenses of such Commission. Such Commission shall investigate, study and undertake ways and means of promoting and encouraging the prosperous development of business, industry and commerce within said county. Such Commission shall promote and encourage the location and development of new businesses and industries in such county as well as the maintenance and expansion of existing businesses. Such Commission shall cooperate with, and utilize the services of, the Texas Industrial Commission. The data



For Annotations and Historical Notes, see V.A.T.S.

obtained shall be available to the Commissioners Court. Acts 1965, 59th Leg., p. 1192, ch. 553.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing the County Judge of certain counties to appoint a County Industrial Commission; providing for the study, promotion and development of business, industry, and commerce in counties;

and recommendations by such Commission, fixing the tenure of office of its members, authorizing payment of the expenses of such Commission; and declaring an emergency. Acts 1965, 59th Leg., p. 1192, ch. 553.

### TITLE 34—COUNTY FINANCES

#### Art. 1659. [1480] Bids for material

Supplies of every kind, road and bridge material, or any other material, for the use of said county, or any of its officers, departments, or institutions must be purchased on competitive bids, the contract to be awarded to the party who, in the judgment of the commissioners court, has submitted the lowest and best bid. The county auditor shall advertise the bidding at least once a week for two consecutive weeks in at least one daily newspaper published and circulated in the county. The advertisements shall state where the specifications are to be found, and shall give the time and place for receiving the bids. Publication of the first advertisement shall precede the last day for receiving bids by at least 14 days. All such competitive bids shall be kept on file by the county auditor as a part of the records of his office, and shall be subject to inspection by any one desiring to see them. Copies of all bids received shall be furnished by the county auditor to the county judge and to the commissioners court; and when the bids received are not satisfactory to the said judge or county commissioners, the auditor shall reject said bids and readvertise for new bids. In cases of emergency, purchases not in excess of \$300 may be made upon requisition to be approved by the commissioners court without advertising for competitive bids. As amended Acts 1963, 58th Leg., p. 115, ch. 66, § 1; Acts 1965, 59th Leg., p. 944, ch. 458, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

TITLE 40—COURTS—DISTRICT

Chap.	Art.
5. Criminal District Courts [New] .....	1926—1

CHAPTER FIVE—CRIMINAL DISTRICT COURTS [NEW]

	IN GENERAL		HARRIS COUNTY
Art.		1926—31.	Criminal district court of Harris County [Renumbered].
1926—1.	Certain courts continued [Renumbered].	1926—32.	Criminal district court No. 2, Harris County [Renumbered].
	DALLAS COUNTY	1926—33.	Criminal District Court No. 3 of Harris County [Renumbered].
1926—11.	Dallas criminal district court [Renumbered].	1926—34.	Criminal District Courts Nos. 4 and 5 of Harris County [Renumbered].
1926—12.	Criminal judicial district of Dallas County [Renumbered].	1926—35.	Criminal District Court No. 6 of Harris County [Renumbered].
1926—13.	Criminal District Court No. 2 of Dallas County [Renumbered].		TARRANT COUNTY
1926—14.	Criminal District Court No. 3 of Dallas County [Renumbered].	1926—41.	Criminal District Court for Tarrant County [Renumbered].
1926—15.	Criminal District Court No. 5 of Dallas County [Renumbered].	1926—42.	Criminal judicial district of Tarrant County [Renumbered].
1926—16.	Special criminal district court at Dallas County [Renumbered].	1926—43.	Criminal District Court No. 2 of Tarrant County [Renumbered].
	JURISDICTION	1926—44.	Criminal District Court No. 2 of Tarrant County [Renumbered].
1926—21.	Concurrent jurisdiction of criminal district courts with county court at law [Renumbered].		TRAVIS COUNTY
1926—22.	Jurisdiction increased [Renumbered].	1926—51.	Criminal District Court of Travis County [Renumbered].
	JUDGES; CRIMINAL DISTRICT ATTORNEYS		JEFFERSON COUNTY
1926—26.	Judges of criminal district courts may sit in either court [Renumbered].	1926—61.	Criminal District Court of Jefferson county [Renumbered].
1926—27.	Criminal District Attorney; duties; salary; fees; accounting; assistants; oath; powers; report of expenses; election [Renumbered].	1926—62.	Jurisdiction increased [Renumbered].
		1926—63.	Criminal Judicial District of Jefferson County [Renumbered].

IN GENERAL

Art. 1926—1. Certain courts continued

Each of the following courts shall continue with the jurisdiction, organization, terms and powers now existing until otherwise provided by law:

1. Criminal District Court of Dallas County. Acts 1893, p. 118; Acts 1915, pp. 74, 138; Acts 1917, pp. 315, 341.
2. Criminal District Court No. 2 of Dallas County. Acts 1st C.S. 1911, p. 136; Acts 1915, pp. 74, 138; Acts 1917, p. 315.
3. Criminal District Court of Harris County. Acts 1911, p. 111.
4. Criminal District Court of Tarrant County. Acts 1917, p. 144; Acts 2nd C.S. 1919, p. 246.
5. Criminal District Court of Travis County. Acts 1923, p. 129.
6. Criminal District Court for the Counties of Nueces, Kleberg, Kennedy, Willacy and Cameron. Acts 1st C.S. 1921, p. 18.
7. All County Courts at Law.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P. 1925, art. 52.

## DALLAS COUNTY

**Art. 1926—11. Dallas criminal district court**

Section 1. There is hereby created and established at the city of Dallas a criminal district court, which shall have and exercise all the criminal jurisdiction heretofore vested in and exercised by the district courts of Dallas county. All appeals from the judgments of said court shall be to the court of criminal appeals, under the same regulations as are now or may hereafter be provided by law for appeals in criminal cases from district courts.

Sec. 2. The district courts of Dallas county shall not have nor exercise any criminal jurisdiction.

Sec. 3. The judge of said criminal district court shall be elected by the qualified voters of Dallas county for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of a judge of the district court, and shall receive the same salary as is now, or may hereafter, be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges in criminal cases. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and in case of disqualification or absence of the judge, a special judge may be selected, elected, or appointed, as provided by law in cases of district judges.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court of Dallas County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments, and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this state in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, the county attorney, and the clerk of the district court of Dallas county, as heretofore provided for by law, shall be the sheriff, county attorney, and clerk, respectively, of said criminal district court, under the same rules and regulations as are now, or may hereafter be, prescribed by law for the government of sheriffs, county attorneys, and clerks in the district courts of the state; and said sheriff, county attorney, and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the state, to be paid in the same manner.

Sec. 6. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of January, one term beginning the first Monday of April, one term beginning the first Monday of July, and one term beginning the first Monday of October. A grand jury shall be impaneled in said court for each term thereof; and jury commissioners shall be appointed for drawing jurors for said court, as is now or may hereafter be required by law in district courts, and under like rules and regulations.

Sec. 7. The trials and proceedings in said court shall be conducted according to the laws governing the pleadings, practice, and proceedings in criminal cases in the district courts. Acts 1893, 23rd Leg., p. 118, ch. 90.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

*54.02.*

Renumbered from C.C.P.1925, arts. 52—1  
to 52—7.

## Art. 1926—12. Criminal judicial district of Dallas County

There is hereby created and established a Criminal Judicial District of Dallas County, Texas, to be composed of the County of Dallas, Texas, alone, and the Criminal District Court of Dallas county, and the Criminal District Court No. 2 of Dallas county, Texas, shall have and exercise all the Criminal Jurisdiction of such courts, of and for said Criminal District of Dallas county, Texas, that are now conferred by law on said Criminal District Courts. Act March 29, 1917, ch. 121, § 1.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 52—12.

## Art. 1926—13. Criminal District Court No. 2 of Dallas County

Section 1. There is hereby created and established at the city of Dallas a criminal district court to be known as the "Criminal District Court No. 2 of Dallas County," which court shall have and exercise concurrent jurisdiction with the criminal district court of Dallas county, Texas, as now given and exercised by the said criminal district court of Dallas county under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect the criminal district court of Dallas county, and the criminal district court No. 2 of Dallas county shall have and exercise concurrent jurisdiction with each other in all felony causes and in all matters and proceedings of which the said criminal district court of Dallas county now has jurisdiction; and either of the judges of said criminal district court may in their discretion transfer any cause or causes that may at any time be pending in his court to the other criminal district court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such district court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court.

Sec. 3. The judge of said criminal district court No. 2 of Dallas county shall be elected by the qualified voters of Dallas county for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary as is now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of the criminal district court of Dallas county. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and, in case of disqualification or absence of a judge, a special judge may be selected, elected or appointed as provided by law in cases of district judges; provided, that the Governor, by and with the consent of the Senate, if in session, shall appoint a judge of said court, who shall hold the office until the next general election, after the passage of this law, and until his successor shall have been elected and qualified.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court No. 2 of Dallas County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar

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certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, county attorney and the clerk of the district court of Dallas county, as heretofore provided for by law, shall be the sheriff, county attorney and clerk, respectively, of said criminal district court under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, county attorneys and clerks of the district courts of the State; and said sheriff, county attorney and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the State to be paid in the same manner.

Sec. 6. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of April, one term beginning the first Monday of July, one term beginning the first Monday of October, and one term beginning the first Monday of January. The grand jury shall be impaneled in said court for each term thereof unless otherwise directed by the judge of said court, and the procedure for drawing jurors for said court shall be the same as is now or may hereafter be required by law in district courts, and under the same rules and regulations. The trials and proceedings in said court shall be conducted according to the laws governing the pleadings, practice and proceedings in criminal cases in the district courts. Act 1911, 1st C.S., p. 106, ch. 19.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, arts. 52—8  
to 52—11, 52—13, 52—14.

#### Art. 1926—14. Criminal District Court No. 3 of Dallas County

Section 1. The Special Criminal District Court of Dallas County, heretofore established as a temporary District Court under the terms and provisions of Senate Bill No. 21, Acts of the 53rd Legislature, First Called Session, 1954, Chapter 51, page 105, is hereby established as a permanent Criminal District Court, the limits of which district shall be co-extensive with the limits of Dallas County, Texas, and shall be known as the Criminal District Court No. 3 of Dallas County.

Sec. 2. The present District Judge of the Special Criminal District Court of Dallas County, duly elected and acting as such, shall be the District Judge of the Criminal District Court No. 3 of Dallas County until the time for which he has been elected expires and until his successor is duly elected and qualified. Acts 1955, 54th Leg., p. 711, ch. 256.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 52—24c.  
For provisions of Acts 1954, 53rd Leg.,  
1st C.S., p. 105, ch. 51, art. 1, § 1, see  
article 1926—16, post.

#### Art. 1926—15. Criminal District Court No. 5 of Dallas County

A. There is hereby created, effective October 1, 1965, in and for Dallas County, Texas, one additional Criminal Judicial District to be known as Criminal Judicial District No. 5, and the court of said district shall be known as the Criminal District Court No. 5 of Dallas County, Texas. The limits of said district shall be coextensive with the limits of Dallas County, Texas.

B. The Criminal District Court No. 5 shall have and exercise the powers conferred by the constitution and laws of the State of Texas on

the judges of the existing Criminal District Courts of Dallas County, Texas, and the jurisdiction of said court shall be concurrent with that of the existing Criminal District Courts of Dallas County, Texas. The said court shall have and exercise, in addition to the jurisdiction now conferred by law on said court, concurrent jurisdiction coextensive with the limits of Dallas County in all actions, proceedings, matters and causes, both civil and criminal, of which district courts of general jurisdiction are given jurisdiction by the constitution and laws of the State of Texas.

C. The terms of said Criminal District Court No. 5 shall begin on the first Monday of January, April, July, and October of each year respectively, and each of said terms of said court shall continue until the convening of the next succeeding term.

D. The Judge of said Criminal District Court No. 5 is authorized to appoint an official court reporter for such court, and said court reporter shall have the qualifications now required by law for official shorthand reporters. Such reporter shall perform the duties as required by law and such duties as may be assigned to the court reporter by the judge of such court and shall receive as compensation for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for the District Courts of Dallas County, Texas, under the laws of this state.

E. The district clerk shall equalize the dockets of the Criminal District Courts of Dallas County by transferring cases from the Criminal District Court, the Criminal District Court No. 2, the Criminal District Court No. 3, and the Criminal District Court No. 4 to the Criminal District Court No. 5 hereby created.

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

G. The District Attorney of Dallas County shall also be the district attorney for the additional Criminal District Court hereby created.

H. The District Clerk of Dallas County, Texas shall also act as District Clerk for the Criminal District Court No. 5 hereby created.

I. The Sheriff of Dallas County, either in person or by deputy shall attend the Criminal District Court No. 5 as required by the judge thereof, and the sheriff and constables of the several counties of this state, with executing processes issued out of said court, shall receive fees as provided by General Law for executing processes issued out of district courts.

J. All processes, writs, bonds, recognizances or other obligations issued out of the District Courts or Criminal District Courts of Dallas County are hereby made returnable to the said District Courts of Dallas County as required by law and all bonds executed and recognizances entered by and in said courts shall bind the parties for their appearance or

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to fulfill the obligations of such bonds or recognizances at the terms of such courts as fixed by law and this Act, and all processes heretofore returned or hereafter returned to the District Courts of Dallas County shall be valid.

K. Except as herein otherwise provided, the laws and parts of laws applicable to District Courts and Criminal District Courts of Dallas County shall be applicable to the Criminal District Court No. 5 created by this Act.

L. If any provision of this Act is held unconstitutional or invalid, such invalidity shall not affect the remaining provisions of this Act. Except as otherwise provided in this Act all laws now in effect with respect to Judicial District Courts and Criminal District Courts of Dallas County shall apply respectively to the Criminal District Court No. 5 created by this Act.

M. The Governor shall appoint a suitable person as Judge of the Criminal Court No. 5 of Dallas County created by this Act, who shall hold office until the next general election and until his successor has been duly elected and qualified. At the first general election after the creation of said court provided for herein, the judge of said court shall be elected for a term of four (4) years. Such person so appointed and elected shall have the qualifications provided by the constitution and the laws of this state for district judges.

A sum of \$16,000 for the fiscal year ending August 31, 1966, and a sum of \$16,000 for the fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the Criminal Court No. 5 of Dallas County. The salary shall be paid as provided by law. Acts 1965, 59th Leg., p. 895, ch. 442, § 10a, eff. Sept. 1, 1965.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 52—24d.

#### Art. 1926—16. Special criminal district court at Dallas County

There is hereby created and established at the City of Dallas a Special Criminal District Court to be known as the "Special Criminal District Court of Dallas County," which court shall have and exercise concurrent jurisdiction with the Criminal District Court of Dallas County, Texas, and the Criminal District Court No. 2 of Dallas County, Texas, as is now given and exercised by the said Criminal District Court of Dallas County, Texas, and the Criminal District Court No. 2 of Dallas County, Texas, under the Constitution and laws of the State of Texas. Acts 1954, 53rd Leg., 1st C.S., p. 105, ch. 51, art. 1, § 1.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

*The Special Criminal District Court of Dallas County, a temporary court under Acts 1954, 53rd Leg., 1st C.S., p. 105, ch. 51, art. 3, § 1 which provided that such court should cease to exist on Aug. 31, 1956, was established as permanent criminal District Court No. 3 of Dallas County by Acts 1955, 54th Leg., p. 711, ch. 256, § 1 (art. 1926—14, ante). See, also Vernon's Ann.Civ.St. art. 199, Judicial District 14, etc.*

Renumbered from C.C.P.1925, art. 52—24b.

## JURISDICTION

## Art. 1926—21. Concurrent jurisdiction of criminal district courts with county court at law

Section 1. The Criminal District Court and Criminal District Court No. 2 of Dallas County shall have and exercise original concurrent jurisdiction with each other and with the County Court of Dallas County at Law in all matters and proceedings relative to misdemeanor causes of which the County Court of Dallas County at Law now has jurisdiction and either of the judges of said Criminal District Courts and the judge of said County Court of Dallas County at Law may, in his discretion, or upon the motion of the county attorney of Dallas county, transfer by written order or orders, entered upon the minutes of said court, any misdemeanor cause or misdemeanor causes that may at any time be pending in either of said courts to either of the other of said courts, as should, in his discretion, be transferred or as may be prayed for in the motion of the county attorney.

Sec. 2. Upon the transfer of any such cause or causes from said County Court of Dallas County at Law to either of said Criminal District Courts it shall be the duty of the county clerk of Dallas County to prepare and forward with the papers in said cause or causes so transferred a bill of the cost then accrued which said cost shall follow said cause or causes, and be taxed in said cause or causes with any other cost that may accrue in said cause or causes in either of said Criminal District Courts to which said cause or causes may be transferred; provided that the county clerk of Dallas County making such a bill of cost shall receive the sum of 50 cents for the preparation and forwarding of said bill of cost, in each cause so transferred, which said sum and cost shall be taxed in said cause and collected as other cost in the manner now provided by law; and the clerk of the District Court of Dallas County shall likewise, upon the transfer of any such cause from either of said Criminal District Courts to the County Court of Dallas County at Law, prepare such bill of cost and forward same as provided therein, and shall receive the same compensation as herein provided for the county clerk of Dallas County in such cases.

Sec. 3. The clerk of the District Court of Dallas County shall keep for each of said Criminal District Courts a misdemeanor docket and a misdemeanor motion docket in like manner as is now provided for by law for the County Court of Dallas County at Law, and upon any such cause or causes being transferred from the County Court of Dallas County at Law or from one of said Criminal District Courts to the other, said cause or causes shall be docketed as now provided by law for the County Court of Dallas County at Law.

Sec. 4. In trial of causes transferred to either of the Criminal District Courts of Dallas County from the County Court of Dallas County at Law, the trials, pleadings and practice shall be the same as in trial of other causes over which the Criminal District Courts of Dallas County now have jurisdiction.

Sec. 5. The county attorney of Dallas county and all other officers shall receive the same fees in misdemeanor causes in said Criminal District Courts as are now provided by law in the County Court of Dallas County at Law and in all other matters of cost tax in said causes in said Criminal District Courts, the item shall in no event be greater than that provided by law for such items in the County Court of Dallas County at Law, and all such cost in such causes shall be paid to the officers of the court in which same is accrued.

Sec. 6. [General repealer.]



Sec. 7. All misdemeanor causes of which the County Court of Dallas County now has jurisdiction may be filed originally with the clerk of the district [court] of Dallas<sup>1</sup> county, in either the Criminal District Court of Dallas County or the Criminal District Court No. 2 of Dallas County, in the same manner as is now provided by law for the filing of such causes with the county clerk of Dallas county in the County Court of Dallas County at Law.

Sec. 7a. Said Criminal District Courts shall have jurisdiction on all bail bonds and recognizances taken in proceedings had before such courts; in all causes transferred to said courts from either of them or that may be transferred to said courts from the County Court of Dallas County at Law; and may enter forfeitures thereof; and final judgment and enforce the collection of same by proper process in the manner as provided by law in said bail bond proceedings; and all bail bonds, recognizances or other obligations taken for the appearance of defendants, parties and witnesses, in either the County Court of Dallas County at Law or Criminal District Court of Dallas County or Criminal District Court No. 2 of Dallas County, shall be binding on all such defendants, parties and witnesses and their sureties for appearance in either of said courts in which said cause may be pending or to which same may be transferred. Act 1915, p. 74, ch. 37.

<sup>1</sup> So in Session Laws. Enrolled bill reads "clerk of district of or Dallas."

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, arts. 52—16 to 52—22.

#### **Art. 1926—22. Jurisdiction increased**

Section 1. In addition to the jurisdiction now conferred upon the Criminal District Court of Dallas County, and upon the Criminal District Court No. 2 of Dallas County, by the Constitution and laws of the State of Texas, said Courts shall hereafter have and exercise civil jurisdiction in suits, causes and matters of:

(1) Divorce, as provided in Chapter 4, Title 75, of the Revised Civil Statutes of Texas, of 1925, and any amendments thereof, heretofore or hereafter made thereto.

(2) Dependent and delinquent children, as provided in Title 43, Revised Civil Statutes of Texas, of 1925, and any amendments thereof, heretofore or hereafter made thereto.

(3) Adoption, as provided in Title 3, Revised Civil Statutes of Texas, of 1925, and any and all amendments heretofore or that may hereafter be made thereto.

(4) Habeas Corpus proceedings in civil matters.

Sec. 2. In all matters pertaining to the additional jurisdiction herein conferred upon said Courts, all the officers of said Courts shall have the same powers, rights and duties that are now or that may hereafter be conferred upon the same or similar officers in the other District Courts of Dallas County, Texas; and all fees and costs in such matters shall be the same as now or that may hereafter be provided in the same or similar matters in the other District Courts of Dallas County, Texas.

Sec. 3. Any Judge of any District Court of Dallas County may at his discretion transfer any cause or causes set out in Section 1 hereof that may at any time be pending in his Court to any other District Court of Dallas County by an order or orders entered upon the minutes of his Court; and the presiding Judge of the District Courts of Dallas County may in like manner assign any case in his Court or in any of the District Courts in Dallas County involving or pertaining to the matters set out

in Section 1 hereof to any other Judge or Court, including the Criminal District Courts of Dallas County, or may assign any Judge to try any of said causes in any of said Courts, and the Judge in whose Court an assigned case is pending shall transfer the case to the Court to which it is assigned, and the Judge of the Court to which it is assigned shall receive and try the case. When such transfer or transfers are made the Clerk of such Court shall enter such cause or causes upon the docket to which said transfer or transfers are made, and, when so entered upon the docket, the Judge shall try and dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said Court.

Sec. 4. The trials and proceedings in said Courts in such matters shall be conducted according to the laws governing the pleadings, practice and proceedings in civil cases in the District Courts and in conformity with the provisions of Article 2092, Revised Civil Statutes of Texas, of 1925, and all appeals in such civil cases shall be to the Court of Civil Appeals for the Fifth Supreme Judicial District of Texas in the manner now or that may hereafter be provided by law. Acts 1935, 44th Leg., p. 604, ch. 243.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 52—24a.

#### JUDGES; CRIMINAL DISTRICT ATTORNEYS

Art. 1926—26. Judges of criminal district courts may sit in either court

From and after the time this law shall take effect the Criminal District Court of Dallas County, Texas, and the Criminal District Court Number Two of Dallas County, Texas, and the respective judges thereof, shall have and exercise concurrent jurisdiction with each other in all felony cases, and in all misdemeanor cases in which said courts have, or may hereafter have, concurrent jurisdiction with the County Court of Dallas County at Law, and in all matters and proceedings of which either of said criminal district courts of Dallas County, Texas, now have jurisdiction; and either of the judges of said criminal district courts may, in his discretion, in the absence of the judge of the other criminal district court from his courtroom, or from the County of Dallas, Texas, try and dispose of any cause or causes that may be pending in such criminal district court as fully as could such absent judge were he personally present and presiding. And either of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any impaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent district judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto, as the regular judge of said criminal district court could make if personally present and presiding. Act 1915, p. 138, ch. 86, § 1.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 52—23.

For Annotations and Historical Notes, see V.A.T.S.

**Art. 1926—27. Criminal District Attorney; duties; salary; fees; accounting; assistants; oath; powers; report of expenses; election**

Section 1. See article 199 (14th Dist.).

Sec. 2. There shall be elected by the qualified electors of the Criminal Judicial District of Dallas county, Texas, an attorney for said district, who shall be styled the "Criminal District Attorney of Dallas county," and who shall hold his office for a period of two years and until his successor is elected and qualified. The said Criminal District Attorney shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State, of other district attorneys.

Sec. 3. It shall be the duty of said Criminal District Attorney or his assistants, as hereinafter provided to be in attendance upon each term of the "Criminal Court of Dallas County" and the "Criminal District Court No. 2 of Dallas County" and to represent the state in all matters pending before said courts. And he shall have exclusive control of all criminal cases where ever pending, or in whatever court in Dallas County that now has jurisdiction of criminal cases, as well as any or all courts that may hereafter be created and given jurisdiction in criminal cases, and he shall have the fees therefor fixed by law. He shall also have control of any and all cases heard on habeas corpus before any civil district court of Dallas County, as well as before the Criminal Court of said county. The Criminal District Attorney of Dallas County shall have and exercise in addition to the specific powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within said Criminal District of Dallas County as are by law now conferred, or which may hereafter be conferred upon district and county attorneys in the various counties and judicial districts of this state.

It is further provided that he and his assistants shall have the exclusive right and it shall be their sole duty to perform the duties provided for in this Act, except in cases of absence from the county of the Criminal District Attorney and his assistants, or their inability or refusal to act; and no other person shall have the power to perform the duties provided for in this Act, or to represent the state in any criminal case in Dallas County, except in case of the absence from Dallas County, or the inability or refusal to act of the Criminal District Attorney and his assistants.

Sec. 4. The said Criminal District Attorney of Dallas County shall be commissioned by the Governor and shall receive a salary of \$500.00 per annum, to be paid by the state, and in addition thereto shall receive the following fees in felony cases, to be paid by the state; for each conviction of felonious homicide, where the defendant does not appeal or dies, or escapes after appeal and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of forty dollars. For all other convictions in felony cases, where the defendant does not appeal, or dies, or escapes, after appeal, and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of thirty dollars; provided, that in all convictions of felony, in which punishment is fixed by the verdict and judgment by confinement in the House of Correction and Reformatory, his fee shall be fifteen dollars. For representing the state in each case of habeas corpus where the defendant is charged with felony, the sum of twenty dollars. For representing the state in examining trials, in felony cases, where indictment is returned, in each case, the sum of five dollars. The Criminal District Attorney shall also receive such fees for other services rendered by him as is now, or may hereafter be authorized by law to be paid to other district and county attorneys in this state for such services.

Sec. 5. The Criminal District Attorney of Dallas County shall retain out of the fees earned and collected by him the sum of three thousand five hundred dollars per annum and in addition thereto one fourth of the gross excess of all such fees in excess of three thousand five hundred dollars per annum to an amount not in excess of two thousand dollars. The three fourth remaining to be applied first to the payment of the salaries of the Assistant District Attorneys and extra assistant District Attorneys and stenographer as hereinafter provided for. The remainder to be paid into the treasury of Dallas County; provided that in arriving at the amount collected by him he shall include the fees arising from all classes of criminal cases whether felony or misdemeanor arising in any of the courts in Dallas County now existing, or which may hereafter be created including habeas corpus hearing and fines and forfeitures; provided that after the 30th day of November and before the first day of January following of each year, he shall make a full and complete report and accounting to the county judge of Dallas County of all of such fees so collected by him; provided that in addition to the above he shall receive ten per cent. for the collection of delinquent fees as is now provided by law relating to the collection of delinquent fees by county and district attorneys. Such fees however, to be included in the reports herein provided for and to be taken into consideration in arriving at the total maximum compensation provided in this Act.

Sec. 6. The Criminal District Attorney of Dallas County may appoint two assistants criminal district attorneys who shall each receive a salary of not to exceed eighteen hundred dollars per annum payable monthly, and four additional assistant district attorneys who shall each receive a salary of not to exceed fifteen hundred dollars a year payable monthly. He may appoint a stenographer who shall receive a salary of not more than twelve hundred dollars per annum payable monthly.

In addition to the assistant criminal district attorneys and stenographer above provided for, said Criminal District Attorney of Dallas County may, with the approval of the county judge and commissioners court of Dallas county, appoint as many additional extra assistant district attorneys as may be necessary to properly administer the affairs of the office of Criminal District Attorney and enforce the law, upon the Criminal District Attorney making application under oath addressed to the county judge of Dallas county, setting out the need therefor; provided, the county judge, with the approval of the commissioners court, may discontinue the services of any one or more of said extra assistant criminal district attorneys so appointed, the salary of said extra assistant criminal district attorney to be fixed by the commissioners court of Dallas county.

Sec. 7. The assistant criminal district attorneys and the extra assistant criminal district attorneys above provided for, when so appointed, shall take oath of office and be authorized to represent the state before said criminal district court, and in all other courts of Dallas county, in which the criminal district attorney of Dallas county is authorized by this Act to represent the state, such authority to be exercised under the direction of said criminal district attorney, and which said assistants shall be subject to removal at the will of the said criminal district attorney. Each of said assistant criminal district attorneys shall be authorized to administer oaths, file information, examine witnesses before the grand jury and generally perform any duty devolving upon the criminal district attorney of Dallas county, and to exercise any power conferred by law upon the said criminal district attorney when by him so authorized. The criminal district attorney of Dallas county shall be paid the same fees for services rendered by his assistants as he would be entitled to receive if the services shall have been rendered by himself.

Sec. 8. The criminal district attorney of Dallas county is authorized, with the consent of the county judge and county commissioners of Dallas county, to appoint not to exceed two assistants in addition to his regular assistant criminal district attorneys, provided for in this Act, which two assistants shall not be required to possess the qualifications prescribed by law for district or county attorneys, and who shall perform such duties as may be assigned to them by the criminal district attorney, and who shall receive as their compensation one hundred dollars per month each, to be paid in monthly installments out of the county funds of Dallas county, Texas, by warrants drawn on such county fund; and provided further, that the criminal district attorney of Dallas county shall be allowed a sum of money by order of said commissioners court of Dallas county, as in the judgment of the commissioners court may be deemed necessary, to the proper administration of the duties of such office not to exceed, however, the amount of fifty dollars per month. Such amount as may be thus necessarily incurred shall be paid by the commissioners court upon affidavit made by the criminal district attorney of Dallas county, showing the necessity for such expenditure and for what the same was incurred. The commissioners court may also require any other evidence as in their opinion may be necessary to show the necessity for such expenditure, but they shall be the sole judge as to the necessity for such expenditure and their judgment allowing same shall be final.

Sec. 9. The criminal district attorney shall at the close of each month of the tenure of such office make, as a part of the report required by this Act, an itemized and sworn statement of the actual and necessary expenses incurred by him in the conduct of his said office, such as stamps, stationery, books, telephone, traveling expenses and other necessary expenses. If such expenses be incurred in connection with any particular case such statement shall name such case. Such expense account shall be subject to the audit of the county auditor and if it appears that any item of such expenses was not incurred by such officer or that such item was not necessary thereto, such item may be by the said auditor rejected, in which case the correction of such item may be adjudicated in any court of competent jurisdiction. The amount of such expense shall be deducted by the criminal district attorney of Dallas county in making such a report from the amount if any due by him to the county under the provisions of this Act.

Sec. 10. The criminal district attorney of Dallas county, as provided for in this Act, shall be elected by the qualified electors of the criminal judicial district of Dallas county at the next general election, and it is provided and directed that the present county attorney of Dallas county, Texas shall continue in office and assume the duties and be known as the criminal district attorney of Dallas county, Texas, and proceed to organize and arrange the affairs of the office of criminal district attorney of Dallas county, and appoint assistants as provided for in this Act and receive the fees provided for in this Act for such office until the next general election and until the criminal district attorney of Dallas county shall be elected and qualified. Acts 1917, 35th Leg., p. 315, ch. 121.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

*Repeal of salary and compensation laws applicable to criminal district attorney of Dallas county, see note under Vernon's Ann. Civ.St. art. 3883i, § 8.*

Renumbered from C.C.P.1925, art. 52—24.

## HARRIS COUNTY

## Art. 1926—31. Criminal district court of Harris County

Section 1. The territorial limits of the Criminal Judicial District composed of the counties of Galveston and Harris is hereby changed so as to hereafter include Harris county alone, and there is hereby created and established in the city of Houston, in the county of Harris, a Criminal District Court, which shall have original and exclusive jurisdiction over all criminal cases, both felony and misdemeanor, in the county of Harris, of which district and county courts under the Constitution and laws of this State, have original and exclusive jurisdiction, and shall be known as "The Criminal District Court of Harris County."

Sec. 2. The said court shall have exclusive appellate jurisdiction over all criminal cases tried and determined by justices of the peace, mayors and recorders in said county of Harris, under the same rules and regulations as are provided by law for appeals from justices of the peace, mayors and recorders to the county courts in criminal cases.

Sec. 3. The judge of said court hereinafter provided for shall have power to grant writs of habeas corpus, mandamus and all writs necessary to enforce the jurisdiction of his court, under the same rules and regulations which govern district judges.

Sec. 4. Said court shall have jurisdiction over all bail bonds and recognizances taken in proceedings had before said court, or that may be returned to said court from other courts, and may enter forfeitures thereof, and final judgments, and enforce the collection of the same by proper process in the same manner as is provided by law in district courts.

Sec. 5. Said court shall have jurisdiction over all criminal cases heretofore transferred from other courts to the Criminal District Court of Harris County as heretofore established, and over such criminal cases as may hereafter be transferred to the court created by this Act, as fully in all respects as if said cases had originated in said court.

Sec. 6. The said Criminal District Court of Harris County shall have a seal similar to the seal of the district court, with the words "Criminal District Court of Harris County" engraved thereon, an impression of which seal shall be attached to all writs and other process, except subpoenas issuing from said court, and shall be used in the authentication of all official acts of the clerk of the said court.

Sec. 7. The practice in said court shall be conducted according to the laws governing the practice in the district court, and the rules of pleading and evidence in the district court shall govern in so far as the same may be applicable.

Sec. 8. All laws regulating the selection, summoning, and impaneling of grand and petit jurors in the district court shall govern and apply in the criminal district court in so far as the same may be applicable; provided, that the clerk of the district court of Harris county shall assist in drawing the names of the jurors for said criminal court as is now provided by law.

Sec. 9. All rules of the criminal procedure governing the district and county courts shall apply to and govern said criminal district court.

Sec. 10. [Not included.]

Sec. 11. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning the first Monday

For Annotations and Historical Notes, see V.A.T.S.

in August, one term beginning on the first Monday in November and one term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of.

Sec. 12. Whenever the Criminal District Court of Harris County shall be engaged in the trial of any cause when the time for the expiration of the term of said court as fixed by law shall arrive, the judge presiding shall have the power and may, if he deems it expedient, continue the term of said court until the conclusion of such pending trial; in such case the extension of such term shall be shown on the minutes of the court before they are signed.

Sec. 13. The sheriff of Harris county and his deputies shall attend upon said court and execute all the process issuing therefrom and perform all duties required by said court or the judge thereof, and shall perform all such services for said court as sheriffs and constables are authorized or required to perform in and for other district courts of this State and he shall receive the same fees for his services as are provided by law for the same services in the district court.

Sec. 14. In all matters over which said criminal district court has jurisdiction, it shall have the same power within said district as is conferred by law upon the district court, and shall be governed by the same rules in the exercise of such power.

Sec. 15. Appeals and writs of error may be prosecuted from the said criminal district court to the court of criminal appeals, in the same manner and form as from district courts in like cases. Superseding article 2228, Rev.Civ.St.1911.

Sec. 16. The county of Harris is hereby created a separate criminal judicial district and at the next general election after this Act shall take effect, there shall be elected in and for said district a criminal district judge, a criminal district clerk and a district attorney, each of whom shall have and exercise, respectively, the same duties, powers and authority within said county as are now possessed and exercised by the judge of the criminal district court, the clerk of the criminal district court, and the district attorney for the criminal district composed of Galveston and Harris Counties, and such other duties as are prescribed herein.

Sec. 17. From and after the taking effect of this Act, the criminal district now composed of Galveston and Harris counties shall cease to exist so far as it embraces Galveston county, and all cases of felony that are then pending on the docket of the Criminal District Court of Galveston County shall be at once transferred to the district courts in said county of the Tenth and Fifty-sixth Judicial Districts, the felony cases on said docket of even numbers shall be transferred to the district court for the Tenth Judicial District and the felony cases on said docket of odd numbers shall be transferred to the district court for the Fifty-sixth Judicial District, and the said district court for the Tenth Judicial District and the said court for the Fifty-sixth Judicial District are hereby vested with concurrent exclusive jurisdiction of all felony cases arising in the county of Galveston, and the judges of said courts are hereby vested with all powers, privileges, and authority given by the Constitution and laws of this State in criminal matters, to the district courts of this State; and the judge of the district court for the Tenth Judicial District and the judge of the district court for the Fifty-sixth Judicial District shall alternately impanel grand juries in said county of Galveston in the same manner provided therefor by the judges of the district courts of this State; and from and after taking effect of this Act, all cases of misdemeanor pending on the docket of the Criminal District Court of Galveston County shall be transferred to the County Court of Galveston County,

Texas, unless there be a county court at law of said county, in which event they shall be transferred to the latter court; and said county court and the judge thereof is hereby vested with all the powers, privileges and authority in criminal cases that are conferred by the laws of this State on the county court; and the clerk of the District Court of Galveston County is hereby vested with the powers, duties and authority in criminal matters in cases of felony that are now conferred by law on clerks of the district court in this State, and shall be the custodian of the records in felony cases transferred from said Criminal District Court and hereafter arising in the county of Galveston; and the clerk of the County Court of Galveston County is hereby vested with the powers, duties and authority in criminal matters in cases of misdemeanor as are now conferred by law on the clerks of the county courts of this State, and such clerk shall be the custodian of the papers and records of misdemeanor cases arising in such county after such transfer, and the clerk of the Criminal District Court of Galveston County shall at once make the transfer of cases herein provided and turn over the papers and records of his office to the clerk of the district court and the clerk of the County Court of Galveston County as herein provided. The clerk of the district court shall file and docket the even numbered felony cases in the court of the Tenth Judicial District and the odd numbered felony cases in the court of the Fifty-sixth Judicial District, but any case pending in either of said courts may, in the discretion of the judge thereof, be transferred by one of said district courts to the other, and in case of the disqualification of the judge of either of said courts and in any case, such case on his suggestion of disqualification shall stand transferred to the other of said courts and docketed by the clerk accordingly. All writs and process heretofore, or that may hereafter be issued, up to the time this Act shall take effect, which are made returnable to the Criminal District Court of Galveston and Harris Counties, shall be returnable to the court to which the cause has been or may be transferred in like manner as if originally made returnable to said court and all writs and process are hereby validated.

The district clerk of Galveston county shall receive the sum of \$600.00 per annum, to be paid by the county of Galveston for ex officio services, and receive the same fees in criminal cases as fixed by law in felony cases, and the county clerk shall receive the sum of \$600.00 per annum for ex officio services and be entitled to such fees as are provided by law in misdemeanor cases.

The county commissioners court shall have authority to pay for the services of a special deputy district or county clerk, or both, if in their judgment such shall be required; such assistant to be appointed by the clerk of the court in which his services are needed. The county attorney and his assistant shall conduct all prosecutions in said district and county courts and county court at law and said county attorneys and the clerks of said court shall receive such fees as are now or may hereafter be provided for by law.

Sec. 17a. The Criminal District Court of Harris County herein provided for shall, from and after the time when this Act takes effect, be taken and deemed to be, in respect to all matters of jurisdiction, records and procedure a continuation of the Criminal District Court of Galveston and Harris Counties as now organized for Harris county, it being the intention of this Act to reduce the territorial limits of the Criminal Judicial District of Galveston and Harris Counties to Harris county alone.

Sec. 18. The judge of the Criminal District Court of Harris County shall be elected by the qualified voters of said county for a term of four years and shall hold his office until his successor is elected and qualified. He shall possess the same qualifications as are required of the judges



For Annotations and Historical Notes, see V.A.T.S.

of the district court and shall receive the salary and compensation as is now, or may hereafter be provided for district judges of this State, to be paid in the same manner as the salary and compensation of other district judges is paid. Said judge of said criminal district court shall have and exercise all the powers and duties which are now, or hereafter may be by law vested in and exercised by district judges of this State in criminal cases. The judge of said court may exchange with other district judges, as provided by law, and the said judge shall have all the power within said criminal district which is by the Constitution and laws of this State vested in district judges of their respective judicial districts, except that the jurisdiction and authority of said criminal district judge shall be limited to criminal cases, and to the exercise of such powers and the granting of such writs and process as may be necessary or incidental to the exercise of such criminal jurisdiction.

Sec. 19. There shall be elected by the qualified electors of the criminal district of Harris county, Texas, an attorney for said court who shall be styled "The Criminal District Attorney of Harris County," and who shall hold his office for a period of two years and until his successor is elected and qualified. The said criminal district attorney shall possess all of the qualifications and take the oath and give the bond required by the Constitution and laws of this State, of other district attorneys. It shall be the duty of said criminal district attorney, or of his assistants, as hereinafter provided, to be in attendance upon each term of said Criminal District Court of Harris County and to represent the State in all matters pending before said court. And he shall have exclusive control of all criminal cases wherever pending, or in whatever court in Harris county that now has jurisdiction of criminal cases, as well as any or all courts that may be hereafter created and given jurisdiction of any criminal cases, and he shall collect the fees therefor provided by law. He shall also have control of any and all cases heard on habeas corpus before any civil district court of Harris county, as well as before the criminal court of said county. The criminal district attorney of Harris county shall have and exercise, in addition to the specific powers given and duties imposed upon him by this Act, all such powers, duties and privileges within said criminal district of Harris county as are by law now conferred or which may hereafter be conferred upon district and county attorneys in the various counties and judicial districts of this State. It is further provided that he and his assistants shall have the exclusive right, and it shall be their sole duty to perform the duties provided for in this Act, except in cases of the absence from the county of the criminal district attorney and his assistants, or their inability or refusal to act; and no other person shall have the power to perform the duties provided in this Act, or to represent the State in any case in Harris county, except in case of the absence from Harris county, or the disability or refusal to act, of the criminal district attorney and his assistants.

Sec. 20. The said criminal district attorney of Harris county shall be commissioned by the Governor and shall receive a salary of five hundred dollars per annum, to be paid by the State, and in addition thereto shall receive the following fees in felony cases, to be paid by the State: For each conviction of felonious homicide, where the defendant does not appeal or dies, or escapes after appeal and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of forty dollars. For all other convictions in felony cases, where the defendant does not appeal, or dies, or escapes, after appeal, and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of thirty dollars; provided, that in all convictions of felony, in which punishment is fixed by the verdict and judgment by confinement in the House of Correction and Reformatory, his fee shall be fifteen dollars. For representing the State

in each case of habeas corpus where the defendant is charged with a felony, the sum of twenty dollars. For representing the State in examining trials, in felony cases, where indictment is returned, in each case, the sum of five dollars. The criminal district attorney shall also receive such fees in misdemeanor cases, to be paid by the defendant and by the county, as is now provided by law for district and county attorneys, and he shall also receive such compensation for other services rendered by him as is now, or may hereafter be, authorized by law to be paid to other district and county attorneys in this State.

Sec. 21. The criminal district attorney of Harris county shall retain out of the fees earned by him in the Criminal District Court of Harris County the sum of twenty-five hundred dollars per annum, and in addition thereto, one-fourth of the gross excess of all fees in excess of twenty-five hundred dollars per annum, the three-fourths of the excess over and above twenty-five hundred dollars per annum, remaining, to be paid by him into the treasury of Harris county. It is provided that in arriving at the amount collected by him, he shall include the fees arising from all classes of criminal cases of which the Criminal District Court of Harris County has original and exclusive jurisdiction, whether felony, misdemeanor, habeas corpus hearings, or commission on fines and forfeitures collected in said court, it being the intention of this Act that the criminal district attorney of Harris county shall include all fees of every kind and class earned by him in said criminal district court in arriving at the amount collected by him; it being further provided that at the end of each year he shall make a full and complete report and accounting to the county judge of Harris county of the amount of such fees collected by him.

Sec. 22. The Criminal District Attorney of Harris County shall appoint two assistant criminal district attorneys, who shall each receive a salary of eighteen hundred dollars per annum, payable monthly. He shall also appoint a stenographer, who shall receive a salary of not more than twelve hundred dollars per annum, payable monthly. In addition to the assistant criminal district attorneys and stenographer, above provided for, the county judge of Harris County may, with the approval of the commissioners' court, appoint as many additional assistants as may be necessary to properly administer the affairs of the office of Criminal District Attorney and enforce the law, upon the Criminal District Attorney making application under oath, addressed to the County Judge of Harris County, setting out the need therefor, provided, the county judge, with the approval of the commissioners' court may discontinue the service of any one or more of the assistant criminal district attorneys provided for in this Act, when in his judgment and of the judgment of the commissioners' court, they are not necessary; provided that the additional assistants appointed by the county judge as herein provided for shall receive not more than \$1,800.00 per year, payable monthly. The salaries of all assistants shall be paid by Harris County; provided that if the above salaries be insufficient and inadequate for the proper investigation of crime in Harris County and the efficient performance of the duties of said office, then the Criminal District Attorney may contract for and pay such additional compensation as is necessary for the proper and efficient discharge of his duties, out of the excess fees collected by him which would otherwise go to the county, a detailed itemized statement, under oath, of which he shall include in his annual report to the County Judge of Harris County, to be approved by the county auditor, but in no event shall the county be liable for such extra compensation. Provided further that before said Criminal District Attorney shall pay such extra compensation he shall secure the written approval of a majority of the District Judges of Harris County. The assistant criminal district attorneys above provided for, when so appointed, shall take the oath of office and be authorized to represent the State before said Criminal Dis-

trict Court, and in all other courts in Harris County in which the Criminal District Attorney of Harris County, is authorized by this Act to represent the State, such authority to be exercised under the direction of the said Criminal District Attorney, and which assistants shall be subject to removal at the will of the said Criminal District Attorney. Each of said assistant criminal district attorneys shall be authorized to file informations, examine witnesses before the grand jury and generally to perform any duty devolving upon the Criminal District Attorney of Harris County, and to exercise any power conferred by law upon the said Criminal District Attorney when by him so authorized. The Criminal District Attorney of Harris County shall be paid the same fees for services rendered by his assistants as he would be entitled to receive if the services should have been rendered by himself. Provided, further, that the \$2,500 in fees and the one-fourth of the excess fees heretofore provided for shall in no event exceed the total sum of \$6,000 per year as compensation to said District Attorney, and any amount in excess thereof shall be turned in to the County Treasurer. As amended Act Feb. 23, 1917, ch. 42, § 1.

Sec. 23. The clerk of the Criminal District Court of Harris County<sup>1</sup> shall be elected by the qualified voters of Harris county, and shall hold his office for a term of two years, and until his successor is elected and qualified. Said clerk shall receive such fees as are now or may hereafter be prescribed by law to be paid to the clerk of the district courts of this State, and to be paid and collected in the same manner; and in addition thereto, he shall receive an annual salary of one thousand dollars, to be paid out of the treasury of Harris county monthly. Said clerk shall have the same power and authority, and shall perform the same duties with respect to said Criminal District Court of Harris County as are by law conferred upon the clerks of other district courts in criminal cases, and shall have authority to appoint one or more deputies as needed, whose salary shall be paid by said clerk. Said deputies shall take the oath of office prescribed by the Constitution of this State, and said deputies are authorized to perform such services as may be authorized by said criminal district clerk, and shall be removable at the will of the clerk.

Sec. 24. The criminal district judge and the criminal district attorney of the criminal judicial district composed of Galveston and Harris counties, who shall be in office at the time when this Act goes into effect, shall continue in office, respectively, as the judge and the district attorney of the Criminal District Court of Harris County until the next general election, or until their successors shall be elected and qualified.

The clerk of the Criminal District Court of Harris County who shall be in office at the time when this Act goes into effect shall continue in office as clerk of the Criminal District Court of Harris County until January 1, A.D. 1912, and until his successor is appointed and qualified.

The Governor shall, on January 1, 1912, or thereafter, appoint a clerk of the Criminal District Court of Harris County, who shall hold his office from January 1, A.D. 1912, until the next general election, or until his successor is elected and qualified. Acts 1911, 32nd Leg. p. 111, ch. 67.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

#### 1959 Amendment

*The introductory paragraph of Acts 1959, 56th Leg., p. 903, ch. 414, § 1, amending Art. 52, provided:*

*"Section 1. That article 52 of the Code of Criminal Procedure of the State of Texas, 1925, as amended, as the same relates to and provides for the Criminal District Court of Harris County, the*

*Criminal District Court of Harris County No. 2, the Criminal District Court of Harris County No. 3, the Criminal District Court of Harris County No. 4 and the Criminal District Court of Harris County No. 5, and Article 199 of the Revised Civil Statutes of the State of Texas, 1925, as amended, as the same relates to and provides for the 11th, 55th, 61st, 80th, 113th, 129th, 125th, 127th, 133rd, 151st, 152nd, 157th District Courts of Harris County, Texas, be and said Articles are hereby amended so as to hereafter read as follows: [For text of amendment, see Vernon's Ann.Civ.St. art. 199(11)]."*

Renumbered from C.C.P.1925, arts. 52—25  
to 52—48.

**Art. 1926—32. Criminal district court No. 2, Harris County**

Section 1. There is hereby created and established at the city of Houston a criminal district court to be known as the "Criminal District Court No. 2 of Harris County," which court shall have and exercise concurrent jurisdiction with the criminal district court of Harris County under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the criminal district court of Harris County and the Criminal District Court No. 2 of Harris County shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said criminal district court of Harris County now has jurisdiction; and either of the judges of said criminal district courts may in their discretion transfer any cause or causes that may at any time be pending in his court to the other criminal district court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such criminal district court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court. From and after the taking effect of this Act, all felony cases of even numbers that are then pending on the docket of the criminal district court of Harris County shall be at once transferred to the Criminal District Court No. 2 of Harris County, and from and after the taking effect of this Act, the clerk of the criminal district court shall file and docket the felony cases of even numbers in the Criminal District Court No. 2 of Harris County, and the felony cases of odd numbers in the criminal district court of Harris County.

Sec. 3. The judge of said Criminal District Court No. 2 of Harris County shall be elected by the qualified voters of Harris County for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary as is now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of the criminal district court of Harris County. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and, in case of disqualification or absence of a judge, a special judge may be selected, elected or appointed as provided by law in cases of district judges; provided, that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a judge of said court, who shall hold the office until the next general election, after the passage of this Law, and until his successor shall have been elected and qualified. Either of the judges of said criminal district courts may, in his discretion, in the absence of the judge of the other criminal district court from his court room or from the County of Harris, Texas,

try and dispose of any cause or causes that may be pending in such criminal district court as fully as could such absent judge were he personally present and presiding. And either of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent district judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular judge of said criminal district court could make if personally present and presiding.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court No. 2 of Harris County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, district attorney and the clerk of the criminal district court of Harris County, as heretofore provided for by law, shall be the sheriff, district attorney and clerk, respectively, of said Criminal District Court No. 2 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, district attorneys and clerks of the district courts of the State; and said sheriff, district attorney and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the State, to be paid in the same manner.

The county commissioners' court shall have authority to pay out of the general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the clerk of the criminal district court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The criminal district attorney may appoint an assistant district attorney, in addition to those now provided by law, to attend said court. Said assistant shall have the authority and shall qualify as provided by law for assistant district attorneys, and shall be removable at the will of the district attorney, and shall receive a salary not to exceed the maximum salary allowed assistant district attorneys; said salary to be payable monthly by said county by warrant drawn from the general funds thereof.

Sec. 6. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning on the first Monday in August, one term beginning on the first Monday in November, and one term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in the district courts. The district judges of the criminal district courts of Harris

County shall alternately appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the criminal district courts of the county for each week during the time said courts may hold during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the criminal district courts for the respective weeks for which they are designated to serve. The judges of the said criminal district courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the criminal district judge to whom the panel of jurors shall report for duty, and said judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the sheriff to appear and report for jury service before said judge so designated, who shall hear excuses of said jury and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said criminal district courts, and they may be used interchangeably in the criminal district courts. In the event of a deficiency of said jurors, the judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the articles commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act and other laws now in effect. Acts 1927, 40th Leg., p. 33, ch. 24.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

#### 1959 Amendment

*See italicized note following Art. 1926—31.*

*For text of amendment, see Vernon's Ann.Civ.St. art. 199(11).*

Renumbered from C.C.P.1925, art. 52—58.

#### Art. 1926—33. Criminal District Court No. 3 of Harris County

Section 1. There is hereby created and established at the city of Houston a criminal district court to be known as the "Criminal District Court No. 3 of Harris County," which court shall have and exercise concurrent jurisdiction with the criminal district court of Harris County and the Criminal District Court No. 2 of Harris County under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County now have jurisdiction; and the judge of any one (1) of said criminal district courts may in his discretion transfer any cause or causes that may at any time be pending in his court to one (1) of the other criminal district courts by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such criminal district court shall enter such cause or causes

For Annotations and Historical Notes, see V.A.T.S.

upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court, provided no case shall be transferred without the consent of the judge of the court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 3, 6, or 9 pending on the dockets of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 3 of Harris County, and after the effective date of this Act, the clerk of the criminal district courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County in rotation in the order filed so that the first case or proceeding filed after the effective date of this Act and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County and so on in rotation.

Sec. 3. The judge of said Criminal District Court No. 3 of Harris County shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and, in case of disqualification or absence of the judge, a special judge may be selected, elected or appointed as provided by law in cases of district judges; provided that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a judge of said court, who shall hold the office until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified. The judge of any one of said criminal district courts may, in his discretion, in the absence of the judge of one of the other criminal district courts from his courtroom or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such criminal district court as fully as could such absent judge were he personally present and presiding. And any one of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent district judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular judge of said criminal court could make if personally present and presiding.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal

District Court No. 3 of Harris County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, criminal district attorney and the clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the sheriff, criminal district attorney and clerk, respectively, of said Criminal District Court No. 3 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, criminal district attorneys and clerks of the district courts of the State; and said sheriff, criminal district attorney and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the State, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the Officers' Salary Fund or other general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the clerk of the criminal district court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The criminal district attorney may appoint an assistant criminal district attorney, in addition to those now provided by law, to attend said court. Said assistant shall have the authority and shall qualify as provided by law for assistant district attorneys, and shall be removable at the will of the criminal district attorney, and shall receive a salary not to exceed the maximum salary allowed assistant district attorneys; said salary to be payable monthly by said county by warrant drawn from the Officers' Salary Fund or other general funds thereof. The judge of the Criminal District Court No. 3 of Harris County shall appoint an official court reporter for said court as provided by law.

Sec. 6. Said court shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, one (1) term beginning the first Monday in May, one (1) term beginning on the first Monday in August, one (1) term beginning on the first Monday in November, and one (1) term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in district courts. The district judges of the criminal district courts of Harris County shall successively appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the criminal district courts of the county for each week during the time said courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the criminal district courts for the respective weeks for which they are designated to serve. The judges of the said criminal district courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the criminal district



For Annotations and Historical Notes, see V.A.T.S.

judge to whom the panel of jurors shall report for duty, and said judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the sheriff to appear and report for jury service before said judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said criminal district courts, and they may be used interchangeably in the criminal district courts. In the event of a deficiency of said jurors, the judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act. Acts 1951, 52nd Leg., p. 500, ch. 307.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

#### 1959 Amendment

*See italicized note following Art. 1926—31.*

*For text of amendment, see Vernon's Ann.Civ.St. art. 199(11).*

Renumbered from C.C.P.1925, art. 52—  
158a.

#### **Art. 1926—34. Criminal District Courts Nos. 4 and 5 of Harris County**

Section 1. There is hereby created and established at the City of Houston, two (2) Criminal District Courts to be known as the "Criminal District Court No. 4 of Harris County," and "Criminal District Court No. 5 of Harris County," which Courts shall have and exercise concurrent jurisdiction with the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, and the Criminal District Court No. 3 of Harris County, under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County and the Criminal District Court No. 5 of Harris County, shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County now have jurisdiction; and the Judge of any one of said Criminal District Courts may in his discretion transfer any cause or causes that may at any time be pending in his Court to one of the other Criminal District Courts by an order or orders entered upon the minutes of his Court; and where such transfer or transfers are made the Clerk of such Criminal District Court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the Judge of that Court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said Court, provided no case shall be transferred without the consent of the Judge of the Court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 4 or 9 pending on the dockets of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 4 of Harris County, and all

felony cases having numbers ending with 5 or 0 pending on the dockets of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 5 of Harris County, and after the effective date of this Act, the Clerk of the Criminal District Courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County in rotation in the order filed so that the first case or proceeding filed after the effective date of this Act and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County, and the fourth case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 4 of Harris County, Texas, and the fifth case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 5, of Harris County, Texas, and so on in rotation.

Sec. 3. The Judges of said Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5, of Harris County, shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. They shall each possess the same qualifications as are required of the Judge of the District Court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the District Judges, to be paid in like manner. They shall each have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County. The Judge of each of said Courts may exchange with any District Judge, as provided by law in cases of District Judges, and, in case of disqualification or absence of the Judge, a Special Judge may be selected, elected or appointed as provided by law in cases of District Judges; provided that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a Judge of each of said Courts, who shall hold the office until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified, the Judge of any one of said Criminal District Courts may, in his discretion, in the absence of the Judge of one of the other Criminal District Courts from his courtroom or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such Criminal District Courts as fully as could such absent Judge were he personally present and presiding. And any one of said Judges may receive in open Court from the foreman of the Grand Jury any bill or bills of indictment in the Court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such Court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent District Judge could do if personally present and presiding over such Court; and may make any other order or orders in such Courts respecting the causes therein

pending or the procedure pertaining thereto as the regular Judge of said Criminal Court could make if personally present and presiding.

Sec. 4. Said Court shall each have a seal of like design as the seal now provided by law for District Courts, except that the words "Criminal District Court No. 4 of Harris County" shall be engraved around the margin of one and "Criminal District Court No. 5 of Harris County" of the other thereof, which seals shall be used for all the purposes for which the seals of the District Courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said Court, under the hand of the Clerk and attested by the seal of either said Courts, shall be admissible in evidence in all the Courts of this State in like manner as similar certified copies from Courts of record are now or may hereafter be admissible.

Sec. 5. The Sheriff, District Attorney and the Clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the Sheriff, District Attorney and Clerk, respectively, of said Criminal District Court No. 4 of Harris County and Criminal District Court No. 5 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of Sheriffs, District Attorneys and Clerks of the District Courts of the State; and said Sheriff, District Attorney and Clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the District Courts of the State, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the Officers' Salary Fund or other general funds of the county for the services of such special deputy or deputies to be appointed by the Clerk of the Criminal District Court, and to be removable at the will of the Clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district Clerks, said salary shall be payable monthly. The District Attorney may appoint an assistant District Attorney in addition to those now provided by law to attend said Court. Said assistant shall have the authority and shall qualify as provided by law for assistant District Attorneys, and shall be removable at the will of the District Attorney, and shall receive a salary not to exceed the maximum salary allowed assistant District Attorneys; said salary to be payable monthly by said County by warrant drawn from the Officers' Salary Fund or other general funds thereof. The Judges of the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County shall appoint an official court reporter for said Court as provided by law.

Sec. 6. Said Courts shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning on the first Monday of August, one term beginning on the first Monday in November, and one term beginning on the first Monday of February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said Court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in District Courts. The District Judges of the Criminal District Courts of Harris County shall successively appoint Grand Jury commissioners and empanel Grand Juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the criminal District Courts of the County for each week during the said time said Courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the County for each of said weeks, said jury to be known as the panel of jurors for service in the Criminal District Courts for the respective weeks for which they are designated to serve. The Judges of the said Criminal District Courts shall agree upon which one shall be authorized to act in carrying out the

provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the Criminal District Judge to whom the panel of jurors shall report for duty, and said Judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the Sheriff to appear and report for jury service before said Judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said Criminal District Courts, and they may be used interchangeably in the Criminal District Courts. In the event of a deficiency of said jurors the Judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act. Acts 1959, 56th Leg., p. 555, ch. 249.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

#### 1959 Amendment

*See italicized note following Art. 1926—31.*

*For text of amendment, see Vernon's Ann.Civ.St. art. 199(11).*

Renumbered from C.C.P.1925, art. 52—  
158b.

#### Art. 1926—35. Criminal District Court No. 6 of Harris County

A. There is hereby created and established at the City of Houston, a new Criminal District Court to be known as the "Criminal District Court No. 6 of Harris County," which Court shall have and exercise concurrent jurisdiction with the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County, under the Constitution and the laws of the State of Texas.

B. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, the Criminal District Court No. 5 of Harris County, shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County now have jurisdiction; and the Judge of any one of said Criminal District Courts may in his discretion transfer any cause or causes that may at any time be pending in his court to one of the other Criminal District Courts by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such Criminal District Court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court, provided no case shall be transferred without the consent of the judge of the

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court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 1 or 6 pending on the dockets of the other Criminal District Courts of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 6 of Harris County, and after the effective date of this Act, the Clerk of the Criminal District Courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, the Criminal District Court No. 5 of Harris County, and the Criminal District Court No. 6 of Harris County in rotation in the order filed so that the first case or proceeding filed after the effective date of this Act and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County, and the fourth case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 4 of Harris County, Texas, and the fifth case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 5 of Harris County, Texas, and the sixth case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 6 of Harris County, Texas, and so on in rotation.

C. The Judges of said Criminal District Court No. 6 of Harris County, shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. They shall each possess the same qualifications as are required of the Judge of the District Court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the District Judges, to be paid in like manner. They shall each have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County. The judge of each of said courts may exchange with any District Judge, as provided by law in cases of District Judges, and, in case of disqualification or absence of the Judge, a Special Judge may be selected, elected or appointed as provided by law in cases of District Judges; provided that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a judge of each of said courts, who shall hold the office until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified, the Judge of any one of said Criminal District Courts may, in his discretion, in the absence of the Judge of one of the other Criminal District Courts from his courtroom or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such Criminal District Courts as fully as could such absent judge were he personally present and presiding. And any one of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely

as such absent District Judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular Judge of said Criminal Court could make if personally present and presiding.

D. Appropriation. A sum of \$16,000.00 for the fiscal year ending August 31, 1966, and a sum of \$16,000.00 for fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the Criminal District Court No. 6 of Harris County. The salary shall be paid as provided by law.

E. Said court shall have a seal of like design as the seal now provided by law for District Courts, except that the words "Criminal District Court No. 6 of Harris County" shall be engraved around the margin which seal shall be used for all the purposes for which the seals of the District Courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of either said courts, shall be admissible in evidence in all the courts of this state in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

F. The Sheriff, District Attorney and the Clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the Sheriff, District Attorney and Clerk, respectively, of said Criminal District Court No. 6 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of Sheriffs, District Attorneys and Clerks of the District Courts of the state; and said Sheriff, District Attorney and Clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the District Courts of the state, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the Officers' Salary Fund or other general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the Clerk of the Criminal District Court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The District Attorney may appoint an assistant District Attorney in addition to those now provided by law to attend said court. Said assistant shall have the authority and shall qualify as provided by law for assistant District Attorneys, and shall be removable at the will of the District Attorney, and shall receive a salary not to exceed the maximum salary allowed assistant District Attorneys; said salary to be payable monthly by said county by warrant drawn from the Officers' Salary Fund or other general funds thereof. The Judge of the Criminal District Court No. 6 of Harris County shall appoint an official court reporter for said court as provided by law.

G. Said court shall hold for four (4) terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning on the first Monday of August, one term beginning on the first Monday in November, and one term beginning on the first Monday of February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in District Courts. The District Judges of the Criminal District Courts of Harris County shall successively appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service

For Annotations and Historical Notes, see V.A.T.S.

in the Criminal District Courts of the County for each week during the said time said courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the Criminal District Courts for the respective weeks for which they are designated to serve. The Judges of the said Criminal District Courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the Criminal District Judge to whom the panel of jurors shall report for duty, and said Judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the Sheriff to appear and report for jury service before said Judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said Criminal District Courts, and they may be used interchangeably in the Criminal District Courts. In the event of a deficiency of said jurors the Judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act. Acts 1965, 59th Leg., p. 895, ch. 442, § 10c, eff. Sept. 1, 1965.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 52—  
158c.

## TARRANT COUNTY

### Art. 1926—41. Criminal District Court for Tarrant County

Section 1. There is hereby created and established at the city of Ft. Worth a Criminal District Court to be known as "Criminal District Court of Tarrant County," which Court shall have and exercise, from and after the taking effect of this Act, original and exclusive jurisdiction over all criminal cases of the grade of felony in the county of Tarrant of which district courts, under the Constitution and laws of this State, have original and exclusive jurisdiction, and shall have and exercise such concurrent jurisdiction with the county court of Tarrant county over misdemeanor cases as is hereinafter provided by this Act.

Sec. 2. From and after the time this Act shall take effect, the county court of Tarrant county and the Criminal District Court of Tarrant county created by this Act, shall have and exercise concurrent jurisdiction with each other in all misdemeanor cases of which the county court of Tarrant county may now, or may hereafter have exclusive jurisdiction; and of such misdemeanor cases as shall be filed in said county court on appeal from justices' or recorders' courts; and either the judge of said Criminal District Court, or the judge of said county court of Tarrant county, may upon motion of the county attorney of Tarrant county, or other officer representing the State in said courts, in his discretion transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders entered upon the minutes of his court; and where such transfer or transfers, are made,

the clerk of the court making such transfer shall certify to the clerk of the court to which such transfer is made a statement of the cause or causes so transferred giving the style and number of the same to the clerk of the court to which such transfer is made and shall accompany such statement with all the papers in said cause or causes so transferred and upon receipt of such statement and the papers in such cause or causes so transferred, the clerk of the court to which such transfer is made shall enter such cause or causes upon the docket of the court to which such transfer or transfers are made, and when so entered upon the docket, the judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cases were originally instituted in said court.

Sec. 3. Said court shall have jurisdiction over all bail bonds and recognizances taken in proceedings had before said court, or that may be returned to said court from other courts, and may enter forfeitures thereof and final judgments, and enforce the collection of the same by proper process in the same manner as is provided by law in district courts.

Sec. 4. The said Criminal District Court of Tarrant county shall have a seal similar to the seal of the district court with the words "Criminal District Court of Tarrant county" engraved thereon, an impression of which seal shall be attached to all writs and other processes, except subpoenas, issuing from said court, and shall be used in the authentication of the official acts of the clerk of said court.

Sec. 5. The practice in said court shall be conducted according to the laws governing the practice in the district court, and the rules of pleading and evidence in the district court shall govern insofar as the same may be applicable.

Sec. 6. All laws regulating the selection, summoning and impaneling of grand and petit jurors in the district court shall govern and apply in the Criminal District Court in so far as the same may be applicable.

Sec. 7. All rules of criminal procedure governing the district and county courts shall apply to and govern said Criminal District Court.

Sec. 8. Said Criminal District Court of Tarrant County shall try all misdemeanor cases coming before it with six jurors instead of twelve jurors, unless a jury be waived by the defendant.

Sec. 9. Said Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of April, one term beginning the first Monday of July, one term beginning the first Monday of October, one term beginning the first Monday of January. Each term shall continue until the term ends by operation of law or the business is disposed of. The grand jury shall be impanelled in said court for each term thereof, unless otherwise directed by the judge of said Court.

Sec. 10. Whenever the Criminal District Court of Tarrant County shall be engaged in the trial of any cause when the time for expiration of the terms of said court as fixed by law shall arrive, the judge presiding shall have the power, and may, if he deems it expedient, continue the term of said court until the conclusion of such pending trial; in such case, the extension of such term shall be shown on the minutes of the court before they are signed.

Sec. 11. The sheriff, county attorney, and the clerk of the district court of Tarrant county shall be the sheriff, county attorney and clerk, respectively, of said Criminal District Court under the same rules and regulations as are now, or may hereafter be prescribed by law for the government of sheriffs, county attorneys, and clerks of the district courts



of this State; and said sheriff, county attorney and clerk shall respectively receive such fees as are now, or may hereafter be prescribed for such officers in the district courts of the State, to be paid in the same manner, provided that the clerk of the court herein created, shall receive as compensation for his services the sum of \$125.00 (one hundred and twenty-five dollars) per month, to be paid as all the salaries of other clerks of criminal district courts in this State.

Sec. 12. In all such matters over which said Criminal District Court has jurisdiction, it shall have the same power within said district as is conferred by law upon the district court, and shall be governed by the same rule in the exercise of said power.

Sec. 13. Appeals and writs of error may be prosecuted from said Criminal District Court to the court of criminal appeals in criminal cases and to the courts of civil appeals in the same manner and form as from district courts in like cases.

Sec. 14. From and after the taking effect of this Act, the district courts of Tarrant county as now constituted, shall be, and they are hereby deprived and divested of all jurisdiction in all criminal cases, and of all jurisdiction given the Criminal District Court of Tarrant county by this Act, and all criminal causes pending in said district courts at the time of the taking effect of this Act and all matters pertaining to criminal cases pending therein over which the court herein created is given jurisdiction, shall be, by the judges of the other district courts ordered transferred to and entered upon the docket of said Criminal District Court, and when so entered upon the docket, the judge of said Criminal District Court shall try and dispose of same in the same manner as if such cases were originally instituted therein. Provided that the other district courts of Tarrant county shall have jurisdiction concurrently with this court to empanel grand juries and to receive their bills of indictment and make proper transfer of same to the Criminal District Court.

Sec. 15. The judge of said Criminal Court of Tarrant county shall be elected by the qualified voters of Tarrant county for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary as is now, or may hereafter be paid, to the district judges to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of this State in criminal cases. Provided, that the Governor, by and with the consent of the Senate, if in session, shall appoint a judge of said court who shall hold the office until the next general election after the passage of this Act, and until his successor shall have been elected and qualified.

Sec. 16. The judge of said criminal district court may exchange districts with or hold court for any district judge, as provided by law in cases of district judges, and in case of disqualification or absence of a judge, a special judge may be selected.

Sec. 17. All orders heretofore made and all process heretofore issued in any criminal cause so transferred are hereby validated and made of full force and effect in the Criminal District Court of Tarrant county. Acts 1917, 35th Leg., p. 144, ch. 77.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

*54.02.*

Renumbered from C.C.P.1925, arts. 52—63,  
52—65 to 52—80.

## Art. 1926—42. Criminal judicial district of Tarrant County

Section 1. There is hereby created and established a Criminal Judicial District of Tarrant County, Texas, to be composed of the County of Tarrant, Texas, alone and which shall be co-extensive with the territorial boundaries and limits of said Tarrant County, and the Criminal District Court of Tarrant County, Texas, shall have and exercise all of the criminal jurisdiction of and for said Criminal District of Tarrant County, Texas, which is now conferred by law on said Criminal District Court.

Sec. 2. There shall be elected by the qualified electors of the Criminal Judicial District of Tarrant County, Texas, an Attorney for said District who shall be styled the "Criminal District Attorney of Tarrant County" and who shall hold his office for a period of two years and until his successor is elected and qualified. The said Criminal District Attorney shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State, of other District Attorneys.

Sec. 3. It shall be the duty of said Criminal District Attorney or his assistants as herein provided to be in attendance upon each term and all sessions of the Criminal District Court of Tarrant County and of all sessions and terms of the County Court of Tarrant County, Texas, held for the transaction of criminal business, and to represent the state in all matters pending before said courts, and to represent Tarrant County in all matters pending before such courts, the Commissioners Court of Tarrant County and Justice Courts and any other courts where said Tarrant County has pending business of any kind or matter of concern or interest; provided, however, the Commissioners Court may employ the services of the Criminal District Attorney or his assistants, or if the court elects to do so it may employ special counsel of its own choice, learned in the law, to represent the county in all condemnation proceedings for the acquisition of right-of-way for highways and proper purposes where the right of eminent domain is given to the county; and particularly with authority to render aid and work with the Commissioners Court, the county engineer and other county employees in the preparation of documents necessary in the acquisition of rights-of-way for the county, or in cases where the county is required to obtain right-of-way for state highways, or to assist in the acquisition of such rights-of-way. Such employment may be made for such time and on such terms as the Commissioners Court may deem proper and expedient; provided, however, that the compensation for such employment shall be paid out of the Road and Bridge fund of Tarrant County. The Criminal District Attorney of Tarrant County shall have and exercise in addition to the specific powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within such criminal district of Tarrant County as are by law now conferred, or which may hereafter be conferred upon district and county attorneys in the various counties and judicial districts of this state except in regard to condemnation proceedings where the Commissioners Court elects to hire a special counsel. As amended Acts 1963, 58th Leg., p. 860, ch. 329, § 1.

Sec. 4. Said Criminal District Attorney of Tarrant County shall be commissioned by the Governor and shall receive as salary and compensation the following and no more:

A salary of Five Hundred (\$500.00) Dollars from the State of Texas, as provided in the Constitution of the State of Texas, for the salary of District Attorney, and so much of the fees, commissions and perquisites earned by said office to make up the total compensation to the sum of Six Thousand (\$6,000) Dollars; provided, that the amount of such salary, fees and perquisites to be received and retained by him shall never exceed the sum of Six Thousand (\$6,000) Dollars in any one year; and,

provided, further, that all salaries, fees, commissions and perquisites so earned and received by such office in excess of \$6,000 during each and every fiscal year shall be paid into the County Treasury of said county in accordance with the terms and provisions of the maximum fee bill, except as to such portion of such excess as shall be used and expended in the payment of salaries to deputies, as hereinafter provided.

Sec. 5. The Criminal District Attorney of Tarrant County, for the purpose of conducting the affairs of such office, shall be and is hereby authorized, by and with the written consent of the county judge of said county, to appoint such assistant district attorneys who shall have all the qualifications of the criminal district attorney, as are necessary to perform the duties and affairs of such office, not to exceed six in number, two of whom shall receive a salary not to exceed three thousand dollars each per annum; two of whom shall receive a salary not to exceed twenty-five hundred dollars each per annum; one of whom shall receive a salary not to exceed twenty-one hundred dollars per annum; one of whom shall receive a salary not to exceed fifteen hundred dollars per annum. Said criminal district attorney shall also be authorized, with the consent of the county judge of said county, to appoint, not to exceed two assistants who shall not be required to possess the qualifications prescribed by law for criminal district attorneys, who shall perform such duties as may be assigned to them by said criminal district attorney, and who shall receive as their compensation a salary not to exceed twenty-one hundred dollars each per annum. All salaries above mentioned shall be payable monthly, and the said salaries to be paid only out of the fees of office collected by said district attorney, said fees of office to be the same as are now allowed and permitted by law to be paid to the county and district attorneys of this State. The fixing of the amount of salaries to be paid by said criminal district attorney to said assistants shall be fixed and regulated by the commissioners court of said county by an order passed at a regular session of said court and duly spread upon the minutes of said court; provided that the two assistants to the district attorney who are not required to have the qualifications of a criminal district attorney shall, so far as Tarrant County is concerned, be in lieu of the assistants of like character provided for in any statutes of this State. As amended Acts 1920, 36th Leg., 3d C.S., ch. 6, § 1 (§ 5).

Sec. 6. The Assistant Criminal District Attorneys above provided for when so appointed shall take the oath of office as such, and be authorized to represent the State before the Criminal District Court of Tarrant County in which the Criminal District Attorney of Tarrant County is authorized by this Act to represent the State, or to represent Tarrant County. Each of said Assistant Criminal District Attorneys shall be authorized to administer oaths, file information, examine witnesses before the Grand Jury, and generally to perform any duty devolving upon the Criminal District Attorney of Tarrant County, and to exercise any power conferred by law upon such Criminal District Attorney when by him so authorized and directed.

Sec. 7. Said Criminal District Attorney of Tarrant County shall be clothed with all the powers and vested with all the rights and privileges conferred upon County Attorneys and District Attorneys of this state, and shall receive no salary or compensation or perquisites or fees of any character save those provided in Section 4 of this Act. All fees or commissions from all sources, including fees and commissions in all criminal and civil cases, and for the prosecution of all tax suits, and from every other source, shall be turned over to the County Treasurer of said County by the said District Attorney, subject only to the payment of the salary of himself and his deputies, as provided in this Act.

Sec. 8. The Criminal District Attorney of Tarrant County, as provided for in this Act shall be elected by the qualified voters of the Criminal Judicial District of Tarrant County at the next general election, but it is provided and directed that the present County Attorney of Tarrant County shall continue in office and assume the duties and be known as the "Criminal District Attorney of Tarrant County" and shall proceed to organize and arrange the affairs of the office of the Criminal District Attorney of Tarrant County, and appoint Assistants as provided for in this Act, and receive the compensation and salary provided for in this Act for such office until the next general election, and until his successor shall be elected and qualified. Provided this Act shall not be construed as, creating any Court additional to those now existing in Tarrant County. Acts 1919, 36th Leg., 2nd C.S., p. 246, ch. 80.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

54.02.

Renumbered from C.C.P.1925, arts. 52—64,  
52—81 to 52—87.

### Art. 1926—43. Criminal District Court No. 2 of Tarrant County

Section 1. That there is hereby created and established at the City of Fort Worth, a Criminal District Court to be known as the "Criminal District Court No. 2 of Tarrant County", which Court shall have and exercise concurrent jurisdiction with the Criminal District Court of Tarrant County under the constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the Criminal District Court of Tarrant County and the Criminal District Court No. 2 of Tarrant County shall have and exercise concurrent jurisdiction with each other in all felony and misdemeanor causes, and in all matters and proceedings of which the said Criminal District Court of Tarrant County has jurisdiction; and either of the Judges of said Criminal District Courts may in their discretion transfer any cause or causes that may at any time be pending in his court to the other Criminal District Court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the Clerk of such Criminal District Court shall enter such cause or causes upon the docket to which said transfer or transfers are made, and, when so entered upon the docket, the Judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court; and the said Criminal District Court No. 2 of Tarrant County, Texas, shall have and exercise original and concurrent jurisdiction over misdemeanor cases as is hereafter provided by this Act.

Sec. 3. From and after the date this Act shall take effect the Criminal District Court No. 2 of Tarrant County, Texas, shall have and exercise original and concurrent jurisdiction of all misdemeanor cases of which the County Courts at Law Nos. 1 and 2 now have concurrent jurisdiction, and of such misdemeanor cases as shall be filed in said County Courts at Law of Tarrant County, Texas, on appeal from Justices or Recorders Courts and either the Judge of said Criminal District Court No. 2 or the Judge of said County Court at Law, may, upon motion of the District Attorney of Tarrant County, or other officer representing the state in said court, in his discretion, transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders upon the minutes of his court; and where such transfer or transfers are made, the Clerk of the court making such transfer shall certify to the Clerk of the court to which such transfer or transfers are made, and when so entered upon the docket the Judge of the court to which such transfer or transfers are made, shall dispose of said cause or causes in the same manner as if such cases were originally instituted in said court.

Sec. 4. Immediately after this Act takes effect the Clerk of the County Courts at Law Nos. 1 and 2, Tarrant County, Texas, shall transfer all civil cases which may be pending in the County Court at Law No. 1 to the County Court at Law No. 2, and all misdemeanor cases which may be pending in said County Courts at Law Nos. 1 and 2 to the Criminal District Court No. 2 of Tarrant County, Texas; and the office of Judge of the County Court at Law No. 1 of Tarrant County, Texas, shall be abolished and the said County Court at Law No. 2 shall hereafter be known as the County Court at Law of Tarrant County, Texas. All process and orders issued by the court transferring any case under the provisions of this Act shall be valid for all purposes in the court to which such case is transferred as if originally issued or made by the court to which such case is transferred.

Sec. 5. The Judge of the said Criminal District Court No. 2 of Tarrant County, Texas, shall be elected by the qualified voters of Tarrant County for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as required of the Judge of a District Court, and shall receive the same salary as is now or may hereafter be paid to the District Judges and to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of the Criminal District Court of Tarrant County. The Judge of said court may exchange with any District Judge, as provided by law in cases of District Judges, and, in case of disqualification or absence of a Judge, a Special Judge may be selected, elected or appointed as provided by law in cases of District Judges; provided, that the Governor, under the authority now provided by law, upon this Act becoming effective shall appoint a Judge of said court, who shall hold the office until the next general election after the passage of this law, and until his successor shall have been elected and qualified. Either of the Judges of said Criminal District Courts may, in his discretion, in the absence or inability to serve of the Judge of the other Criminal District Court from his court room or from the County of Tarrant, Texas, try and dispose of any cause or causes that may be pending in such Criminal District Court as fully as could such absent Judge were he personally present and presiding. And either of said Judges may receive in open court from the Foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such other District Judge could do if personally present and presiding over such court; and make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular Judge of said Criminal District Court could make if personally present and presiding.

Sec. 6. Said court shall have a seal of like design as the seal now provided by law for District Courts, except that the words "Criminal District Court No. 2 of Tarrant County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seal of the District Courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the Clerk and attested by the seal of said court shall be admissible in evidence in all the courts of this state in like manner as similar certified copies from the courts of record are now or may hereafter be admissible.

Sec. 7. The Sheriff, Criminal District Attorney and Clerk of the District Courts of Tarrant County, as heretofore provided by law, shall be the Sheriff, District Attorney and Clerk, respectively, of said Criminal District Court No. 2 of Tarrant County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of Sheriffs, District Attorneys and Clerks of the District Courts of the state; and said Sheriff, Criminal District Attorney and Clerk shall, respectively, receive such fees as are now or may hereafter be prescribed by law for such offices in the District Courts of the state and to be paid in the same manner.

Sec. 8. The County Commissioners Court shall have authority to authorize the employment of such additional Deputy District Clerks as in their judgment shall be required, and to pay out of the General Fund of the county for their services such Deputy or Deputies to be appointed by the District Clerk of Tarrant County, Texas, and to be removable at the will of the Clerk, and to be paid a salary not to exceed the compensation allowed by law to other Deputy District Clerks. The Criminal District Attorney may appoint an Assistant Criminal District Attorney, in addition to those now provided by law, to attend said court. Said Assistant shall have the authority and shall qualify as provided by law for Assistant Criminal District Attorneys, and shall be removable at the will of the Criminal District Attorney, and shall receive a salary not to exceed the maximum salary allowed Assistant Criminal District Attorneys; said salary to be payable as is provided by law.

Sec. 9. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it; one term beginning the first Monday in January, one term beginning the first Monday in April, one term beginning on the first Monday in July, and one term beginning the first Monday in October, of each year. The trials and proceedings in said court shall be conducted according to the law governing the practice and proceedings in felony and misdemeanor cases. The District Judges of the Criminal District Courts of Tarrant County may alternately appoint Grand Jury Commissioners and empanel grand juries.

Sec. 10. All laws regulating the selection, summoning and empaneling of grand and petit jurors in the District Courts shall govern and apply in the Criminal District Court No. 2 of Tarrant County, insofar as the same may be applicable. Provisions of the articles commonly known as the "Jury Wheel Law" shall remain in full force and effect insofar as the same may be applicable.

Sec. 10a. The salary for such District Judge shall be the same as the salary provided for other District Judges in this state. There is hereby appropriated to pay the salary of such Judge for the biennium beginning September 1, 1947, the sum of Six Thousand (\$6,000.00) Dollars for each year of such biennium, which said salary shall be paid in monthly installments out of the General Revenue Fund of the state in the same manner as provided for other District Judges in House Bill No. 244, Acts of the Regular Session, 50th Legislature, 1947. Acts 1947, 50th Leg., p. 636, ch. 337.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

*54.02.*

Renumbered from C.C.P.1925, arts. 52—  
87a1 to 52—87a10a.

#### Art. 1926—44. Criminal District Court No. 2 of Tarrant County

A. Creation and Jurisdiction. The Criminal District Court No. 3 of Tarrant County is created. Its jurisdiction is identical with that provided by law for the Criminal District Court of Tarrant County and

For Annotations and Historical Notes, see V.A.T.S.

the Criminal District Court No. 2 of Tarrant County and shall be exercised concurrently.

B. Terms of Court. The term of the Criminal District Court No. 3 begins on the first Monday in January and the first Monday in July of each year. Each term of each court continues until the next succeeding term convenes.

C. Judge. As soon as practicable after the effective date of this Act, the Governor shall appoint to the Criminal District Court No. 3 a person qualified to serve as a District Judge under the Constitution and laws of this state. The judge appointed holds office until the next general election at which his successor is duly elected and until he qualifies; and each elected successor holds office for a term of four years. The judge appointed and his successor is entitled to the same compensation and allowances provided by law for District Judges of Tarrant County, Texas.

D. Appropriation. A sum of \$16,000.00 for the fiscal year ending August 31, 1966, and a sum of \$16,000.00 for fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the Criminal District Court No. 3 of Tarrant County. The salary shall be paid as provided by law.

E. Court Officials. (a) The Judge of the Criminal District Court No. 3 may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the same compensation, fees, and allowances provided by law for the official district court reporters of Tarrant County, Texas.

(b) The Sheriff, Criminal District Attorney, and District Clerk of Tarrant County, Texas, shall serve as Sheriff, Criminal District Attorney, and Clerk, respectively, of the Criminal District Court No. 3. The Commissioners Court of Tarrant County, Texas, may employ as many additional deputy sheriffs, assistant criminal district attorneys, and deputy clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the same compensation, fees, and allowances, prescribed by law for their respective offices in Tarrant County, Texas.

F. Practice. (a) The rules of practice and procedure applicable to the District Courts of this state govern practice in the Criminal District Court No. 3.

(b) The judges of all three criminal district courts in Tarrant County may freely transfer causes to and from the dockets of their respective courts. The judges may also freely exchange benches and courtrooms with each other so that if a judge is ill, disqualified, or otherwise absent, another judge may hold court for him without the necessity of transferring the cause involved. Acts 1965, 59th Leg., p. 895, ch. 442, § 10d, eff. Sept. 1, 1965.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

*54.02.*

Renumbered from C.C.P.1925, art. 52—87b.

## TRAVIS COUNTY

### Art. 1926—51. Criminal District Court of Travis County

Sections 1—4. See Art. 199 (26th and 53rd Dists.).

Sec. 5. The criminal district court of Travis and Williamson Counties, as now created by law shall when this bill takes effect, be known as the Criminal District Court of Travis County, Texas, and shall exer-

cise, have and enforce all the powers and jurisdiction which it now has within and for Travis County and, in addition thereto, shall have and exercise all of the jurisdiction, powers, and functions of a district court under the Constitution and laws of the State of Texas; provided, however, that it shall not exercise or have any jurisdiction or powers as such other than is incident to a district court of general jurisdiction, it being the purpose of this Act to take Williamson County out of the district of said criminal district court as now organized and confine its jurisdiction exclusively to Travis County. The said criminal district court, when this bill becomes effective, shall have the right and power to certify and transfer to the Fifty-third Judicial District Court either civil or criminal cases and the Fifty-third Judicial District Court shall have the right to certify and transfer to the criminal district court of Travis County for trial civil cases. Civil cases may be filed or instituted in either the criminal district court of Travis County or in the Fifty-third Judicial District Court in Travis County and both of said courts, or either of them, shall have the right, power and jurisdiction to try either civil or criminal cases within its jurisdiction under the Constitution and General Laws of the State. The Criminal District Court of Travis County shall continue, as now provided by law, to select jury commissioners and impanel grand juries and exercise all of the other powers, functions and jurisdiction now conferred upon it by law, it being the purpose of this Act, not to repeal the Act hereby amended otherwise than is herein specifically done, and this Act is in addition to and cumulative of the Act hereby amended.

Sec. 5a. The Criminal District Court of Travis County shall hold its terms at the following time, to-wit: On the first Monday in February and may continue in session to and including the last Saturday in March; on the first Monday in April and may continue in session to and including the last Saturday in May; on the first Monday in June and may continue in session to and including the last Saturday in August; on the first Monday in October and may continue in session to and including the last Saturday in November; on the first Monday in December and may continue in session to and including the last Saturday in January.

Sec. 6. The district clerk of Travis County shall be the clerk of the district courts for the Fifty-third Judicial District and of the Criminal District Court of Travis County and shall perform all of the duties of clerk of the said two courts.

Sec. 7. [Not included.]

Sec. 8. At the general election, next preceding the taking effect of this Act, there shall be elected, a district judge for the Criminal District Court of Travis County who shall qualify as soon as the Act takes effect, and his term of office shall be four years, and he shall continue in office until his successor is elected and qualified.

Sec. 9. Upon the taking effect of this Act, the respective judges of each of the said three district courts shall, each for his respective court, appoint an official court reporter who shall have the qualifications and be subject to the same regulations and receive the same compensation as is now, or may hereafter be, fixed by law, for court reporters in district courts.

Sec. 10. The office of district attorney of Travis and Williamson Counties from and after the first day of January, 1927, shall cease to exist, and there shall be elected a district attorney for the Fifty-third Judicial District at the next general election after the passage of this Act, and at each general election thereafter. He shall represent the State in all criminal cases in all of the district courts of Travis County, and



For Annotations and Historical Notes, see V.A.T.S.

perform such other duties as are or may be provided by law governing district attorneys; and he shall receive, in addition to the five hundred (\$500.00) dollars per annum allowed by law to district attorneys, the same per diem and compensation provided by law for district attorneys in judicial districts of this State composed of two or more counties. Acts 1925, 39th Leg., p. 355, ch. 147, § 1.

Sec. 11. Grand juries for the Criminal District Court of Travis County shall be organized at each of the terms of said court. And grand juries for the Twenty-sixth Judicial District Court shall be organized at the January, May and September terms of the said court; provided, however, that the judge of the district court for the Twenty-sixth Judicial District may, when deemed necessary, organize and impanel grand juries at any other term of said court by entering an order therefor.

Sec. 12. [Not included.]

Sec. 13. Upon the taking effect of this Act the district clerk of Williamson County shall transfer all causes pending on the docket of the said Criminal District Court in Williamson County to the docket of the Twenty-sixth Judicial District Court; and that all causes so transferred shall be disposed of as though originally filed in the said court to which they were so transferred.

Sec. 14. Either judge of the Fifty-third Judicial District or the Criminal District Court of Travis County may, in his discretion, at any time, transfer any cause pending on the docket of his court to the other District Court in Travis County, and when the said transfer is so made the said cause so transferred shall be disposed of by the court to which the same was so transferred as though originally filed in the said court.

Sec. 15. All writs, processes, bonds, recognizances and orders in civil and criminal cases and matters, issued, executed, entered into, or required prior to the taking effect of this Act, in the Twenty-sixth Judicial District Court, and in the Criminal District Court of Travis and Williamson Counties, respectively, and returnable to terms of said courts, as heretofore fixed by law, in the counties of Travis and Williamson, are hereby made returnable to the next ensuing terms of the respective courts to which they are required to be transferred, under the provisions of this Act, and shall be as valid and binding as if no change had been made in said courts, or in the time of holding same; and all juries drawn and selected under existing laws shall be as valid as if no change had been made in said courts or in the time of holding same; and at the last term of the Criminal District Court for Travis and Williamson Counties held in Williamson and Travis Counties, under existing laws, the judge of said criminal district court shall provide for the drawing and selection of a grand jury for the proper terms of court in Travis and Williamson Counties, to be held after this Act takes effect; and the said petit and grand juries so drawn and selected shall be required to appear and serve and their acts shall be valid as if no change had been made in said courts, or in the times of holding said courts.

Sec. 16. This Act shall not be construed to in anywise or in any manner affect judgments or orders rendered or made in the Twenty-sixth Judicial District Court in Travis County, or rendered or made in the Criminal District Court for Travis and Williamson Counties, in either of said counties prior to the taking effect of this Act; but it is provided that after this Act becomes effective as a law the Twenty-sixth Judicial District shall have jurisdiction of all judgments, orders and matters over which the Criminal District Court of Travis and Williamson Counties had or could exercise jurisdiction in Williamson County under the law as it now exists; and after this Act becomes effective as a law the Fifty-third Judicial District Court and the Criminal District Court

of Travis County shall have jurisdiction of all judgments, orders and matters over which the Criminal District Court for Travis and Williamson Counties and the Twenty-sixth Judicial District had or could exercise jurisdiction in Travis County under the law as it now exists.

Sec. 17. It is provided that this Act shall take effect and be in force on and after January first, 1925. Acts 1923, 38th Leg., ch. 68.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

*54.02.*

Renumbered from C.C.P.1925, arts. 52—49  
to 52—60.

#### JEFFERSON COUNTY

##### Art. 1926—61. Criminal District Court of Jefferson county

Section 1. That there is hereby created and established at the County Seat of Jefferson County, a criminal District Court to be known as "Criminal District Court of Jefferson County," which court shall have and exercise, from and after the taking effect of this Act, original and exclusive jurisdiction over all criminal cases of the grade of felony in the County of Jefferson of which district courts, under the Constitution and laws of this State, have original and exclusive jurisdiction, and shall have and exercise such concurrent jurisdiction with the county court of Jefferson County at law over misdemeanor cases as is hereinafter provided by this Act.

Sec. 2. From and after the time this Act shall take effect the County Court of Jefferson County at law and the Criminal District Court of Jefferson County created by this Act, shall have and exercise concurrent jurisdiction with each other in all misdemeanor cases of which the County Court of Jefferson County at Law may now, or may hereafter have exclusive jurisdiction; and of such misdemeanor cases as shall be filed in said County Court on appeal from Justices' or Recorders' Courts; and either the Judge of said Criminal District Court, or the Judge of said County Court of Jefferson County at Law may upon motion of the County Attorney of Jefferson County, or other officer representing the State in said Courts, in his discretion transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made, the Clerk of the Court making such transfer shall certify to the Clerk of the Court to which such transfer is made, a statement of the cause or causes so transferred, giving the style and number of the same to the Clerk of the Court to which such transfer is made and shall accompany such statement with all the papers in said cause or causes so transferred and upon receipt of such statement and the papers in such cause or causes so transferred, the Clerk of the Court to which such transfer is made shall enter such cause or causes upon the docket of the court to which such transfer or transfers are made, and when so entered upon the docket, the Judge of the Court to which such transfer or transfers are made, shall dispose of said cause or causes in the same manner as if such cases were originally instituted in said Court.

Sec. 3. Said Court shall have jurisdiction over all bail, bond and recognizances taken in proceedings had before said court, or that may be returned to said court from other courts, and may enter forfeitures thereof and final judgments and enforce the collection of the same by proper process in the same manner as is provided by law in District Courts.

Sec. 4. The said Criminal District Court of Jefferson County shall have a seal similar to the seal of the District Court with the words "Criminal District Court of Jefferson County" engraved thereon, an impression

For Annotations and Historical Notes, see V.A.T.S.

of which seal shall be attached to all writs and other processes, except subpoenas, issuing from said court, and shall be used in the authentication of the official acts of the Clerk of said Court.

Sec. 5. The practice in said court shall be conducted according to the laws governing the practice in the District Court, and the rules of pleading and evidence in the District Court shall govern in so far as the same may be applicable.

Sec. 6. All laws regulating the selecting, summoning and impaneling of grand and petit jurors in the District Court shall govern and apply in the Criminal District Court in so far as the same may be applicable.

Sec. 7. All rules of criminal procedure governing the District and County Courts shall apply to and govern said Criminal District Court.

Sec. 8. Said Criminal District Court of Jefferson County shall try all misdemeanor cases coming before it with six jurors instead of twelve jurors, unless a jury be waived by the defendant.

Sec. 9. Said Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of April, one term beginning the first Monday of July, one term beginning the first Monday of October, one term beginning the first Monday of January. Each term shall continue until the term ends by operation of law or the business is disposed of. The grand jury shall be impaneled in said Court for each term thereof, unless otherwise directed by the Judge of said Court.

Sec. 10. Whenever the Criminal District Court of Jefferson County shall be engaged in the trial of any cause when the time for expiration of the terms of said court as fixed by law shall arrive, the Judge presiding shall have the power, and may if he deems it expedient, continue the term of said court until the conclusion of such pending trial; in such case, the extension of such term shall be shown on the minutes of the Court before they are signed.

Sec. 11. The Sheriff, County Attorney, and the Clerk of the District Court of Jefferson County shall be the sheriff, County Attorney and Clerk, respectively, of said Criminal Court under the same rules and regulations as are now, or may hereafter be prescribed by law for the government of sheriffs, county attorneys and clerks of the District Courts of this State; and said Sheriff, County Attorney and Clerk shall respectively receive such fees as are now, or may hereafter be prescribed for such officers in the District Courts of the State, to be paid in the same manner.

Sec. 12. In all such matters over which said Criminal District Court has jurisdiction, it shall have the same power within said District as is conferred by law upon the District Court, and shall be governed by the same rules in the exercise of said power.

Sec. 13. Appeals and writs of error may be prosecuted from said Criminal District Court to the Court of Criminal Appeals and to the Courts of Civil Appeals in the same manner and form as from the District Courts in like cases.

Sec. 14. From and after the taking effect of this Act, the District Courts of Jefferson County as now constituted, shall be, and they are hereby deprived and divested of all jurisdiction in all criminal cases, and of all jurisdiction given the Criminal District Court of Jefferson County by this Act, and all criminal cases pending in said District Courts at the time of the taking effect of this Act, and all matters pertaining to criminal cases pending therein over which the Court herein created is given jurisdiction, shall be, by the Clerk of the District Courts transferred to and entered upon the docket of said Criminal District Court, and when so entered upon the docket, the judges of said Criminal District Court shall try and dispose

of same in the same manner as if such cases were originally instituted therein.

Sec. 15. The Judges of said Criminal District Court of Jefferson County shall be elected by the qualified voters of Jefferson County for a term of four years, and shall hold office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the Judge of the District Court, and shall receive the same salary as is now, or may hereafter be paid, to the District Judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of this State in criminal cases. Provided, that the Governor, by and with the consent of the Senate, if in session, shall appoint a Judge of said Court who shall hold the office until the next general election after the passage of this Act, and until his successor shall have been elected and qualified.

Sec. 16. The Judge of said Criminal District Court may exchange Districts with or hold court for any District Judge, as provided by law in cases of District Judges, and in case of disqualification or absence of a Judge, a special Judge may be selected. Acts 1929, 41st Leg., p. 374, ch. 170.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 52—160.

#### Art. 1926—62. Jurisdiction increased

Section 1. In addition to the jurisdiction now conferred upon the Criminal District Court of Jefferson County by the Constitution and laws of the State of Texas, said Court shall hereafter have and exercise civil jurisdiction in suits, causes, and matters of:

(1) Divorce, as provided in Chapter 4, Title 75, of the Revised Civil Statutes of Texas of 1925, and any amendments thereof, heretofore or hereafter made thereto;

(2) Dependent and delinquent children, as provided in Title 43, Revised Civil Statutes of Texas of 1925, and any amendments thereof, heretofore or hereafter made thereto;

(3) Adoption, as provided in Title 3, Revised Civil Statutes of Texas of 1925, and any and all amendments heretofore or that may hereafter be made thereto;

(4) Habeas corpus proceedings in civil matters.

Sec. 2. In all matters pertaining to the additional jurisdiction herein conferred upon said Court, all the officers of said Court shall have the same powers, rights, and duties that are now or that may hereafter be conferred upon the same or similar officers in the other District Courts of Jefferson County, Texas, and all fees and costs in such matters shall be the same as now or that may hereafter be provided in the same or similar matters in the other District Courts of Jefferson County, Texas.

Sec. 3. The Judges of the District Courts of Jefferson County and the Judge of the Criminal Court of Jefferson County shall elect one of their number as the presiding Judge of all the District Courts of Jefferson County including the Criminal District Court of Jefferson County; and the presiding Judge of the District Courts of Jefferson County may assign any cases in his Court, or in any of the District Courts in Jefferson County involving or pertaining to the matters set out in Section 1 hereof to any Judge or Court, including the Criminal District Court of Jefferson County, or may assign any Judge to try any of said causes in any of said Courts, and the Judge in whose Court an assigned case is pending shall transfer the case to the Court to which it is assigned, and the Judge of the Court to

For Annotations and Historical Notes, see V.A.T.S.

which it is assigned shall receive and try the case. When such transfer or transfers are made, the Clerk of such Court shall enter such cause or causes upon the docket to which said transfer or transfers are made, and when so entered upon the docket, the Judge shall try and dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said Court.

Sec. 4. The trials and proceedings in said Courts in such matters shall be conducted according to the laws governing the pleadings, practice, and proceedings in civil cases in the District Courts and in conformity with the provisions of Article 2092, Revised Civil Statutes of Texas, of 1925, and all appeals in such civil cases shall be to the Court of Civil Appeals for the Ninth Supreme Judicial District of Texas in the manner now or that may hereafter be provided by law.

Sec. 5. During each term of said court the court may sit at any time in Port Arthur, Texas to try, hear and determine any civil non-jury cases over which it has jurisdiction as to the matters set out in Section 1, 3, and 4 hereof, and may hear and determine motions, arguments and such other non-jury civil matters over which said court may have jurisdiction; provided further, that nothing herein shall be construed to deprive the court of jurisdiction to try non-jury civil cases and hear and determine motions, arguments and such other non-jury civil matters at the county seat at Beaumont, Texas.

The District Clerk of Jefferson County or his deputy shall wait upon the said court when sitting at Port Arthur, Texas and shall be permitted to transfer all necessary books, minutes and records to Port Arthur, Texas while the court is in session there, and likewise to transfer all necessary books, minutes, records and papers from Port Arthur, Texas to Beaumont, Texas at the end of each session in Port Arthur, Texas.

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

The official court reporter of said court shall be in attendance upon the court while sitting at Port Arthur, Texas and perform such duties as he may be directed to perform, either as required by law or under the order of the court.

The Commissioners Court of Jefferson County, Texas is hereby authorized to provide suitable quarters for said court while sitting at Port Arthur, Texas, which said quarters shall be located within the sub-court-house in Port Arthur, Jefferson County, Texas. Acts 1939, 46th Leg., p. 193; section 5 by added Acts 1955, 54th Leg., p. 603, ch. 209, § 1.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

*54.02.*

Renumbered from C.C.P.1925, art. 52—  
160a.

### Art. 1926—63. Criminal Judicial District of Jefferson County

Section 1. There is hereby created and established a Criminal Judicial District of Jefferson County, Texas, to be composed of the County of Jefferson, State of Texas alone, and which District is coextensive with the territorial boundaries and limits of Jefferson County, Texas.

Sec. 2. There shall be elected by the qualified electors of the Criminal Judicial District of Jefferson County, Texas, at the regular election in November, 1950, and at the regular November election each four (4) years thereafter, an attorney for said District who shall be styled "Criminal District Attorney of Jefferson County" and who shall hold his office for a

period of four (4) years and until his successor is elected and qualified. The said Criminal District Attorney of Jefferson County shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State of other District Attorneys.

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

Sec. 4. The Criminal District Attorney of Jefferson County shall be commissioned by the Governor and shall receive as salary and compensation a sum of not less than Twelve Thousand Dollars (\$12,000) nor more than Sixteen Thousand, Five Hundred Dollars (\$16,500) per annum as shall be fixed by the Commissioners Court of Jefferson County, to be paid out of the Officer's Salary Fund of Jefferson County if adequate; if inadequate, the Commissioners Court shall transfer necessary funds from the General Fund of the County to the Officer's Salary Fund.

Sec. 5. The Criminal District Attorney of Jefferson County, for the purpose of conducting the affairs of this office, shall appoint such Assistant Criminal District Attorneys, Investigators, Court Reporters, Stenographers, Secretaries and other employees as he may deem adequate and necessary with the approval of the Commissioners Court of such County. All Assistant Criminal District Attorneys, Investigators, Court Reporters, Stenographers, Secretaries and other employees so appointed shall be paid such salaries, and receive such other compensation and reimbursement as may be set by the Criminal District Attorney and the Commissioners Court of Jefferson County. All of the salaries shall be paid from the Officer's Salary Fund if adequate; if inadequate, the Commissioners Court may pay such salaries out of the General Fund, the Jury Fund, or any other fund available for the purpose.

Sec. 6. The Assistant Criminal District Attorneys of Jefferson County, and Investigators, when so appointed, shall take the Constitutional Oath of Office, and said Assistant Criminal District Attorneys shall exercise any and every power and perform any and every duty conferred and imposed by law upon the Criminal District Attorney of Jefferson County under the supervision and direction of the Criminal District Attorney of Jefferson County. Acts 1949, 51st Leg., p. 88, ch. 53; as amended Acts 1963, 58th Leg., p. 727, ch. 267, § 1.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

*54.02.*

Renumbered from C.C.P.1925, art. 52—  
160b.

TITLE 41—COURTS—COUNTY

CHAPTER ONE—THE COUNTY JUDGE

Art. 1934a—15. Stenographer or secretary in all counties; salary

Section 1.

\* \* \* \* \*

(c) In each county having a population of at least fifty thousand and one (50,001) inhabitants and not more than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, the secretary or stenographer of the County Judge shall receive a salary of not less than Two Thousand, Four Hundred Dollars (\$2,400) per annum, nor more than Six Thousand Dollars (\$6,000) per annum. As amended Acts 1965, 59th Leg., p. 1012, ch. 497, § 1, emerg. eff. June 16, 1965.

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CHAPTER TWO—COUNTY CLERK

Art. 1937. [1747] [1137] [1144] Bond and oath

Section 1. Each county clerk shall, before entering upon the duties of his office, give bond either with two or more good and sufficient sureties or with a surety company authorized to do business in Texas as a surety, to be approved by the Commissioners Court of the county, payable to the county in a sum to be fixed by the Commissioners Court, shall be in an amount equal to not less than Five Thousand Dollars (\$5,000) nor more than twenty per cent (20%) of the maximum amount of fees collected in any year during the previous term of office immediately preceding the term of office for which the bond is to be given, conditioned for the faithful discharge of the duties of his office. Said clerk shall also take and subscribe the official oath which shall be endorsed on the bond, and the bond and oath so taken and approved shall be recorded in the county clerk's office, and deposited in the office of the clerk of the District Court. A certified copy of such bond may be put in suit in the name of the county for the use of the party injured.

Sec. 2. Each county clerk shall obtain a surety bond covering his deputy; or a schedule surety bond or a blanket surety bond covering his deputies, if more than one, and all employees of his office. Each deputy and each employee, shall be covered for the same conditions and in the same amount as the county clerk.

Sec. 3. The bond covering the county clerk shall be made payable to the county and the bond or bonds covering the deputies and the employees of the county clerk shall be made payable to the county for the use and benefit of the county clerk. The premiums for said bonds shall be paid out of the funds of the county by the Commissioners Court of said county.

Sec. 4. Each county clerk shall obtain an errors and omissions insurance policy, if the same be available, covering the county clerk and the deputy or deputies of the county clerk against liabilities incurred through errors and omissions in the performance of the official duties of said county clerk and the deputy or deputies of said county clerk; with the amount of the policy being in an amount equal to a maximum amount of fees collected in any year during the previous term of office immediately preceding the term of office for which said insurance policy is to be obtained, but in no event shall the amount of the policy be for less than Ten Thousand Dollars (\$10,000). The premiums for said insurance shall be paid out of the funds of the county by the Commissioners Court of said county. As amended Acts 1965, 59th Leg., p. 941, ch. 456, § 1.

Effective: Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER THREE—POWERS AND JURISDICTION

Art. 1960—1. County Courts; exclusive jurisdiction of misdemeanors, except, etc. [Renumbered].	Art. 1960—3. Power to issue writs of habeas corpus [Renumbered].
1960—2. Power to forfeit bail bonds [Renumbered].	1960—4. Appellate jurisdiction [Renumbered].

**Art. 1960—1. [91] County Courts; exclusive jurisdiction of misdemeanors, except, etc.**

The county courts shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except cases in which the highest penalty or fine that may be imposed under the law may not exceed two hundred dollars, and except in counties where there is established a criminal district court. Const., art. 5, § 16; Act June 16, 1876, p. 13, § 3.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 52—38

**Art. 1960—2. [92] Power to forfeit bail bonds**

County courts shall have jurisdiction in the forfeiture and final judgment of all bonds and recognizances taken in criminal cases, of which criminal cases said courts have jurisdiction. Act June 16, 1876, p. 18, § 3.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 52—39.

**Art. 1960—3. [93] Power to issue writs of habeas corpus**

The county courts, or judges thereof, shall have the power to issue writs of habeas corpus in all cases in which the constitution has not conferred the power on the district courts or judges thereof; and, upon the return of such writ, may remand to custody, admit to bail or discharge the person imprisoned or detained, as the law and nature of the case may require. Const., art. 5, § 16; Act June 16, 1876, p. 19, § 5.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 52—90.

**Art. 1960—4. [94] Appellate jurisdiction**

The county courts shall have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals have original jurisdiction. Const., art. 5, § 16; Act June 16, 1876, p. 18, § 3.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 52—91.



**CHAPTER FIVE—MISCELLANEOUS PROVISIONS**

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

**DALLAS COUNTY CRIMINAL  
 COURTS**

- Art.  
 1970—31.10 County Criminal Court of Dallas County, creation, jurisdiction, etc. [Renumbered].  
 1970—31.11 County Criminal Court No. 2 of Dallas County [Renumbered].  
 1970—31.12 County Criminal Court No. 3 of Dallas County [Renumbered].

**DALLAS COUNTY CRIMINAL  
 COURT OF APPEALS**

- 1970—31.20 County Criminal Court of Appeals of Dallas County [Renumbered].

**BEXAR COUNTY AT LAW NO. 1**

- 1970-75a. Practice and administration of courts [New].

**JEFFERSON COUNTY AT LAW**

- 1970-126a. County Court of Jefferson County at Law No. 2 [New].

**EL PASO COUNTY AT LAW**

- 1970-127a. Change of name [New].

**McLENNAN COUNTY AT LAW**

- 1970-298c. Compensation of judge [New].

**BEXAR COUNTY COURT FOR  
 CRIMINAL CASES**

- Art.  
 1970—301g. County court of Bexar county for criminal cases [Renumbered].

**RED RIVER COUNTY COURT**

- 1970-314a. Jurisdiction of County Court of Red River County [New].

**TRAVIS COUNTY COURT AT LAW  
 NO. 2**

- 1970-324b. Exchange of benches of County Courts at Law of Travis County [New].

**FRANKLIN COUNTY COURT**

- 1970-331a. Franklin County Court; jurisdiction [New].

**GALVESTON COUNTY COURT NO. 2**

- 1970-342a. County Court No. 1 of Galveston County [New].

**SMITH COUNTY**

- 1970-349. County Court at Law of Orange County [New].

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

**DALLAS COUNTY CRIMINAL COURTS**

**Art. 1970—31.10 County Criminal Court of Dallas County, creation, jurisdiction, etc.**

Section 1. There shall be created a court to be held in Dallas County, Texas, to be known and designated as "The County Criminal Court of Dallas County, Texas."

Sec. 2. The county criminal court of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and laws of Texas, except as provided in Section Three of this Act.

Sec. 3. The county court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the

estates of deceased persons; and of apprenticing minors as provided by law. The county judge of Dallas County shall be the judge of the county court of Dallas County, Texas, and all ex-officio duties of the county judge shall be exercised by the said judge of the said county court, except as in so far as the same shall, by this Act, be committed to the judge of the county criminal court of Dallas County, Texas; and except such as have heretofore been conferred upon the judges of the County Court at Law, Number One, and the County Court at Law, Number Two, of Dallas County, Texas.

Sec. 4. The county criminal court of Dallas County, Texas, or the judge thereof shall have the power of [to] issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing county courts throughout the State.

Sec. 5. The terms of the county criminal court of Dallas County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms of said county criminal court shall be held not less than four times each year and the commissioners' court of Dallas County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

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

Sec. 7. The judge of the county court of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 8. A special judge of the county criminal court of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the county criminal court of Dallas County, Texas, the seal of said court shall be the same as provided for county courts except that the seal shall contain the words "The county criminal court, Dallas County, Texas." The sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the judge thereof.

Sec. 10. The Judge of the County Criminal Court of Dallas County, Texas, shall collect the same fee provided by law for County Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said Court shall receive a salary of Five Thousand Dollars, (\$5,000.00) annually, to be paid monthly out of the County Treasury by the Commissioners' Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office. As amended Acts 1929, 41st Leg., 1st C.S., p. 61, ch. 27.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 11. The judge of the county criminal court of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county judge may be removed under the laws of this State.

Sec. 12. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the county criminal court of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the general laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3.00) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3.00), when collected to be paid into the County Treasury of Dallas County, Texas.

Sec. 13. As soon as may be, after this Act takes effect, the clerk of the County Court of Law Number One of Dallas County, Texas, and the County Court at Law Number Two, shall transfer to the docket of the County Criminal Court of Dallas County, Texas, hereby created, all of the criminal cases then pending in the County Courts at Law Number One and Number Two of Dallas County, Texas. The clerk shall note such transfer when made on the minutes of the County Courts at Law Number One and Number Two of Dallas, County, Texas. Acts 1927, 40th Leg., p. 36, ch. 25.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

*Repeal of salary and compensation laws applicable to judge of county criminal court of Dallas county, see note under Vernon's Ann.Civ.St. art. 3883i, § 8.*

Renumbered from C.C.P.1925, art. 52—159.

#### Art. 1970—31.11 County Criminal Court No. 2 of Dallas County

Section 1. There shall be created a court to be held in Dallas County, Texas, to be known and designated as "The County Criminal Court No. 2 of Dallas County, Texas."

Sec. 2. The County Criminal Court No. 2 of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by

law. The county Judge of Dallas County shall be the Judge of the County Court of Dallas County, Texas, and all ex-officio duties of the county Judge shall be exercised by the said Judge of the said County Court, except as in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court No. 2 of Dallas County, Texas; and except such as have heretofore been conferred upon the Judges of the County Court at Law, Number One, and the County Court at Law, Number Two, of Dallas County, Texas.

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

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

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

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

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

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court of Dallas County, Texas, the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Two, Dallas County, Texas." The sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof.

Sec. 10. The Judge of the County Criminal Court, Number Two, of Dallas County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court not to exceed Eight Thousand, Three Hundred Dollars (\$8,300) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office.

For Annotations and Historical Notes, see V.A.T.S.

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

Sec. 12. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County Criminal Court, Number Two, of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3), when collected, to be paid into the County Treasury of Dallas County, Texas.

Sec. 13. As soon as may be after this Act takes effect the clerk of the County Criminal Court, Number One, of Dallas County, Texas, may transfer to the docket of the County Criminal Court, Number Two, of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court of Dallas County, Texas, and thereafter the Judge of either of said courts may in his discretion transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders entered in the minutes of his court, and the Judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court. Acts 1951, 52nd Leg., p. 52, ch. 32.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

*Repeal of salary and compensation laws applicable to judge of the county criminal court, No. 2, of Dallas county, see note under Vernon's Ann.Civ.St. art. 3883i, § 8.*

Renumbered from C.C.P.1925, art. 52—  
159a.

#### **Art. 1970—31.12 County Criminal Court No. 3 of Dallas County**

Section 1. There shall be created a court to be held in Dallas County, Texas, to be known and designated as "The County Criminal Court No. 3 of Dallas County, Texas."

Sec. 2. The County Criminal Court No. 3 of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administra-

tors, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County, Texas, and all ex-officio duties of the county Judge shall be exercised by the said Judge of the said County Court, except as in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court No. 3 of Dallas County, Texas; and except such as have heretofore been conferred upon the Judges of the County Court at Law, Number One, and the County Court at Law, Number Two, of Dallas County, Texas.

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

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

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

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

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

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court, Number Three, of Dallas County, Texas, the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Three, Dallas County, Texas." The sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof.

Sec. 10. The Judge of the County Criminal Court, Number Three, of Dallas County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court of not less than Eight Thousand, Two

For Annotations and Historical Notes, see V.A.T.S.

Hundred Dollars (\$8,200) nor more than Ten Thousand, Six Hundred Dollars (\$10,600) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office.

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

Sec. 12. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County Criminal Court, Number Three, of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3), when collected, to be paid into the County Treasury of Dallas County, Texas.

Sec. 13. As soon as may be after this Act takes effect the clerk of the County Criminal Court, Number One, of Dallas County, Texas, and the clerk of the County Criminal Court Number Two, of Dallas County, Texas, may transfer to the docket of the County Criminal Court, Number Three, of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court Number One, of Dallas County, Texas, and the County Criminal Court, Number Two, of Dallas County, Texas, and thereafter the Judge of either of said courts may in his discretion transfer any cause or causes that may at any time be pending in his court to the other courts by an order or orders entered in the minutes of his court, and the Judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court. Acts 1954, 53rd Leg., 1st C.S., p. 100, ch. 49.

Sec. 13-A. The Judge of County Criminal Court of Dallas County, Texas, and the Judge of County Criminal Court No. 2 of Dallas County, Texas, and the Judge of County Criminal Court No. 3 of Dallas County, Texas, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same. Added Acts 1959, 56th Leg., 2nd C.S., p. 84, ch. 2, § 1.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

*Repeal of salary and compensation laws applicable to judge of county criminal court, No. 3, of Dallas county, see note under Vernon's Ann.Civ.St. art. 3883i, § 8.*

## DALLAS COUNTY CRIMINAL COURT OF APPEALS

**Art. 1970—31.20 County Criminal Court of Appeals of Dallas County**

Section 1. That there is hereby created a County Court to be held in and for Dallas County, Texas, to be called County Criminal Court of Appeals of Dallas County, Texas.

Sec. 2. The County Criminal Court of Appeals of Dallas County, Texas, shall have and same is hereby vested with the sole jurisdiction within said County of all appeals from Criminal convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Dallas County, Texas, in Justice Court, Corporation Courts and other municipal Courts in said County; and the said County Criminal Court of Appeals of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within said County of all criminal matters and causes, original and appellate, that is now vested in the County Courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 4 of this Act.

Sec. 3. On the first day of the initial term of the County Criminal Court of Appeals of Dallas County, Texas, there shall be transferred to the docket of said Court, under the direction of the Judge of County Criminal Court of Dallas County, Texas, and the Judge of County Criminal Court No. 2 of Dallas County, Texas, and the Judge of County Criminal Court No. 3 of Dallas County, Texas, and by order entered on the Minutes of County Criminal Court of Dallas County, Texas, and County Criminal Court No. 2 of Dallas County, Texas, and County Criminal Court No. 3 of Dallas County, Texas, all of such appeals from convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Dallas County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, now pending in County Criminal Court of Dallas County, Texas, and County Criminal Court No. 2 of Dallas County, Texas, and County Criminal Court No. 3 of Dallas County, Texas, and all writs and processes theretofore issued by or out of the said Courts in such matters or proceedings shall be returnable to the County Criminal Court of Appeals of Dallas County, Texas, as though originally issued therefrom. All such new appeals from convictions had under the laws of the State of Texas and ordinances of the municipalities located in Dallas County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, filed on said day, or thereafter filed, with the County Clerk of Dallas County, irrespective of the Court or Judge to which said appeal is addressed shall be filed by said Clerk in the County Criminal Court of Appeals of Dallas County, Texas.

Sec. 4. The County Court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County, Texas, and all ex-officio duties of the county judge shall be exercised by the said Judge of the said County Court, except as insofar as the same shall, by this Act, be committed to the Judge of the County Criminal Court of Appeals of Dallas County, Texas; and except such as to have heretofore been conferred upon the Judges of the



County Court at Law No. 1 and the County Court at Law No. 2 of Dallas County, Texas.

Sec. 5. The County Criminal Court of Appeals, of Dallas County, Texas, or the Judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the State.

Sec. 6. The terms of the County Criminal Court of Appeals, of Dallas County, Texas, and the practice therein and appeals therefrom shall be prescribed by law relating to the county courts. The terms of said County Criminal Court of Appeals, shall be held not less than four (4) times each year and the Commissioners Court of Dallas County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

Sec. 7. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Dallas County in accordance with the law, a Judge of the County Criminal Court of Appeals, hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. The Judge of said court elected at any General Election shall hold office for four (4) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said court unless he shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a Judge of a court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Dallas for two (2) years next preceding his appointment or election.

Sec. 8. The Judge of the County Criminal Court of Appeals, of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 9. A special Judge of the County Criminal Court of Appeals, of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the Judges thereof.

Sec. 10. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court of Appeals, of Dallas County, Texas, the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court of Appeals, Dallas County, Texas." The Sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof.

Sec. 11. The Judge of the County Criminal Court of Appeals, of Dallas County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court of not less than Ten Thousand Dollars (\$10,000) nor more than Fourteen Thousand, Four Hundred Dollars (\$14,400) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall not engage in the practice of law while in office.

Sec. 12. The Judge of the County Criminal Court of Appeals, of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county Judge may be removed under the laws of this State.

Sec. 13. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County

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

Sec. 14. As soon as may be after this Act takes effect the clerk of the County Criminal Court of Dallas County, Texas, and the clerk of the County Criminal Court No. 2 of Dallas County, Texas, and the clerk of the County Criminal Court No. 3 of Dallas County, Texas, may transfer to the docket of the County Criminal Court of Appeals of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court of Dallas County, Texas, and the County Criminal Court No. 2 of Dallas County, Texas, and the County Criminal Court No. 3 of Dallas County, Texas, and thereafter the Judge of either of said courts may in his discretion, transfer any cause or causes that may at any time be pending in his Court to the other Courts by an order or orders, entered in the minutes of his Court, and the Judge of the Court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court.

Sec. 15. The Judge of County Criminal Court of Dallas County, Texas, and the Judge of County Criminal Court No. 2 of Dallas County, Texas, and the Judge of County Criminal Court No. 3 of Dallas County, Texas, and the Judge of County Criminal Court of Appeals of Dallas County, Texas, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same. Acts 1961, 57th Leg., p. 698, ch. 326.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

*54.02.*

Renumbered from C.C.P.1925, art. 52—  
159c.

## BEXAR COUNTY AT LAW NO. 1

### Art. 1970—75a. Practice and administration of courts

#### Rotational filing required

Section 1. (a) On and after the effective date of this Act, the County Clerk of Bexar County shall, with respect to cases addressed to one of the county courts at law of Bexar County and regardless of the court or judge to which they are addressed, file the cases alternately in the county courts at law of Bexar County, starting with the County Court at Law No. 1, of Bexar County, and continuing with the County Court at Law No. 2, of Bexar County, and so forth.

(b) The rotational filing requirement of Subsection (a) of this Section does not apply to appeals in criminal cases.

For Annotations and Historical Notes, see V.A.T.S.

(c) The county clerk's failure to comply with Subsection (a) of this Section does not affect any action taken with regard to a case filed with one of the county courts at law of Bexar County.

#### Presiding judge

Sec. 2. (a) The judges of the county courts at law of Bexar County shall, in January and July of each year, select by majority vote one of their number as presiding judge. The selection may be cancelled, and another judge selected, at any time, by majority vote. Each judge shall enter on the minutes of his court an order reciting each selection of a presiding judge.

(b) The presiding judge of the county courts at law of Bexar County may assign any case pending in one of the county courts at law to another county court at law and such case shall be transferred and tried in accordance with the assignment. The presiding judge may also assign one of the judges of the county courts at law to another court, or to try a particular case pending in another court, and the judge assigned shall sit or try the case as requested.

#### Rules of practice

Sec. 3. The judges may also adopt rules, not inconsistent with the Texas Rules of Civil Procedure, and the code of Criminal Procedure for practice in the county courts at law of Bexar County. A rule may only be adopted by majority vote of the judges and upon adoption shall be entered verbatim on the minutes of each of the county courts at law. The County Clerk of Bexar County shall supply copies of the adopted rules to every interested person. Acts 1965, 59th Leg., p. 1017, ch. 502.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act relating to practice and administration in the county courts at law of Bexar

County; and declaring an emergency. Acts 1965, 59th Leg., p. 1017, ch. 502.

### JEFFERSON COUNTY AT LAW

#### Art. 1970—126a. County Court of Jefferson County at Law No. 2

Section 1. There is hereby created a court to be held in Beaumont, Jefferson County, Texas, to be called the County Court of Jefferson County at Law No. 2.

Sec. 2. The County Court of Jefferson County at Law No. 2, shall have, and it is hereby granted, the same jurisdiction and powers in all actions, matters, and proceedings of every nature that are now conferred by law upon and vested in the County Court of Jefferson County at Law, and the Judge thereof. Provided, however, that the jurisdiction of the said County Court of Jefferson County at Law and the County Court of Jefferson County at Law No. 2 over all such actions, matters and proceedings, civil and criminal, shall be concurrent.

Sec. 3. The terms of the County Court of Jefferson County at Law No. 2 shall be the same and identical with the terms of the County Court of Jefferson County at Law as the same now exists or may exist in the future.

Sec. 4. From and after the passage and taking effect of this Act, civil and criminal actions, matters and proceedings may be filed in the County Court of Jefferson County at Law No. 2 in the same manner and under the same conditions, circumstances and instances as now obtain for the filing of actions, matters and proceedings, civil and criminal, in the County Court of Jefferson County at Law, and all such actions, matters and proceedings shall be docketed in the order in the Court in which filed or in

such manner as may be determined by the Judges of the said County Court of Jefferson County at Law and County Court of Jefferson County at Law No. 2 by an order duly made by such Judges entered upon the minutes of each such Court.

Sec. 5. At the next General Election after the effective date of this Act, and at each applicable General Election thereafter, there shall be elected in Jefferson County by the qualified voters thereof, a Judge of the County Court of Jefferson County at Law No. 2, who shall possess all of the qualifications which are now required of the Judge of the County Court of Jefferson County at Law, who shall hold his office for four (4) years and until his successor shall have been duly elected and qualified. When this Act becomes effective the Commissioners Court of Jefferson County, Texas, shall appoint a Judge of said County Court of Jefferson County at Law No. 2 who shall have the qualifications herein described and he shall serve until the next General Election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of said County Court of Jefferson County at Law No. 2, shall, in like manner as hereinabove provided, be filled by the Commissioners Court of Jefferson County, Texas, the appointee thereof to hold office until the next succeeding General Election and until a successor shall be duly elected and qualified.

Sec. 6. The County Clerk of Jefferson County, Texas, shall be the Clerk of the County Court of Jefferson County at Law No. 2, and the seal of said Court shall be the same as provided by law for County Courts except the seal shall contain the words "County Court of Jefferson County at Law No. 2," and the Sheriff of Jefferson County, Texas, shall, in person, or by deputy, attend such Court when required by the Judge thereof, and the County Clerk of Jefferson County, Texas, is hereby authorized and directed to appoint a deputy, who shall be acceptable to the Judge of said Court to specially attend the sessions of said Court and to attend to all matters pertaining to the County Court of Jefferson County at Law No. 2. For the purpose of preserving a record in any matter or proceeding heard in said County Court of Jefferson County at Law No. 2 for the information of the Court, jury, or parties, the Judge of said Court is hereby authorized to appoint an official shorthand reporter for such Court, who shall be well-skilled in his profession, who shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court, and all provisions of the General Laws of this state relating to the appointment of a stenographer for the District Courts shall apply, in all its provisions so far as applicable, to the official shorthand reporter herein authorized to be appointed by the Judge of said Court, and such reporter shall be entitled to the same fees and shall perform the same duties as provided in said General Laws, except in addition to the lawful fees for transcribing testimony and preparing statements of facts he shall receive a salary the same and equal to that of the official shorthand reporter of the County Court of Jefferson County at Law which salary shall be paid monthly out of the County Treasury of said County upon order of the Commissioners Court of said County.

Sec. 7. The jurisdiction or authority now vested by law in the District Court for this state for the drawing, selection and service of jurors shall be exercised by the County Court of Jefferson County at Law No. 2, and the drawing, selection and service of jurors for said Court shall be the same in practice and procedure as in the County Court of Jefferson County at Law.

Sec. 8. The Judge of the County Court of Jefferson County at Law No. 2 shall receive a salary of not more than Sixteen Thousand Five Hundred Dollars (\$16,500.00) per annum, which shall be paid in twelve (12) equal monthly installments out of the County Treasury of Jefferson

County as fixed and ordered by the Commissioners Court of said County. The Judge of the County Court of Jefferson County at Law No. 2 shall assess the same fees as are now prescribed by law relating to county judges' fees, all of which shall be collected by the Clerk of the Court and paid into the County Treasury on collection and no part of which shall be paid to said Judge, who shall instead draw a salary as herein provided.

Sec. 9. All cases appealed from the Justices Courts and Recorders Courts in Jefferson County, Texas, shall be made direct to either the County Court of Jefferson County at Law or the County Court of Jefferson County at Law No. 2 (the jurisdiction of such courts being concurrent) under the provisions heretofore governing such appeals.

Sec. 10. The Judges of the County Court of Jefferson County at Law and of the County Court of Jefferson County at Law No. 2 may at any time exchange benches, and may at any time sit and act for and with each other in any civil or criminal case, matter or proceeding now or hereafter pending in either of said Courts, and any and all of such acts thus performed by the Judges of said Courts shall be valid and binding upon all parties to such cases, matters and proceedings.

Sec. 11. Each of the Judges of the County Court of Jefferson County at Law and of the County Court of Jefferson County at Law No. 2 may, with the consent of the Judge of the Court to which transfer is to be made, transfer civil or criminal actions or proceedings from his respective Court to the other Court by the entry of an order to that effect upon the docket. On the effective date of this Act, or thereafter, the County Court of Jefferson County at Law, and the Judge thereof, shall transfer to the County Court of Jefferson County at Law No. 2 any civil or criminal action or proceeding pending on the docket of said Court as may be necessary in order that the now overcrowded docket of said Court may be relieved, and said County Court of Jefferson County at Law No. 2, and the Judge thereof, shall have jurisdiction to hear and determine said civil or criminal matters, and render and enter the necessary and proper orders, decrees and judgments therein. No cause shall be transferred without the consent of the Judge of the Court to which it is transferred.

Sec. 12. Special Judges may be appointed or elected for either or both the County Court of Jefferson County at Law and the County Court of Jefferson County at Law No. 2, and in the same manner as may now or hereafter be provided by the General Laws of this state relating to the appointment and election of the Special Judge or Judges of the several district and county courts of this state; and every such Special Judge thus appointed or elected for either of said two courts shall receive for the services he may actually perform as a Special Judge the same amount of pay which the regular Judge of said court would be entitled to receive for such services. The amount to be paid to such Special Judge shall be paid out of a general fund of Jefferson County, Texas, by warrants drawn upon the County Treasury of said County and upon orders of the Commissioners Court of Jefferson County, Texas, but no part of the amount paid the Special Judge shall be deducted from or paid out of the salary of either of the regular Judges of said respective Courts.

Sec. 13. The County Court of Jefferson County at Law No. 2, or the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said county

of inferior jurisdiction to said County Court of Jefferson County at Law No. 2. Acts 1965, 59th Leg., p. 325, ch. 152, emerg. eff. May 13, 1965.

Title of Act:

An Act creating an additional County Court at Law in Jefferson County to be known as the County Court of Jefferson County at Law No. 2; providing the jurisdiction of such Court; providing the terms of said Court; providing for the appointment and election of a Judge for said Court and the method of filling vacancies; providing the Judges' powers, duties, term of office and compensation; providing for

the appointment and designation of the officers of the Court; providing the method of determining jurors; providing for the transferal of cases between the County Court of Jefferson County at Law and the County Court of Jefferson County at Law No. 2; providing for the appointment of Special Judges; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 325, ch. 152.

EL PASO COUNTY AT LAW

Art. 1970—127a. Change of name

Section 1. The name of the El Paso County Court at Law is changed to the "County Court at Law No. 1 of El Paso County, Texas." Acts 1965, 59th Leg., p. 1629, ch. 698.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act changing the name of the El Paso County Court at Law; and declaring an

emergency. Acts 1965, 59th Leg., p. 1629, ch. 698.

McLENNAN COUNTY AT LAW

Art. 1970—298b. County Court at Law of McLennan County

Sec. 10. (a) The judge of the County Court at Law of McLennan County is authorized to appoint an official shorthand reporter for the court. A person is eligible for appointment who is well skilled in his profession. Upon appointment the reporter is to serve as a sworn officer of the court, holding his office at the pleasure of the court.

(b) The reporter is not required to take testimony in a case unless a party to the case or the judge demands that testimony be taken. In cases in which the reporter is required to take testimony, the court clerk shall tax a \$3 fee as costs in the case. The clerk shall deposit fees collected under this Section in the treasury of McLennan County. The reporter shall be available for matters being considered in the County Court if a reporter is requested by the litigants before that court and the request is approved by the Judge of the County Court at Law.

(c) The reporter is entitled to receive the same compensation as the official shorthand reporters of the District Courts in McLennan County, which compensation is to be paid in the same manner as is the compensation of the official shorthand reporters of the District Courts in McLennan County. The county judge, the county auditor, the Commissioners Court and any other officials of McLennan County charged with preparing and approving the county budget are authorized to amend the budget of McLennan County to provide for paying compensation to the reporter.

(d) Except where inconsistent with this Act, all General Laws relating to court reporters apply to the official court reporter of the County Court at Law of McLennan County. As amended Acts 1965, 59th Leg., p. 226, ch. 97, § 1, eff. Jan. 1, 1966.

Art. 1970—298c. Compensation of judge

Section 1. The Commissioners Court of McLennan County may fix the total annual compensation of the judge of county court-at-law at an

For Annotations and Historical Notes, see V.A.T.S.

amount not to exceed \$14,000 a year. In all other respects, the compensation of the judge of county court-at-law is governed by the General Law. Acts 1965, 59th Leg., p. 227, ch. 99.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the compensation of the judge of county court-at-law of Mc-

Lennan County; and declaring an emergency. Acts 1965, 59th Leg., p. 227, ch. 99.

BEXAR COUNTY COURT FOR CRIMINAL CASES

**Art. 1970—301g. County court of Bexar county for criminal cases**

Section 1. There is hereby created a court to be held in Bexar County, Texas, to be called the "County Court of Bexar County for Criminal Cases."

Sec. 2. The County Court of Bexar County for Criminal Cases shall have exclusive jurisdiction of all criminal matters and causes, original and appellate, over which, by the General Laws of the State of Texas, the County Court of said county would have jurisdiction, and the same are hereby transferred to the County Court of Bexar County for Criminal Cases; and all criminal writs and processes heretofore issued by or out of said County Court, be, and the same are hereby made returnable to the County Court of Bexar County for Criminal Cases.

Sec. 3. The jurisdiction hereby transferred to the County Court of Bexar County for Criminal Cases shall include all criminal cases and matters, the forfeiture of bonds in criminal cases, all proceedings in relation thereto; but the County Court of Bexar County shall retain, as heretofore, the jurisdiction of all cases of eminent domain; the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of administrators, executors and guardians; transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and to apprentice minors, as provided by law. The county judge of Bexar county shall be the judge of the County Court of Bexar County, and all ex-officio duties of the county judge shall be exercised by the said judge of the County Court of Bexar County, except in so far as the same shall, by this Act and by Act of the Thirty-second Legislature, General Laws pages 15-17, House Bill No. 111, Chapter 10, be committed to the judge of the County Court of Bexar County for Civil Cases. The county judge of Bexar County shall retain authority to determine all matters relating to or arising out of or connected with the granting or revoking of liquor licenses, and all matters appertaining thereto, try all applications for liquor licenses and shall approve all liquor bonds as may be provided by law. He shall also retain jurisdiction of the Juvenile Court.

Sec. 4. The said County Court of Bexar County for Criminal Cases, and the judge thereof shall have the power to issue writs of injunction, certiorari, supersedeas, mandamus, and all other writs necessary to the enforcement of the jurisdiction of said court; and also power to punish for contempt under such provisions as are or may be provided by the General Laws governing County Courts throughout the State; and to issue writs of habeas corpus in cases within the jurisdiction of said court.

Sec. 5. The County Court of Bexar County for Criminal Cases shall hold at least four terms for criminal business annually as may be provided by the Commissioners Court of Bexar County under authority of law, and such other terms each year as may be fixed by the Commissioners Court of

Bexar County; provided the Commissioners Court having fixed the terms of said court, shall not change the same until the expiration of one year.

Sec. 6. There shall be elected in said county by the qualified voters thereof, at each general election, a judge of the County Court of Bexar County for Criminal Cases, who shall be learned in the laws of the State, who shall hold his office for two years, and until his successor shall have been duly qualified.

Sec. 7. The judge of the County Court of Bexar County for Criminal Cases shall execute a bond in the sum of five thousand (\$5,000.00) dollars and take the oath of office as required by the law relating to county judges.

Sec. 8. Special judge of the County Court of Bexar County for Criminal Cases may be appointed or elected as provided by laws relating to County Courts, and to the judges thereof, and shall receive salary and compensations similar to the judge of the court hereby created, but which shall be prorated and paid to him only for the actual number of days he actually serves.

Sec. 9. The county clerk of Bexar County shall be the clerk of the County Court of Bexar County for Criminal Cases. The seal of said court shall be the same as that provided for County Courts, except that the seal shall contain the words "County Court of Bexar County for Criminal Cases." The sheriff of Bexar County shall in person or by deputy attend the court when required by the judge thereof.

Sec. 10. The jurisdiction and authority now vested by law in the County Court of Bexar County, and the County Court of Bexar County for Civil Cases, for the selection and service of jurors shall be exercised by each of the three courts within their jurisdiction.

Sec. 11. Any vacancy in the office of the judge of the court created by this Act may be filled by the Commissioners Court of Bexar County until the next general election. The Commissioners Court of the county shall, as soon as may be, after this Act shall take effect, appoint a judge of the County Court of Bexar County for Criminal Cases, who shall serve until the next general election, and until his successor shall be duly elected and qualified.

Sec. 12. [Not included.]

Sec. 13. The judge of the County Court of Bexar County for Criminal Cases may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this State.

Sec. 14. The provisions of this law are not intended to in any manner affect the jurisdiction of the County Court of Bexar County for Civil Cases, and this law is intended to create another court somewhat similar to said County Court of Bexar County for Civil Cases, but the court hereby created to have jurisdiction of criminal matters only. Act 1915, 34th Leg., p. 78, ch. 39.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, arts. 52—105  
to 52—117.

## PARTICULAR COUNTY COURTS

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

Willacy—Jurisdiction restored: Acts 1965,  
59th Leg., p. 999, ch. 486, § 1.



## RED RIVER COUNTY COURT

Art. 1970—314. Repealed. Acts 1965, 59th Leg., p. 1276, ch. 585, § 4.  
Eff. Aug. 30, 1965, 90 days after date of adjournment

See, now, art. 1970-314a.

**Art. 1970—314a. Jurisdiction of County Court of Red River County**

Section 1. The County Court of Red River County, Texas, shall have and exercise the general jurisdiction of Probate Courts, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons, and to apprentice minors as prescribed by law, and to exercise jurisdiction over all matters of eminent domain over which the County Courts have jurisdiction under the General Laws of this State, and shall enter orders providing for the support of deserted wives and children or both, pendente lite, and may punish for the violation or refusal to obey such order as for contempt; and to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts under such provisions as are, or may be, provided by General Law governing County Courts throughout the State; and said County Court shall also have original concurrent jurisdiction with the District Court of said County in all juvenile delinquency proceedings and in all criminal cases of which County Courts throughout the State, under the General Laws of the State, have original jurisdiction; but said County Court shall have no other jurisdiction, civil or criminal.

Sec. 2. The District Court of said County shall have and exercise jurisdiction in all matters and causes, civil or criminal, over which, by General Laws of the State of Texas, the County Court of said County shall have jurisdiction; and that said District Court shall have exclusive appellate jurisdiction over all criminal cases appealed from the Justice Courts of said County; and that all criminal cases, now on the docket of the County Court of Red River County, Texas, which have been appealed from the Justice Courts of said County be, and the same are hereby, transferred to the District Court of said County; and writs and processes heretofore issued out of or by said County Court in such cases be, and the same are, hereby made returnable to the next term of the District Court of said County.

Sec. 3. That the Clerk of the County Court of Red River County, Texas, be, and he is hereby, required, within ten (10) days after this Act becomes effective, to make full and complete transcripts of all of the entries on his criminal docket heretofore made in those criminal cases which have been appealed from Justice Courts of said County, which by Section 2 hereof are transferred to the District Court of said County, and file the same, together with all original papers of all of said causes and proceedings, with the Clerk of the District Court of said County; and all of such causes under this Act transferred to the District Court shall be immediately docketed by the Clerk of said Court and shall stand on the docket of said Court as other cases which have been originally filed in the District Court of said County.

Sec. 4. The following laws are repealed: Chapter 498, Acts of the 44th Legislature, 3rd Called Session, 1936; Chapter 457, Acts of the 45th Legislature, Regular Session, 1937; and Chapter 23, page 196, General

Laws, Acts of the 46th Legislature, 1939 (Article 1970—314, Vernon's Texas Civil Statutes). Acts 1965, 59th Leg., p. 1276, ch. 585, §§ 1-4.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act relating to the jurisdiction of the County Court of Red River County; repealing Chapter 498, Acts of the 44th Leg-

islature, 3rd Called Session, 1936; Chapter 457, Acts of the 45th Legislature, Regular Session, 1937; and Chapter 23, page 196, General Laws, Acts of the 46th Legislature, 1939; and declaring an emergency. Acts 1965, 59th Leg., p. 1276, ch. 585.

TRAVIS COUNTY COURT AT LAW NO. 1

Art. 1970—324. County Court at Law No. 1 of Travis County

Sec. 5. The terms of the County Court at Law No. 1 of Travis County, Texas, shall be held in the Courthouse of Travis County as follows, to wit: Beginning on the first Mondays in January, March, May, July, September and November in each year, and each term of said Court shall continue in session until the convening of the next succeeding term. The practice in said Court, and appeals and writs of error therefrom shall be as prescribed by the laws of this state relating to County Courts except as herein expressly provided. As amended Acts 1965, 59th Leg., p. 175, ch. 69, § 1, eff. April 8, 1965.

Sec. 6. The present Judge of the County Court at Law No. 1 of Travis County, Texas, shall serve as the Judge of the County Court at Law No. 1 of Travis County, Texas, until the General Election in 1966 and until his successor shall have been duly elected and qualified. The person elected Judge of the County Court at Law No. 1 of Travis County, Texas, at the General Election in 1966 shall serve for a term of four (4) years, and there shall be elected every four (4) years thereafter a Judge of the County Court at Law No. 1 of Travis County, Texas. The Judge of the County Court at Law No. 1 of Travis County, Texas, must be a qualified voter in Travis County, must be a regularly licensed attorney at law in this state, and must be a resident of Travis County, Texas, who shall have been actively engaged in the practice of law for a period of not less than four (4) years next preceding the General Election. As amended Acts 1965, 59th Leg., p. 175, ch. 69, § 2, eff. April 8, 1965.

Sec. 17. The Judge of the County Court at Law No. 1 of Travis County, Texas, shall receive a salary of not less than Eleven Thousand Dollars (\$11,000) per annum nor more than Sixteen Thousand Five Hundred Dollars (\$16,500) per annum, to be fixed by the Commissioners Court of Travis County, and to be paid out of the Officers Salary Fund in equal monthly installments. The Judge of the County Court at Law No. 1 of Travis County shall assess the same fees and costs as are now prescribed by law for County Judges, to be deposited in the County Treasury as prescribed by law. As amended Acts 1965, 59th Leg., p. 175, ch. 69, § 3, eff. April 8, 1965.

TRAVIS COUNTY COURT AT LAW NO. 2

Art. 1970—324a. County Court at Law No. 2 of Travis County

Sec. 6. The present Judge of the County Court at Law No. 2 of Travis County, Texas, shall serve as the Judge of the County Court at Law No. 2 of Travis County, Texas, until the General Election in 1966 and until his successor shall have been duly elected and qualified. The person elected Judge of the County Court at Law No. 2 of Travis County,

For Annotations and Historical Notes, see V.A.T.S.

Texas, at the General Election in 1966 shall serve for a term of four (4) years, and there shall be elected every four (4) years thereafter a Judge of the County Court at Law No. 2 of Travis County, Texas. The Judge of the County Court at Law No. 2 of Travis County, Texas, must be a qualified voter in Travis County, Texas, must be a regularly licensed attorney at law in this state, and must be a resident of Travis County, Texas, who shall have been actively engaged in the practice of law for a period of not less than four (4) years next preceding the General Election. As amended Acts 1965, 59th Leg., p. 175, ch. 69, § 4, eff. April 8, 1965.

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Sec. 17. The Judge of the County Court at Law No. 2 of Travis County, Texas, shall receive a salary of not less than Eleven Thousand Dollars (\$11,000) per annum nor more than Sixteen Thousand Five Hundred Dollars (\$16,500) per annum, to be fixed by the Commissioners Court of Travis County, and to be paid out of the Officers Salary Fund in equal monthly installments. The Judge of the County Court at Law No. 2 of Travis County shall assess the same fees and costs as are now prescribed by law for County Judges, to be deposited in the County Treasury as prescribed by law. As amended Acts 1965, 59th Leg., p. 175, ch. 69, § 5, eff. April 8, 1965.

**Art. 1970—324b. Exchange of benches of County Courts at Law of Travis County**

The Judge of each of the County Courts at Law of Travis County may, in his discretion, either in term-time or in vacation, on motion of any party or on agreement of the parties, or on his own motion, transfer any cause, civil or criminal, on his docket, to the docket of the other County Court at Law; and the Judges of said Courts may, in their discretion, exchange benches from time to time; and whenever a Judge of one of said Courts is disqualified, he shall transfer the case from his Court to the other County Court at Law, and either Judge may, in his own courtroom, try and determine any case or proceeding pending in either County Court at Law, without having the case transferred, or may sit in the other County Court at Law and there hear and determine any case there pending; and each judgment and order shall be entered in the minutes of the Court in which the case is pending; and the Judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any County Court at Law. In case of absence, sickness, or disqualification of either Judge of the County Courts at Law, the other Judge of the County Court at Law may hold Court for him. Either of said Judges may hear any part of any case or proceeding pending in either of said County Courts at Law and determine the same or may hear and determine any question in any case and either Judge may complete the hearing and render judgment in said case. In cases transferred to any one of the County Courts at Law by order of the Judge of one of said Courts, all process, writs, bonds, recognizances or other obligations issued or made in said cases shall be returned to and filed in the Court to which transfer is made. All bonds executed and recognizances entered into in said cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the Court to which the cases are transferred to as are fixed by law and by this Act. And all processes issued or returned before transfer of said cases as well as all bonds and recognizances before taken in said cases shall be valid and binding as though originally issued out of the Court to which such transfer may be made. Acts 1965, 59th Leg., p. 175, ch. 69, § 6, eff. April 8, 1965.

Acts 1965, 59th Leg., p. 175, ch. 69, §§ 1-5 amended various sections of articles 1970-324 and 1970-324a.

FRANKLIN COUNTY COURT

Art. 1970—331. Repealed. Acts 1965, 59th Leg., p. 800, ch. 385, § 2. Eff. Aug. 30, 1965, 90 days after date of adjournment

See, now, art. 1970—331a.

Art. 1970—331a. Franklin County Court; jurisdiction

Section 1. On and after the effective date of this Act the County Court of Franklin County, Texas, has the jurisdiction provided for county courts by the Constitution and Laws of this state. All causes and proceedings over which county courts have jurisdiction under the Constitution and Laws of this State, and which are on file with the 62nd or 76th District Court in Franklin County, Texas, are transferred without further action on the effective date of this Act to the County Court of Franklin County. Process outstanding in these causes or proceedings on the effective date of this Act is returnable to the Franklin County Court and is as valid as if originally issued by that court.

Sec. 2. Chapter 231, Acts of the 49th Legislature, Regular Session, 1945 (codified as Article 1970—331, Vernon's Texas Civil Statutes), is repealed. Acts 1965, 59th Leg., p. 800, ch. 385.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act restoring the jurisdiction of the Franklin County Court; repealing Chapter

231, Acts of the 49th Legislature, 1945; and declaring an emergency. Acts 1965, 59th Leg., p. 800, ch. 385.

HIDALGO COUNTY

Art. 1970—341. County Court at Law of Hidalgo County

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Sec. 11. (a) The Judge of the County Court at Law of Hidalgo County is entitled to receive an annual salary of between \$11,500 and \$13,500, the exact amount of which shall be fixed by the Commissioners Court of Hidalgo County. The salary shall be paid in the same manner and from the same fund as prescribed by law for payment of the salary of the County Judge of Hidalgo County.

(b) The judge of the county court at law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge. As amended Acts 1965, 59th Leg., p. 844, ch. 406, § 1.

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Effective Aug. 30, 1965, 90 days after date of adjournment.

GALVESTON COUNTY COURT NO. 2

Art. 1970—342. County Court No. 2 of Galveston County

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Sec. 9. The Judge of the County Court No. 2 shall be paid by the Commissioners Court of Galveston County a yearly salary of not more than \$18,000 as may be fixed by the Commissioners Court. This salary shall be paid out of the general fund of the county in twelve (12) equal monthly installments. As amended Acts 1965, 59th Leg., p. 286, ch. 123, § 1.

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Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 1970—342a. County Court No. 1 of Galveston County**

Section 1. There is hereby created on the effective date of this Act, a Court to be held in Galveston County, Texas, to be known and designated as the "County Court No. 1 of Galveston County."

Sec. 2. (a) The County Court No. 1 of Galveston County shall have, and it is hereby granted, the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions, matters, and proceedings under the constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Galveston County, Texas, and the judge of said court shall have the same powers, rights, and privileges as to criminal matters as are now or may be vested in the judges of county courts having criminal jurisdiction.

(b) The County Court No. 1 of Galveston County shall have, and it is hereby granted, the same jurisdiction and powers in civil actions, matters, and proceedings that are now or may be conferred by law upon and vested in the County Court of Galveston County, Texas, and in the County Court No. 2 of Galveston County, and the judges thereof. Provided, however, that the jurisdiction of said County Court of Galveston County, Texas, the jurisdiction of said County Court No. 2 of Galveston County, and the jurisdiction of the County Court No. 1 of Galveston County, over all such actions, matters, and proceedings, civil and criminal, within Galveston County, shall be concurrent.

Sec. 3. (a) Upon the effective date of this Act, the pending civil and criminal cases on the docket of the County Court of Galveston County and the County Court No. 2 of Galveston County, save and except probate matters, mental illness cases, condemnation cases and alcoholic hearings, shall be automatically transferred to the County Court No. 1 of Galveston County. Thereafter, civil and criminal cases, except matters described in Subsection (b) of this Section, shall be filed and docketed in the County Court No. 1 of Galveston County.

(b) Probate matters, mental illness cases, condemnation cases and alcoholic hearings shall continue to be filed and docketed in the County Court of Galveston County and the County Court No. 2 of Galveston County in the same manner as they have been heretofore filed and docketed.

Sec. 4. The clerk of the County Court No. 1 of Galveston County shall keep a separate docket for the court, in the same manner as now or may be provided by law for the keeping of dockets for the County Court of Galveston County, Texas, and the County Court No. 2 of Galveston County. He shall tax the official court reporter's fee as costs in civil actions in said County Court No. 1 of Galveston County in like manner as the fee is taxed in civil cases in the district courts of this state. The Judge of the County Court of Galveston County, Texas, the Judge of the County Court No. 1 of Galveston County, and the Judge of the County Court No. 2 of Galveston County may, with the consent of the judge of the court to which transfer is to be made, transfer civil or criminal actions, matters, and proceedings from his respective court to any one of the other courts by entry of an order to that effect upon the docket of his court; and the judge of the court to which any such action, matter, or proceeding, civil or criminal, shall have been transferred, shall have jurisdiction to hear and determine said matter or matters and render and enter the necessary and proper orders, decrees and judgments therein, and in the same manner and with the same force and effect as if such case, action, matter, or proceeding had been originally filed in the court to which transferred. Provided,

however, that no cause, action, matter, case, or proceeding shall be transferred without the consent of the judge of the court to which transferred.

Sec. 5. The Judge of the County Court No. 1 of Galveston County, together with the Judges of the County Court of Galveston County, Texas, and the County Court No. 2 of Galveston County, may, at any time, exchange benches and may, at any time, sit and act for and with each other in any civil or criminal case, matter, or proceeding now, or hereafter, pending in their courts; and any and all such acts thus performed by any of said judges shall be valid and binding upon all parties to such cases, matters, and proceedings.

Sec. 6. The practice in said County Court No. 1 of Galveston County shall be the same as prescribed by law relating to county courts and county courts at law. Appeals and writs of error may be taken from judgments and orders of said County Court No. 1 of Galveston County, and from judgments and orders of the judge thereof, in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by law relating to such appeals and writs of error. Appeals may also be taken from interlocutory orders of said County Court No. 1 of Galveston County, appointing a receiver, or from orders overruling a motion to vacate or appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the district courts throughout this state.

Sec. 7. The Judges of the County Court of Galveston County, the County Court No. 1 of Galveston County and the County Court No. 2 of Galveston County shall appoint an official shorthand reporter for the County Court No. 1, who shall be well-skilled in his profession and shall be a sworn officer of the court, and shall hold his office at the pleasure of the court. All of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and all other applicable provisions of the law relating to "official court reporters" shall apply to the official shorthand reporter herein authorized to be appointed. Such official shorthand reporter shall be entitled to the same compensation, to be paid in the same manner, as provided for the official shorthand reporters of the district courts of Galveston County, Texas. Said court reporter shall be required primarily to report cases in the County Court No. 1 of Galveston County, but shall be made available, when not engaged in a jury trial in said court, to report jury trials in the County Court of Galveston County and the County Court No. 2 of Galveston County and to the District Attorney for examining trials in Justice Courts and trials in the Court of Domestic Relations.

Sec. 8. The County Clerk of Galveston County shall be the Clerk of the County Court No. 1 of Galveston County. The court shall have a seal consisting of a star of five points with the words "County Court No. 1 of Galveston County" engraved thereon. The Sheriff of Galveston County shall appoint a deputy to attend the court when required by the judge thereof.

Sec. 9. The Criminal District Attorney of Galveston County, Texas, shall represent the state in all prosecutions in the County Court No. 1 of Galveston County as provided by law for prosecutions in county courts, and shall be entitled to the same fees as in other cases.

Sec. 10. At the next general election after the effective date of this Act, there shall be elected a Judge of the County Court No. 1 of Galveston County, who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five years; who

For Annotations and Historical Notes, see V.A.T.S.

shall be well-versed in the laws of the state; who shall have resided in and been actively engaged in the practice of law in Galveston County, Texas, for a period of not less than four years prior to such general election; and who shall hold his office for four years and until his successor shall have been duly elected and qualified. When this Act becomes effective, the Governor shall appoint a Judge of the County Court No. 1 of Galveston County, who shall have the qualifications herein prescribed and who shall serve until the next general election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of the County Court at Law No. 1 of Galveston County shall be filled by the Commissioners Court of Galveston County, Texas, and the appointee shall hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

Sec. 11. (a) The Judge of the County Court No. 1 of Galveston County shall take the oath of office prescribed by the Constitution of Texas, but no bond shall be required of him.

(b) The Judges of the County Court No. 1 and of the County Court No. 2 shall each be paid an annual salary of not more than \$18,000. The salary shall be paid to each judge in equal monthly installments out of the general fund of Galveston County, Texas, by warrants drawn upon the County Treasury upon orders of the Commissioners Court of Galveston County, Texas.

Sec. 12. A special judge may be appointed or elected for the County Court No. 1 of Galveston County in the same manner as may now or hereafter be provided by the General Laws of this state relating to the appointment and election of special judges. Every such special judge thus appointed or elected for said court shall receive for the services he may actually perform the same amount of pay which the regular judge of said court would be entitled to receive for such services; and said amount to be paid to such special judge shall be deducted from or paid out of the salary of the regular judge of said court.

Sec. 13. The County Court No. 1 of Galveston County, or the judge thereof, shall have power to grant all writs necessary to the enforcement of the jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of the court, or of any other court in Galveston County of inferior jurisdiction to the County Court No. 1 of Galveston County.

Sec. 14. The County Court No. 1 of Galveston County shall hold six terms of court, commencing on the first Monday in January, March, May, July, September, and November of each year, and each term shall continue until the business of the court is disposed of; provided, however, that no term of the court shall extend beyond the date fixed for the commencement of the succeeding term except pursuant to an order entered upon the minutes during the term to be extended. Acts 1965, 59th Leg., p. 523, ch. 269, emerg. eff. May 28, 1965.

**Title of Act:**

An Act creating the County Court No. 1 of Galveston County; providing for its jurisdiction, administration and procedures,

personnel, judge, and terms; and declaring an emergency. Acts 1965, 59th Leg., p. 523, ch. 269.

## SMITH COUNTY

### Art. 1970—348. County Court at Law of Smith County

\* \* \* \* \*

Sec. 2. The County Court at Law of Smith County shall have original and concurrent jurisdiction with the County Court of Smith County, in all matters and causes, civil and criminal, original and appel-

late, over which by the General Laws of this State, county courts have jurisdiction, except as provided in Section 3 of this Act; but this provision shall not affect jurisdiction of the Commissioners Court or the County Judge of Smith County, Texas, as the presiding officer of the Commissioners Court as to roads, bridges and public highways, and matters of eminent domain, which are now within the jurisdiction of the Commissioners Court of the Judge of Smith County.

With the consent of the other, the Judge of either of such courts shall have the power to transfer to the other court any case over which the courts have concurrent jurisdiction pending upon the docket of his court except in cases where the writ of certiorari has been granted. As amended Acts 1965, 59th Leg., p. 1011, ch. 496, § 1, emerg. eff. June 16, 1965.

\* \* \* \* \*

Sec. 18a. The Judge of the County Court at Law of Smith County, with the consent of the Commissioners Court, may employ a secretary. The secretary is entitled to a salary as determined by the Commissioners Court. Added Acts 1965, 59th Leg., p. 859, ch. 420, § 1, emerg. eff. June 14, 1965.

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ORANGE COUNTY

Art. 1970—349. County Court at Law of Orange County

Creation and jurisdiction

Section 1. (a) On the effective date of this Act (as provided in Section 6), the County Court at Law of Orange County is created.

(b) The County Court at Law has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, including eminent domain proceedings, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Orange County.

(c) The County Court at Law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, super-sedeas, and all writs necessary for the enforcement of the jurisdiction of the Court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the Court, or of any other court of inferior jurisdiction in the county. The court and judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Orange County is the Judge of the County Court of Orange County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Orange County unless by this Act committed to the Judge of the County Court at Law.

Terms of Court

Sec. 2. The Commissioners Court of Orange County by order duly entered of record, shall prescribe not less than four terms each year for the County Court at Law of Orange County.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a Judge of the County Court at Law of Orange County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than four years, be well informed in the laws of this State, and who must have resided and been actively engaged in the practice of law in Orange County for a period of not less than two years prior to the general election. The Judge elected holds office



for four years and until his successor has been duly elected and qualified. During his term of office the Judge may not appear and plead as an attorney at law in any court of record in this State.

(b) When this Act becomes effective, the Commissioners Court of Orange County shall appoint a Judge to the County Court at Law of Orange County. The Judge appointed must have the qualifications prescribed in Subsection (a) of this Section and serves until January 1st of the year following the next general election and until his successor has been duly elected and qualified. Any vacancy occurring in the office of the Judge of the County Court at Law may be filled in like manner by the Commissioners Court and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

(c) The Judge of the County Court at Law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Judge of the County Court at Law shall receive not less than the same salary prescribed by the Commissioners Court of Orange County for the County Judge of Orange County and not more than Twelve Thousand Dollars (\$12,000) per annum. Such salary shall be paid in equal monthly installments out of the county treasury on order of the Commissioners Court. The Judge of the County Court at Law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the Judge.

(e) A special judge of the County Court at Law may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

#### **Court officials**

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Orange County, Texas, shall serve as County Attorney, Clerk, and Sheriff, respectively, of the County Court at Law of Orange County. The Commissioners Court of Orange County may employ as many additional assistant county attorneys, deputy sheriffs and clerks as are necessary to serve the Court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Orange County.

(b) The Judge of the County Court at Law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Orange County.

#### **Practice**

Sec. 5. (a) Practice in the County Court at Law of Orange County shall conform to that prescribed by law for the County Court of Orange County.

(b) The Judges of the County Court and the County Court at Law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law unless it is within the jurisdiction of that Court.

(c) Jurors regularly impaneled for the week by the District Courts of Orange County, Texas, may, at the request of either the Judge of the County Court or of the County Court at Law, be made available by the District Judges in the numbers requested and shall serve for the week in either or both the County Court or the County Court at Law

**Effective date**

Sec. 6. The Act becomes effective upon order of the Commissioners Court of Orange County duly entered in its minutes. Acts 1965, 59th Leg., p. 1012, ch. 498.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating the County Court at Law of Orange County; providing for its juris-

diction, terms, personnel, administration, and practice; and declaring an emergency. Acts 1965, 59th Leg., p. 1012, ch. 498.

**TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY**

**CHAPTER ONE—INSTITUTION, PARTIES AND VENUE**

**Art. 1983.** For wife's separate property or special community property

The wife may sue either alone or jointly with her husband for the recovery of the separate property of the wife or of the special community property of the husband and wife; provided, however, that if the wife sues alone her petition shall distinctly allege the facts which constitute the property sought to be recovered as her separate property or as the special community property. As amended Acts 1965, 59th Leg., p. 1010, ch. 495, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 1984.** Repealed. Acts 1965, 59th Leg., p. 1010, ch. 495, § 2. Eff. Aug. 30, 1965, 90 days after date of adjournment

See, now, article 1983.

**Art. 1985.** Suits against the wife

The wife may be sued alone or jointly with her husband in all suits for debts or demands against the wife and in all suits based on torts of the wife, but no personal judgment shall be rendered against the husband unless he be also liable for such debt, demand, or tort, and no judgment rendered in a suit to which the husband was not a party shall be enforceable by execution or other process against community property other than the special community property. As amended Acts 1965, 59th Leg., p. 1010, ch. 495, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**CHAPTER SEVEN—THE JURY**

**Art. 2094.** Selecting names for jury wheel

(a) Between the first and fifteenth days of August of each year, in each county specified in this Article, the tax collector, sheriff, county clerk, and district clerk of the county, each in person or represented by one of his deputies, shall meet at the county courthouse and select from the list of qualified jurors of the county as shown by the tax lists in the tax assessor's office for the current year the jurors to serve the district and county courts of the county for the ensuing year, in the manner provided by law.

(b) All population figures mentioned in this Article refer to the population according to the last preceding federal census.

(c) The provisions of subsection (a) of this Article apply to a county having a population of at least 46,000.

(d) The provisions of subsection (a) of this Article also apply to a county containing a city having a population of at least 18,000.

(e) The provisions of subsection (a) of this Article also apply to a county having a population of at least 16,700 and containing a city having a population of at least 8,000 but not more than 8,950.

(f) The provisions of subsection (a) of this Article also apply to a county having a population of at least 20,000 and containing a city having a population of at least 13,000 if the county is within a judicial district

common to one or more other counties all of which employ the jury wheel system.

(g) The provisions of subsection (a) of this Article also apply to a county which has two or more district courts holding sessions within the county, unless the county has a population of less than 18,500 and the judicial districts of which it is a part embrace more than two counties.

(h) The provisions of subsection (a) of this Article also apply to a county having a population of at least 19,000 but not more than 19,800, and containing a city having a population of at least 12,000 but not more than 12,500.

(i) The provisions of subsection (a) of this Article also apply to a county having a population of at least 21,000 and containing a city having a population of at least 7,000 but not more than 7,200.

(j) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 5,100 but not more than 5,200, and containing a city having a population of at least 1,000 but not more than 1,500. As amended Acts 1965, 59th Leg., p. 373, ch. 180, § 2, eff. July 1, 1965; Acts 1965, 59th Leg., p. 1095, ch. 527, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 1 of Acts 1965, 59th Leg., p. 373, ch. 180 provided: "Purpose. The 58th Legislature amended Article 2094, Revised Civil Statutes of Texas, 1925, by two separate

Acts with different provisions. The purpose of this amendment is to clarify the law by combining all of the provisions of both amendments, and to facilitate future amendment."

#### Art. 2103b. Use of jury wheel in certain counties

Section 1. In any county not presently required to use the jury wheel system and having a population of 29,000 or more, or in any county having a population of less than 15,000 and containing a city having a population of more than 8,500 and less than 12,000, according to the last preceding Federal Census, the commissioners court, upon determining that the level and distribution of the population is such that the use of a jury wheel would facilitate the administration of justice, may thereafter adopt the use of the jury wheel for the selection of jurors for service in the district and county courts. As amended Acts 1965, 59th Leg., p. 963, ch. 463, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Art. 2122. [5218-19-20] Pay of jurors

(a) Each juror in a district or county court or county court at law is entitled to receive not less than \$4 nor more than \$10 for each day or fraction of a day that he attends court as a juror. The commissioners court of each county shall determine annually, within the minimum and maximum prescribed in this subsection, the amount of per diem for jurors, which shall be paid out of the jury fund of the county. A person who responds to the process of a court, but who is excused from jury service by the court for any cause after being tested on voir dire, is entitled to receive not less than \$4 nor more than \$5 for each day or fraction of a day that he attends court in response to such process.

(b) A check drawn on the jury fund by the clerk of the district court of a county may be transferred by endorsement and delivery and is receivable at par from the holder for all county taxes. As amended Acts 1965, 59th Leg., p. 484, ch. 246, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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

All competent jurors are liable to jury service, except the following persons:

1. All persons over sixty-five years of age.
2. All civil officers of this State or the United States.
3. All overseers of roads.
4. All ministers of the gospel engaged in the active discharge of their ministerial duties.
5. All physicians, dentists, optometrists and attorneys and spouses of attorneys engaged in actual practice.
6. All railroad station agents, conductors, engineers and firemen of railroad companies when engaged in the regular and actual discharge of their respective positions.
7. Any person who has acted as a jury commissioner within the preceding twelve months.
8. All members of the National Guard of this State under the provisions of the title "Militia" during periods of time when they are actually on active duty.
9. In cities and towns having a population of one thousand or more inhabitants, according to the last preceding United States Census, the active members of organized fire companies, not to exceed twenty to each one thousand of such inhabitants.
10. All females who have legal custody of a child or children under the age of sixteen years.
11. All registered, practical and vocational nurses actively engaged in the practice of their profession.
12. Any practitioner who treats the sick by prayer or spiritual means in accordance with the tenets, teachings or practice of any well-established church or denomination, or a nurse who cares for the sick who are under treatment by such spiritual means, or a reader whose duty is to conduct regular religious services of such church or denomination.
13. All licensed morticians who are actively engaged in the practice of their profession.
14. All registered pharmacists who are actively engaged in the practice of their profession.
15. Agents and patrolmen engaged in forestry protection work employed by the State Department of Forestry when engaged in the actual discharge of their duties.
16. The spouse of any person who is summoned to serve on the same jury panel; provided, however, that only one of the spouses, either the husband or the wife, may claim exemption on this ground, and if both the husband and the wife seek to claim the exemption, the court shall decide which shall be entitled to it.
17. All school teachers, which shall include public, parochial and private school teachers. As amended Acts 1965, 59th Leg., p. 455, ch. 232, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

CHAPTER NINE—JUDGMENTS AND REMITTITUR

1. JUDGMENTS

Art.  
2226a. Effect of adjudications in lower trial courts on proceedings in higher courts [New].

1. JUDGMENTS

Art. 2226a. Effect of adjudications in lower trial courts on proceedings in higher courts

Section 1. A determination of fact or law or a judgment in any proceeding in the Small Claims Court, Justice of the Peace Court, County Court, County Civil Court at Law, County Criminal Court at Law, or County Court at Law shall not be res judicata and shall not constitute a basis for estoppel by judgment in any proceeding in a District Court, except that any such judgment shall be binding on the parties thereto as to the recovery or denial thereof rendered in that particular case, and further except that all judgments in probate, guardianship, lunacy and other matters over which said inferior courts shall have exclusive jurisdiction of the subject matter, on a basis other than the amount in controversy, shall not be affected thereby.

Sec. 2. A determination of fact or law or a judgment in any proceeding in the Small Claims Court or Justice of the Peace Court shall not be res judicata and shall not constitute a basis for estoppel by judgment in any proceeding in a County Court, County Civil Court at Law, County Criminal Court at Law or County Court at Law, except that any such judgment shall be binding on the parties thereto as to the recovery or denial thereof rendered in that particular case. Acts 1965, 59th Leg., p. 1539, ch. 675, emerg. eff. June 18, 1965.

Title of Act: An Act restricting the effect of adjudications in lower trial courts on proceedings in higher courts; providing for severability; and declaring an emergency. Acts 1965, 59th Leg., p. 1539, ch. 675.

CHAPTER THIRTEEN—GENERAL PROVISIONS

1. MISCELLANEOUS

Art.  
2292b. Bailiffs in certain counties with eight districts and four county courts; duties; composition [Renumbered].  
2292c. Bailiffs in counties of 200,000 to 300,000; compensation and expenses [Renumbered].  
2292d. Bailiffs in counties of 300,000 to 425,000; monthly car allowance [Renumbered].  
2292e. Bailiffs in counties with nine district courts; duties; terms; compensation [Renumbered].  
2292f. Bailiffs in counties with population of 250,000 or more; appointment; compensation; removal [Renumbered].  
2292g. Bailiffs in counties of 190,000 to 200,000; appointment; compensation [Renumbered].  
2292h. Bailiffs in counties comprising part of two judicial districts of four counties of 136,000 or more combined population [Renumbered].

Art.

2292i. Grand jury riding bailiffs in counties below 250,000 population; compensation [Renumbered].  
2292—1. Travis County; adult probation officer; secretary; appointment, compensation, etc. [Renumbered].  
2292—2. Tarrant County; adult probation and parole officer [Renumbered].

3. OFFICIAL COURT REPORTER

2326j—38. Appointment and compensation of reporter for 39th Judicial District [New].  
2326j—39. Appointment and compensation of reporter for 116th Judicial District [New].  
2326j—40. Compensation of reporter for 97th Judicial District [New].  
2326j—41. Compensation of reporters for 2nd and 145th Judicial Districts [New].  
2326j—42. Compensation of reporters for 42nd and 104th Judicial Districts [New].

**COURTS—DISTRICT AND COUNTY Art. 2292c**  
 For Annotations and Historical Notes, see V.A.T.S.

Art.		Art.	
2326j—43.	Compensation of reporter for 7th and 114th Judicial Districts [New].	2326j—52.	Compensation of reporters for 17th, 48th, 67th, 96th and 153rd Judicial Districts and of Criminal District Court No. 2 [New].
2326j—44.	Compensation of reporter for 81st Judicial District [New].	2326j—53.	Compensation of reporter for 84th Judicial District [New].
2326j—45.	Compensation of reporters for 128th and 163rd Judicial Districts [New].	2326l—1.	Shorthand reporters in district courts and county courts at law in counties of 900,000 or more population [New].
2326j—46.	Compensation of reporter for 69th Judicial District [New].	2326l—2.	Shorthand reporters in district courts and county courts at law in counties of 650,000 to 900,000 [New].
2326j—47.	Compensation of reporter for 21st Judicial District [New].		
2326j—48.	Compensation of reporter for 16th Judicial District [New].		
2326j—49.	Compensation of reporters for 30th, 78th and 89th Judicial Districts [New].		
2326j—50.	Compensation of reporter for 22nd Judicial District [New].		
2326j—51.	Compensation of reporter for 38th Judicial District [New].		

6. ENFORCEMENT OF SUPPORT

2328b—4. Uniform Reciprocal Enforcement of Support Act [New].

1. MISCELLANEOUS

**Art. 2292b. Bailiffs in certain counties with eight districts and four county courts; duties; compensation**

Section 1. In all counties having eight (8) District Courts, including two (2) Criminal District Courts, and four (4) County Courts, including two (2) County Courts at Law and one County Criminal Court, the District Judges of each such county shall appoint a bailiff to be in charge of the Central Jury Room and the general panel. Such bailiff is hereby authorized to summon jurors, whose names have been drawn from the jury wheel, and to serve notices upon absent jurors, as directed by the District Judges having supervision and control over the general jury panel. Such bailiff shall look after the said panel and perform such duties in connection with the general supervision of the Central Jury Room and the general panel as are required by the District Judges of such county. He shall serve for a term of two (2) years, from January first of the odd years, and his salary shall be set by the Commissioners Court upon recommendation of the District Judges.

Sec. 2. It is hereby declared to be the legislative intent that if any sentence of this Act shall be held to be invalid or unconstitutional, such invalidity shall not be held to affect the validity or constitutionality of any other paragraph or sentence of this Act. Acts 1947, 50th Leg., p. 394, ch. 223.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 367d.

**Art. 2292c. Bailiffs in counties of 200,000 to 300,000; compensation and expenses**

In all counties of this State having a population of more than two hundred thousand (200,000) and less than three hundred thousand (300,000) inhabitants, according to the last preceding Federal Census, Grand Jury Bailiffs shall receive compensation of Seven Dollars and Fifty Cents (\$7.50) per day, and in addition thereto One Dollar (\$1) per day for the expenses of their automobile, or a total of Eight Dollars and Fifty Cents (\$8.50) per day, which shall be paid on the basis of a six (6) day week. Such compensation may be paid out of the General Fund or the Jury Fund of such counties, as the Commissioners Court of such

counties may determine. Said compensation and expenses shall be paid monthly. Acts 1947, 50th Leg., p. 964, ch. 418, § 1.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

*54.02.*

Renumbered from C.C.P.1925, art. 367c.

**Art. 2292d. Bailiffs in counties of 300,000 to 425,000; monthly car allowance**

Section 1. The Commissioners Court shall have the right and the authority to provide for and establish a monthly car allowance for the grand jury bailiff or bailiffs in their respective counties.

Sec. 1A. This Act shall apply to counties having a population of not less than three hundred thousand (300,000) nor more than four hundred twenty-five thousand (425,000). Acts 1949, 51st Leg., p. 211, ch. 116.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

*54.02.*

Renumbered from C.C.P.1925, art. 367f.

**Art. 2292e. Bailiffs in counties with nine district courts; duties; terms; compensation**

Section 1. In all counties having nine (9) or more District Courts, a majority of the District Judges of each such county may appoint a bailiff to be in charge of the central jury room and the general panel. In such counties, if the District Judges of such county do not appoint a bailiff to be in charge of the central jury room and the general panel, the sheriff of that county shall perform all the duties in connection with the central jury room and the general panel, as provided by law. In any or all of such counties in which the District Judges thereof appoint a bailiff in charge of the central jury room and the general panel, the sheriff of any such county shall not assign a deputy to the central jury room as is now provided by law. The bailiff appointed by the said District Judges is hereby authorized to summon jurors whose names have been drawn from the jury wheel, and to serve notices upon absent jurors as directed by the District Judge having supervision and control of the general panel.

Said bailiff so appointed shall look after the said panel and perform such duties in connection with the general supervision of the central jury room and the general panel as is required by the District Judges of such county. He shall serve for a term of two (2) years from January 1st of the odd year, and his salary shall be set by the Commissioners Court upon the recommendation of the District Judges.

Sec. 2. In counties having nine (9) or more District Courts, the jurors in each of such counties may be summoned by the bailiff in charge of the central jury room, and the general panel of such county or the sheriff of such county, as the District Judges thereof may direct. Such service on the jurors may be made verbally in person, by registered mail, by ordinary mail or in any other manner or by any other method as may be determined upon the District Judges of such county. Jurors so selected and summoned for service on the central jury panel shall serve in criminal as well as civil cases, and no additional service shall be required in criminal cases. Acts 1950, 51st Leg., 1st C.S., p. 4, ch. 7.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

*54.02.*

Renumbered from C.C.P.1925, art. 367g.



**Art. 2292f. Bailiffs in counties with population of 250,000 or more; appointment; compensation; removal**

Section 1. In all counties having a population of two hundred and fifty thousand (250,000) or more inhabitants, according to the last preceding or any future Federal Census, the judges of the district courts to whom the grand jury reports may, with the approval of the Commissioners Court, appoint grand jury bailiffs not exceeding seven (7), whose compensation shall be fixed by order of the Commissioners Court; such compensation to be paid out of the general fund or jury fund in twelve (12) equal monthly installments, plus an automobile allowance to be set by the Commissioners Court of said counties.

Sec. 2. Bailiffs thus appointed are subject to removal without cause at the will of the judge or judges appointing them. Acts 1951, 52nd Leg., p. 208, ch. 123.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 367h.

**Art. 2292g. Bailiffs in counties of 190,000 to 200,000; appointment; compensation**

In all counties of this State having a population of not less than one hundred and ninety thousand (190,000) and not more than two hundred thousand (200,000) inhabitants, according to the last Federal Census, the Judge of a District Court impaneling a Grand Jury shall appoint grand jury bailiffs not to exceed six (6), each of whom shall receive Seven Dollars and Fifty Cents (\$7.50) per day compensation for his services; such payment to be made out of the general fund of such county. Acts 1955, 54th Leg., p. 516, ch. 152, § 1.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 367i.

**Art. 2292h. Bailiffs in counties comprising part of two judicial districts of four counties of 136,000 or more combined population**

In every county in this state which comprises a part of two judicial districts, each of which districts consists of four and the same four counties, which four counties have a combined population of not less than one hundred thirty-six thousand (136,000) according to the last preceding Federal Census, the District Judges of such two judicial districts shall appoint officers of the said courts to act as bailiffs for said courts. The bailiffs shall be paid a salary out of the general fund of the county of such court as set by the District Courts of such judicial districts with the approval of the Commissioners Court of the county of such court. The bailiffs shall perform any and all duties imposed upon bailiffs in this state under the General Laws. In addition thereto, bailiffs shall perform such duties as are required by the District Judges. Bailiffs thus appointed are subject to removal without cause at the will of the judge or judges appointing them. Bailiffs thus appointed shall be duly deputized by the Sheriff of such county in addition to all other deputies now authorized by law, upon the request of the District Judges. Acts 1957, 55th Leg., p. 437, ch. 211, § 1.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 367j.

Art. 2292i. Grand jury riding bailiffs in counties below 250,000 population; compensation

Grand jury riding bailiffs in counties having a population below two hundred and fifty thousand (250,000) according to the last preceding Federal Census shall receive compensation of not to exceed Seven Dollars and Fifty Cents (\$7.50) per day, and in addition thereto Seven Cents (7¢) per mile for the expenses of their automobile when used pursuant to official duties. Such compensation may be paid out of the General Fund or the Jury Fund of such counties, as the Commissioners Court of such counties may determine. Such compensation and expenses may be paid monthly. Acts 1959, 56th Leg., p. 859, ch. 385, § 1.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.*

*54.02.*

Renumbered from C.C.P.1925, art. 367k.

Art. 2292—1. Travis county; adult probation officer; secretary; appointment, compensation, etc.

Section 1. The Judge of the 53rd Judicial District Court of Travis County, Texas; the Judge of the 98th Judicial District Court of Travis County, Texas; and the Judge of the 126th Judicial District Court of Travis County, Texas, for the purpose of effectively carrying out the adult probation laws of this State, shall be and are hereby authorized to appoint one Adult Probation Officer for Travis County where a probation and parole officer has not been assigned to any court and/or district in said county, in accordance with the provisions of Chapter 452, Acts of the Fiftieth Legislature, 1947, known as the Adult Probation and Parole Law and codified as Article 781b in Vernon's Texas Code of Criminal Procedure.

The Judges of the several Judicial District Courts of Travis County, Texas, shall be and are hereby further authorized to appoint one Secretary to serve in the Adult Probation Office.

The salaries of the above mentioned persons shall be set by the Commissioners Court in accordance with the laws governing the salaries permitted to be paid to deputies and assistants of elected county officers.

All such salaries are to be paid out of the General Fund of the county. All necessary and reasonable expenses, including an automobile allowance of Six Cents (6¢) per mile for use of personal automobile on official business, for the Adult Probation Officer shall be paid by the Commissioners Court out of the General Fund of the county whenever such expenses are incurred by the Adult Probation Officer in the performance of his duties and the conduct of his office.

The Adult Probation Officer should be of good moral character and acquainted with the Adult Probation and Parole Law. The authority and duties of such Officer shall be the same as those prescribed for probation and parole officers by the Adult Probation and Parole Law. Such Officer and Secretary shall be subject to removal at the will of the majority of the Judges of the several Judicial District Courts of Travis County, Texas.

Sec. 2. The Commissioners Court of Travis County is hereby authorized to amend the county budget for the fiscal year of 1955, from and at the effective date of this Act for the balance of the said fiscal year in order to provide for the salaries of the employees named in this Act and for all reasonable and necessary expenses of such office as herein provided.

Sec. 3. Nothing in this Act shall be construed as repealing Chapter 452, Acts of the Fiftieth Legislature, 1947,<sup>1</sup> except as to provide an alternate method of appointment of an Adult Probation Officer where such of-

ficer has not been assigned to any court and/or district in Travis County as provided in this Act. Acts 1955, 54th Leg., p. 531, ch. 164.

<sup>1</sup> Article 781b.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 781b—1.

#### Art. 2292—2. Tarrant County; adult probation and parole officer

Section 1. The Judges of the District Courts and Criminal District Courts in Tarrant County, for the purpose of effectively carrying out the adult probation and parole laws of this State, are hereby authorized to appoint an Adult Probation and Parole Officer for Tarrant County, where a probation and parole officer has not been assigned to a court and/or district in Tarrant County in accordance with the provisions of Chapter 452, Acts of the Fiftieth Legislature, 1947, known as the Adult Probation and Parole Law and codified as Article 781b in Vernon's Texas Code of Criminal Procedure. The salary of such Probation and Parole Officer shall be set by the Commissioners Court of Tarrant County and shall be paid out of the general fund of the county.

Upon approval of such expenditures by the Commissioners Court, the aforesaid Judges may appoint assistant probation and parole officers and such other employees as they deem necessary to serve in the Adult Probation Office. The salaries of all such employees shall be paid from the general fund of the county. All necessary and reasonable expenses, including an automobile allowance for use of personal automobiles on official business, of the Adult Probation and Parole Officer or other employees incurred in the performance of their duties and the conduct of the Adult Probation Office, may be paid out of the general fund, upon approval of the Commissioners Court.

The Adult Probation and Parole Officer and all assistant probation and parole officers shall be of good moral character and acquainted with the Adult Probation and Parole Law. The authority and duties of such officer shall be the same as those prescribed for probation and parole officers by the Adult Probation and Parole Law. Such officer and all other employees of the Adult Probation Office shall be subject to removal at the will of the majority of the Judges of the several District Courts and Criminal District Courts of Tarrant County.

The Commissioners Court is hereby authorized to provide office space and equipment for the Probation Office and to pay all other necessary office expenses out of the general fund of the county.

Sec. 2. The Commissioners Court of Tarrant County is hereby authorized to amend the county budget for the fiscal year 1955, from and at the effective date of this Act for the balance of the said fiscal year, in order to provide for the salaries of the employees authorized in this Act and for all reasonable and necessary expenses of such office as herein provided.

Sec. 3. Nothing in this Act shall be construed as repealing Chapter 452, Acts of the Fiftieth Legislature, 1947,<sup>1</sup> except as to provide an alternate method of appointment of Chief and Assistant Probation and Parole Officers where such an Officer has not been assigned to any court and/or district in Tarrant County as provided in this Act. Acts 1955, 54th Leg., p. 1140, ch. 428.

<sup>1</sup> Article 781b.

*Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.*

Renumbered from C.C.P.1925, art. 781b—2.

**2. RECEIVERS****Art. 2320b. Receivers of mineral interests owned by nonresidents or absentees****Claimants or owners of undivided mineral interests;  
appointment of receiver; petition**

Section 1. In an action filed in the District Court by any person, firm or corporation having, claiming or owning an undivided mineral interest in any tract of land in the State of Texas, in which it is made to appear that one or more of the defendants in such action are nonresidents of the State of Texas, or persons whose place of residence is unknown and who have absented themselves for at least five years successively next preceding the filing of said action, and who have, claim or own an undivided mineral interest in said land and have not paid taxes on said mineral interests or rendered same for taxes within said five-year period, the District Court shall have power to appoint a receiver of said undivided mineral interest owned by any one or more of such defendants, provided a duly verified petition is filed and satisfactory proof is made that the plaintiff or plaintiffs have made diligent but unsuccessful effort to locate such defendants, and that the plaintiff or plaintiffs will suffer substantial damage or injury unless such receiver is appointed.

**Claimants or owners of undivided leasehold interest under mineral lease; appointment of receiver; petition**

Sec. 2. In an action filed in the District Court by any person, firm or corporation having, claiming or owning an undivided leasehold interest granted under a mineral lease covering any tract of land in the State of Texas in which it is made to appear that one or more of the defendants in such action are nonresidents of the State of Texas, or persons whose place of residence is unknown, and who have absented themselves for at least five years successively next preceding the filing of said action, and who have, claim or own an undivided leasehold interest granted under a mineral lease covering said land and have not paid taxes on said leasehold interest or rendered same for taxes within said five-year period, the District Court shall have power to appoint a receiver of said undivided leasehold interest owned by any one or more of such defendants, provided a duly verified petition is filed and satisfactory proof is made that the plaintiff or plaintiffs have made diligent but unsuccessful effort to locate such defendants, and that the plaintiff or plaintiffs will suffer substantial damages or injury unless such receiver is appointed.

**Execution of mineral lease and assignment of outstanding undivided mineral leasehold interest to lessee; deposit of monies; discharge of receiver**

Sec. 3. Such receiver, under the orders of the court, shall have power and authority to execute and deliver to a lessee a mineral lease on such outstanding mineral interest, and the power and authority to execute and deliver to a lessee an assignment of any such outstanding undivided mineral leasehold interest upon such terms and conditions as may be prescribed by the court, and the monies, if any, paid to such receiver, after the payment of the court costs, shall be by him deposited in the registry of the court for the use and benefit of such nonresident or unknown owners of such mineral interest or leasehold interest, as the case may be, and thereupon the court may immediately discharge such receiver, and any future payments paid under such mineral lease or assignment of leasehold interest shall be paid directly into the registry of the court and impounded for the use and benefit of such nonresident and unknown owners.

**Definitions**

Sec. 4. When used in this Act

(1) the term "mineral lease" shall be deemed to include oil and gas leases and oil, gas and mineral leases of every kind and nature containing any and all provisions necessary or incident to the orderly exploration, development and recovery of oil, gas and other minerals including provision authorizing lessee to pool and unitize the lands subject thereto with adjacent lands into a unit not to exceed 160 acres for an oil well or 640 acres for a gas well plus 10% tolerance provided that should any governmental authority having jurisdiction prescribe or permit larger units, then such units may conform substantially in size with those prescribed by government regulations;

(2) the term "leasehold interest" shall be deemed to include any and all ownerships created under a mineral lease or carved out of a leasehold estate granted under a mineral lease and without limiting the foregoing shall include production payments, overriding royalty interests and working interests;

(3) the term "lessee" shall be deemed to include an assignee under an assignment or a mineral lease as that term is defined under Subsection 1 above.

**Cumulative effect of law**

Sec. 5. This Act shall not have the effect of altering or changing any laws now in effect relating to suits for the removal of cloud from title or the appointment of receivers under any other law, but is cumulative thereof. As amended Acts 1965, 59th Leg., p. 1413, ch. 626, § 1, emerg. eff. June 17, 1965.

**3. OFFICIAL COURT REPORTER**

Art. 2326a. Expenses and manner of payment

**Saved From Repeal**

*Acts 1965, 59th Leg., p. 781, ch. 371, § 3 provided that nothing contained therein should be construed to repeal this article and that the article should remain in full force and effect. See article 2326l-1, § 3.*

*Acts 1965, 59th Leg., p. 790, ch. 377, § 3 provided that nothing contained therein should be construed to repeal this article and that the article should remain in full force and effect. See article 2326j-6, § 3.*

Art. 2326c. Salaries of reporters in Judicial Districts; exception of certain districts

**Saved From Repeal**

*Acts 1965, 59th Leg., p. 781, ch. 371, § 3 provided that nothing contained therein should be construed to repeal this article and that the article should remain in full force and effect. See article 2326l-1, § 3.*

*Acts 1965, 59th Leg., p. 790, ch. 377, § 3 provided that nothing contained therein should be construed to repeal this article and that the article should remain in full force and effect. See article 2326j-6, § 3.*

**Art. 2326h. Apportionment of expenses and salaries of reporters among several counties**

**Saved From Repeal**

*Acts 1965, 59th Leg., p. 781, ch. 371, § 3 provided that nothing contained therein should be construed to repeal this article and that the article should remain in full force and effect. See article 2326l-1, § 3.*

*Acts 1965, 59th Leg., p. 790, ch. 377, § 3 provided that nothing contained therein should be construed to repeal this article and that the article should remain in full force and effect. See article 2326j-6, § 3.*

**Art. 2326j—6. Compensation of reporters in Jefferson County**

Section 1. The official shorthand reporters for the Judicial District Courts, Civil or Criminal, and the official shorthand reporter for the County Court of Jefferson County at Law and for the Court of Domestic Relations for Jefferson County, Texas, shall each receive a salary of not more than Nine Thousand, Six Hundred Dollars (\$9,600) per annum, in addition to compensation for transcripts, statements of facts, and other fees; said salary shall be fixed, determined and allowed by the judges of such Judicial District Courts, Civil or Criminal, and the Judge of the County Court of Jefferson County at Law, and the Judge of the Court of Domestic Relations for Jefferson County, Texas, in which such court reporter serves and shall be evidenced by an order entered in the minutes of each such court, which salary so fixed, determined and allowed shall continue in effect from year to year unless and until changed by order of the judge of the court in which such court reporter serves.

Sec. 2. A certified copy of the order fixing the salary to be paid such reporter shall be transmitted to the Commissioners Court of said county who shall annually make provision for the payment of any such salary out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twenty-four (24) equal bimonthly installments, and shall be in addition to transcript fees, fees for statements of facts, and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal Articles 2326a, 2326h, 2327a—1 and 2326c, Vernon's Annotated Civil Statutes. The last four mentioned Articles shall remain in full force and effect. As amended Acts 1965, 59th Leg., p. 790, ch. 377, §§ 1-3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 2326j—38. Appointment and compensation of reporter for 39th Judicial District**

Section 1. The Judge of the 39th Judicial District of Texas, composed of the counties of Haskell, Throckmorton, Stonewall and Kent, or the Judge of the Judicial District of which the counties of Haskell, Throckmorton, Stonewall and Kent are a part thereof, shall appoint an official shorthand reporter for such District in the manner now provided for District Court in this state; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Five Thousand Dollars (\$5000) per annum, nor more than Eighty-Six Hundred Dollars (\$8600) per annum, said salary to be fixed and determined by the District Judge of the 39th Judicial District composed of the counties of Haskell, Throckmorton, Stonewall and Kent, or by the District Judge of which the

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counties of Haskell, Throckmorton, Stonewall and Kent are a part thereof, and said salary shall be in addition to transcript fees as now provided by law. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts, by the respective counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the Judicial District.

Sec. 2. Said reporter shall, in addition, receive allowances for his actual and necessary traveling and hotel expenses while actually engaged in the discharge of his duties, not to exceed Six Dollars (\$6.00) per day for hotel bills, and not to exceed Four Cents (4¢) a mile when traveling by railway or bus lines, and not to exceed Ten Cents (10¢) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid after the completion of each term of court by the respective counties of the Judicial District for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the county, out of the General Fund of the county upon the sworn statement of the reporter approved by the Judge, provided there shall not be paid to any such official shorthand reporter more than One Thousand Dollars (\$1000) in any one year under the provisions of this Act.

Sec. 3. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for traveling and hotel expenses shall be as provided for in this Act, and not otherwise. Acts 1965, 59th Leg., p. 113, ch. 42.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act to authorize and require the appointment of an official shorthand reporter of the 39th Judicial District of Texas; fixing a maximum and minimum salary to be paid in addition to compensation for

transcripts, statement of facts and other fees; and fixing allowance for travel and hotel expense, providing the time, method and manner of payment; repealing all laws or parts of laws in conflict; providing a saving clause; and declaring an emergency. Acts 1965, 59th Leg., p. 113, ch. 42.

**Art. 2326j—39. Appointment and compensation of reporter for 146th Judicial District**

Section 1. The judge of the 146th Judicial District of Texas, composed of Bell County, shall appoint an official shorthand reporter for the district in the manner now provided for district courts. The reporter shall have the qualifications and duties as provided by General Law.

Sec. 2. (a) In addition to transcript fees, the official shorthand reporter shall receive an annual salary of not less than \$7,800 nor more than \$9,600 as authorized by the district judge and with the approval of the Commissioners Court of Bell County.

(b) The salary shall be paid monthly out of the general fund, the jury fund, or any other fund available for the purpose as determined by the Commissioners Court of Bell County. Acts 1965, 59th Leg., p. 224, ch. 95, emerg. eff. April 27, 1965.

**Title of Act:**

An Act relating to the appointment, compensation, and duties of a shorthand

reporter for the 146th Judicial District of Texas; and declaring an emergency. Acts 1965, 59th Leg., p. 224, ch. 95.

**Art. 2326j—40. Compensation of reporter for 97th Judicial District**

Section 1. From and after the passage of this Act the official shorthand reporter for the 97th Judicial District of Texas shall receive a salary of not less than Four Thousand Eight Hundred Dollars (\$4,800) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 97th Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise. Acts 1965, 59th Leg., p. 293, ch. 126, emerg. eff. May 6, 1965.

**Title of Act:**

An Act relating to and fixing minimum and maximum salary of the official short-

hand reporter for the 97th Judicial District of Texas; and declaring an emergency. Acts 1965, 59th Leg., p. 293, ch. 126.

**Art. 2326j—41. Compensation of reporters for 2nd and 145th Judicial Districts**

Section 1. The official shorthand reporters for the 2nd Judicial District of Texas, composed of the counties of Angelina, Cherokee and Nacogdoches, and the official shorthand reporter for the 145th Judicial District of Texas, composed of the counties of Angelina, Cherokee and Nacogdoches, shall receive a salary of not less than \$4,800 a year, nor more than \$7,600 a year. The salary shall be set by the judge of the district. From and after the time that the judge enters an order in the minutes of the court, in each county of the district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to the reporter, and files a copy of the order with each commissioners court of the district, the salary so set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, the jury fund, or any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of the official shorthand reporters in this state, and the allowances to them of transcript fees and hotel and traveling expense, shall govern. Acts 1965, 59th Leg., p. 393, ch. 192.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the salaries of the official shorthand reporters of the 2nd and

145th Judicial District; and declaring an emergency. Acts 1965, 59th Leg., p. 393, ch. 192.

**Art. 2326j—42. Compensation of reporters for 42nd and 104th Judicial Districts**

Section 1. (a) The judge of the 42nd Judicial District Court shall fix the total annual salary of the official shorthand reporter of the 42nd Judicial District at not less than \$5,000 nor more than \$8,400. The



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allowance for actual and necessary expenses received by the official shorthand court reporter of the 42nd Judicial District may not exceed \$400 a year.

(b) The judge of the 104th Judicial District Court shall fix the total annual salary of the official shorthand reporter of the 104th Judicial District at not less than \$5,000 nor more than \$8,400. The allowance for actual and necessary expenses received by the official shorthand court reporter of the 104th Judicial District may not exceed \$400 a year.

(c) In all other respects the compensation and expense allowance of the official shorthand reporter is governed by general law. Acts 1965, 59th Leg., p. 477, ch. 241.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the compensation and expenses of the official shorthand reporter

of the 42nd Judicial District and of the 104th Judicial District; and declaring an emergency. Acts 1965, 59th Leg., p. 477, ch. 241.

**Art. 2326j—43. Compensation of reporter for 7th and 114th Judicial Districts**

Section 1. From and after the passage of this Act the official shorthand reporters for the 7th and 114th Judicial Districts of Texas shall each receive a salary of not less than \$4,800 per annum, nor more than \$9,600 per annum, in addition to the compensation for transcription fees as provided by law. Such salaries shall be paid monthly upon approval of the Judges of the 7th and 114th Judicial District Courts, and shall be paid by the Commissioners Court of each of the counties comprising the 7th and 114th Judicial District Courts of Texas. Such salaries shall be payable out of the General Fund, Officers' Salary Fund, the Jury Fund or any fund available for that purpose. Acts 1965, 59th Leg., p. 634, ch. 311.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act providing for the compensation of the official shorthand reporters of the

7th and 114th Judicial Districts of Texas; providing the manner of payment; and declaring an emergency. Acts 1965, 59th Leg., p. 634, ch. 311.

**Art. 2326j—44. Compensation of reporter for 81st Judicial District**

Section 1. From and after the passage of this Act the official shorthand reporter for the 81st Judicial District of Texas, composed of the counties of Atascosa, Frio, Karnes, La Salle and Wilson, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Eight Thousand Six Hundred Dollars (\$8,600) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 81st Judicial

District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise. Acts 1965, 59th Leg., p. 700, ch. 333.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to and fixing minimum and maximum salary of the official short-

hand reporter for the 81st Judicial District of Texas; and declaring an emergency. Acts 1965, 59th Leg., p. 700, ch. 333.

### **Art. 2326j—45. Compensation of reporters for 128th and 163rd Judicial Districts**

Section 1. The official shorthand reporters for the 128th Judicial District of Texas and for the 163rd Judicial District of Texas, composed of Orange County shall receive a salary of not less than Six Thousand, Four Hundred Dollars (\$6,400) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum, which shall be determined, fixed and set by the judges of the districts; and from and after the time that the judge shall have entered an order in the minutes of the court, which shall be a public record and open for inspection, stating specifically the amount of salary to be paid to the reporter, and shall have filed a copy of the order with the commissioners court of the district, the salary so determined, fixed and set, shall be paid monthly, out of the General Fund of Orange County, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporters for the 128th and 163rd Judicial Districts shall have been determined, fixed and set by the judges of said districts in the manner and within the amount limits, as in this Act provided, said salaries shall be paid to said official shorthand reporters as in this Act provided, and not otherwise. Acts 1965, 59th Leg., p. 771, ch. 362.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to and fixing minimum and maximum salary of the official short-

hand reporters for the 128th and 163rd Judicial Districts of Texas; providing for severability; and declaring an emergency. Acts 1965, 59th Leg., p. 771, ch. 362.

### **Art. 2326j—46. Compensation of reporter for 69th Judicial District**

Section 1. The Commissioners Courts of Dallam, Deaf Smith, Hartley, Moore, Oldham and Sherman Counties may pay to the District Court Reporter of the 69th Judicial District, for services rendered in performing the reporting duties therein, not to exceed Eight Thousand, Five Hundred Dollars (\$8,500) annually. The sum provided for herein shall be paid by the counties composing such Judicial District in accordance with the proportion that the population of each county bears to the total population of the Judicial District as shown by the last preceding Federal Census. Such salary shall be paid in equal monthly installments, or semimonthly installments, in accordance with the present method of payment, and may be paid out of the general fund or any other fund available for such purpose, as may be determined by the Commissioners Court of each such county. Acts 1965, 59th Leg., p. 789, ch. 376, emerg. eff. June 9, 1965.

**Title of Act:**

An Act relating to permitting the Commissioners Courts of Dallam, Deaf Smith, Hartley, Moore, Oldham and Sherman Counties to pay the salary of the District

Court Reporter of the 69th Judicial District of Texas; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 789, ch. 376.

**Art. 2326j—47. Compensation of reporter for 21st Judicial District**

Section 1. The official shorthand reporter of the 21st Judicial District Court is entitled to receive an annual salary of not less than \$4,800 nor more than \$8,500, the salary to be fixed by the Judge of the 21st District Court. The salary when so fixed shall be paid by the county commissioners of each county comprising the 21st Judicial District in the same manner as the salary has heretofore been paid. Acts 1965, 59th Leg., p. 799, ch. 383, emerg. eff. June 9, 1965.

**Title of Act:**

An Act relating to the salary of the official shorthand reporter of the 21st Judicial District; and declaring an emergency. Acts 1965, 59th Leg., p. 799, ch. 383.

**Art. 2326j—48. Compensation of reporter for 16th Judicial District**

Section 1. The Judge of the 16th Judicial District of Texas, composed of the Counties of Cooke and Denton, shall appoint an official shorthand reporter for such Judicial District in the manner now provided for district courts in this State; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand, Six Hundred Dollars (\$9,600) per annum, said salary to be fixed and determined by the District Judge of the 16th Judicial District composed of the Counties of Cooke and Denton, and said salary shall be in addition to transcript fees, and allowance for hotel and traveling expenses as now provided by law. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts of Cooke and Denton Counties, in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each County in said Judicial District.

Sec. 2. If any section, sentence, clause, phrase or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 3. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise. Acts 1965, 59th Leg., p. 799, ch. 384.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act providing for the appointment by the District Judge of the 16th Judicial District of Texas, composed of the Counties of Cooke and Denton, of an official shorthand reporter for such Judicial District; providing his qualifications; providing that the salary of said official shorthand re-

porter shall be fixed and determined by the Judge of said Judicial District and not otherwise; providing for the manner of payment of said salary and out of what fund; providing for transcript fees and allowance for hotel and traveling expenses; providing a saving clause; and declaring an emergency. Acts 1965, 59th Leg., p. 799, ch. 384.

**Art. 2326j—49. Compensation of reporters for 30th, 78th and 89th Judicial Districts**

Section 1. The official shorthand reporters for the 30th, the 78th, and the 89th Judicial Districts of Texas, composed of Wichita County, shall each receive a salary of not less than \$6,600 nor more than \$9,000 per annum. The salary of each shorthand reporter shall be determined by the judge of the district court in which the reporter serves. The judge shall enter an order in the minutes of the court stating specifically the amount

of the salary to be paid to the reporter and file a copy of the order with the commissioners court of the county. The commissioners court shall pay the salary of each shorthand reporter as provided by law. Acts 1965, 59th Leg., p. 846, ch. 408.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the salaries of the official shorthand reporters of the 30th,

78th, and 89th Judicial Districts; and declaring an emergency. Acts 1965, 59th Leg., p. 846, ch. 408.

**Art. 2326j—50. Compensation of reporter for 22nd Judicial District**

Section 1. From and after the passage of this Act the Official Shorthand Reporter for the 22nd Judicial District of Texas, composed of Comal, Hays, Caldwell, Fayette and Austin Counties, shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) and not more than Eight Thousand Dollars (\$8,000) per annum, which shall be determined, fixed and set by the Judge of said District; and from and after the time that said Judge shall have entered an order in the minutes of the court, in each county of said District, which order shall be made a public record and open for inspection, stating specifically the amount of salary to be paid said reporter, and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and travel expenses, shall govern, save and except that when the salary of the Official Shorthand Reporter for the 22nd Judicial District of Texas shall have been determined, fixed and set by the Judge of said District, said salary shall be paid to said Official Shorthand Reporter as in this Act provided, and not otherwise. Acts 1965, 59th Leg., p. 868, ch. 423.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to fixing the minimum and maximum salary of the Official Short-

hand Reporter for the 22nd Judicial District of Texas; and declaring an emergency. Acts 1965, 59th Leg., p. 868, ch. 423.

**Art. 2326j—51. Compensation of reporter for 38th Judicial District**

Section 1. This Act applies to the official shorthand reporter for the 38th Judicial District of Texas, composed of the counties of Real, Medina, Uvalde, and Zavala, or a judicial district which includes these counties.

Sec. 2. (a) The shorthand reporter shall receive a salary of not less than \$7,200 and not more than \$9,600 each year, as determined by the Judge of the District. This salary is in addition to any transcript fees which are provided by law.

(b) The salary, when determined, is payable in equal monthly installments from the General Fund, the Jury Fund, or any other fund available for the purpose as determined by the Commissioners Court of each county. Each county in the Judicial District shall pay a proportionate amount of the salary, as determined by the Judge of the District.

Sec. 3. (a) The reporter shall also receive as reimbursement for his actual and necessary hotel and travel expenses incurred while in the discharge of his official duties an amount not to exceed \$6 per day for hotel

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expense, four cents per mile when traveling by railway or bus, and 10 cents per mile when traveling by private conveyance.

(b) Mileage shall be computed by the shortest practical route to and from the place where his duties are discharged. Expenses are payable at the end of each term of court.

(c) Each Commissioners Court shall pay the expense incurred by the reporter in the performance of his duties in its respective county during the regular and all special terms of court. The expenses are payable out of the General Fund of the county upon the sworn statement of the reporter, approved by the Judge of the District.

(d) The total amount which the reporter is entitled to receive as expense allowance is limited to \$1,000 in any one year.

Sec. 4. This Act does not affect any law relating to shorthand reporters, except those which set a maximum for salaries or expense allowances. Acts 1965, 59th Leg., p. 879, ch. 437, emerg. eff. June 14, 1965.

**Title of Act:**

An Act relating to the compensation of the official shorthand reporter for the 38th Judicial District of Texas, or any judicial district which includes the counties of Real, Medina, Uvalde, and Zavala; and declaring an emergency. Acts 1965, 59th Leg., p. 879, ch. 437.

**Art. 2326j—52. Compensation of reporters for 17th, 48th, 67th, 96th and 153rd Judicial Districts and of Criminal District Court No. 2**

Section 1. The Judges of the 17th, 48th, 67th, 96th and 153rd Judicial Districts and of Criminal District Court and Criminal District Court No. 2, all of such judicial districts and courts being in Tarrant County, Texas, shall each appoint an official shorthand reporter for such court or judicial district, in the manner now provided for appointment of official shorthand reporters in this State. Such appointment shall be evidenced by an order entered on the minutes of each such court. Such appointment when once made shall continue in effect from year to year unless otherwise ordered by the judge of the court in which such reporter serves. The salary compensation of such reporter shall be not less than Eight Thousand, Five Hundred Dollars (\$8,500) and not more than Eleven Thousand, Five Hundred Dollars (\$11,500) per annum, and the amount of such salary compensation shall be determined, fixed, and the payment thereof authorized by the Judge of each such court, within the minimum and maximum amounts herein provided, and such salary compensation shall be paid semi-monthly out of the General Fund, Officers Salary Fund, or out of any fund available for the purpose, as shall be determined by the Commissioners Court of Tarrant County.

Sec. 2. From and after the passage of this Act, all provisions relating to official shorthand reporters as provided in Article 2324, Revised Civil Statutes of Texas, 1925, as amended by Chapter 290, Acts of the 57th Legislature, Regular Session, 1961, shall in all respects govern; except the salary compensation to the official shorthand reporters as provided in this Act shall be determined, fixed and the payment thereof authorized by the Judge of each such court, and not otherwise.

Sec. 3. In any Act or statute passed by any previous session of the Legislature of this State wherein the salary compensation of any reporter in any other court than those named in this Act has been fixed by reference to salary compensation of any official shorthand reporter or reporters of courts named in this Act, such reference shall be deemed to apply to and be governed by the statutes in existence at the time of the passage of the Act named in such reference, and the provisions of this Act shall in no way serve to affect, increase, or decrease the salary of any reporter or reporters so fixed by reference in any previous legislative sessions. The purpose and intent of this Act is to fix and delineate

the salary compensation of the official shorthand reporters of the courts herein specifically named and none other. Acts 1965, 59th Leg., p. 978, ch. 472.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to and authorizing a minimum and maximum salary for the official shorthand reporters of the 17th, 48th, 67th, 96th and 153rd Judicial Districts of

Texas and of Criminal District Court and Criminal District Court No. 2, all of such Judicial Districts and Courts being in Tarrant County, Texas, providing the time, method and manner of payment; repealing all laws in conflict, providing a saving clause, and declaring an emergency. Acts 1965, 59th Leg., p. 978, ch. 472.

**Art. 2326j—53. Compensation of reporter for 84th Judicial District**

Section 1. The Commissioners Courts of Hansford, Hutchinson and Ochiltree Counties may pay the Official Shorthand Reporter of the 84th Judicial District for services rendered in performing the duties as Official Shorthand Reporter, not to exceed Nine Thousand, Six Hundred Dollars (\$9,600) per annum, but said salary, when so fixed and determined by the District Judge and the Commissioners Courts of each such county, shall be paid monthly out of the General Fund, or the jury fund, or out of any fund available for the purpose as may be determined by said Commissioners Courts.

Sec. 2. Said Reporter may, in addition to the above salary, receive an allowance for actual and necessary expenses, including traveling and hotel expenses, while engaged in the discharge of his duties, as now fixed by law, or as may be hereafter fixed by law, upon the sworn statement of the Reporter, approved by the Judge, in an amount not to exceed One Thousand, Two Hundred and Fifty Dollars (\$1,250) in any one year.

Sec. 3. Nothing in this Act shall be construed to affect any present existing law fixing the minimum or maximum amount of salary required to be paid the Official Shorthand Reporter of the 84th Judicial District. Acts 1965, 59th Leg., p. 1370, ch. 616.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to permitting the Commissioners Courts of Hansford, Hutchinson and Ochiltree Counties to pay the salary

of the Official Shorthand Reporter of the 84th Judicial District of Texas; fixing maximum allowances for expenses while engaged in the performance of official duties; and declaring an emergency. Acts 1965, 59th Leg., p. 1370, ch. 616.

**Art. 2326l—1. Shorthand reporters in district courts and county courts at law in counties of 900,000 or more population**

Section 1. In all counties in the State of Texas having a population of 900,000 or more, according to the last preceding or any future Federal Census, the judge of each district court, civil or criminal, and the judge of each county court at law, civil or criminal, shall appoint an official shorthand reporter for such court. The compensation of such reporters shall be fixed by the judge of the court in which such reporter serves at not less than Six Thousand Dollars (\$6,000) per annum and not more than Eleven Thousand, Five Hundred Dollars (\$11,500) per annum, in addition to compensation for transcripts, statements of facts and other fees. The appointment of each such court reporter and the annual salary of such court reporter as fixed by the judge of the court in which such court reporter serves shall be evidenced by an order entered in the Minutes of each such court, which appointment and the salary so fixed shall continue in effect from year to year unless and until changed by order of the judge of the court in which such court reporter serves.

Sec. 2. A certified copy of the order appointing such reporter and fixing the salary to be paid such reporter shall be transmitted to the commissioners court of such counties, who shall annually make provision for the payment of any such salary out of the general fund, the officers' salary

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fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statements of fact and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal Articles 2326a, 2326h, 2327a-1 and 2326c, Vernon's Texas Civil Statutes. The last four mentioned Articles shall remain in full force and effect. Acts 1965, 59th Leg., p. 781, ch. 371.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the appointment and compensation of official shorthand report-

ers of civil and criminal district courts and county courts at law in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 781, ch. 371.

**Art. 2326l—2. Shorthand reporters in district courts and county courts at law in counties of 650,000 to 900,000**

Section 1. In all counties in the State of Texas having a population of not less than six hundred and fifty thousand (650,000) nor more than nine hundred thousand (900,000) inhabitants, according to the last preceding Federal Census, the Judge of each District Court, civil or criminal, and the Judge of each County Court at Law, civil or criminal, shall appoint an official shorthand reporter for such court. Such appointment shall be evidenced by an order entered on the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the Judge of the Court in which such reporter serves. The compensation of such reporters shall be not less than Seventy-five Hundred Dollars (\$7,500) nor more than Ten Thousand Dollars (\$10,000) per annum; such compensation shall be determined, set, and allowed by the judge of such court or courts within such minimum and maximum compensation authorized hereby, in addition to compensation for transcript fees as provided by law; such compensation shall be paid in twelve (12) equal monthly installments out of the General Fund, Officers Salary Fund, the Jury Fund, or out of any fund available for the purpose, as may be determined by the commissioners court of any such county, and shall be in addition to compensation for transcript fees as provided by law. Acts 1965, 59th Leg., p. 1005, ch. 492.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act fixing the compensation of official shorthand reporters of each judicial district, civil or criminal, and the official shorthand reporters of each county court at law, civil or criminal, in any county having a population of not less than six

hundred and fifty thousand (650,000) nor more than nine hundred thousand (900,000) inhabitants, according to the last preceding Federal Census; providing the time, method, and manner of payment; repealing all laws or parts of laws in conflict; providing a saving clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1005, ch. 492.

**Art. 2327a—1. Apportionment of reporter's salary among counties**

**Saved From Repeal**

*Acts 1965, 59th Leg., p. 781, ch. 371, § 3 provided that nothing contained therein should be construed to repeal this article and that the article should remain in full force and effect. See article 2326l-1, § 3.*

*Acts 1965, 59th Leg., p. 790, ch. 377, § 3 provided that nothing contained therein should be construed to repeal this article and that the article should remain in full force and effect. See article 2326j-6, § 3.*

## 6. ENFORCEMENT OF SUPPORT

Arts. 2328b—1 to 2328b—3. Repealed. Acts 1965, 59th Leg., p. 1579, ch. 679, § 39. Eff. Aug. 30, 1965, 90 days after date of adjournment

See, now, article 2328b—4.

Art. 2328b—4. Uniform Reciprocal Enforcement of Support Act

## PART I—GENERAL PROVISIONS

**Purposes**

Section 1. The purposes of this Act are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

**Definitions**

Sec. 2. In this Act, unless the context otherwise requires:

(a) "State" includes any state, territory or possession of the United States and the District of Columbia in which this or a substantially similar reciprocal law has been enacted.

(b) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

(c) "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.

(d) "Court" means the district court of this State and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.

(e) "Law" includes both common and statute law.

(f) "Duty of support" includes any duty of support imposed or imposed by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial separation, separate maintenance or otherwise; but shall not include alimony for a former wife.

(g) "Obligor" means any person owing a duty of support.

(h) "Obligee" means any person to whom a duty of support is owed and a state or political subdivision thereof.

(i) "Governor" includes any person performing the functions of Governor or the executive authority of any territory covered by the provisions of this Act.

(j) "Support order" means any judgment, decree or order of support whether temporary or final, whether subject to modification, revocation or remission regardless of the kind of action in which it is entered.

(k) "Rendering state" means any state in which a support order is originally entered.

(l) "Registering court" means any court of this State in which the support order of the rendering state is registered.

(m) "Register" means to record in the Registry of Foreign Support Orders.

(n) "Certification" shall be in accordance with the laws of the certifying state.

(o) "Prosecuting attorney" means the district attorney or, in those counties in which the county attorney fulfills the functions of the district attorney, the county attorney.



**Remedies additional to those now existing**

Sec. 3. The remedies herein provided are in addition to and not in substitution for any other remedies.

**Extent of duties of support**

Sec. 4. Duties of support arising under the law of this State, when applicable under Section 7, bind the obligor, present in this State, regardless of the presence or residence of the obligee.

**PART II—CRIMINAL ENFORCEMENT****Interstate rendition**

Sec. 5. The Governor of this State (1) may demand from the Governor of any other state the surrender of any person found in such other state who is charged in this State with the crime of failing to provide for the support of any person in this State and (2) may surrender on demand by the Governor of any other state any person found in this State who is charged in such other state with the crime of failing to provide for the support of any person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or other state.

**Conditions of interstate rendition**

Sec. 6. (a) Before making the demand on the Governor of any other state for the surrender of a person charged in this State with the crime of failing to provide for the support of any person, the Governor of this State may require any prosecuting attorney of this State to satisfy him that at least sixty (60) days prior thereto the obligee brought an action for the support under this Act, or that the bringing of an action would be of no avail.

(b) When under this or a substantially similar Act, a demand is made upon the Governor of this State by the Governor of another state for the surrender of a person charged in the other state with the crime of failing to provide support, the Governor may call upon any prosecuting attorney to investigate or assist in investigating the demand, and to report to him whether any action for support has been brought under this Act or would be effective.

(c) If any action for the support would be effective and no action has been brought, the Governor may delay honoring the demand for a reasonable time to permit prosecution of an action for support.

(d) If an action for support has been brought and the person demanded has prevailed in that action, the Governor may decline to honor the demand.

(e) If an action for support has been brought and pursuant thereto the person demanded is subject to a support order, the Governor may decline to honor the demand so long as the person demanded is complying with the support order.

**PART III—CIVIL ENFORCEMENT****Choice of law**

Sec. 7. Duties of support applicable under this Act are those imposed or imposable under the laws of any state where the obligor was present during the period for which support is sought; but shall not include alimony for a former wife. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

**Remedies of a state or political subdivision thereof furnishing support**

Sec. 8. Whenever the state or a political subdivision thereof furnishes support to an obligee, it has the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditures so made and of obtaining continuing support.

**How duties of support are enforced**

Sec. 9. All duties of support, including arrearages, are enforceable by petition irrespective of the relationship between the obligor and the obligee.

**Jurisdiction**

Sec. 10. Jurisdiction of all proceedings hereunder is vested in the district court.

**Contents of petition for support**

Sec. 11. The petition shall be verified and shall state the name and, so far as known to the plaintiff, the address and circumstances of the defendant and his dependents for whom support is sought, and all other pertinent information. The plaintiff may include in or attach to the petition any information which may help in locating or identifying the defendant, such as a photograph of the defendant, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, or Social Security number.

**Officials to represent plaintiff**

Sec. 12. The prosecuting attorney, upon the request of the court or the State Department of Public Welfare, shall represent the plaintiff in any proceeding under this Act.

**Petition for a minor**

Sec. 13. A petition on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as guardian ad litem.

**Duty of court of this state as initiating state**

Sec. 14. If the court of this State acting as an initiating State finds that the petition sets forth facts from which it may be determined that the defendant owes a duty of support and that a court of the responding state may obtain jurisdiction of the defendant or his property, it shall so certify and shall cause three copies of (1) the petition, (2) its certificate and (3) this Act to be transmitted to the court in the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state, it shall cause such copies to be transmitted to the state information agency or other proper of-

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ficial of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state.

#### **Costs and fees**

Sec. 15. There shall be no filing fee or other costs taxable to the obligee but a court of this State acting either as an initiating or responding state may in its discretion direct that any part of or all fees and costs incurred in this State, including without limitation by enumeration, fees for filing, service of process, seizure of property, and stenographic service of both plaintiff and defendant or either, be paid by the obligor or the county.

#### **Jurisdiction by arrest**

Sec. 16. When the court of this State, acting either as an initiating or responding state, has reason to believe that the defendant may flee the jurisdiction it may (1) as an initiating State request in its certificate that the court of the responding state obtain the body of the defendant by appropriate process if that be permissible under the law of the responding state; or (2) as a responding state, obtain the body of the defendant by appropriate process.

#### **State Information Agency**

Sec. 17. The State Department of Public Welfare of Austin, Texas, is hereby designated as the State Information Agency under this Act, and it shall (1) compile a list of the courts and their addresses in this State having jurisdiction under this Act and transmit the same to the State Information Agency of every other state which has adopted this or a substantially similar Act, and (2) maintain a register of such lists received from other states and transmit copies thereof as soon as possible after receipt to every court in this State having jurisdiction under this Act.

#### **Duty of the court and officials of this state as responding state**

Sec. 18. (a) After the court of this State, acting as a responding state, has received from the court of the initiating state the aforesaid copies, the clerk of the court shall docket the case and notify the district judge or the judge of the domestic relations court, or both judges, of his action.

(b) It shall be the duty of the prosecuting attorney diligently to prosecute the case. He shall take all action necessary in accordance with the laws of this State to give the court jurisdiction of the defendant or his property and shall request the clerk of the court to set a time and place for a hearing.

#### **Further duties of court and officials in the responding state**

Sec. 19. (a) The prosecuting attorney shall, on his own initiative, use all means at his disposal to trace the defendant or his property and if, due to inaccuracies of the petition or otherwise, the court cannot obtain jurisdiction, the prosecuting attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended petition from the court in the initiating state.

(b) If the defendant or his property is not found in the judicial district and the prosecuting attorney discovers by any means that the defendant or his property may be found in another judicial district of this State or in another state he shall so inform the court and thereupon the clerk of the court shall forward the documents received

from the court in the initiating state to a court in the other judicial district or to a court in the other state or to the information agency or other proper official of the other state with a request that it forward the documents to the proper court. Thereupon both the court of the judicial district and any court of this State receiving the documents and the prosecuting attorney have the same powers and duties under this Act as if the documents had been originally addressed to them. When the clerk of a court of this State retransmits documents to another court, he shall notify forthwith the court from which the documents came.

(c) If the prosecuting attorney has no information as to the whereabouts of the obligor or his property he shall so inform the initiating court.

#### Hearing and determination

Sec. 20. If the plaintiff is absent from the responding state and the defendant presents evidence which constitutes a defense, the court shall continue the case for further hearing and the submission of evidence by both parties.

#### Evidence of husband and wife

Sec. 21. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this Act. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and support.

#### Rules of evidence

Sec. 22. In any hearing under this law, the court shall be bound by the same rules of evidence that bind the District Court.

#### Order of support

Sec. 23. If the court of the responding state finds a duty of support, it may order the defendant to furnish support or reimbursement therefor and subject the property of the defendant to such order.

#### Responding state to transmit copies to initiating state

Sec. 24. The court of this State when acting as a responding state shall cause to be transmitted to the court of the initiating state a copy of all orders of support or for reimbursement therefor.

#### Additional powers of court

Sec. 25. In addition to the foregoing powers, the court of this State when acting as the responding state has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular: (a) To require the defendant to furnish a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the defendant.

(b) To require the defendant to make payments at specified intervals to the district clerk or probation department of the court.

(c) To punish the defendant who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

#### Additional duties of the court of this state when acting as a responding state

Sec. 26. The court of this State when acting as a responding state shall have the following duties which may be carried out through the

district clerk or probation department of the court: (a) Upon the receipt of a payment made by the defendant pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state, and

(b) Upon request, to furnish to the court of the initiating state a certified statement of all payments made by the defendant.

**Additional duty of the court of this state when acting as an initiating state**

Sec. 27. The court of this State when acting as an initiating state shall have the duty which may be carried out through the district clerk or probation department of the court to receive and disburse forthwith all payments made by the defendant or transmitted by the court of the responding state.

**Proceedings not to be stayed**

Sec. 28. No proceeding under this Act shall be stayed because of the existence of a pending suit for divorce, separation, annulment, dissolution, habeas corpus or custody proceeding.

**Application of payments**

Sec. 29. No order of support issued by a court of this State when acting as a responding state shall supersede any other order of support but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both.

**Effect of participation in proceeding**

Sec. 30. Participation in any proceedings under this Act shall not confer upon any court jurisdiction of any of the parties thereto in any other proceeding.

**Inter-district application**

Sec. 31. This Act is applicable when both the plaintiff and the defendant are in this State but in different judicial districts. If the court in which this petition is filed finds that the petition sets forth facts from which it may be determined that the defendant owes a duty of support and finds that another court in this State may obtain jurisdiction of the defendant or his property, the clerk of the court shall send three copies of the petition and a certification of the findings to the court of the judicial district in which the defendant or his property is found. The clerk of the court receiving these copies shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court to which the copies are forwarded shall then have duties corresponding to those imposed upon them when acting for the State as a responding state.

**PART IV—REGISTRATION OF FOREIGN  
SUPPORT ORDERS**

**Additional remedies**

Sec. 32. If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections.

**Registration**

Sec. 33. The obligee may register the foreign support order in a court of this State in the manner, with the effect and for the purposes herein provided.

**Registry of foreign support orders**

Sec. 34. The clerk of the court shall maintain a Registry of Foreign Support Orders in which he shall record foreign support orders.

**Petition for registration**

Sec. 35. The petition for registration shall be verified and shall set forth the amount remaining unpaid and a list of any other states in which the support order is registered and shall have attached to it a certified copy of the support order with all modifications thereof. The foreign support order is registered upon the filing of the petition subject only to subsequent order of confirmation.

**Jurisdiction and procedure**

Sec. 36. The procedure to obtain jurisdiction of the person or property of the obligor shall be as provided in civil cases. The obligor may assert any defense available to a defendant in an action on a foreign judgment. If the obligor defaults, the court shall enter an order confirming the registered support order and determining the amounts remaining unpaid. If the obligor appears and a hearing is held, the court shall adjudicate the issues including the amounts remaining unpaid.

**Effect and enforcement**

Sec. 37. The support order as confirmed shall have the same effect and may be enforced as if originally entered in the court of this State. The procedures for the enforcement thereof shall be as in civil cases, including the power to punish the defendant for contempt as in the case of other orders for payment of temporary alimony, maintenance or support entered in this State.

**Severability**

Sec. 38. If any provision hereof or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**Repealer**

Sec. 39. Chapter 377, Acts of the 52nd Legislature, Regular Session, 1951, as amended by Chapter 374, Acts of the 53rd Legislature, Regular Session, 1953, is repealed.<sup>41</sup>

**Uniformity of interpretation**

Sec. 40. This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**Short title**

Sec. 41. This Act may be cited as the Uniform Reciprocal Enforcement of Support Act. Acts 1965, 59th Leg., p. 1561, ch. 679.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act concerning uniform reciprocal enforcement of support; repealing Chapter

377, Acts of the 52nd Legislature, Regular Session, 1951, as amended; and declaring an emergency. Acts 1965, 59th Leg., p. 1561, ch. 679.

**TITLE 43—COURTS—JUVENILE**

<p>Art. 2332a. Confidentiality of Records [New]. 2338—2b. Referee for Juvenile and District Courts of Wichita County [New]. 2338—15a. Court of Domestic Relations No. 2 of Tarrant County [New].</p>	<p>Art. 2338—18. Juvenile Court for Harris County [New]. 2338—19. Court of Domestic Relations for Brazoria County [New]. 2338—20. Court of Domestic Relations for Midland County [New].</p>
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**Art. 2332a. Confidentiality of Records**

Section 1. Pleadings, records, and documents held by any person or filed with a court, in connection with a dependency hearing concerning a child born out of wedlock, are confidential, and, except as provided in Section 2 of this Article, the person having custody of the pleadings, records, or documents may not disclose their contents to any person other than:

(1) a person performing functions he is authorized or required by Statute to perform in connection with or preliminary to the dependency hearing; and

(2) a party to the dependency hearing or his attorney.

Sec. 2. The court with which pleadings, documents, or records are filed in connection with a dependency hearing concerning a child born out of wedlock may order disclosure of the pleadings, records, or documents if the court is satisfied that the disclosure would further the ends of justice.

Sec. 3. This Article does not apply to a judgment, order, or decree of a court. Added Acts 1965, 59th Leg., p. 322, ch. 151, § 2, emerg. eff. May 13, 1965.

Acts 1965, 59th Leg., p. 322, ch. 151, § 1 amended article 46a, § 10.

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

**Definitions**

Sec. 3. The word "court" means the Juvenile Court. The word "Judge" means the Judge of the Juvenile Court. The term "delinquent child" means any female person over the age of ten (10) years and under the age of eighteen (18) years and any male person over the age of ten (10) and under the age of seventeen (17) years, except as provided in Section 6 of this Act, who

(a) violates any penal law of this State of the grade of felony; or

(b) violates any penal law of this State of the grade of misdemeanor where the punishment prescribed for such offense may be by confinement in jail; or

(c) habitually violates any penal law of this State of the grade of misdemeanor where the punishment prescribed for such offense is by pecuniary fine only; or

(d) habitually violates any penal ordinance of a political subdivision of this State; or

(e) habitually violates a compulsory school attendance law of this State; or

(f) habitually so departs himself as to injure or endanger the morals or health of himself or others; or

(g) habitually associates with vicious and immoral persons. As amended Acts 1965, 59th Leg., p. 1256, ch. 577, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Jurisdiction

Sec. 5. The Juvenile Court shall have exclusive original jurisdiction in proceedings governing any delinquent child, and such Court shall be deemed in session at all times.

Nothing contained herein shall deprive other courts of the right to determine the custody of children upon writs of habeas corpus, or when such custody is incidental to the determination of causes pending in such courts.

When jurisdiction shall have been obtained by the Juvenile Court in the case of any delinquent child, such child shall continue under the jurisdiction of the Court until he is discharged by the Court or until he becomes twenty-one (21) years of age unless committed to the control of the agency of the State charged with the care, training, control of, or parole of delinquent children. Such continued jurisdiction shall, however, in no manner prejudice or constitute a bar to subsequent or additional proceedings against such child under the provisions of this Act. As amended Acts 1965, 59th Leg., p. 1256, ch. 577, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Transfer

Sec. 6. A transfer may be made of cases from one Juvenile Court to another Juvenile Court where a child under the jurisdiction of one Juvenile Court has moved from one county to another, and where it is to the best interest of such child so to do. The Juvenile Court having jurisdiction of a child may transfer the case to the Juvenile Court of the county in which the child may be then residing, and shall send transcripts of records to the Judge of the other Court, which shall be filed in the office of the clerk of such Court.

If a child sixteen (16) years of age or older is charged with an offense which would be a felony if committed by an adult and if the Court, after diagnostic study, social evaluation and full investigation, deems it contrary to the best interest of such child or the public to retain jurisdiction, the Court may, in its discretion, certify such child for proper criminal proceedings in any court which would have jurisdiction of the offense; if committed by an adult; but no child under sixteen (16) years of age at the time the offense is committed shall be so certified, and no child under sixteen (16) years of age at the time the offense is committed shall be prosecuted as an adult at any later date unless transferred by the Juvenile Court, and all such offenses committed by children not so transferred shall be subject to disposition by the Juvenile Court only. Such certification shall include the written order and findings of the Juvenile Court and shall be accompanied by a complaint against the accused in accordance with applicable provisions of the Code of Criminal Procedure of the State of Texas.

Upon certification to the District Judge having jurisdiction under the provisions of this Act, the District Judge shall have the powers and duties conferred upon examining magistrates by Chapter 3 of the Code of Criminal Procedure of the State of Texas. Provided that upon hearing the District Judge shall make an order committing the child to jail, discharging him, admitting him to bail, or remanding him to the custody of the Juvenile Court as the law and facts of the case may require. Provided further that if the child is held or bound over for action by the Grand Jury, the Grand Jury may return an indictment for the offense charged



For Annotations and Historical Notes, see V.A.T.S.

or may recommend that the child be remanded to the custody of the Juvenile Court. If the Grand Jury recommends that the child be returned or remanded to the custody of the Juvenile Court, no further action by the Grand Jury or future Grand Jury can be taken against the child in regard to the offense charged or the acts for which the child stood accused and which were investigated by the Grand Jury. If the Grand Jury returns an indictment, the child shall be subject to the penal laws of this State and tried in accordance with the Penal Code and the Code of Criminal Procedure as if the child were an adult. As amended Acts 1965, 59th Leg., p. 1256, ch. 577, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Transfer from other courts

Sec. 12. If during the pendency of a criminal charge or indictment against any person in any court other than a Juvenile Court, it shall be ascertained that said person is a female over the age of ten (10) years and under the age of eighteen (18) years, or is a male person over the age of ten (10) years and under the age of seventeen (17) years at the time of the trial for the alleged offense, it shall be the duty of such court to transfer such case immediately together with all papers, documents and testimony connected therewith to the Juvenile Court of said county unless said person is being held under authority of Section 6 of this Act as amended by Section 3 hereof. The court making such transfer shall order the child to be taken forthwith to the place of detention designated by the Juvenile Court, or to that court itself, or to release such child to the custody of a probation officer or any suitable person to appear before the Juvenile Court, or the probation department of said county at a time designated. The Juvenile Court shall thereupon proceed to set said case for hearing and to dispose of such case in the same manner as if it had been instituted in that Court in the first instance. As amended Acts 1965, 59th Leg., p. 1256, ch. 577, § 4.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Hearing, judgment

Sec. 13. The Judge may conduct the hearing of any case in an informal manner and may adjourn the hearing from time to time. In the hearing the general public may be excluded. All cases involving children shall be heard separately and apart from the trial of cases against adults.

If no jury is demanded, the Judge shall proceed with the hearing. When the proceeding is with a jury, the verdict shall state whether the juvenile is a "delinquent child" within the meaning of this Act, and if the Judge or jury finds that the child is delinquent, or otherwise within the provisions of this Act, the court may by order duly entered proceed as follows:

(1) place the child on probation or under supervision in his own home or in the custody of a relative or other fit person, upon such terms as the court shall determine;

(2) commit the child to a suitable public institution or agency, or to a suitable private institution or agency authorized to care for children; or to place the child in a suitable family home or parental home for an indeterminate period of time, not extending beyond the time the child shall reach the age of twenty-one (21) years;

(3) make such further disposition as the Court may deem to be for the best interest of the child, except as herein otherwise provided.

No adjudication upon the status of any child in the jurisdiction of the Juvenile Court shall operate to impose any of the civil disabilities

ordinarily imposed by conviction, nor shall any child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of a crime in any court except as provided in Section 6 of this Act as amended by Section 3 hereof. The disposition of a child or any evidence given in the court shall not be admissible as evidence against the child in any case or proceeding in any court other than the Juvenile Court, except as provided in Section 6 of this Act as amended by Section 3 hereof, nor shall such disposition or evidence operate to disqualify a child in any further civil service examination, appointment or application.

Whenever the Court shall commit a child to any institution or agency, it shall transmit with the order of commitment, a summary of its information concerning such child and give in the order of commitment the birth date of the child or attach thereto a certified copy of the birth certificate. As amended Acts 1965, 59th Leg., p. 1256, ch. 577, § 5.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Modification of judgment, return of child to parents

Sec. 14. An order of the Juvenile Court in the case of a child shall be subject to modification or revocation from time to time, except as provided in Section 5 and Section 6 of this Act as amended by Section 2 and Section 3 hereof, respectively. The Court may resume jurisdiction at any time subsequent to the expiration of the release or parole conditions and restrictions placed on the child by the agency of the State charged with the care, training, control of and parole of delinquent children and may retain jurisdiction until the child is twenty-one (21) years of age if not already discharged by the Court.

A petition may be filed with the committing court requesting the reopening of the case of a child who has been committed by the court to the custody of an institution, agency or person; if the court is of the opinion that the best interest of the child will be served, it may at its discretion proceed to hear and determine the question at issue. Except as provided in Section 5 of this Act as amended by Section 2 hereof, the court may thereupon order that such child be restored to the custody of its parents or guardian or be retained in the custody of the institution, agency or person; and may direct such institution, agency or person to make other arrangements for the child's care and welfare as the circumstances of the case may require; or the court may make a further order or commitment. As amended Acts 1965, 59th Leg., p. 1256, ch. 577, § 6.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Place of detention

Sec. 17. No female person over the age of ten (10) years and under the age of eighteen (18) years, or any male person over the age of ten (10) years and under the age of seventeen (17) years, shall be placed or committed to any compartment of any jail or lockup in which persons over juvenile age are incarcerated or detained; but shall be placed in a room or ward separate and apart from that occupied by adults except as provided under the transfer proceeding as set out in Section 6 of this Act as amended by Section 3 hereof. The proper authorities of all counties shall provide suitable place of detention for such juveniles separate and apart from any jail or lockup in which adults are confined. Said detention place may be in the same building housing adults, or in a building separate and apart from that where adults are confined. As amended Acts 1965, 59th Leg., p. 1256, ch. 577, § 7.

Effective Aug. 30, 1965, 90 days after date of adjournment.

For Annotations and Historical Notes, see V.A.T.S.

**Art. 2338—2a. Repealed.** Acts 1965, 59th Leg., p. 569, ch. 289, § 19.  
Eff. Aug. 30, 1965, 90 days after date of adjournment

See, now, article 2338—18.

**Art. 2338—2b. Referee for Juvenile and District Courts of Wichita County**

**Authority to appoint referee; qualifications; costs**

Section 1. (a) The Judges of the Juvenile and District Courts of Wichita County are hereby authorized to appoint referees in civil cases as hereinafter provided.

(b) A referee shall be an attorney licensed to practice law in the State of Texas and shall be a citizen of this State. The compensation, if any, of the referee shall be found and taxed in the same manner as now provided by law for taxing costs in civil cases. The Judge of said Court shall determine if the parties litigant are able to defray the costs of the referee's compensation and where so found and determined, such costs shall be taxed as costs against the parties litigant. However, if such costs are not taxed against the parties litigant, then such compensation, if any, shall be fixed by the Commissioners Court and shall be paid out of the jury fund of Wichita County. No costs shall be taxed against said county where both or either of said parties litigant own real property in the State of Texas or are otherwise financially able to defray said costs.

**Cases in which referee may be appointed by district court**

Sec. 2. Whenever the Judge of a District Court shall deem it advisable, he may appoint a referee and refer to said referee any civil case involving motions of contempt for failure or refusal to pay child support, temporary alimony, or separate maintenance; motions for failure or refusal to comply with court orders concerning visitation with children growing out of separate maintenance and divorce actions; motions for changes of child custody; motions for revision of child support payments; and motions for revision of visitation privileges.

**Cases in which referee may be appointed by juvenile court**

Sec. 3. Whenever the Judge sitting as a Juvenile Court shall deem it advisable, he may appoint a referee and refer to said referee any civil case or cases before him involving children alleged to be dependent, neglected, or delinquent or any other matters over which the Juvenile Court is given exclusive jurisdiction.

**Powers of referee**

Sec. 4. (a) In all such cases designated in Sections 2 and 3 of this Act, the Judge of the Juvenile or District Court may authorize the referee to hear evidence, to make findings of fact thereon, to formulate conclusions of law, and to recommend judgment to be entered in such cases. In all such cases referred to the referee, the order of reference may specify or limit the powers of the referee and may direct him to report only upon particular issues, or to do or perform particular acts; or to receive and report on evidence only, and may fix the time and place for beginning and closing hearings, and for filing reports.

(b) Subject to the limitations and specifications stated in the order, the referee shall have the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary and proper for the efficient performance of his duties under the order. He may require the production of evidence before him, upon all matters embraced in the reference, and he may rule upon the admissibility of evi-

dence, unless otherwise directed by the order of reference. He shall have the authority to issue summons for the appearance of witnesses, and swear said witnesses for said hearing, and he may, himself, examine them. And said witness appearing before him and being duly sworn shall be subject to the penalties of perjury. If the witnesses, after being duly summoned, shall fail to appear, or having appeared, shall refuse to answer questions, then upon certification of such refusal to the referring Court, said Court shall have the power to issue attachment against such witnesses, and to fine and imprison them.

#### **Transmittal of papers; notice of findings**

Sec. 5. Upon the conclusion of the hearing in each case, the referee shall transmit to the referring Judge all papers relating to the case, together with his findings and a statement that notice of his findings and of the right to a hearing before the Judge has been given to all adult principals, minors, or parents, guardians, or custodians of any minor whose case has been heard by the referee. This notice may be given at the hearing, or otherwise as the referring Court directs.

#### **Adoption or rejection of referee's report**

Sec. 6. After it is filed, the referring court may adopt, modify, correct, reject, or reverse the referee's report, or recommit it for further information, as the Court may deem proper and necessary in the particular circumstances of the case. Where judgment has been recommended, the Court in its discretion may approve the recommendation and hear further evidence before rendition of judgment.

#### **Hearing before referring court; request**

Sec. 7. Adult principals, a minor child, his parents, guardians, or custodians are entitled to a hearing by the Judge of the referring Court if, within three days after receiving notice of the findings of the referee, they file a request with such Court for a hearing. The referring Court may allow such a hearing at any time.

#### **Adoption of findings and recommendations**

Sec. 8. In case no hearing before the Judge of the referring Court is requested, or when the right to such hearing is waived, the findings and recommendations of the referee become the decree of the Court when adopted by an order of the Judge.

#### **Notice of hearing**

Sec. 9. Prior to the hearing by the referee the parties litigant shall be given due notice as provided by law of the time and place of such hearing.

#### **Demand for jury trial**

Sec. 10. In any proceeding where a jury trial has been demanded, the referee shall refer the case back to the referring Court for a full hearing before the Court and jury, subject to the usual rules of the Court in such cases. Acts 1965, 59th Leg., p. 1350, ch. 612.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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

An Act authorizing the Juvenile and District Courts of Wichita County, Texas, to

appoint a referee in certain civil cases; providing for his qualifications, compensation, and duties and for practice before a referee; and declaring an emergency. Acts 1965, 59th Leg., p. 1350, ch. 612.

### **Art. 2338—3a. Compensation of Judge and Clerk of Court of Domestic Relations for Potter County**

Section 1. (a) After the effective date of this Act, the Judge of the Court of Domestic Regulations of Potter County may receive from the General Fund or Officers' Salary Fund of Potter County an annual salary

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equal to the salary allowed District Judges of Potter County under the General Laws of the State of Texas, whether paid from State or County funds.

(b) The Commissioners Court of Potter County shall determine the exact salary to be paid the Judge.

(c) The Commissioners Court shall pay the salary in equal monthly installments, drawn on the county treasurer on order of the Commissioners Court. As amended Acts 1965, 59th Leg., p. 857, ch. 417, § 1, emerg. eff. June 14, 1965.

#### Art. 2338—15. Court of Domestic Relations No. 1 of Tarrant County

##### Change of name

Sec. 1a. The name of the Court of Domestic Relations in and for Tarrant County, Texas, is changed to the Court of Domestic Relations Number 1 of Tarrant County. Added Acts 1965, 59th Leg., p. 1623, ch. 694, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

##### Jurisdiction

Sec. 3. Said Court of Domestic Relations Number 1 shall have jurisdiction within the limits of Tarrant County concurrent with the Civil District Courts and Courts of Domestic Relations sitting in said County of all cases involving adoptions, birth records, removal of disability of minority, and coverture, change of name of persons, delinquent child proceedings, neglected or dependent child proceedings and all jurisdiction, powers and authority now or hereafter placed in the District Courts or Courts of Domestic Relations under the juvenile and child-welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody, visitation and support of minor children involved therein, alimony pending final hearing and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody, visitation, support, or reciprocal support cases, contempt actions arising out of failure to pay child support and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the Civil District Courts or Courts of Domestic Relations of Tarrant County; and all cases in which children are alleged or charged to be dependent, neglected or delinquent children as provided by law. The Court of Domestic Relations Number 1 shall also have jurisdiction over suits brought to set aside a final ruling and decision of the Industrial Accident Board, regardless of the amount in controversy. Such suits shall be filed with the District Clerk of Tarrant County in the same manner as other matters and proceedings within the jurisdiction of the Court of Domestic Relations Number 1. All cases enumerated or included above may be instituted in or transferred to said Court. As amended Acts 1965, 59th Leg., p. 1623, ch. 694, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

##### Court reporter; bailiff

Sec. 11. The Juvenile Board shall have authority to appoint a court reporter for the operations of the Courts of Domestic Relations. Said court reporter shall receive no more than the compensation as provided by law for court reporters of District Courts in Tarrant County, and the court reporter's salary shall be paid by the Commissioners Court of Tarrant County from appropriate county funds. A bailiff shall be designated by the Sheriff of Tarrant County to serve the Court as in oth-

er courts of the county. As amended Acts 1965, 59th Leg., p. 1623, ch. 694, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 2338—15a. Court of Domestic Relations No. 2 of Tarrant County****Creation of court**

Section 1. There is hereby created a Court of Domestic Relations No. 2 of Tarrant County, Texas.

**Qualifications of judge; juvenile board**

Sec. 2. The Judge of the Court of Domestic Relations No. 2 hereby established shall have such qualifications as are fixed by the Juvenile Board herein provided for, and shall be paid by the Commissioners Court of Tarrant County, such salary as the Juvenile Board may fix, same to be paid out of the general fund of the County in 12 equal monthly installments. Provided, however, that the annual salary for the Court of Domestic Relations No. 2 shall not exceed the annual salary paid to the Court of Domestic Relations No. 1. He is not a member of the Juvenile Board of Tarrant County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts and Criminal District Courts of Tarrant County, the County Judge of Tarrant County, and the Judge of the Court of Domestic Relations No. 1 of Tarrant County, which Juvenile Board shall be authorized to designate the Courts of Domestic Relations as the Juvenile Courts of Tarrant County; Judges of the District Courts and Criminal District Courts of Tarrant County shall continue to receive such compensation for all judicial and administrative services required of them including the services as members of the Juvenile Board and otherwise from county funds as they are now entitled to receive or may hereafter be authorized to receive under General or Special Law.

**Jurisdiction**

Sec. 3. Said Court of Domestic Relations No. 2 shall have jurisdiction within the limits of Tarrant County concurrent with the Civil District Courts and Courts of Domestic Relations sitting in said County of all cases involving adoptions, birth records, removal of disability of minority, and coverture, change of name of persons, delinquent child proceedings, neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the District Courts or Courts of Domestic Relations under the juvenile and child-welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody, visitation and support of minor children involved therein, alimony pending final hearing and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody, visitation, support, or reciprocal support cases, contempt actions arising out of failure to pay child support and all other cases involving justifiable controversies and differences between spouses, or between parents, or between them or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the Civil District Courts of Domestic Relations of Tarrant County; and all cases in which children are alleged or charged to be dependent, neglected or delinquent children as provided by law. The Court of Domestic Relations No. 2 shall also have jurisdiction over suits brought to set aside a final ruling and decision of the Industrial Accident Board, regardless of the amount in controversy. Such suits shall be filed with the District Clerk of Tarrant County in the same manner as other matters and

proceedings within the jurisdiction of the Court of Domestic Relations No. 2. All cases enumerated or included above may be instituted in or transferred to said Court.

#### **Transfer of cases and papers**

Sec. 4. The District Courts and Courts of Domestic Relations of Tarrant County may transfer to said Court of Domestic Relations No. 2 any and all cases, in their respective Courts of which cases said Court of Domestic Relations No. 2 is hereby given jurisdiction, including all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases.

#### **Writs and process in transferred cases**

Sec. 5. All writs and process issued by or out of a District Court or Court of Domestic Relations prior to the time any case is transferred by said Court to the Court of Domestic Relations No. 2 shall be returned and filed in the Court of Domestic Relations No. 2 and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations No. 2 and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

#### **Court of record; place of sitting; dockets and records; clerks**

Sec. 6. The said Court of Domestic Relations No. 2 shall be a court of record, shall sit and hold court at the county seat of Tarrant County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Tarrant County shall serve as the Clerk of said Court. He shall keep a fair record of all acts done and proceedings had in said Court and shall perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this Court. The seal of said Court shall have a star of five points with the words "Court of Domestic Relations No. 2 of Tarrant County, Texas" engraved thereon.

#### **Election of judge; term of office; vacancies**

Sec. 7. (a) At the next general election after the effective date of this Act the qualified electors of Tarrant County shall elect a Judge for the Court of Domestic Relations No. 2 of Tarrant County. The term of office shall be for a period of four years and until a successor is appointed and qualified, and the term shall commence on the first day of January after a general election. The Judge is subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and Laws of this State for the removal of county officers.

(b) When this Act becomes effective, the Governor shall appoint a Judge to the Court of Domestic Relations No. 2 of Tarrant County. The Judge appointed serves until the next general election and until his successor is duly elected and qualified. Any vacancy in the office is filled in like manner and the appointee holds office until the next general election and until his successor is duly elected and qualified.

#### **Cooperation by juvenile board; schedule of business**

Sec. 8. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations No. 2 when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said Court and shall prepare a schedule setting forth the order of business for the Court of Domestic Relations No. 2. The Judge of the Court shall sit and hear all cases and other

matters to be tried and determined by him at such times and in accordance with the schedule prepared by the Juvenile Board. Such schedule outlining the order of business to be followed by the Court of Domestic Relations No. 2 shall be subject to change by the Juvenile Board at such times as the business of the Courts may require.

**Transfer of cases to district or criminal district court**

Sec. 9. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations No. 2 is herein given jurisdiction may be transferred to or instituted in said Court; said Court and the Judge thereof may transfer any such cases, complaints, or other matters to any District Court, Criminal District Court or Court of Domestic Relations of Tarrant County having jurisdiction thereof under the laws of the State of Texas, with the consent of the Judge of such Court, and the Judge of such District Court, Criminal District Court or Court of Domestic Relations may try all such cases, complaints, or other matters which may be so transferred. Any Judge of a District Court, Criminal District Court or Court of Domestic Relations of Tarrant County may in his discretion preside as Judge of the Juvenile Court and of the Court of Domestic Relations No. 2 and hear and determine all such cases, complaints, or other matters over which the Judge of such District Courts, Criminal District Courts or Court of Domestic Relations has jurisdiction under the laws of the State of Texas, with the same authority to act as presiding Judge over all such cases, complaints, or other matters for all purposes, and to the same extent as the Judge of the Court of Domestic Relations No. 2 and such Judge of a District Court, Criminal District Court or Court of Domestic Relations of Tarrant County, Texas, may sit in his own courtroom, the Juvenile Courtroom, the courtroom of any other District Court or Court of Domestic Relations within the County, or the Court of Domestic Relations No. 2 and hear and determine any cases, complaint, or matter pending in the Court of Domestic Relations No. 2 and such Judge of a District Court, Criminal District Court or Court of Domestic Relations may at his discretion transfer any such case, complaint, or other matter over which his Court has jurisdiction under the laws of the State of Texas from the Court of Domestic Relations No. 2 to his own Court for trial and disposition. In the event of disqualification of the Judge of the Court of Domestic Relations No. 2 to try a particular case or because of illness, inability, failure or refusal of said Judge to hold court at any time, the Juvenile Board may select a special judge who shall hold the court and proceed with the business thereof, and said Judge so selected by the Board shall be paid for his services as the Juvenile Board may direct. The Judge of such Court of Domestic Relations No. 2 may, in any case, matter or proceeding pending in any District Court or Court of Domestic Relations of Tarrant County, or which case, matter or proceeding said Court of Domestic Relations No. 2 would have potential jurisdiction, in the courtroom of such Court of Domestic Relations No. 2 or in the Juvenile Courtroom, or in the courtroom of any District Court or Court of Domestic Relations of Tarrant County, sit and hear and determine any such case, matter or proceeding pending therein, and enter any order or judgment, or do any other thing, which the Judge of such District Court or Court of Domestic Relations would have authority under law to do.

**Boards and officers; duties**

Sec. 10. It shall be the duty of all officers, agents, and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of Tarrant County to furnish to said Court such services in the line of their respective duties as shall be required by said Court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of



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Domestic Relations No. 2 as is required of them by law with reference to process and writs from District Courts.

#### Court reporter; bailiff

Sec. 11. The Juvenile Board shall have authority to appoint a court reporter necessary for the operations of the Courts of Domestic Relations. Said court reporter shall receive no more than the compensation as provided by law for court reporters of District Courts in Tarrant County and the court reporter's salary shall be paid by the Commissioners Court of Tarrant County from appropriate county funds. A bailiff shall be designated by the sheriff of Tarrant County to serve the Court as in other courts of the County.

#### Custody of children; investigations

Sec. 12. In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of 18 years, and in any other cases involving the custody of any child or children, the said Court or Judge thereof, in its or his discretion, may require such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of the child or children and of the disposition that should be made of such child or children, and to make report thereof to the Court, and if desired by the Court, to produce such evidence on any hearing in such case as may have been developed in connection with such investigation.

#### Writs and orders; contempt

Sec. 13. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations No. 2 has jurisdiction, and also shall have power to punish for contempt.

#### Terms of court

Sec. 14. The first term of such Court of Domestic Relations No. 2 shall begin when the Judge thereof is appointed and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

#### Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the Second Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

#### Practice and procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of 12 members. Acts 1965, 59th Leg., p. 548, ch. 278.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act creating the Court of Domestic Relations No. 2, of Tarrant County and

providing for its jurisdiction, terms, personnel, administration and procedures; and declaring an emergency. Acts 1965, 59th Leg., p. 548, ch. 278.

**Art. 2338—18. Juvenile Court for Harris County****Creation of court**

Section 1. The Juvenile Court of Harris County is established. The court shall sit at the county seat of Harris County.

**Records and seal**

Sec. 2. (a) The court is a court of record. The court shall maintain all necessary dockets, records, and minutes of its proceedings.

(b) The seal of the court has a star of five points in the center and the words "The Juvenile Court of Harris County" engraved around the star.

**Creation of office of judge**

Sec. 3. The office of judge of the court is established.

**Qualifications, election, term of office, disqualification, and removal of judge**

Sec. 4. The laws and constitutional provisions relating to qualifications, election, term of office, disqualification, and removal of district judges apply to the judge. If the office of judge becomes vacant before the end of a term, the governor, with the advice and consent of the Senate, shall appoint a judge to fill the unexpired term.

**Salary of judge**

Sec. 5. The Commissioners Court of Harris County shall pay the judge an annual salary equal to the total annual salary paid by Harris County and the state to a judge of a district court of Harris County.

**Initial term of office**

Sec. 6. The governor, with the advice and consent of the Senate, shall appoint the first judge of the juvenile court. The appointee takes office on January 1, 1966. The appointee serves until the next general election and until a successor is duly elected and qualified.

**Jurisdiction of the court**

Sec. 7. (a) The court has concurrent jurisdiction with the district and domestic relations courts of Harris County of all cases involving delinquent, neglected, or dependent children and adoptions.

(b) All cases within the jurisdiction of the court may be instituted in or transferred to the court.

**Transfer of cases with district courts, the county court and county courts at law**

Sec. 8. (a) The district courts, the county court, and the county courts at law of Harris County may transfer to the court any case, complaint, or other matter of which the court has jurisdiction.

(b) The court may transfer any case, complaint, or other matter to a district court, the county court, or a county court at law having jurisdiction if the judge of the court receiving the matter consents to the transfer.

**Transfer of cases with domestic relations courts**

Sec. 9. (a) The courts of domestic relations of Harris County may transfer to the court any case, complaint, or other matter of which the court has jurisdiction.

(b) The court may transfer any case, complaint, or other matter to a court of domestic relations of Harris County if the judge of the court receiving the matter consents to the transfer.

**Exchange with domestic relations courts**

Sec. 10. A judge of a court of domestic relations of Harris County may preside as judge of the court. In this event, the judge of the court of domestic relations may sit in his own courtroom, the courtroom of the Juvenile Court, or the courtroom of any court of domestic relations of Harris County.

**Absence of judge**

Sec. 11. (a) If the judge is disqualified in any case or proceeding, the judge may transfer the case or proceeding to a court of domestic relations of Harris County.

(b) If the judge is absent from court for any reason other than disqualification, the juvenile board of Harris County shall select a judge of a court of domestic relations of Harris County to preside over the court during the absence.

**Terms of the court**

Sec. 12. The terms of the court begin on September 1st of each year and continue until August 31st of the next year. The first term of the court begins January 1, 1966, and continues until August 31, 1966.

**Clerk, court reporter and bailiff**

Sec. 13. (a) The district clerk shall act as clerk of the juvenile court. The clerk shall keep a fair record of all proceedings in the court. The Commissioners Court of Harris County shall pay the clerk an annual salary equal to the annual salary paid to a clerk of a district court of Harris County.

(b) The judge shall appoint a court reporter to serve the court. The Commissioners Court of Harris County shall pay the court reporter an annual salary equal to the annual salary of a court reporter of a district court of Harris County.

(c) Upon request of the judge, the sheriff of Harris County shall appoint a bailiff to serve the court.

**Sheriff**

Sec. 14. (a) The sheriff of Harris County shall perform all the duties and services for the court as he normally performs for the district courts of Harris County.

(b) When executing process out of the court, the sheriffs and constables of the counties of Texas are entitled to fees by General Law for executing process out of the district courts.

**Probation department, county welfare department, and county health officer**

Sec. 15. The Probation Department, the County Welfare Officer, and the County Health Officer of Harris County shall perform services required by the court which are within the scope of their respective duties.

**District attorney**

Sec. 16. The District Attorney of Harris County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, County Welfare Department, County Health Officer, or any other welfare agency is interested.

**Writs and orders: contempt**

Sec. 17. (a) The judge may issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, or writs of possession and restitution, and any other writs which the district courts may issue.

(b) The judge may punish for contempt.

**Practice and procedure**

Sec. 18. (a) When not in conflict with this Act, the provisions of Chapter 204, Acts of the 48th Legislature, 1943, (Article 2338—1, Vernon's Texas Civil Statutes), as amended, and Articles 2330—2337, Revised Civil Statutes of Texas, 1925, as amended, govern the practice and procedure of the court.

(b) When the provisions of this Act and the laws cited in Subsection (a) do not apply, the laws and rules pertaining to district courts govern the practice and procedure of the court.

**Repealer**

Sec. 19. Chapter 186, Acts of the 55th Legislature, Regular Session, 1957 (Article 2338—2a, Vernon's Texas Civil Statutes), is repealed. Acts 1965, 59th Leg., p. 569, ch. 289.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:** of the 55th Legislature, Regular Session, 1957; and declaring an emergency. Acts 1965, 59th Leg., p. 569, ch. 289.  
An Act establishing the Juvenile Court of Harris County; repealing Chapter 186, Acts

**Art. 2338—19. Court of Domestic Relations for Brazoria County****Creation of court**

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

**Qualifications of judge; salary**

Sec. 2. The Judge of the Brazoria County Court of Domestic Relations shall have the qualifications provided by the Constitution and laws of this State for District Judges. He shall be paid an annual salary out of the general fund of the County in twelve (12) equal monthly installments in an amount to be set by the Commissioners Court of Brazoria County, in an amount of not less than Ten Thousand Dollars (\$10,000) per year nor more than Twelve Thousand, Nine Hundred Dollars (\$12,900) per year.

**Jurisdiction**

Sec. 3. Said Court of Domestic Relations shall have jurisdiction concurrent with the District Courts of said County of all cases involving adoptions, removal of disabilities of minority and coverture, wife and child desertion, change of name of persons, delinquent, neglected or dependent child proceedings, reciprocal support actions, and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the Juvenile and Child Welfare laws of this State; and of all divorce and marriage annulment cases; including the adjustment of property rights, custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings, as well as independent actions involving child custody or support or support of minors; and all other cases involving justiciable controversies and differences between spouses or between parents or between them or one of them and their minor children, which are

now or may be hereafter within the jurisdiction of the District or County Courts; and all cases in which children are alleged or charged to be dependent and neglected children or delinquent children, as provided by law.

#### Transfer of cases

Sec. 4. All cases enumerated or included above may be instituted or transferred to the Court of Domestic Relations. Immediately after this Act takes effect all cases enumerated or included above now pending in the District Courts of Brazoria County may be transferred to the Court of Domestic Relations created by this Act. Thereafter the Judges of the District Courts of Brazoria County may transfer any case within the jurisdiction of the Court of Domestic Relations created by this Act to said Court of Domestic Relations, and the Judge of the Court of Domestic Relations may transfer any case pending in said Court to any District Court of Brazoria County as designated by the presiding District Judge of said County. Said Court of Domestic Relations may also sit for any of the District Courts of Brazoria County and hear and decide for such Courts any case coming within the jurisdiction of the Court of Domestic Relations created by this Act. All District Courts of Brazoria County may likewise sit for, hear and decide cases pending in the Court of Domestic Relations, as the sitting for, hearing and deciding cases as now or hereafter may be authorized by law for all District Courts of Brazoria County.

#### Disqualification of judge; special judge

Sec. 5. Should the Judge be disqualified to try a particular case, or should the Judge by reason of illness or other inability fail or refuse to hold court as needed, on matters pending in the Court of Domestic Relations only, such fact shall be brought to the attention of the presiding Judge of the District Courts of Brazoria County by any practicing lawyer of Brazoria County, whereupon such matters as require attention shall be promptly assigned by the presiding Judge to one of the District Courts of Brazoria County for action and disposition in the same manner as other matters or trials in the several District Courts. In the event it should ever become necessary to select a special Judge for the Court of Domestic Relations, such special Judge shall be selected in the manner provided by law for the selection of a special Judge of the District Court.

#### Concurrent jurisdiction with district courts

Sec. 6. Nothing in the Act shall diminish the jurisdiction of the District Courts of Brazoria County, but such Courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law. Such District Courts shall continue to exercise concurrent jurisdiction on all matters which by this Act are brought within the concurrent jurisdiction of the Court of Domestic Relations and none of the District Courts of Brazoria County shall be relieved by the provisions of this Act of their several responsibilities for the handling and disposition of all matters which are by this Act brought within the concurrent jurisdiction of the Court of Domestic Relations as time and the condition of the dockets of such District Courts will permit.

#### Concurrent jurisdiction with county courts

Sec. 7. As additional concurrent jurisdiction, the Brazoria County Court of Domestic Relations shall have original and concurrent jurisdiction with the County Court of Brazoria County in all matters and causes, civil and criminal, original and appellate, over which, by the general laws and the Constitution of this State, County Courts have jurisdiction, except the executive functions of the County Judge as a member of the Commissioners Court, Board of Equalization, Budget Officer and other executive and administrative functions.

**Eminent domain proceedings**

Sec. 8. The jurisdiction of the Brazoria County Court of Domestic Relations shall extend to all matters of eminent domain of which jurisdiction has heretofore been vested in the County Court of Brazoria County, but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Brazoria County as the presiding officer of said Commissioners Court as to roads, bridges, public highways and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the presiding Judge thereof, including the right of the County Judge of Brazoria County to appoint commissioners in condemnation, receive the reports and enter judgments. It is the intention of this Section to vest in the Brazoria County Court of Domestic Relations jurisdiction to hear any and all matters in condemnation, whether by commission or jury of view, appealed to the Brazoria County Court of Domestic Relations or to the County Court only.

**Probate matters and proceedings**

Sec. 9. The Brazoria County Court of Domestic Relations shall also have the general jurisdiction of a Probate Court within the limits of Brazoria County, concurrent with jurisdiction of the County Court of Brazoria County in such matters and proceedings. Said Brazoria County Court of Domestic Relations shall have authority to probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law and conduct lunacy proceedings.

The Brazoria County Court of Domestic Relations shall have jurisdiction concurrent with the County Court of Brazoria County conferred upon County Courts or upon Probate Courts specially created by the Legislature in Article 1970a-1, Revised Civil Statutes of Texas, as the same now stands or may hereafter be amended, and all other provisions of the law relating to Probate Courts whether specially created by the Legislature or otherwise, shall be and they are hereby made to apply concurrently in all their provisions insofar as they are applicable to the Brazoria County Court of Domestic Relations and insofar as they are not inconsistent with this Act. It is the intention of the Legislature in this Act that the County Judge of Brazoria County shall be the Judge of the County Court of Brazoria County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Brazoria County and all duties and jurisdiction vested in the Brazoria County Court of Domestic Relations by this Act now being performed by the County Judge of Brazoria County, Texas, is and shall be concurrent.

**Dockets; citations and other process**

Sec. 10. With reference to all matters civil, criminal and probate, over which the Brazoria County Court of Domestic Relations is given concurrent jurisdiction with the County Court of Brazoria County, the Judge of the Court of Domestic Relations shall use the same dockets as now provided by said County Clerk in accordance with law for the use of the Judge of the County Court and Probate Court of Brazoria County and the Judge of the Brazoria County Court of Domestic Relations and the County Judge shall have concurrent jurisdiction over all matters therein insofar as provided in this Act. All suits and other proceedings instituted in the County over which the County Court or Probate Court has jurisdiction shall be addressed to the County Court of the County. The Judge of either the Brazoria County Court of Domestic Relations or the County Judge may

hear and dispose of any suit or other proceeding on the civil, criminal and probate dockets of the County Court of Brazoria County, without the necessity of transferring the suit or other proceeding, either civil, criminal or probate, from one court to the other. Every judgment and order shall be entered in the minutes of the County Court or Probate Court and the Clerk of the County Court in said County shall keep one set of minutes in which shall be recorded all the judgments and orders of the Brazoria County Court of Domestic Relations and the County Court of Brazoria County. All citations and other process issued by the County Clerk and all notices, restraining orders and other process authorized to be issued by the Clerk of the County Court shall be returnable to the County Court of Brazoria County, and on the return of such process the hearing or trial may be presided over by the Judge of the Brazoria County Court of Domestic Relations insofar as provided by this Act or the Judge of the County Court, and any and all such Acts thus performed by the Brazoria County Court of Domestic Relations or the County Court of Brazoria County shall be valid and binding upon all parties to such cases, matters and proceedings.

#### **Suits involving adoptions, custody of children and support of minors**

Sec. 11. Immediately after this Act takes effect, the District Clerk of Brazoria County, who shall be the Clerk of the Court of Domestic Relations in all matters wherein the Court of Domestic Relations has concurrent jurisdiction with the District Courts of Brazoria County, shall file in the Court of Domestic Relations created by this Act all cases involving adoptions and independent actions involving child custody and support of minors, including cases under the Reciprocal Support Act, all applications to change the names of persons and all divorce cases. The County Clerk of Brazoria County shall be the Clerk of the Court of Domestic Relations in all matters wherein the Court of Domestic Relations has concurrent jurisdiction with the County Court.

#### **Court of record; seal; records and minutes**

Sec. 12. The said Court of Domestic Relations shall be a Court of record, shall sit and hold court in the county seat of Brazoria County, shall have a seal and maintain all necessary dockets, records and minutes therein as herein provided. These dockets, records and minutes shall be separate from the dockets, records and minutes of the District Courts of Brazoria County and as provided hereinbefore with the County Judge of Brazoria County.

#### **Boards and officers, duties**

Sec. 13. It shall be the duty of the Probation Department, the Sheriff, Constables and other law enforcement agencies of the State of Texas and Brazoria County and the cities thereof, as well as Welfare Agencies, to furnish said Court of Domestic Relations such services in the line of their respective duties as shall be required by said Court and all Sheriffs and Constables within the State of Texas shall render the same services with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from the District Courts, County Courts and Probate Courts.

#### **Writs and orders; contempt**

Sec. 14. The said Court of Domestic Relations and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts and County Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

**Terms of court**

Sec. 15. There shall be two terms of the Brazoria County Court of Domestic Relations each year, one beginning on the first Monday in January and continuing until the convening of the next regular term, and one beginning on the first Monday in July and continuing until the next regular term beginning the following January. The first term of said Court shall begin on the first Monday following the appointment of the Judge thereof and shall continue until the convening of the next term thereof as above provided.

**Membership of judge on juvenile board; compensation**

Sec. 16. The Judge of the Brazoria County Court of Domestic Relations shall be a member of the Juvenile Board of Brazoria County and receive as additional compensation thereof the same salary as paid by Brazoria County to the District Judges of Brazoria County for acting as members of the Juvenile Board. The Juvenile Board shall continue as now constituted with the same salary and authority as now provided by law.

**Election of judge; term; vacancies**

Sec. 17. At the next general election after the effective date of this Act there shall be elected a Judge of the Brazoria County Court of Domestic Relations, who shall hold his office for four (4) years and until his successor shall have been duly elected and qualified. When this Act becomes effective, the Commissioners Court of Brazoria County, Texas, shall appoint a Judge of said Brazoria County Court of Domestic Relations, who shall have the qualifications herein prescribed and who shall serve until the next general election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of said Brazoria County Court of Domestic Relations shall, in like manner as hereinabove provided, be filled by said Commissioners Court of Brazoria County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

**District attorney; representation of state**

Sec. 18. The Criminal District Attorney of Brazoria County shall represent the State of Texas in all prosecutions and in all matters in the Brazoria County Court of Domestic Relations as provided by law for such prosecutions and matters in County Courts and in District Courts over which the Brazoria County Court of Domestic Relations is by this Act given jurisdiction and shall be entitled to the same fees as now prescribed by law in such matters.

**Removal of judge**

Sec. 19. The Judge of the Brazoria County Court of Domestic Relations may be removed from office in the same manner and for the same causes as any District Judge may be removed under the laws of this State.

**Oath and bond of judge**

Sec. 20. The Judge of the Brazoria County Court of Domestic Relations shall take the oath and execute the bond in the manner and form as required by law relating to District Judges and the said bond shall be approved in the same manner as that of District Judges.

**Appeals**

Sec. 21. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals as is now or may be hereafter provided for appeals from District and County Courts and in all criminal cases shall be to the Court of Criminal Appeals.



**Practice and procedure**

Sec. 22. The practice and procedure, rules of evidence, the drawing of jury panels, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearing in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts, general or special, as well as County Courts; provided that juries in all matters civil or criminal shall always be composed of twelve (12) members except that in misdemeanor criminal cases the juries shall be composed of six (6) members, as well as six (6) member juries in cases where this Court has concurrent jurisdiction with the County Court as herein provided.

**Effect on jurisdiction of district, county and probate courts**

Sec. 23. Nothing in this Act shall diminish the jurisdiction of the several District Courts of Brazoria County, the County Court and the Probate Court of Brazoria County and such courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law and the jurisdiction given herein is concurrent with the jurisdiction of said Courts.

**Court reporter**

Sec. 24. The Judge of the Brazoria County Court of Domestic Relations shall have authority to appoint a Court Reporter in such cases as may be required by law, and in such other cases as he shall deem it necessary to record and preserve the testimony. Such Court Reporter shall be paid such salary out of the general fund of the County as may be fixed by the Commissioners Court. The Judge shall also have the power and authority to appoint a court interpreter, in such cases as may be necessary, who shall be paid such fees and compensation out of the general fund of the County for such service as may be fixed by the Judge and approved by the Commissioners Court.

**Judge as attorney at law**

Sec. 25. The Judge of the Brazoria County Court of Domestic Relations shall not appear as an attorney at law in any court of record in this State nor shall he appear and practice as an attorney at law in any county or Justice Court over which he has original or appellate jurisdiction.

**Inconsistent laws**

Sec. 26. Any law or laws of this State which are inconsistent with this Act are hereby expressly repealed; however, this Act is meant to be cumulative with existing laws and is meant to be reconciled with existing laws where possible. Acts 1965, 59th Leg., p. 618, ch. 307, emerg. eff. June 1, 1965.

**Title of Act:**

An Act creating a Court of Domestic Relations in and for Brazoria County, Texas; providing for the qualifications and salary of the Judge of said Court; providing that said Court shall have concurrent jurisdiction with the District Courts of said County in certain enumerated matters, for the exchange of benches with the District Judges in said matters and the transferring of cases; providing a method of selecting a special Judge of said Court when the Judge of the Court of Domestic Relations is disqualified or unable to serve; providing that nothing in this Act shall diminish the jurisdiction of the District Courts of Brazoria County; providing as additional concurrent jurisdiction, the Brazoria County Court of

Domestic Relations shall have original and appellate concurrent jurisdiction with the County Court of Brazoria County in civil and criminal matters, eminent domain, and probate and certain exceptions to concurrent jurisdiction; providing for the filing of cases with the County Clerk, the docketing of said cases; providing the Clerks for said Court; that said Court shall be a Court of record, have a seal; providing the duties and functions of Sheriff and other departments in connection with said Court; providing certain powers for said Court; providing the terms of said Court; providing that the Judge of said Court shall be a member of the Juvenile Board of Brazoria County, additional compensation for said duties and that said Board as now consti-

tuted shall remain the same; providing the qualifications of said Judge, the election and appointment of said Judge; the duties of the Criminal District Attorney in respect thereto; for the removal from office of said Judge; the bond and oath of office; appeals, procedures in said Court, for the ap-

pointment and salary of a Court Reporter; the use and compensation of interpreters; that said Judge may not practice law; repealing all laws or parts of laws in conflict herewith; providing for severability; and declaring an emergency. Acts 1965, 59th Leg., p. 618, ch. 307.

## Art. 2338—20. Court of Domestic Relations for Midland County

### Creation of court

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

### Qualifications of judge

Sec. 2. The Judge of the Court of Domestic Relations in and for Midland County, Texas, hereby established, shall have such qualifications as are fixed by the Constitution and Laws of this State for Judges of District Courts.

### Jurisdiction

Sec. 3. The Court of Domestic Relations in and for Midland County, Texas, shall have jurisdiction of all cases involving adoptions, removal of disability of minority and coverture, change of name of persons, delinquent, neglected or dependent child proceedings, and all jurisdiction, powers, and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings, as well as independent actions involving child custody or support; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; and all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law.

### Contempt proceedings

Sec. 4. The Court of Domestic Relations in and for Midland County, Texas, shall have jurisdiction to hear contempt proceedings on, or any motion to alter, amend, or modify any judgment of a domestic relations case (such cases that are described in Section 3 of this Act) heretofore determined by the County Court of Midland County or the 142nd Judicial District Court for Midland County.

### Juvenile board

Sec. 5. The Judge of the Court of Domestic Relations in and for Midland County, Texas, shall be a member of the Midland County Juvenile Board, which shall hereafter be composed of the Judge of the 142nd Judicial District Court, the County Judge of Midland County, and the Judge of the Court of Domestic Relations in and for Midland County, Texas, which Juvenile Board is authorized to designate the Court of Domestic Relations in and for Midland County, Texas, as the Juvenile Court of Midland County. The members of the Juvenile Board shall receive such compensation for their services as members of the Juvenile Board as is provided by the laws of this State governing compensation for members of Juvenile Boards. The compensation shall be paid by Midland County.

### Appointment of judge; term of office; salary; special judge

Sec. 6. Upon the effective date of this Act, the Governor shall appoint as Judge of the Court of Domestic Relations in and for Midland County,

Texas, a suitable person having the qualifications provided by the Constitution and Laws of this State for District Judges, who shall hold office until the next general election after his appointment and until his successor shall be duly elected and qualified. Thereafter, the Judge of the Court of Domestic Relations in and for Midland County, Texas, shall be elected for a term of four years as provided by the Constitution and Laws of this State. The Judge of the Court of Domestic Relations in and for Midland County, Texas, shall be paid a salary which shall be equal to the total salary paid to the District Judge of the 142nd Judicial District Court of Midland County, which shall be paid by the Commissioners Court of Midland County out of the General Fund or the Officers' Salary Fund of the County. If the Judge be absent, a special judge, possessing the qualifications herein set out, may be elected by the Bar as provided by the law for election of a special judge in County Courts. If the Judge be disqualified in a cause and the parties fail to agree upon a special judge to try the cause, the Judge shall certify his disqualification to the Commissioners Court of Midland County, Texas, and the Commissioners Court shall appoint a special judge in such cause. A special judge shall be paid the sum of \$25 for each day he actually serves as such and his compensation shall not be deducted from the salary of the regular Judge, but shall be in addition thereto.

#### **Transfer of cases to Court of Domestic Relations**

Sec. 7. When the Court of Domestic Relations in and for Midland County, Texas, is organized and the Judge thereof shall qualify, the County Judge of Midland County, Texas, and the Judge of the 142nd Judicial District Court of Midland County, Texas, may transfer, at their discretion, to the Court of Domestic Relations in and for Midland County, Texas, all cases which may then be pending in their respective Courts in Midland County, or all cases which have been adjudicated by their respective Courts and whose judgment they still have jurisdiction over, of which by this Act said Court of Domestic Relations in and for Midland County, Texas, is hereby given jurisdiction, including all filed papers and certified copies of all orders entered by them.

#### **Transfer of cases to county or district courts**

Sec. 8. All cases and other matters over which the Court of Domestic Relations in and for Midland County, Texas, is hereby given jurisdiction may be transferred to or instituted in that Court but the Judge of said Court may transfer any such cases or matters to the County or District Courts having jurisdiction thereof under the laws of the State to be tried in the court to which such transfer is made, with the permission and consent of the Judge thereof.

#### **Place of sitting; dockets and minutes**

Sec. 9. The Court of Domestic Relations in and for Midland County, Texas, shall sit and hold court in Midland County and shall maintain all necessary dockets and minutes therein.

#### **Boards and officers; duties**

Sec. 10. It shall be the duty of all officers, agents, and employees of the Child Welfare Department, County Welfare Office, County Health Officer, County Juvenile Officer, sheriff, and constables within Midland County to furnish to the Court such services in the line of their respective duties as shall be required by the Court.

#### **Officers and investigators; court reporter compensation**

Sec. 11. The Judge of the Court of Domestic Relations in and for Midland County, Texas, shall have authority to appoint such officers and investigators that might be necessary to the proper administration of its

jurisdiction in Midland County. When he deems it necessary to the proper administration of the Court, he may appoint a court reporter. Provided, however, that all such appointments must be approved by the Juvenile Board of Midland County, by a majority vote of its members, and the salaries and compensation of the officers, investigators, and court reporter shall in like manner be determined by the members and paid by the Commissioners Court out of the General Fund of Midland County.

#### Injunctions and writs; contempts

Sec. 12. The Judge of the Court of Domestic Relations in and for Midland County, Texas, shall have power to issue injunctions, temporary injunctions, restraining orders and such other writs as are now or hereafter may be issued under the laws of this State by the County and District Courts when necessary in cases or matters over which the court has jurisdiction. The Court shall also have power to punish for contempt.

#### Terms of court

Sec. 13. The terms of the Court of Domestic Relations in and for Midland County, Texas, shall begin on the first Monday in March and September of each year and may continue until the date fixed for the beginning of the next term. As soon as this Act becomes effective and the Judge of the Court of Domestic Relations in and for Midland County, Texas, is appointed and qualified, he shall begin a term of court which shall continue until the day fixed for the beginning of the next succeeding term and thereafter the terms shall begin on the above-mentioned dates. The Judge in his discretion may hold as many sessions of court in any term as he considers proper and expedient for the dispatch of business.

#### Vacancies

Sec. 14. Any vacancy in the office of the Judge of the Court of Domestic Relations in and for Midland County, Texas, shall be filled by appointment by the Governor, and when so filled, the Judge shall hold office until the next general election and until his successor is elected and qualified.

#### Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of the Court shall be to the Court of Civil Appeals for the Eighth Supreme Judicial District of Texas as provided by law for appeals from District and County Courts.

#### Practice and procedure

Sec. 16. The practice, procedure, rules of evidence, selection of juries, issuance of process, and all other matters pertaining to the conduct of trials and hearings in the Court shall be governed by the laws and rules pertaining to District and County Courts; provided, however, that juries shall be composed of 12 members.

#### Court of record; seal; clerk of court

Sec. 17. The Court of Domestic Relations in and for Midland County, Texas, shall be a court of record, shall sit and hold court at the county seat in Midland County, shall have a seal and maintain all necessary dockets, records, and minutes therein. The District Clerk of Midland County shall serve as Clerk of the court and perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this Court. The seal of the court shall have a star of five points with the words "Court of Domestic Relations, Midland County, Texas" engraved thereon.

**Sheriffs and constables; process and writs**

Sec. 18. All sheriffs and constables within the State shall render the same service and perform the same duties with reference to process and writs for said Court of Domestic Relations in and for Midland County, Texas, as is required of them by law with reference to process and writs for District Courts.

**Custody of children; investigations**

Sec. 19. In all suits for divorce where it appears from the petition or otherwise that a party to such has a child or children under the age of 18 years, and in any other case involving the custody of any such child or children, the Court or Judge thereof in its or his discretion may require any juvenile officer, investigator, or child welfare unit to make a thorough and complete investigation as to the necessities, environment, and surroundings of the child or children and to make reports thereon to the Court, and if desired by the Court, to produce the evidence on any hearing in such case as may have been developed in connection with the examination or investigation.

**County attorney; representation of state**

Sec. 20. The County Attorney of Midland County or his duly and legally qualified assistant, or assistants, shall represent the State in all cases involving children alleged to be dependent, neglected, or delinquent, or in which the Probation Officer, Child Welfare Unit, County Welfare Office, County Health Officer, or any other welfare agency is interested, and shall represent the State in all proceedings in the Court of Domestic Relations in and for Midland County, Texas.

**Juvenile board; counsel and advice to judge**

Sec. 21. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations in and for Midland County, Texas, when deemed necessary or when sought by him and shall cooperate with him in the administration of the affairs of the Court.

**Removal of judge**

Sec. 22. The Judge of the Court of Domestic Relations in and for Midland County, Texas, shall be subject to removal from the office for the same reasons and in the same manner as is provided by the Constitution and laws of this State for the removal of county officers. Acts 1965, 59th Leg., p. 1142, ch. 537.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating a Court of Domestic Relations in and for Midland County, Texas;

providing for its jurisdiction, terms, personnel, administration, and practice; and declaring an emergency. Acts 1965, 59th Leg., p. 1142, ch. 537.

TITLE 44—COURTS—COMMISSIONERS

2. POWERS AND DUTIES

Art.		Art.	
2351½.	Change in boundaries of commissioners precincts and justice of the peace precincts [New].	2372f—5.	Two-way radios for county vehicles; counties of 35,000 to 36,400 [New].
2351g—1.	Acquisition of land for dumping and garbage disposal [New].	2372f—6.	Automobile; furnishing each commissioner; counties of 61,000 to 64,700 and 68,000 to 73,000 [New].
2368a—10.	Validation of contracts, scrip and time warrants; refunding bonds; acts and proceedings; exceptions [New].	2372h—3.	Vacations, holidays and sick pay for employees of counties of 31,000 to 60,000 [New].
2370d.	Counties with city of over 275,000 population; public health administration buildings [New].	2372s.	Parking stations near courthouses in counties of 900,000 or more [New].
		2372s—1.	Regulation of parking in courthouse parking lots in counties of 14,000 to 14,500 and 25,000 to 26,000 [New].

1. COMMISSIONERS COURTS

Art. 2343. [2238] [1534] [1511] Quorum

(a) Any three members of the court, including the county judge, constitute a quorum for the transaction of any business except that of levying a county tax.

(b) In case a member of the court is incapacitated from any cause, then any other four members of the court constitute a quorum for levying the tax if

(1) the member's incapacity is certified in writing by a duly licensed physician; and

(2) a district court of the county approves the certification. As amended Acts 1965, 59th Leg., p. 1002, ch. 488, § 1, emerg. eff. June 10, 1965.

2. POWERS AND DUTIES

Art. 2351½. Change in boundaries of commissioners precincts and justice of the peace precincts

(a) Whenever the Commissioners Court changes the boundaries of commissioners precincts or of justice precincts, it may specify in its order a future date, not later than the first day of January following the next general election, on which the changes shall become effective. If an election for any precinct office is held before the effective date of the order, the office shall be filled at the election by the voters of the precinct as it will exist on the effective date of the change in boundaries. A person who has resided within the territory embraced in the new boundaries for the length of time required to be eligible to hold the office shall not be rendered ineligible by virtue of the precinct's not having been in existence for that length of time.

(b) When boundaries of commissioners precincts are changed, the terms of office of the commissioners then in office shall not be affected by such change, and each commissioner shall be entitled to serve for the remainder of the term to which he was elected even though the change in boundaries may have placed his residence outside of the precinct for which he was elected.

(c) When boundaries of justice of the peace precincts are changed, so that existing precincts are altered, new precincts are formed, or former precincts are abolished, if only one previously elected or appointed justice

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of the peace or constable resides within a precinct as so changed, he shall continue in office as justice or constable of that precinct for the remainder of the term to which he was elected or appointed. If more than one justice or constable resides within a precinct as so changed, or if none resides therein, the office shall become vacant and the vacancy shall be filled as other vacancies; provided, however, that in precincts having two justices, if two reside therein, both shall continue in office, and if more than two reside therein, both offices shall become vacant. Added Acts 1965, 59th Leg., p. 1523, ch. 664, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 2351a—5. Contracts with volunteer fire departments for fire protection services in unincorporated areas**

Section 1. The commissioners court of any county may contract with any incorporated volunteer fire department which is located within the county but not within the corporate limits of any city or town, for the purpose of furnishing fire protection services to areas of the county which are not within the corporate limits of a city or town. The terms of the contract may be as mutually agreed upon by the commissioners court and the volunteer fire department. The commissioners court may pay for the services under the contract out of the general fund of the county. As amended Acts 1965, 59th Leg., p. 1053, ch. 516, § 1, emerg. eff. June 16, 1965.

**Art. 2351g. Repealed. Acts 1965, 59th Leg., p. 1019, ch. 503, § 4. Eff. Aug. 30, 1965, 90 days after date of adjournment**

See, now, article 2351g-1.

**Art. 2351g—1. Acquisition of land for dumping and garbage disposal**

Section 1. Commissioners Courts of the counties of the State of Texas, are hereby authorized on behalf of the counties, to acquire by easement or in fee simple, lands on which to locate public dumping and garbage disposal grounds, and to expend moneys out of the General Fund for the purpose of acquiring such easements or fee simple title, either by purchase or by condemnation.

Sec. 2. The location of such dumping or garbage disposal grounds, and the consideration to be paid therefor, shall be a matter committed to the sound discretion of the Commissioners Courts, taking into consideration the convenience of the people to be served, and the general health of, and the annoyance to, the community to be served by such dumping and garbage disposal grounds.

Sec. 3. Counties are hereby given the right of eminent domain in acquiring such grounds in accordance with the provisions of the eminent domain Statutes of the State of Texas; provided, however, that counties shall not have the right of eminent domain in acquiring such grounds as against corporations which also have the right of eminent domain by Statute.

Sec. 4. Chapter 464, Acts of the 54th Legislature, Regular Session, 1955 (codified as Article 2351g, Vernon's Texas Civil Statutes), is repealed. Acts 1965, 59th Leg., p. 1019, ch. 503.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing Commissioners Courts to acquire land for dumping and

garbage disposal use; repealing Chapter 464, Acts of the 54th Legislature, Regular Session, 1955; and declaring an emergency. Acts 1965, 59th Leg., p. 1019, ch. 503.

Art. 2368a. Requirements governing advertising for bids by counties and cities

Competitive bidding for contracts for public works; notice to bidders; advertisement; purchases of land and rights of way

Sec. 2. No county, acting through its Commissioners Court, and no city in this state shall hereafter make any contract calling for or requiring the expenditure or payment of Two Thousand Dollars (\$2,000.00) or more out of any fund or funds of any city or county or subdivision of any county creating or imposing an obligation or liability of any nature or character upon such county or any subdivision of such county, or upon such city, without first submitting such proposed contract to competitive bids. Notice of the time and place when and where such contracts shall be let shall be published in such county (if concerning a county contract or contracts for such subdivision of such county) and in such city, (if concerning a city contract), once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract; and said contract shall be let to the lowest responsible bidder. The court and/or governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works, then the successful bidder shall be required to give a good and sufficient bond in the full amount of the contract price, for the faithful performance of such contract, executed by some surety company authorized to do business in this state in accordance with the provisions of Article 5160, Revised Statutes of 1925, and amendments thereto. If there is no newspaper published in such county, the notice of the letting of such contract by such county shall be given by causing notice thereof to be posted at the County Court House door for fourteen (14) days prior to the time of letting such contract. If there is no newspaper published in such city, then the notice of letting such contract shall be given by causing notice thereof to be posted at the City Hall for fourteen (14) days prior to the time of letting such contract. Provided, that in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens, or to preserve the property of such county, subdivision, or city, or when it is necessary to preserve or protect the public health of the citizens of such county or city, or in case of unforeseen damage to public property, machinery or equipment, this provision shall not apply; and provided further, as to contracts for personal or professional services; work done by such county or city and paid for by the day, as such work progresses; and the purchase of land and right-of-way for authorized needs and purposes, the provisions hereof requiring competitive bids shall not apply and in such cases the notice herein provided shall be given but only with respect to an intention to issue time warrants with right of referendum as contemplated in Sections 3 and 4 hereof<sup>1</sup> respectively.

Provisions in reference to notice to bidders, advertisement thereof, requirements as to the taking of sealed bids based upon specifications for public improvements or purchases, the furnishing of surety bonds by contractors and the manner of letting of contracts, as contained in the charter of a city, if in conflict with the provisions of this Act, shall be followed in such city notwithstanding any other provisions of this Act.

Any and all such contracts or agreements hereafter made by any county or city in this state, without complying with the terms of this Section, shall be void and shall not be enforceable in any court of this state, and the performance of same and the payment of any money thereunder may be enjoined by any property taxpaying citizen of such county or city. Provided, however, that the provisions of this Act shall not apply



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to counties having a population of more than three hundred fifty thousand (350,000) inhabitants according to the last preceding or any future Federal Census. As amended Acts 1965, 59th Leg., p. 240, ch. 105, § 1.

<sup>1</sup> See Article 2368a—10, §§ 2 and 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 2368a—10. Validation of contracts, scrip and time warrants; re-funding bonds; acts and proceedings; exceptions**

Section 1: [See art. 2368a § 2.]

Sec. 2. In every instance since the approval by the Governor of Texas of Chapter 384, Acts of the 58th Legislature, Regular Session, 1963, where the Commissioners Court of a county or the governing body of a city (including Home-Rule cities) or town in this state has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home-Rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home-Rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of three hundred fifty thousand (350,000), according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 3. All proceedings, governmental acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home-Rule cities) or town, and of all officers and officials thereof authorizing the issuance, delivery of or in anywise pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including Home-Rule cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county with a population in excess of three hundred fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, time

warrants or bonds the validity of which is involved in litigation at the time this Act becomes effective. Acts 1965, 59th Leg., p. 240, ch. 105, §§ 2, 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 1 of Acts 1965, 59th Leg., p. 241, ch. 105 amended article 2368a, § 2.

**Art. 2370d. Counties with city of over 275,000 population; public health administration buildings**

**Application of act**

Section 1. This Act shall apply to any county containing a city which, according to the then latest United States Census, has a population in excess of 275,000.

**Validation of actions for election and bond issue**

Sec. 2. All actions heretofore taken by the Commissioners Court of any county mentioned in Section 1 hereof in ordering an election for the issuance of bonds for the purpose of erecting public health administration buildings and acquiring sites and equipment therefor, and all elections held pursuant to any such action and all such bonds heretofore voted or attempted to be voted and which have not been issued and sold are hereby in all things validated, and any such county may proceed with the issuance and sale of such bonds. Provided, however, this Act shall not affect any suit pending in any court of this state prior to the effective date hereof.

**Issuance of bonds; erection of public health administration buildings; repairs**

Sec. 3. Any county whose bonds are validated by Section 2 of this Act is hereby authorized to proceed with the issuance of such bonds and to erect and maintain such public health administration buildings and to acquire sites and equipment therefor, and to expand and repair such buildings, acting either alone or jointly with any city contained in such county and to issue the county's general obligation bonds for such purpose. Such bonds shall be authorized in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of the State of Texas (1925), as amended, relating to county bonds. Provided, when a city and a county jointly erect such buildings, they shall share in the cost in such manner as may be agreed upon and as authorized by orders or ordinances to be passed by the respective governing bodies. Such buildings may be jointly occupied and utilized by any such county and city and such county and city shall be vested with an undivided interest in any such buildings in accordance with any agreements reached by such county and city as authorized by orders or ordinances passed by the respective governing bodies. Provided, such buildings shall not be used for hospital purposes but may be used for any other purpose which will contribute to the health of the inhabitants of such county and city.

**Partial invalidity**

Sec. 4. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby. Acts 1965, 59th Leg., p. 237, ch. 103, emerg. eff. April 27, 1965.

**Title of Act:**

An Act validating all action taken by the Commissioners Court of certain counties in connection with ordering an election for the issuance of general obligation bonds for the purpose of erecting public health adminis-

tration buildings and acquiring sites and equipment therefor; validating all such elections and all such bonds voted or attempted to be voted which have not been issued and sold; providing this Act shall not affect pending litigation; authorizing

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certain counties to proceed with the issuance and sale of such bonds; authorizing certain counties to erect and maintain and to expand and repair public health administration buildings acting either alone or jointly with any city in such county and to

acquire sites and equipment therefor; providing such buildings shall not be used for hospital purposes; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 237, ch. 103.

**Art. 2372f—5. Two-way radios for county vehicles; counties of 35,000 to 36,400**

Section 1. The commissioners court of all counties having a population of not less than 35,000 nor more than 36,400 according to the last preceding Federal Census may purchase two-way radios for county vehicles.

Sec. 2. The commissioners court may pay from county funds the cost of the radios as well as all operational and incidental expenses. Acts 1965, 59th Leg., p. 760, ch. 353, emerg. eff. June 9, 1963.

**Title of Act:**

An Act authorizing the commissioners court of certain counties to purchase two-

way radios for county vehicles; and declaring an emergency. Acts 1965, 59th Leg., p. 760, ch. 353.

**Art. 2372f—6. Automobile; furnishing each commissioner; counties of 61,000 to 64,700 and 68,000 to 73,000**

Section 1. This Act applies to any county having a population of not less than 68,000 nor more than 73,000, or not less than 61,000 nor more than 64,700, according to the last preceding Federal Census.

Sec. 2. The Commissioners Court may furnish each County Commissioner an automobile for use in official business and the cost of the automobile may be paid out of county funds. The Commissioner shall pay the expenses of operating the automobile and keeping it in repair. Acts 1965, 59th Leg., p. 789, ch. 375, emerg. eff. June 9, 1965.

**Title of Act:**

An Act authorizing the Commissioners Court in certain counties to furnish each County Commissioner an automobile for use

in official business; and declaring an emergency. Acts 1965, 59th Leg., p. 789, ch. 375.

**Art. 2372h—3. Vacations, holidays and sick pay for employees of counties of 31,000 to 60,000**

Section 1. The commissioners court of any county having a population of more than 31,000 and less than 60,000 according to the last preceding Federal Census, and an assessed valuation in excess of \$78,000,000, may provide for vacations, holidays fixed by State law, sick leaves without deduction or loss of pay, and deductions for absences from work of all county employees whether paid a fixed salary or an hourly or daily wage. Acts 1965, 59th Leg., p. 1412, ch. 624, emerg. eff. June 17, 1965.

**Title of Act:**

An Act authorizing the commissioners court in certain counties to provide for vacations, holidays, sick pay, and deduc-

tions for absences of county employees; and declaring an emergency. Acts 1965, 59th Leg., p. 1412, ch. 624.

**Art. 2372s. Parking stations near courthouses in counties of 900,000 or more**

**Power to construct and operate parking stations; leases**

Section 1. The commissioners court of any county which had a population in excess of 900,000 according to the most recent federal census upon finding that it is to the best interest of the county and its inhabitants shall have the power to construct, enlarge, furnish, equip and operate a parking station in the vicinity of the courthouse of the county. It is further authorized from time to time to lease said parking station to a person or

corporation on such terms as the commissioners court shall deem appropriate.

#### Definitions

Sec. 2. As used in this law, "parking station" means a lot or area or surface or subsurface structure for the parking of automotive vehicles, together with equipment used in connection with the maintenance and operation thereof, and the site therefor;

"Bond order" means the order authorizing the issuance of revenue bonds;

"Trust indenture" means the mortgage, deed of trust or other instrument pledging revenues, or in addition thereto, creating a mortgage lien on properties, or both, to secure the revenue bonds issued by the county;

"Trustee" means the trustee under the trust indenture.

#### Bonds; pledge of revenues

Sec. 3. The commissioners court may issue negotiable revenue bonds to provide funds for the construction, enlargement, furnishing or equipping said parking station. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation of the parking station and any other revenues resulting from the ownership of the parking station properties including rentals received from leasing all or part of said parking station.

#### Authorization of bonds; signature and seal; maturity date

Sec. 4. The bonds shall be authorized by order adopted by a majority vote of a quorum of the commissioners court, (without the prerequisite of an election) and shall be signed by the county judge, countersigned by the county clerk and registered by the county treasurer. The seal of the commissioners court shall be impressed or printed thereon. The bonds shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by the commissioners court to be the most advantageous reasonably obtainable, provided that the interest cost to the county, including the discount, if any, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six per cent (6%) per annum, and within the discretion of the commissioners court, may be made callable prior to maturity at such times and prices as may be prescribed in the order authorizing the bonds

#### Bonds constituting junior liens; parity bonds

Sec. 5. Bonds constituting a junior lien on the net revenues or properties may be issued unless prohibited by the bond order or trust indenture. Parity bonds may be issued under conditions specified in the bond order or trust indenture.

#### Payment of bond interest

Sec. 6. Money for the payment of interest on the bonds and an amount estimated by the commissioners court to be required for operating expenses until the parking station becomes sufficiently operative may be set aside out of the proceeds from the sale of the bonds. However, such amounts shall be set aside only for the first two years of operation and shall be limited to the interest and to the estimated operating expenses over and above earnings (not to exceed six per cent (6%) of the principal amount of the bond issue) for each of such years.

#### Refunding bonds

Sec. 7. Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this Act for other bonds, and may be

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exchanged by the Comptroller of Public Accounts of the State of Texas or sold and the proceeds applied to the payment of outstanding bonds.

**Approval of attorney general; incontestability**

Sec. 8. Bonds issued under this Act and the record relating to their issuance shall be submitted to the Attorney General of Texas and if he finds that they have been issued in accordance with this law and constitute valid and binding special obligations of the county and are secured as recited therein he shall approve them, and they shall be registered by the Comptroller of Public Accounts of the State of Texas who shall certify such registration thereon. Thereafter they shall be incontestable. The bonds shall be negotiable and shall contain the following provision: "The holder hereof shall never have the right to demand payment thereof out of money raised or to be raised by taxation."

**Rentals and rates for services**

Sec. 9. It shall be the duty of the commissioners court to charge sufficient rentals or rates for services rendered by the parking station and to utilize any other sources of its revenues so that revenues will be produced sufficient to pay all expenses in connection with the ownership, operation and upkeep of the parking station, to pay the principal of and interest on the bonds as they become due, and to create and maintain a bond reserve fund and other funds as provided in the bond order or trust indenture. The bond order or trust indenture may prescribe systems, methods, routines and procedures under or in accordance with which the parking station shall be operated. Acts 1965, 59th Leg., p. 352, ch. 168.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing counties having a population in excess of 900,000 according to the most recent federal census to construct, enlarge, furnish, equip and operate a parking station in the vicinity of the courthouse; authorizing the county to lease said parking station; authorizing the issuance of revenue bonds for such purposes;

prescribing the procedure for the issuance of such bonds and the method of paying and securing the payment thereof; authorizing the issuance of refunding bonds; containing a severability clause; enacting other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 352, ch. 168.

**Art. 2372s—1. Regulation of parking in courthouse parking lots in counties of 14,000 to 14,500 and 25,000 to 26,000**

Section 1. This Act applies in every county having a population of not less than 14,000 nor more than 14,500 and in every county having a population of not less than 25,000 nor more than 26,000, according to the last preceding Federal Census.

Sec. 2. The commissioners court is authorized to purchase such equipment as is necessary and make and enforce regulations for parking in county-owned parking lots in, under, adjacent to, or near the county courthouse. The commissioners court may in its discretion contract with the city for enforcement of the regulations and likewise the city in its discretion may contract with the county.

Sec. 3. A person who violates a regulation authorized by this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$1 nor more than \$20. Acts 1965, 59th Leg., p. 802, ch. 387, emerg. eff. June 9, 1965.

**Title of Act:**

An Act authorizing commissioners courts of certain counties to purchase necessary equipment and to regulate parking in court-

house parking lots; providing a penalty for violation of parking regulations; and declaring an emergency. Acts 1965, 59th Leg., p. 802, ch. 387.

## CHAPTER SIX—APPEAL AND CERTIORARI

Art.

2455—1. Appeal, etc., to district court,  
when [Renumbered].

Art. 2455—1. [95] Appeal, etc., to district court, when

In all counties in which the civil and criminal jurisdiction, or either, of county courts has been transferred to the district courts, appeals and writs of certiorari may be prosecuted to remove a case tried before a justice of the peace to the district court in the same manner and under the same circumstances under which appeals and writs of certiorari are allowed by general law to remove causes to the county court. Act April 21, 1879, p. 125.

*Saved from repeal, see Code of Criminal Procedure of 1965, art.  
54.02.*

Renumbered from C.C.P.1925, art. 52—157.

**TITLE 46—CREDIT ORGANIZATIONS**

1. RURAL CREDIT UNIONS

Art.

2484d. Adverse claims to deposits; joint deposits [New].

1. RURAL CREDIT UNIONS

**Art. 2462. Loans and investments**

**Investments in federal, state and municipal obligations**

Sec. 7. In the discretion of the board of directors, a credit union may invest its surplus and accumulated funds in the obligations of the United States of America, of the State of Texas, or any political subdivision thereof, provided such subdivision has not, within the preceding five (5) years defaulted in the payment of any principal or interest on the obligations or class of obligations in which such investment is made. As amended Acts 1965, 59th Leg., p. 161, ch. 66, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Investments in shares of savings and loan associations;  
loans to other credit unions**

Sec. 8. A credit union may also invest such surplus and accumulated funds in shares of stock, insured by the Federal Savings and Loan Insurance Corporation, which are issued by a building and loan association or savings and loan association, domiciled in the United States of America; and it may make loans to other state and federal credit unions domiciled in the United States of America, provided that such loans to other credit unions shall never aggregate more than twenty-five per cent (25%) of the capital and surplus of such credit union making such loans. As amended Acts 1965, 59th Leg., p. 161, ch. 66, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 2465. Supervision; examination; examiners; fees; expenses; independent examinations; and surety bonds**

**Extension of time**

Sec. 7. The Banking Commissioner may, however, for good cause shown, extend the time of paying the supervision fee required by Section 3 not more than sixty (60) days. However, no such extension shall be made, nor any extension provided under Article 2484 for filing the annual report, unless the credit union for which the time is extended shall have filed a request for extension with the Commissioner on or before the expiration of the aforesaid time for paying such fee or filing such report. Added Acts 1965, 59th Leg., p. 161, ch. 66, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 2469. Board of directors and supervisory committee**

**Membership of Board of Directors and Supervisory Committee**

Section 1. The board of directors shall consist of not less than five (5) members. The supervisory committee shall consist of not less than three (3) members. No member of the board of directors or credit committee shall be a member of the supervisory committee.

**Election of Board of Directors and Supervisory Committee**

Sec. 2. At the first meeting of members, and at each annual meeting, the members shall elect a member to fill each directorship which is vacant or the term of which is then expiring, and each supervisory committee membership which is vacant or the term of which is then expiring.

**Election of Officers**

Sec. 3. At their first meeting, and at each of their meetings next following an annual meeting, the board of directors shall elect from their number a president, a vice-president, a secretary and a treasurer, who shall be the executive officers of the association.

**Terms of Directors and Supervisory Committee Members**

Sec. 4. Each member of the board of directors and supervisory committee shall be elected to office for such term, not to exceed three (3) years, as the bylaws may provide. The bylaws may provide the year in which each directorship and each supervisory committee membership shall terminate, and may do so in such a way that all directorships and all supervisory committee memberships need not terminate in the same year. All regular terms shall be for the same number of years and until the election and qualification of successors. The regular terms shall be so fixed at the beginning, or upon any increase or decrease in the number of positions, that approximately an equal number of regular terms shall expire at each annual meeting.

**Oath of Office**

Sec. 5. Each officer elected by the board of directors, each director and each supervisory committee member shall be sworn and shall hold his office until his successor has been elected and has qualified.

**Record of Qualifications**

Sec. 6. A record of every such election and qualification shall be filed and preserved with the records of the association. As amended Acts 1965, 59th Leg., p. 161, ch. 66, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 2477. Conditions of loans**

**Sec. 2.**

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Second: The total "net balance" owing upon the indebtedness secured by such lien (a) does not exceed sixty per cent (60%) of the appraised value of such real estate and such loan or obligation provides for monthly reductions of principal in such amounts as to retire forty per cent (40%) thereof within five (5) years of the date of the credit union's loan or investment; or (b) does not exceed sixty-six and two-thirds per cent (66 $\frac{2}{3}$ %) of the appraised value of such real estate when such real estate consists of "residential real estate" and such loan provides for repayment in equal monthly installments in such amounts as to retire the same in its entirety, both as to principal and interest in not more than two hundred forty (240) months from the date thereof, and further provides for equal monthly deposits during the term thereof in



For Annotations and Historical Notes, see V.A.T.S.

amounts sufficient to pay as they accrue the premiums on fire and tornado insurance and all taxes assessed against the security. The aggregate of loan and investments of the class provided for in this Section 2 made by any state credit union shall never, without the written consent of the Commissioner, exceed twenty-five per cent (25%) of the assets of the credit union. As amended Acts 1965, 59th Leg., p. 161, ch. 66, § 4.

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Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Art. 2482. Dividends

Section 1. A dividend may be paid from income which has been actually collected from the time the credit union began business to the close of the fiscal year, or each half of such year, next preceding such payment, after deduction of all expenses and the statutory guaranty fund to the close of said fiscal year.

Sec. 2. Before any such dividend may be paid, it shall first be declared by the board of directors, if the bylaws so provide, or at the annual meeting.

Sec. 3. Such dividend shall be paid on all fully paid shares outstanding at the close of the fiscal year, or each half thereof, but shares which become fully paid during the said dividend period shall be entitled only to a proportional part of said dividend calculated from the first day of the month following such payment in full, except that dividend credit for a month may be accrued on shares which are or become fully paid up during the first ten (10) days of that month.

Sec. 4. Dividends due to a member shall be paid to him in cash or credited to the account of partly paid shares for which he has subscribed. Dividends shall not exceed six per cent (6%) per annum. As amended Acts 1965, 59th Leg., p. 161, ch. 66, § 5.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Art. 2484d. Adverse claims to deposits; joint deposits

Section 1. No credit union organized under the laws of this state, nor any federal credit union domiciled in this state shall be required to recognize the claim of any third party to any deposit, or withhold payment of any deposit to the depositor or to his order, unless and until the credit union is served with citation or other appropriate process issuing out of a court of competent jurisdiction in connection with a suit instituted by such third party for the purpose of recovering or establishing an interest in such deposit.

Sec. 2. Shares or share accounts issued by, or deposits made with, any credit union organized under the laws of this state, or any federal credit union domiciled in this state, in the name of two (2) or more persons or to two (2) or more persons or the survivor of either, may be withdrawn on the signature of either party to whom such shares or share accounts were issued, or in whose name such deposit was made, and no recovery shall be had against such credit union for amounts so paid. When shares or share accounts are issued or deposits are made in the name of two (2) or more persons or in the name of their survivor, the survivor of either party shall have power to act in all matters relating to such shares or share accounts, whether the other person or persons named in such shares or share accounts or deposits be living or dead. The repurchase or withdrawal value of shares or share accounts or deposits issued in joint names and dividends thereon, or other rights

relating thereto, may be paid or delivered in whole or in part, to any of such persons who shall make requests therefor, whether the other person or persons be living or dead. The payment or delivery to any such person, on a receipt or acquittance signed by any such person, to whom any such payment or any such delivery of rights is made, shall be a valid and sufficient release and discharge of any such credit union for the payment or delivery so made. Added Acts 1965, 59th Leg., p. 161, ch. 66, § 6.

*Effective Aug. 30, 1965, 90 days after date of adjournment.*

**TITLE 49—EDUCATION—PUBLIC**

**CHAPTER ONE—UNIVERSITY OF TEXAS**

<p><b>1. BOARD OF REGENTS</b></p> <p>Art. 2585b. Eminent domain [New].</p>	<p><b>2. FUNDS AND PROPERTIES</b></p> <p>2603a—1. Agreements for payment of compensatory royalty on behalf of Permanent University Fund [New].</p>
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**1. BOARD OF REGENTS**

**Art. 2585b. Eminent domain**

Section 1. The Board of Regents of The University of Texas is hereby vested with the power of eminent domain to acquire for the use of The University of Texas System such lands as may be necessary and proper for carrying out its purposes in the manner prescribed in Title 52, Revised Civil Statutes of Texas of 1925, as amended.

Sec. 2. The taking of such property is hereby declared to be for the use of the state. The Board of Regents of The University of Texas shall not be required to deposit a bond or the amount equal to the award of damages by the commissioners as provided in Section 2 of Article 3268, Revised Civil Statutes of Texas of 1925. Acts 1965, 59th Leg., p. 491, ch. 253.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act conferring upon the Board of Regents of The University of Texas the power of eminent domain to acquire land

for the use of The University of Texas System; exempting said Board from depositing a bond as provided in Section 2 of Article 3268, Revised Civil Statutes of Texas of 1925; and declaring an emergency. Acts 1965, 59th Leg. p. 490, ch. 252.

**2. FUNDS AND PROPERTIES**

**Art. 2603a. Board for lease of oil and gas land**

**Sale by competitive bids**

Sec. 5. The oil and gas in each tract shall be offered for sale for a bonus in addition to the stipulated royalty. Each tract shall be offered separately. Each bid shall be subject to such royalty as is specified in the official advertisement preceding the sale, but in no event shall be less than one-eighth ( $\frac{1}{8}$ ) of the gross production of oil and gas in the land; and shall further be subject to the payment of an annual rental after the first year of not less than Ten Cents (10¢) per acre, payable each year in advance, unless the royalties received from such land during the preceding year shall equal or exceed the amount of the annual rental payment; and shall be subject to the payment of a special fee equal to one per cent (1%) of the total sum bid, which special payment shall constitute a special fund from which the Board for Lease is hereby authorized and directed to defray the expenses of the sale, including the payment for the services of the auctioneer crying the sale, and for the payment of the general operating expenses in geologizing, oil field supervision, and auditing oil and gas production of university lands, including salaries and traveling expenses of persons employed by the Board of Regents of The University of Texas for said purposes, and for the purpose of acquiring, constructing, and equipping a building in the City of Midland, Texas, or adjacent area to house the administrative staff of the offices of University Lands, Geology and Land Agent, and such other related agencies necessary

for the management and development of university lands in West Texas; provided the Board for Lease is also hereby authorized to direct the Comptroller of The University of Texas to transmit to the State Treasurer for deposit to the credit of the Permanent University Fund any unexpended balances remaining in said special fund after reserving a sufficient amount therein for the payment of current expenses as set out herein. The highest successful bidder shall pay to the Commissioner of the General Land Office on the day said bid is accepted the full amount of bonus bid and the fee to defray the expenses provided herein. As amended Acts 1965, 59th Leg., p. 495, ch. 256, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 2603a—1. Agreements for payment of compensatory royalty on behalf of Permanent University Fund**

Section 1. The Commissioner of the General Land Office is hereby authorized to execute agreements on behalf of the Permanent University Fund of the State of Texas that provide for the payment by University oil and gas lessees of compensatory royalty in lieu of drilling offset wells that may be required to protect a University oil and gas lease from drainage from a well or wells located upon non-University lands or University lands leased at a lesser royalty situated within 1,000 feet of or draining the University leased premises; provided (a) that such agreements providing for the payment of compensatory royalty shall be approved by the Board for Lease of University Lands; (b) that any such agreement is found by the Board for Lease of University Lands and the Commissioner of the General Land Office to be in the best interest of the State of Texas and necessary to prevent economic waste; (c) that nothing in such agreement shall relieve the lessee of the obligation of reasonable development nor of the obligation to drill offset wells as required by Section 12, Chapter 282, Acts of the 41st Legislature, Regular Session, 1929, as to other producing horizons; (d) that the payment by the lessee of compensatory royalty shall be paid monthly to the Commissioner of the General Land Office at Austin, Texas, beginning on such date as may be fixed in the agreement; (e) that the agreement with respect to the interest of the State shall remain in force and effect as long as oil and gas or either of them is produced from a well located on University or non-University acreage and draining the University leased premises; and (f) that the agreement may contain such other things as the Board for Lease of University Lands and the Commissioner of the General Land Office deem necessary for the protection of the interest of the Permanent University Fund. Acts 1965, 59th Leg., p. 473, ch. 237, emerg. eff. May 21, 1965.

Acts 1965, 59th Leg., p. 473, ch. 237, § 2 provided: "The provisions of this Act are and shall be held and construed to be cumulative of all laws of this State on the subject treated of and embraced in this Act, and all laws to the extent only that they may be in conflict herewith are hereby repealed."

**Title of Act:**

An Act authorizing the Commissioner of the General Land Office to execute agreements on behalf of the Permanent University Fund of the State of Texas that provide for the payment by University oil

and gas lessees of compensatory royalty in lieu of drilling offset wells that may be required to protect University lands from drainage from wells located on adjacent University or non-University acreage; providing for the approval of such agreements by the Board for Lease of University Lands; prescribing certain provisions which may be included in such agreements; repealing all laws; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 473, ch. 237.

**CHAPTER TWO—TEXAS A & M UNIVERSITY**

<p>Art. 2613a—9. Conveyance of flood control easements [New].</p> <p>2613a—10. Conveyance of land for livestock insects and toxicology laboratory and cotton disease research facility [New].</p>	<p>Art. 2615f—1. James Connally Technical Institute of Texas A &amp; M University [New].</p> <p>2615f—2. Polygraph Examiners Act [New].</p>
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**Art. 2613a—4. Dormitories, office building, additional power and steam plant equipment authorized**

**Central power plants; steam plants**

Sec. 1a. In addition to the authority granted in Section 1 of this Act, the said Board of Directors is authorized to improve and equip, from time to time, existing central power plants and to construct, acquire, improve and equip from time to time steam plants and additions thereto, and acquire land for such purposes for the institutions under its control or management, when the total cost, type of construction, capacity, and plans and specifications therefor have been approved by said Board of Directors. It is expressly provided that as used herein the term "steam plants" does not include electrical generating facilities but that the term "central power plants" does include electrical generating facilities. Added Acts 1965, 59th Leg., p. 139, ch. 56, § 1, emerg. eff. April 2, 1965.

**Water, steam, power and electricity; furnishing; allocation of costs; pledge of revenues**

Sec. 4. Said Board is authorized to furnish water, steam, power, electricity, or any or all of such services from the power and steam plant or plants located at each institution, to any or all dormitories, kitchens and dining halls, hospitals, student activity buildings, gymnasias, athletic buildings and stadia, the office building constructed pursuant to Section 5 hereof, the dormitory for help, laundry, and such other revenue-producing buildings or facilities as may have been or may be constructed at each such institution, and to determine the amount to be charged as a part of the maintenance and operation expense of such buildings or facilities for such service or services. The Board is authorized to allocate the cost of furnishing such services to such revenue-producing buildings and facilities and to other buildings and facilities at said institutions. Only the amounts allocated to the costs of furnishing such services to such revenue-producing buildings and facilities shall be deducted as operating expenses from the gross revenues in determining the net revenues to be pledged in accordance with this Section. The Board is authorized to pledge the net revenues from the amounts thus received for said services to pay the principal and interest of, and to create and maintain the reserve for the negotiable revenue bonds issued for the purpose of constructing, acquiring, improving or equipping said power and steam plants, or additions thereto, and may secure said bonds additionally by pledging the surplus of the unpledged net revenues from any one or more of the other buildings mentioned in Section 1, or of kitchens and dining halls, dormitories, dormitory for help, or laundry, heretofore or hereafter constructed or acquired, provided that the Board shall have full authority to pledge the revenues from any number or all of such sources. As amended Acts 1965, 59th Leg., p. 139, ch. 56, § 2, emerg. eff. April 2, 1965.

Sec. 12. [Emergency clause.]

**Legal and authorized investments**

Sec. 13. All such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and in-

insurance companies. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto. Added Acts 1965, 59th Leg., p. 139, ch. 56, § 3, emerg. eff. April 2, 1965.

**Art. 2613a—9. Conveyance of flood control easements**

Section 1. The Board of Directors of Texas A&M University is hereby authorized to convey flood control easements over land under the jurisdiction and control of the Board of Directors, to Water Control and Improvement Districts of this state.

Sec. 2. No flood control easement shall be conveyed pursuant to the provisions of Section 1 of this Act, unless the Board of Directors of Texas A&M University receives from the Water Control and Improvement District to which the flood control easement is conveyed, reasonable consideration for the conveyance. Such conveyance shall be under such terms and conditions as, in the opinion of the Board of Directors of Texas A&M University, are to the best interest of Texas A&M University System. Acts 1965, 59th Leg., p. 282, ch. 121, emerg. eff. May 6, 1965.

**Title of Act:**

An Act authorizing the Board of Directors of Texas A & M University to convey flood control easements over land under the jurisdiction and control of the Board of

Directors, to Water Control and Improvement Districts of this state; making other provisions relating thereto; and declaring an emergency. Acts 1965, 59th Leg., p. 282, ch. 121.

**Art. 2613a—10. Conveyance of land for livestock insects and toxicology laboratory and cotton disease research facility**

Section 1. The Board of Directors of Texas A & M University is authorized to convey to the United States a sufficient quantity of land on, or conveniently located in reference to, the campus of Texas A & M University for the construction thereon, and for incidental use of said land, at the expense of the United States, of a livestock insects and toxicology laboratory, and a cotton disease research facility.

Sec. 2. The said Board of Directors is authorized to convey to the United States a sufficient quantity of land from the Texas Agricultural Experiment Station at Lubbock for the construction thereon, and for incidental use of said land, at the expense of the United States, of a ginning research facility. Acts 1965, 59th Leg., p. 308, ch. 140, emerg. eff. May 13, 1965.

**Title of Act:**

An Act authorizing the Board of Directors of Texas A & M University to convey to the United States land on, or conveniently located in reference to, the campus of Texas A & M University, and land comprising a part of the land on which is located the Texas Agricultural Experiment Station at Lubbock, for the United States, at

its expense, to construct thereon and to use said land in connection therewith, laboratories and research facilities so as to provide broadened opportunities for cooperative research and instructional programs between the United States Department of Agriculture and Texas A & M University; and declaring an emergency. Acts 1965, 59th Leg., p. 308, ch. 140.

**Art. 2615f—1. James Connally Technical Institute of Texas A & M University**

Section 1. The Board of Directors of Texas A&M University is authorized to accept on behalf of the State of Texas any or all of the James Connally Air Force Base in Waco, McLennan County, Texas; including any or all real or personal property therein contained.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 2. The Board of Directors of Texas A&M University is authorized to establish in the facilities thereby acquired a coeducational institution to be known as the "James Connally Technical Institute of Texas A&M University" which may offer courses of study in vocational and vocational-technical education for which there is demand within the State of Texas, subject to the following conditions:

a. No series of courses or course of study shall be offered which leads to a baccalaureate, masters, doctorate or professional degree; provided, however, that the facilities of James Connally Technical Institute of Texas A&M University may be utilized for research conducted by students enrolled in any of the institutions in the Texas A&M University System and the faculty or employees of such institutions.

b. Texas A&M University may enter into such contracts and agreements with Baylor University for joint participation in graduate programs as may be designed to benefit the State of Texas.

c. Such educational programs as may be wholly or partially financed from state funds shall be subject to the prior approval of the State Board of Vocational Education and the Coordinating Board, Texas College and University System, as may be provided by law.

d. Texas A&M University may contract with individuals, federal, state and local agencies and departments, corporations and associations to provide educational programs designed to meet the need for trained personnel in Texas.

Sec. 3. Texas A&M University may utilize the facilities or real and personal property of the James Connally Technical Institute of Texas A&M University for any and all purposes authorized to any unit, institution or agency of the Texas A&M University, except such programs as may lead to the awarding of a degree by the Institute.

Sec. 4. The Board of Directors of Texas A&M University is authorized to collect such tuition and registration fees as are authorized by law and to perform such other acts as may be necessary to the establishment of a vocational and vocational-technical education program in the facilities of James Connally Air Force Base acquired pursuant to this Act. Acts 1965, 59th Leg., p. 220, ch. 91.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing the Board of Directors of Texas A & M University to accept James Connally Air Force Base on behalf of the State of Texas and to establish

thereon the James Connally Technical Institute of Texas A & M University offering vocational and vocational-technical education programs; providing for severability; and declaring an emergency. Acts 1965, 59th Leg., p. 220, ch. 91

**Art. 2615f—2. Polygraph Examiners Act**

**Short title**

Section 1. This Act shall be known, and may be cited, as the Polygraph Examiners Act.

**Definitions**

Sec. 2. In this Act, unless the context requires a different definition,

- (1) "board" means the Polygraph Examiners Board;
- (2) "secretary" means that member of the Polygraph Examiners Board selected by the board to act as secretary;
- (3) "internship" means the study of polygraph examinations and of the administration of polygraph examinations by a trainee under the personal supervision and control of a polygraph examiner in accordance with a

course of study prescribed by the board at the commencement of such internship;

(4) "person" means any natural person, firm, association, copartnership, or corporation; and

(5) "polygraph examiner" means any person who uses any device or instrument to test or question individuals for the purpose of verifying truth of statements.

#### Instrumentation

Sec. 3. Every polygraph examiner shall use an instrument which records visually, permanently, and simultaneously: (1) a subject's cardiovascular pattern and (2) a subject's respiratory pattern. Patterns of other physiological changes in addition to (1) and (2) may also be recorded.

#### Creation of the board

Sec. 4. (a) There is hereby established in the Engineering Extension Service, Police Training Division, Texas A & M University System, a Polygraph Examiners Board consisting of six members who shall be citizens of the United States and residents of the state for at least two years prior to appointment, all of whom shall have been engaged for a period of five consecutive years as a polygraph examiner prior to appointment to the board, and at the time of appointment is an active polygraph examiner. No two board members may be employed by the same person or agency. At least two members must be qualified examiners of a governmental law enforcement agency, one of which shall be the supervisor of the polygraph section of the Department of Public Safety, and at least two members must be qualified polygraph examiners in the commercial field. The members shall be appointed by the Governor of the State of Texas with the advice and consent of the Senate for a term of six years. The terms of office of members appointed to the initial board are two for two years; two for four years; and two for six years. Any vacancy in an unexpired term shall be filled by appointment of the Governor with the advice and consent of the Senate for the unexpired term.

(b) The number of employees and the salaries of each, including travel and expense allowance of the members of the Board shall be as fixed in the General Appropriation Bill.

(c) The board shall meet within 30 days after the effective date of this Act and elect a chairman, vice-chairman, and secretary from among its members. At the meeting, the board shall specify dates spaced at three month intervals on which examinations for polygraph examiners' licenses will be held. A copy of those dates shall forthwith be delivered to the secretary.

(d) The vote of a majority of the board members is sufficient for passage of any business or proposal which comes before the board.

#### Administration and expenses

Sec. 5. (a) The board shall issue regulations consistent with the provisions of this Act for the administration and enforcement of this Act and shall prescribe forms which shall be issued in connection therewith.

(b) An order or a certified copy thereof, over the board seal and purporting to be signed by the board members, shall be prima facie proof that the signatures are the genuine signatures of the board members, and that the board members are fully qualified to act.

(c) All fees collected under the provisions of this Act shall be paid to the Treasurer of the State of Texas. Funds necessary for the enforcement of this Act and the administration of its provisions shall be appropriated by the Legislature, but the funds so appropriated for a biennium shall not



exceed the total amount of the fees which it is anticipated will be collected hereunder during such biennium.

#### Unauthorized practice

Sec. 6. It shall be unlawful for any person, including a city, county or state employee, to administer polygraph examinations or attempt to hold himself out as a polygraph examiner without a license approved by the board and issued by the board.

#### Examiner's license qualifications

Sec. 7. A person is qualified to receive a license as an examiner

- (1) who is at least 21 years of age; and
- (2) who is a citizen of the United States; and
- (3) who establishes that he is a person of honesty, truthfulness, integrity, and moral fitness; and
- (4) who has not been convicted of a felony or a misdemeanor involving moral turpitude; and
- (5) who holds a baccalaureate degree from a college or university accredited by the American Association of Collegiate Registrars and Admissions Officers, or in lieu thereof, has five consecutive years of active investigative experience immediately preceding his application; and
- (6) who is a graduate of a polygraph examiners course approved by the board and has satisfactorily completed not less than six months of internship training, provided that if the applicant is not a graduate of an approved polygraph examiners course, satisfactory completion of not less than 12 months of internship training may satisfy this subdivision; and
- (7) who has passed an examination conducted by the board, or under its supervision, to determine his competency to obtain a license to practice as an examiner.
- (8) Prior to the issuance of a license, the applicant must furnish to the board evidence of a surety bond or insurance policy. Said surety bond or insurance policy shall be in the sum of \$5,000.00 and shall be conditioned that the obligor therein will pay to the extent of the face amount of such surety bond or insurance policy all judgments which may be recovered against the licensee by reason of any wrongful or illegal acts committed by him in the course of his examinations.

#### Acquisition of license by present examiners

Sec. 8. On the effective date of this Act, any person who is actually engaged in the occupation, business, or profession of a polygraph examiner and who is using for that purpose the instrumentation prescribed in Section 3, shall, upon application within 90 days after the effective date of this Act and payment of the required license fee, be issued a polygraph examiner's license which shall be effective no longer than one year from date of issuance, provided, however, that the board may require such applicant to submit satisfactory proof that he is so engaged. The applicant must also satisfy such requirements of Section 7(1)-(4) and Section 7(7)-(8) of this Act.

#### Applications for original license

Sec. 9. Applications for original licenses shall be made to the secretary of the board in writing under oath on forms prescribed by the board and shall be accompanied by the required fee, which is not refundable. Any such application shall require such information as in the judgment of the board will enable it to pass on the qualifications of the applicant for a license.

**Non-resident applicants**

Sec. 10. (a) Each non-resident applicant for an original license or a renewal license shall file with the board an irrevocable consent that actions against said applicant may be filed in any appropriate court of any county or municipality of this state in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process on any such action may be served on the applicant by leaving two copies thereof with the secretary. Such consent shall stipulate and agree that such service or process shall be taken and held to be valid and binding for all purposes. The secretary of the board shall send forthwith one copy of the process to the applicant at the address shown on the records of the board by registered or certified mail.

(b) Non-resident applicants must satisfy the requirements of Section 7 of this Act.

**Applicant with out-of-state license**

Sec. 11. An applicant who is a polygraph examiner licensed under the laws of another state or territory of the United States may be issued a license without examination by the board, in its discretion, upon payment of a fee of \$60 and the production of satisfactory proof that

- (1) he is at least 21 years of age; and
- (2) he is a citizen of the United States; and
- (3) he is of good moral character; and
- (4) the requirements for the licensing of polygraph examiners in such particular state or territory of the United States were at the date of the applicant's licensing therein substantially equivalent to the requirements now in force in this state; and
- (5) the applicant had lawfully engaged in the administration of polygraph examinations under the laws of such state or territory for at least two years prior to his application for license hereunder; and
- (6) such other state or territory grants similar reciprocity to license holders of this state; and
- (7) he has complied with Section 10 of this Act.

**Internship license**

Sec. 12. (a) Upon approval by the board, the secretary shall issue an internship license to a trainee provided he applies for such license and pays the required fee within 10 days prior to the commencement of his internship. The application shall contain such information as may be required by the board.

(b) An internship license shall be valid for the term of 12 months from the date of issue. Such license may be extended or renewed for any term not to exceed 6 months upon good cause shown to the board.

(c) A trainee shall not be entitled to hold an internship license after the expiration of the original 12-month period and 6-month extension, if such extension is granted by the board, until 12 months after the date of expiration of the last internship license held by said trainee.

**Examination and license fees**

Sec. 13. (a) The fee to be paid by an applicant for an examination to determine his fitness to receive a polygraph examiner's license is \$20, which is not to be credited as payment against the license fee.

(b) The fee to be paid for an original polygraph examiner's license is \$60.

(c) The fee to be paid for an internship license is \$30.

(d) The fee to be paid for the issuance of a duplicate polygraph examiner's license is \$10.

For Annotations and Historical Notes, see V.A.T.S.

(e) The fee to be paid for a polygraph examiner's renewal license is \$25.

(f) The fee to be paid for the extension or renewal of an internship license is \$25.

(g) The fee to be paid for a duplicate internship license is \$10.

(h) The fees required by this Act may be paid by the governmental agency employing the examiner.

#### Display of license and signature thereon

Sec. 14. A license or duplicate license must be prominently displayed at the place of business of the polygraph examiner or at the place of internship. Each license shall be signed by the board members and shall be issued under the seal of the board.

#### Change of business address

Sec. 15. Notice in writing shall be given to the secretary by the licensed examiner of any change of principal business location within 30 days of the time he changes the location. A change of business location without notification to the secretary shall automatically suspend the license theretofore issued.

#### Termination and renewal of examiner's license

Sec. 16. Each polygraph examiner's license shall be issued for the term of one year and shall, unless suspended or revoked, be renewed annually as prescribed by the board. A polygraph examiner whose license has expired may at any time within two years after the expiration thereof obtain a renewal license without examination by making a renewal application therefor and satisfying Section 7(2), (3), and (4). However, any polygraph examiner whose license expired while he was in the federal service on active duty with the armed forces of the United States, or the national guard called into service or training, or in training or education under the supervision of the United States preliminary to induction into the military service, may have his license renewed without examination if within two years after termination of such service, training, or education except under condition other than honorable, he furnishes the board with an affidavit to the effect that he has been so engaged and that his service, training, or education has been so terminated. Section 7(2), (3), and (4) of this Act must also be satisfied.

#### License required to maintain suit

Sec. 17. No action or counterclaim shall be maintained by any person in any court in this state with respect to any agreement or service for which a license is required by this Act, or to recover the agreed price or any compensation under such agreement, or for such services for which a license is required by this Act without alleging and proving that such person had a valid license at the time of making such agreement or perform such services.

#### Refusal, suspension, revocation—grounds

Sec. 18. The board may refuse to issue or may suspend or revoke a license on any one or more of the following grounds:

(1) for failing to inform a subject to be examined as to the nature of the examination;

(2) for failing to inform a subject to be examined that his participation in the examination is voluntary;

(3) material misstatement in the application for original license or in the application for any renewal license under this Act;

(4) wilful disregard or violation of this Act or of any regulation or rule issued pursuant thereto, including, but not limited to, wilfully making a false report concerning an examination for polygraph examination purposes;

(5) if the holder of any license has been adjudged guilty of the commission of a felony or a misdemeanor involving moral turpitude;

(6) making any wilful misrepresentation or false promises or causing to be printed any false or misleading advertisement for the purpose of directly or indirectly obtaining business or trainees;

(7) having demonstrated unworthiness or incompetency to act as a polygraph examiner as defined by this Act;

(8) allowing one's license under this Act to be used by any unlicensed person in violation of the provisions of this Act;

(9) wilfully aiding or abetting another in the violation of this Act or any regulation or rule issued pursuant thereto;

(10) where the license holder has been adjudged as habitual drunkard or mentally incompetent as provided in the Probate Code;

(11) failing, within a reasonable time, to provide information requested by the secretary as the result of a formal complaint to the board which would indicate a violation of this Act; or

(12) failing to inform the subject of the results of the examination if so requested.

#### **Violation by one examiner or trainee not to affect employer**

Sec. 19. Any unlawful act or violation of any of the provisions of this Act on the part of any polygraph examiner or trainee shall not be cause for revocation of the license of any other polygraph examiner for whom the offending examiner or trainee may have been employed, unless it shall appear to the satisfaction of the board that the polygraph examiner-employer has wilfully or negligently aided or abetted the illegal actions or activities of the offending polygraph examiner or trainee.

#### **Registration of examiners with county clerks**

Sec. 20. Each polygraph examiner shall register with the county clerk in the county wherein he maintains a business address. The county clerk of each county shall maintain a list of all polygraph examiners registered in his county.

#### **Board hearing**

Sec. 21. (a) When there is cause to refuse an application or to suspend or revoke the license of any polygraph examiner, the board shall, not less than 30 days before refusal, suspension, or revocation action is taken, notify such person in writing, in person or by certified mail at the last address supplied to the board by such person, of such impending refusal, suspension, or revocation, the reasons therefor, and of his right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension, or revocation action proposed to be taken by the board. If, within 20 days after the personal service of such notice or such notice has been deposited in the United States mail, such person has not made a written request to the board for this administrative hearing, the board is authorized to suspend or revoke the polygraph examiner's license of such person without a hearing. Upon receipt by the board of such written request of such person within the 20-day period as set out above, an opportunity for an administrative hearing shall be afforded as early as is practicable. In no case shall the hearing be held less than 10 days after written notification thereof, including a copy of the

charges, shall have been given the person by personal service or by certified mail sent to the last address supplied to the board by the applicant or licensee. The administrative hearing in such cases shall be before the board.

(b) The board shall conduct the administrative hearings and it is authorized to administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, documents, etc. On the basis of the evidence submitted at the hearing, the board shall take whatever action it deems necessary in refusing the application or suspending or revoking the license.

#### Judicial review

Sec. 22. Any person dissatisfied with the action of the board in refusing his application or suspending or revoking his license, or any other action of the board, may appeal the action of the board by filing a petition within 30 days thereafter in the district court in the county where the person resides or in the district court of Travis County, Texas, and the court is vested with jurisdiction and it shall be the duty of the court to set the matter for hearing upon 10 days written notice to the board and the attorney representing the board. The court in which the petition of appeal is filed shall determine whether or not a cancellation or suspension of a license shall be abated until the hearing shall have been consummated with final judgment thereon or whether any other action of the board should be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the board, and the court shall provide the attorney representing the board with a copy of the petition and order. The board shall be represented in such appeals by the district or county attorney of the county or the Attorney General, or any of their assistants. The board shall initially determine all facts, but the court upon appeal shall set aside the determination of the board if the board's determination (1) is not based upon substantial evidence upon the entire record; (2) is arbitrary or capricious; (3) is in violation of statutory requirements; or (4) was made without affording to licensee or applicant due process of law.

#### Surrender of license

Sec. 23. Upon the revocation or suspension of any license, the licensee shall forthwith surrender the license or licenses to the secretary; failure of a licensee to do so shall be a violation of this Act and upon conviction, shall be subject to the penalties hereinafter set forth. At any time after the suspension or revocation of any license, the secretary shall restore it to the former licensee, upon the written recommendations of the board.

#### Proceedings through the attorney general

Sec. 24. If any person violates any provisions of this Act, the secretary shall, upon direction of a majority of the board, in the name of the State of Texas, through the Attorney General of the State of Texas, apply in any district court of competent jurisdiction, for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in the court, the court or any judge thereof, if satisfied by affidavit or otherwise that the person has violated this Act, may issue a temporary injunction, without notice or bond, enjoining such continued violation and if it is established that the person has violated or is violating this Act, the court, or any judge thereof, may enter a decree perpetually enjoining the violation or enforcing compliance with this Act. In case of violation of any order or decree issued under the provisions of this Section, the

court, or any judge thereof, may try and punish the offender for contempt of court. Proceeding under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

**Penalties**

Sec. 25. Any person who violates any provision of this Act or any person who falsely states or represents that he has been or is a polygraph examiner or trainee shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in the county jail for a term of not to exceed six months, or both.

**Admissibility of results as evidence**

Sec. 26. Nothing in this Act shall be construed as permitting the results of truth examinations or polygraph examinations to be introduced or admitted as evidence in a court of law. Acts 1965, 59th Leg., p. 888, ch. 441.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the licensing of polygraph examiners; creating a Polygraph Examiners Board; granting certain powers

to the Polygraph Examiners Board; establishing minimum instrumentation requirements; providing for penalties for violation of provisions of this Act; and declaring an emergency. Acts 1965, 59th Leg., p. 888, ch. 441.

**CHAPTER THREE A—PAN AMERICAN COLLEGE**

**Art. 2619a. Pan American College**

**Eminent Domain**

Sec. 3a. The Board of Regents is hereby vested with the power of eminent domain to acquire for the use of Pan American College such lands as may be necessary and proper for carrying out its purposes as a state-owned and operated institution of higher education, provided, however, the power of eminent domain granted herein shall be restricted to the boundaries of Hidalgo County. Said Board of Regents shall not be required to deposit a bond or the amount equal to the award of the Commissioners as provided in Section 2 of Article 3268, Revised Civil Statutes of Texas, 1925, as amended.

That in the event it becomes necessary to exercise the power of eminent domain, the amount of and character of interest in land and easements thus to be acquired shall be determined by the Board of Regents; provided, however, that, as against persons, firms and corporations or receivers or trustees thereof, having the power of eminent domain, the fee title may not be condemned, but the District may condemn only an easement. Added Acts 1965, 59th Leg., p. 307, ch. 139, § 1, emerg. eff. May 13, 1965.

**CHAPTER FOUR—ARLINGTON STATE COLLEGE**

**Change of Name**

*The name of the Arlington State College at Arlington, Tarrant County, was changed to the Arlington State College of The University of Texas System by Acts 1965, 59th Leg., p. 221, ch. 92, § 1. See article 2620a.*

**Art. 2620a. Transfer of operation, management and direction to Board of Regents of University of Texas; change of name**

Sec. 2. Arlington State College shall be under the direction of the Board of Regents of The University of Texas, and the institution shall be known as Arlington State College of The University of Texas System. The Board of Regents shall perform all the duties required in the management of said college in like manner as Governing Boards of the same character. The duties, rights and powers imposed and conferred by law on the Board of Directors of the Agricultural and Mechanical College for operation, management and direction shall, after the effective date of this Act, be performed by the Board of Regents of The University of Texas. Wherever in any Act of the Legislature of this state or the Revised Civil Statutes of Texas, 1925, as amended, powers, duties and responsibilities are assigned or any reference whatsoever is made to the Board of Directors of the Agricultural and Mechanical College of Texas, of Texas A&M University, or of the Texas A&M University System as concerns North Texas Junior Agricultural, Mechanical and Industrial College or Arlington State College, said powers, duties and responsibilities shall be performed by, and such reference shall apply to, the Board of Regents of The University of Texas. It is the intent of the Legislature that future building needs of Arlington State College shall be financed from some source or sources other than The University of Texas' share of the principal and/or interest of and from the University Permanent Fund. As amended Acts 1965, 59th Leg., p. 221, ch. 92, § 1, emerg. eff. April 23, 1965.

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**CHAPTER FOUR B—MIDWESTERN UNIVERSITY AT WICHITA FALLS**

**Art. 2623c—9. Lease of lands [New].**

**Art. 2623c—5. Transfer of property**

The Midwestern University and Hardin Junior College located at Wichita Falls, in Wichita County, Texas, consists of a campus of some one hundred acres, with adjacent acreage and lands, including dormitories, classrooms, laboratories, administration buildings, of a total estimated asset of Five Million Dollars; the legal description being as follows:

First Tract: The 40 acre tract out of Blocks 9, 10, 11, 12, 14, 15, 16, and 17 of Highland Addition (acreage subdivision) out of the Cyrus Eakman Survey No. 2, Abstract No. 450, Wichita County, Texas, as particularly described by metes and bounds as follows:

Beginning at a stake set in the East line of the I. C. Haynes Survey, Abstract 450, said point being located 2474.7 feet South of the intersection of the said line with the North curb line of Cambridge St., and 76.5 feet South of the Northeast corner of Block No. 9 of the Highland

Irrigation Subdivision of a portion of said survey, said beginning point being the Northeast corner of this tract;

THENCE, South along the East line of said survey and the East line of Blocks Nos. 9, 10, 11, 12, and 13 a distance of 1619.02 feet to a stake for the Southeast corner of this tract;

THENCE, North 89 deg. 59 min. West 1076.2 feet to a stake in the West line of Block 13 for the Southwest corner of this tract;

THENCE, North along the West line of Blocks Nos. 13, 14, 15, 16, and 17 a distance of 1619.02 feet to a stake for the Northwest corner of this tract;

THENCE, South 89 deg. 59 min. East 1076.2 feet to the place of beginning, and containing 40 acres.

Second Tract: All of Blocks No. 38 and 39 of the Highland Addition to the City of Wichita Falls, Texas (acreage subdivision) out of Cyrus Eakman Survey No. 2, Abstract No. 450, Wichita County, Texas.

Third Tract: 40 acres out of Blocks No. 13 and 42 of the Highland Addition of the City of Wichita Falls, Texas (acreage subdivision) out of Cyrus Eakman Survey, Abstract No. 450, Wichita County, Texas, as particularly described by metes and bounds as follows:

Beginning at a stake for the Southeast corner of said Block of Highland Irrigation lands, which stake is 30 feet North and 30 feet West from the Southeast corner of said Cyrus Eakman Survey;

THENCE, West along the North line of road 1634 feet to a stake; thence North 1066 feet to a stake in North line of Block 42;

THENCE, East with the North line of said Blocks 13 and 42, 1634 feet to a stake for the Northeast corner of said Block 13 in the West line of road;

THENCE, South 1066 feet to the place of beginning, containing 40 acres of land.

Fourth Tract: All of Blocks No. 40 and 41 of Highland Addition (acreage subdivision) to the City of Wichita Falls, Texas, according to the plat of said subdivision of record in Plat Records of Wichita County, Texas, and all improvements thereon for all four tracts.

All of these assets, including realties and personalties of Midwestern University and Hardin Junior College whether herein described or not, will be donated to the University herein created and made available for the exclusive use of the University herein created. The assets to be transferred being those held in the name of Midwestern University and Hardin Junior College on the effective date of this Act, except that the following two tracts of land, record title to which appears in the name of Midwestern University and Hardin College, respectively, and described as follows:

First Tract: Record title in Midwestern University as to an undivided  $\frac{3}{4}$ ths interest conveyed Midwestern University as a gift from Ray R. Keith and wife, Ruth Keith, by warranty deed, Volume 667, Page 251 of the Deed Records of Wichita County, Texas, to wit:

All of Lots 1 to 28, inclusive, in Block 61 in the original town of Wichita Falls, Texas, save and except, however, that certain right-of-way heretofore conveyed to Ft. Worth & Denver City Railway Co., the easements heretofore acquired by the City of Wichita Falls, the State of Texas, and the County of Wichita, or any of them, and also excepting that portion of Lots 15 to 21, inclusive, lying West of said Ft. Worth & Denver City Railway Co. right-of-way and heretofore conveyed to Wilson Manufacturing Co., Inc.;

Second Tract: Conveyed to Hardin College by I. H. Kempner and John Sayles et al, July 1, 1948, by the warranty deed appearing of rec-



For Annotations and Historical Notes, see V.A.T.S.

ord in Volume 484 at Page 231 of the Deed Records of Wichita County, Texas, to wit:

28.82 acres, more or less, out of Block 35, League 1, Denton County School Lands, Abstract 58, Wichita County, Texas, and described as Beginning at a stone for the Northeast corner of said Block 35;

THENCE, South with the East line of said block, 1213 feet to a stake at the foot of the dam of Lake Wichita;

THENCE, North 59 deg. 38 min. West, parallel with, and 25 feet from the center of said dam, 2399 feet, to a stake in the North line of said Block 35;

THENCE, East with the North line of said Block, 2070 feet to the place of beginning, and comprising that part of said Block 35, lying Northeast of the Lake Wichita Dam; may be administered by the Board of Regents of Midwestern University under Section 6 of this Title or disposed of by conveyance by such Regents to Midwestern University Foundation, Inc., a charitable corporation devoted to the sole benefit of Midwestern University for utilization by such Midwestern University Foundation, Inc., for Midwestern University endowment or scholarship purposes.

Any and all indebtedness, bonded or otherwise, of Midwestern University and Hardin Junior College shall be removed as a lien and debt against the assets to be transferred to the University herein created.

The conveyance of the assets of Midwestern University and Hardin Junior College shall have an effective date of September 1, 1961, and this Act shall become invalid unless 30 days before said date the title to the above-mentioned property is conveyed to the State of Texas for the use and benefit of Midwestern University as established by this Act. It being the intent of this Act for the University herein created to commence operations on September 1, 1961, and to begin classes with the Fall term 1961. As amended Acts 1965, 59th Leg., p. 1631, ch. 700, § 1, emerg. eff. June 18, 1965.

#### Art. 2623c—9. Lease of lands

Section 1. The Board of Directors of Midwestern University may lease the surface rights of land under its control and management for any term of years less than 100. Acts 1965, 59th Leg., p. 1637, ch. 704.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act authorizing Midwestern University to lease certain land; and declaring an

an emergency. Acts 1965, 59th Leg., p. 1637, ch. 704.

### CHAPTER FIVE—TEXAS WOMAN'S UNIVERSITY AND TEXAS COLLEGE OF ARTS AND INDUSTRIES

#### TEXAS COLLEGE OF ARTS AND INDUSTRIES

Art.

2628a—11. Purchase of farming equipment, lands, crops and horticultural and agricultural products [New].

#### TEXAS COLLEGE OF ARTS AND INDUSTRIES

Art. 2628a—11. Purchase of farming equipment, lands, crops and horticultural and agricultural products

##### Authorization

Section 1. The governing board of Texas College of Arts and Industries is hereby authorized and empowered for said College to purchase, use, lease as lessor and operate farming lands, and to purchase crops and

other horticultural and agricultural products growing on or produced or to be produced and harvested from said lands, and to purchase any and all farming machinery, apparatus and equipment used or useful in connection therewith, from any person, firm or corporation that owns or holds such farming lands, crops and horticultural and agricultural products and equipment and apparatus for the benefit of said College; and said governing board may pay such price or prices therefor as it considers reasonable and proper.

#### **Bond issue; redemption**

Sec. 2. For the purpose of purchasing the items permitted to be purchased under Section 1 of this Act, said governing board is authorized and empowered to issue its negotiable revenue bonds from time to time and in such amounts as it shall consider necessary or appropriate for the purpose of paying the purchase price or prices thus agreed. Such bonds may be made redeemable before maturity, at the option of said governing board, at such price or prices and under such terms and conditions as may be fixed by said board prior to the issuance thereof. Said bonds shall be sold for not less than par and accrued interest.

#### **Pledge of revenues; mortgaging equipment**

Sec. 3. Said governing board shall be authorized and empowered to pledge to the payment of the interest on and the principal of the bonds authorized to be issued hereunder all or any part of the revenues which are derived or anticipated to be derived in any manner from such lands, including such revenues received from rendering scientific or experimental services upon the land thus purchased and/or all or any part of the revenues of said College which are derived or anticipated to be derived from the sale, handling or disposal of the crops, agricultural and horticultural products thus acquired or to be grown and harvested from said lands; and said board is authorized to enter into such agreements regarding the pledging thereof as it may deem appropriate, and shall be authorized further to mortgage the farming equipment, machinery, apparatus and land thus purchased and any growing fruits, products and crops or those to be grown upon such terms as said board may determine to be appropriate.

#### **Bonds as special obligations of governing board**

Sec. 4. The bonds authorized to be issued hereunder shall be special obligations of said governing board issuing the same payable only from the revenues pledged to this property, and none of said bonds shall ever be an indebtedness of the State of Texas.

#### **Bonds as legal and authorized investments**

Sec. 5. All such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations and insurance companies. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

#### **Prior liens, pledges or mortgages**

Sec. 6. Any pledge of revenues or mortgage of properties made under the terms of this Act shall be subject to any prior lien, pledge or mortgage thereof, but the existence of any such prior lien, pledge or mortgage shall not prevent (a) the making of a subsequent and inferior lien, pledge,

For Annotations and Historical Notes, see V.A.T.S.

or mortgage, unless such action is prohibited under the resolution, order or indenture authorizing the prior obligations, nor (b) the issuing of additional parity lien revenue bonds which are hereby authorized, if and to the extent permitted by the order or indenture authorizing the prior obligations.

#### Form, conditions and details of bonds

Sec. 7. Subject to the restrictions contained in this Act said governing board is given complete discretion in fixing the form, conditions and details of such bonds, pledge and mortgage, and such bonds may be refunded or otherwise refinanced whenever said governing board deems such action to be appropriate or necessary.

#### Approval and registration of bonds

Sec. 8. Prior to delivery thereof, all bonds authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination; and if he finds that they have been issued in accordance with the Constitution and this Act, and that they will be binding special obligations of said governing board, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration they shall be incontestable.

#### Severability

Sec. 9. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

#### Cumulative effect

Sec. 10. This Act shall not repeal any statute now in effect, but shall be cumulative of all other statutes pertaining to the institution affected by this Act, and shall not modify or abridge any powers now held by said institution to control or pledge its funds; provided, however, that to the extent that the provisions of this Act may be in conflict with the provisions of any other law, the provisions of this Act shall take precedence and prevail. Acts 1965, 59th Leg., p. 1666, ch. 718, emerg. eff. June 19, 1965.

#### Title of Act:

An Act authorizing the governing board of Texas College of Arts and Industries to purchase certain farming equipment and lands, crops and horticultural and agricultural products; providing for the issuance of negotiable revenue bonds for certain purposes; providing for the securing and payment of such obligations by the pledge of revenues received from services rendered and from the sale, handling or disposal of the crops and horticultural and agricultural products thus purchased or hereafter grown

or raised upon the land thus purchased; and by the mortgage of the equipment, crops to be grown and land thus purchased; providing that the bonds thus authorized shall be legal and authorized investments; providing for the approval of such bonds by the Attorney General and the registration thereof by the Comptroller of Public Accounts; containing a severance clause; enacting other provisions related to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 1666, ch. 718.

## CHAPTER NINE—STATE COLLEGES AND UNIVERSITIES

## 1. GENERAL PROVISIONS

Art. 2644a. Change of name; duties of local committees [New].

2647d—2. Lease of lands to fraternities and sororities [New].

## 2. SAM HOUSTON STATE COLLEGE

Art.

2648a. Sam Houston State College; change of name [New].

## 1. GENERAL PROVISIONS

Art. 2644a. Change of name; duties of local committees

Section 1. The Board of Regents of the State Teachers' Colleges shall be designated hereafter as the "Board of Regents, State Senior Colleges."

Sec. 2. At least once a year, each local committee of the Board of Regents, State Senior Colleges, shall meet on the campus of each college or university concerning which the local committee is responsible for reporting to the Board. At the meeting, the local committee shall confer with the college or university officials and carefully examine all phases of the operations of the college or university. Acts 1965, 59th Leg., p. 673, ch. 322, eff. Sept. 1, 1965.

Title of Act:

An Act changing the name of the Board of Regents of the State Teachers' Colleges to "Board of Regents, State Senior Col-

leges"; relating to the duties of local committees of the Board; and declaring an emergency. Acts 1965, 59th Leg., p. 673, ch. 322.

Art. 2647d—2. Lease of lands to fraternities and sororities

Section 1. The Governing Board of West Texas State University, on behalf of West Texas State University, may lease portions of the state-owned land held for the use and benefit of the University in Canyon, Randall County, Texas, to fraternities and sororities for the purpose of constructing chapter houses.

Sec. 2. A lease may be for any term of years less than 100 and the consideration and terms may be determined by the Governing Board of West Texas State University, consistent with the best interests of West Texas State University. The chairman of the board, with approval of a majority of the board, is authorized to execute all documents necessary to consummate the leasing. Acts 1965, 59th Leg., p. 558, ch. 282, emerg. eff. May 29, 1965.

Title of Act:

An Act authorizing the Governing Board of West Texas State University to lease

certain land to fraternities and sororities; and declaring an emergency. Acts 1965, 59th Leg., p. 558, ch. 282.

Art. 2647h. East Texas State University; change of name

Section 1. The name of the coeducational institution of higher learning at Commerce, Texas, now known as East Texas State College, shall hereafter be known as "East Texas State University"; and said East Texas State University as newly named shall remain under the jurisdiction of the Board of Regents, Texas State Teachers Colleges.

Sec. 2. Wherever the name East Texas State College, or East Texas State Teachers College, or any reference to either, appears in any Acts of any Legislature of this State, such name and such reference shall hereafter mean and apply to East Texas State University, in order to conform to the new name of said University as provided in Section 1 hereof.

Sec. 3. All legislative Acts and appropriations heretofore passed either in or by reference to East Texas State College or to East Texas State Teachers College or to East Texas State University are in all things ratified and confirmed in behalf of East Texas State University. As amended Acts 1965, 59th Leg., p. 136, ch. 53, § 1, emerg. eff. March 30, 1965.

## 2. SAM HOUSTON STATE COLLEGE

### Art. 2648a. Sam Houston State College; change of name

Section 1. The name of Sam Houston State Teachers College, located at Huntsville, Texas, is hereby changed to Sam Houston State College.

Sec. 2. Wherever the name of Sam Houston State Teachers College or any reference thereto appears in the Constitution or Statutes of this state, such name and such reference shall hereafter mean and apply to Sam Houston State College in order to conform to the new name of the college as provided in Section 1 hereof. All appropriations and benefits to Sam Houston State Teachers College shall be available to and apply to Sam Houston State College, and all contracts, bonds, or other debentures affected under its old name shall be likewise applicable to such college under its new name. Acts 1965, 59th Leg., p. 197, ch. 81, eff. Sept. 1, 1965.

Section 3 of the act of 1965 provided that the act shall take effect on September 1, 1965.

ston State College; fixing an effective date; and declaring an emergency. Acts 1965, 59th Leg., p. 197, ch. 81.

**Title of Act:**

An Act changing the name of Sam Houston State Teachers College to Sam Hou-

## CHAPTER NINE A—TUITION AND CONTROL OF FUNDS OF STATE INSTITUTIONS

Art.	Art.
2654f—1. Exemption from tuition fees of children of disabled firemen and peace officers [New].	2654g. Loan program for students at institutions of higher education [New].
2654f—2. Exemption from tuition fees of certain deaf and blind students [New].	

### Art. 2654b—1. Exemption from fees; war veterans; auxiliary members; members of armed forces and their children; holders of scholarships

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Sec. 2. The governing boards of the several institutions of collegiate rank supported in whole or in part by public funds appropriated from the State Treasury are hereby authorized to issue scholarships each year to the highest ranking graduate of each accredited high school of this state, exempting said graduates from the payment of tuition during both semesters of the first regular session immediately following their graduation; provided, that when in the opinion of the institution's president the circumstances of an individual case (usually military service) merit such action this exemption may be granted for any one of the first four regular sessions following that individual's graduation from high school. As amended Acts 1965, 59th Leg., p. 503, ch. 259, § 1, emerg. eff. May 24, 1965.

Sec. 3. All of the above and foregoing provisions, conditions, and benefits hereinabove in this Article provided for in Section 1 and in Section 2 shall apply and accrue to the benefit of all nurses, members of the Women's Army Auxiliary Corps, Women's Auxiliary Volunteer Emergency Service, and all members of the United States Armed Forces, regardless of whether members of the United States Army or of the United States Navy or the United States Coast Guard, who have, or are now serving, or who may after the passage of this Act, serve in the Armed Forces of the United States of America during the present

World War Number II, being the war now being prosecuted, and which was entered into on or shortly after December 7, 1941, by the United States of America against what are commonly known as the Axis Powers; provided, further, that all the above and foregoing persons named have been honorably discharged from the services in which they were engaged. And, provided further, that the benefits and provisions of this Act shall also apply and inure to the benefit of the children of members of the United States Armed Forces, where such members were killed in action or died while in the service. The provisions of this Act shall not apply to or include any member of such United States Armed Forces, or other persons hereinabove named, who were discharged from the service in which they were engaged because of being over the age of thirty-eight (38) years or because of a personal request on the part of such person to be discharged from such service. Orphans of members of the Texas National Guard and the Texas Air National Guard killed since January 1, 1946, while on active duty either in the service of their state or of the United States shall also be entitled to the benefits under this Act. As amended Acts 1965, 59th Leg., p. 467, ch. 235, § 1.

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<p>Effective Aug. 30, 1965, 90 days after date of adjournment.</p> <p>Acts 1965, 59th Leg., p. 503, ch. 259, § 2 provided: "The provisions of this Act shall not affect present scholarships that have been granted prior to the effective</p>	<p>date of this Act, under the provisions of Section 2 of Chapter 6, Acts of the 43rd Legislature, First Called Session, 1933. Such scholarships shall continue to be valid for the purposes and under the conditions by which they had been issued."</p>
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Art. 2654c. Tuition rates in State institutions of collegiate rank

Sec. 1.

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(h) Officers, enlisted men and women, selectees or draftees of the Army, Army Reserve, National Guard, Air Force, Air Force Reserve, Navy, Navy Reserve, or Marine Corps of the United States, who are stationed in Texas by assignment to duty within the borders of this State, or teachers, professors, or other employees of Texas State institutions of higher learning, shall be permitted to register themselves, their husband or wife as the case may be, and their children, in State institutions of higher learning by paying the regular tuition fees and other fees or charges provided for regular residents of the State of Texas, without regard to the length of time such officers, enlisted men or women, selectees or draftees, or teachers, professors, or other employees of Texas State institutions of higher learning have been stationed on active duty or resided within the State. As amended Acts 1965, 59th Leg., p. 1003, ch. 490, § 1.

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Effective Aug. 30, 1965, 90 days after date of adjournment.

Art. 2654e. Exemption from tuition fees of students from other nations of American hemisphere

The governing boards of the several institutions of collegiate rank, supported in whole or in part by public funds appropriated from the State Treasury, are hereby authorized to exempt annually from the payment of tuition fees two hundred (200) native-born students from the other nations of the American hemisphere; provided, however, that no student from Cuba shall be eligible to participate under this Act.

Ten (10) students from each nation shall be exempt as provided herein. In the event any nation fails to have ten (10) students available and qualified for exemption, additional students from such other nations

For Annotations and Historical Notes, see V.A.T.S.

may be exempt, subject to the approval of the State Board of Education and allocation thereby; provided, however, that no more than two hundred (200) students from all such nations shall be exempt each year.

Every applicant desiring to receive the benefit authorized herein shall furnish satisfactory evidence, certified by the proper authority of his native country, that he is a bona fide native-born citizen and resident of the country which certifies his application, and that he is scholastically qualified for admission.

The State Board of Education, after consultation with representatives of the governing boards of the state institutions of higher learning, shall formulate and prescribe a plan governing the admission and distribution of all applicants desiring to qualify under the provisions of this Act.

No student shall be allowed to take advantage of this Act who is not a native-born citizen of the country certifying his qualifications for receiving the privileges authorized hereby and who has not lived in one of the nations of this hemisphere for a period of at least five (5) years. No member of the communist party shall be eligible for benefits under this Act. As amended Acts 1965, 59th Leg., p. 178, ch. 70, § 1.

Effective Aug. 30, 1965 90 days after date of adjournment.

Section 2 of the 1965 amendatory act repealed all conflicting laws and parts of laws.

### **Art. 2654f—1. Exemption from tuition fees of children of disabled firemen and peace officers**

#### **Definitions**

Section 1. In this Act, unless the context requires another meaning:

(1) "eligible employee" means a full-paid or volunteer fireman, or a full-paid municipal, county, or State peace officer, or a custodial employee of the Texas Department of Corrections, or a game warden, who has a child under 21 years of age;

(2) "disability" means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to be under a disability unless he furnishes such proof of the existence thereof as may be required.

#### **Exemption**

Sec. 2. (a) The governing boards of the State institutions of higher education shall exempt from the payment of all tuition and laboratory fees any person whose parent is an eligible employee who has suffered an injury, resulting in death or disability, sustained in the line of duty according to the regulations and criteria then in effect governing the department or agency in which he was employed.

(b) The exemption does not apply to deposits, such as library deposits, which are required in the nature of security for the proper care or return of property loaned for the use of students, or to any fees or charges for lodging, board, or clothing.

(c) A person is not entitled to the exemption if he:

(1) does not apply initially for the exemption before he becomes 21 years of age;

(2) does not meet all entrance requirements of the institution;

(3) does not maintain a scholastic average sufficient to remain in good standing.

(d) A person loses his right to an exemption after eight consecutive semesters, not including summer semesters, beginning with the first semester for which he registers.

(e) A person entitled to an exemption under the provisions of this Act may use such exemption:

(1) only at the public senior college or university which he first attends under the provisions of this Act; or

(2) only at the public junior college which he first attends, and upon successful completion of four consecutive semesters at such public junior college he may continue to use such exemption for four consecutive semesters only at the public senior college or university which he subsequently first attends; provided that a person entitled to an exemption under the provisions of this Act shall, when transferring from a public junior college to a public senior college or university, meet the standard entrance requirements required by such senior college or university of an applicant for admission not covered by the provisions of this Act.

#### Physical Examination

Sec. 3. (a) An eligible employee whose injury results in a disability shall submit to a physical examination by a physician designated by the United States Social Security Administration to conduct physical examinations and to make disability reports to the Social Security Administration.

(b) If the physician decides the injury received has resulted in a disability he shall certify this fact to the head of the department which employs the employee.

#### Certification

Sec. 4. (a) The head of the department which employed the eligible employee at the time he sustained the injury shall file a certificate with the Commissioner of Higher Education on a form prepared by the commissioner for the purpose. The head of the department shall attach the certificate of the examining physician if an examination is required by Section 3 of this Act.

(b) A copy of the certificate on file with the commissioner is sufficient evidence for the institution to grant the exemption. Acts 1965, 59th Leg., p. 615, ch. 305.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act relating to the exemption of the children of certain firemen, peace officers, employees of the Texas Department of

Corrections, and game wardens from payment of tuition and other fees at State institutions of higher education; and declaring an emergency. Acts 1965, 59th Leg. p. 615, ch. 305.

### Art. 2654f—2. Exemption from tuition fees of certain deaf and blind students

#### Section 1. In this Act,

(1) "resident" has the same meaning as is assigned it in Section 1, Chapter 436, Acts of the 57th Legislature, Regular Session, 1961 (codified as Section 1, Article 2654c, Vernon's Texas Civil Statutes);

(2) "blind person" means a person having not more than 20/200 of visual acuity in the better eye with correcting lenses, or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees;

(3) "deaf person" means a person whose sense of hearing is non-functional, after all necessary medical treatment, surgery, and use of hearing aids, for understanding normal conversation.



For Annotations and Historical Notes, see V.A.T.S.

Sec. 2. (a) A deaf or blind person who is a resident is entitled to exemption from the payment of tuition fees at any institution of collegiate rank supported in whole or in part by public funds appropriated from the State Treasury, if he presents:

(1) certification by the Commissioner of Higher Education, upon the recommendation of the principal of the high school attended by him, that he is deaf or blind;

(2) a high school diploma or its equivalent;

(3) proof of good moral character, which may be evidenced by a letter from the high school principal; and

(4) proof that he meets all other entrance requirements of the institution.

(b) The governing board of an institution may establish special entrance requirements to fit the circumstances of deaf and blind persons.

Sec. 3. The exemption does not apply to deposits, such as library or laboratory deposits, which may be required in the nature of a security for the return or proper care of property loaned for the use of students, nor to fees or charges for lodging, board, or clothing. Acts 1965, 59th Leg., p. 801, ch. 386, emerg. eff. June 9, 1965.

**Title of Act:**

An Act relating to the exemption of certain deaf and blind students from the payment of tuition at State-supported insti-

tutions of collegiate rank; and declaring an emergency. Acts 1965, 59th Leg., p. 801, ch. 386.

Art. 2654g. Loan program for students at institutions of higher education

## ARTICLE I. ADMINISTRATION

### Administration

Section 1. The Coordinating Board, Texas College and University System, or its successor or successors, hereafter referred to as the Board, shall administer the student loan program authorized by this Act pursuant to Section 50b, Article III, Constitution of the State of Texas. Such personnel and other expenses as may be required to properly administer this Act shall be provided in the biennial Appropriation Acts.

### Delegation of Powers and Duties

Sec. 2. The Board may delegate to the Commissioner of the Coordinating Board, Texas College and University System, the powers, duties and functions authorized by this Act, except those relating to the sale of bonds and the letting of contracts for insurance.

## ARTICLE II. ISSUANCE OF BONDS

### Issuance of Bonds

Section 1. The Board, by appropriate action, is hereby authorized from time to time to provide, by resolution, for the issuance of negotiable bonds in a total aggregate amount not exceeding Eighty-five Million Dollars (\$85,000,000). All of such bonds shall be on a parity and shall be called the Texas College Student Loan Bonds. The proceeds from the sale of any bond, or bonds, shall be used for the purpose of creating the Texas Opportunity Plan Fund authorized by the Constitution. To assure the orderly and economical marketing of bonds and reasonable availability of money in the Texas Opportunity Plan Fund, said bonds may be issued in one (1) or several installments. The bonds of each issue shall be dated, and shall bear interest at a rate not exceeding four percent (4%) per annum, which interest may, at the option of the Board,

be payable annually or semi-annually; shall mature serially or otherwise, not later than forty (40) years from their date; and may be redeemable before maturity, at the option of the Board, at such price or prices, and under such terms and conditions as may be fixed by the Board in the resolution providing for the issuance of the bonds. The Board shall determine the form of the bonds, including the form of any interest coupon to be attached thereto, and shall fix the denomination or denominations of said bonds and the place or places of the payment of the principal and interest thereon. Said bonds shall be executed on behalf of the Coordinating Board, Texas College and University System or its successor or successors as general obligations of the State of Texas in the following manner: They shall be signed by the Chairman and Vice-Chairman respectively of the Board, and the seal of the Board shall be impressed thereon, and they shall be signed by the Governor and attested by the Secretary of State of the State of Texas with the Seal of the State of Texas impressed thereon. The resolution authorizing the issuance of any installment or series of bonds may prescribe the extent to which facsimile signatures and facsimile seals in lieu of manual signatures and manually impressed seals may be used in executing such bonds and appurtenant coupons. Interest coupons may be signed by the facsimile signatures of the Chairman and Vice-Chairman of the Board. In the event any officer whose manual or facsimile signature appears on any bond, or whose facsimile signature shall appear on any coupon, shall cease to be such officer before the delivery of the bonds, the signature shall, nevertheless, be valid and sufficient for all purposes the same as if he had remained in office until such delivery had been made. The resolution may provide for registration of the bonds as to ownership and for successive conversion and reconversion from registered to bearer bonds and vice versa. Before any such bonds so issued are delivered to the purchasers, the record pertaining thereto shall have been examined by the Attorney General of Texas and said records and bonds shall be approved by him. After such approval, the bonds shall be registered in the office of the Comptroller of Public Accounts of Texas. All bonds issued hereunder shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas. The performance of official duties prescribed by Article III, Section 50b of the Constitution in reference to the provision for the payment and the payment of such bonds may be enforced in any court of competent jurisdiction through mandamus or other appropriate proceedings. All bonds issued in accordance with and under the provisions of this Act shall be, and are hereby declared to be negotiable instruments under the laws of this state. The Board is fully authorized to provide for the replacement of any bond which may be mutilated, lost or destroyed.

#### Refunding Bonds

Sec. 2. The Board is hereby authorized to provide by resolution for the issue of refunding bonds for the purposes of refunding any bonds issued under the provisions of this Act and then outstanding, together with accrued interest thereon. The issuance of such refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the Board in respect to the same, shall be governed by the foregoing provisions of this Act in so far as the same may be applicable. The refunding bonds may be exchanged for the outstanding bonds or may be sold and the proceeds used to retire the outstanding bonds.

#### Bonds as Investments

Sec. 3. All bonds hereafter issued pursuant to the provisions of this Act shall be and are hereby declared to be legal and authorized

For Annotations and Historical Notes, see V.A.T.S.

investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts and all other political subdivisions and public agencies of the State of Texas. Such bonds, when accompanied by all unmatured coupons appurtenant thereto, shall be lawful and sufficient security for all deposits of state funds and of all funds of any agency or political subdivision of the state, of counties, school districts, cities and all other municipal corporations or subdivisions at the par value of said bonds. Such bonds and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

#### Sale of Bonds

Sec. 4. When the Board shall have authorized the issuance of a series of said bonds and shall have determined to call for bids therefor, it shall be the duty of the Board to publish at least one (1) time not less than twenty (20) days before the date of said sale an appropriate notice thereof. Such publication shall be made in a daily newspaper of general state-wide circulation which is published not less than seven (7) times weekly. Said notice shall also be published for such number of times as the Board may determine in one or more recognized financial publications of general circulation published within the state and one (1) or more such publications published outside the state. The Board shall demand of bidders, other than the administrators of the state funds, that their bids be accompanied by exchange or bank cashier's check for such sum as it may consider adequate to be a forfeit guaranteeing the acceptance and payment for all bonds covered by such bids, and accepted by the Board.

#### Competitive Bids

Sec. 5. No installment or series of said bonds shall be sold for an amount less than the face value of all of the bonds comprising such installment or series with accrued interest from their date, and all of such bonds shall be sold after competitive bidding to the highest and best bidder. The Board shall have the right to reject any and all bids.

#### Proceeds from Bond Sale

Sec. 6. All proceeds from the sale of said bonds shall be deposited in the State Treasury in the Texas Opportunity Plan Fund.

#### Interest and Sinking Fund

Sec. 7. From the moneys received by the Board in any fiscal year as repayment of student loans granted under this Act and interest on such loans there shall be deposited in a fund hereby created in the State Treasury to be called the Texas College Student Loan Bonds Interest and Sinking Fund, hereinafter called Interest and Sinking Fund, sufficient moneys to pay the interest and principal to become due during the ensuing fiscal year and sufficient to establish and maintain a reserve in said fund equal to the average annual principal and interest requirements on all outstanding bonds issued under this Act. Should such moneys be insufficient to provide the above requirements for the Interest and Sinking Fund, the additional amount necessary to meet such requirements shall be transferred from the bond proceeds remaining in the Texas Opportunity Plan Fund. If in any year moneys are received in excess of the foregoing requirements then such excess shall be deposited to the Texas Opportunity Plan Fund and may be used for the same purposes and upon the same terms and conditions prescribed for the proceeds derived from the sale of the Texas College Student Loan Bonds. In the event that after all of the moneys received by the Board in any fiscal year as repayments of student loans granted under this Act and interest

on such loans and all moneys available to the Board from the bond proceeds remaining in the Texas Opportunity Plan Fund have been deposited in the Interest and Sinking Fund and the total amount of money and securities in said fund is insufficient to pay the interest becoming due and the principal maturing on said bonds during the ensuing fiscal year, the State Treasurer shall transfer into the Interest and Sinking Fund out of the first moneys coming into the Treasury of the State of Texas, not otherwise appropriated by the Constitution, such an additional amount as shall be required to pay the interest becoming due and the principal maturing on said bonds during the ensuing fiscal year.

#### Duties of Comptroller and Treasurer

Sec. 8. The Comptroller of Public Accounts is hereby authorized and directed to make the transfers required under any provision of this Act. The Treasurer of the State of Texas is hereby authorized and directed to pay or cause to be paid principal and interest on bonds as they mature and come due.

#### Investment of Funds

Sec. 9. All moneys standing to the credit of the Reserve portion of the Interest and Sinking Fund and any moneys in the Texas Opportunity Plan Fund in excess of the amount necessary for student loans may be invested by the Board in direct obligations of the United States or its agencies or in other obligations unconditionally guaranteed by the United States, or bonds of the State of Texas, or of the several counties or municipalities or other political subdivisions of the State of Texas; herein provided, however, that money in the Interest and Sinking Fund, except for that which is in the Reserve portion of such fund, may be invested only in direct obligations of or unconditionally guaranteed by the United States which are scheduled to mature prior to the date money must be available for use for its intended purpose. All of such bonds and obligations owned in the Interest and Sinking Fund or in the Texas Opportunity Plan Fund are defined as "Securities." The Board may sell any Securities owned in the Interest and Sinking Fund or in the Texas Opportunity Plan Fund at the prevailing market price.

### ARTICLE III. STUDENT LOANS

#### Participating Institutions

Section 1. A participating higher educational institution shall be any higher educational institution, public or private non-profit, including Junior Colleges, which are recognized or accredited by the Texas Education Agency or the Coordinating Board, Texas College and University System, or its successor or successors, and which complies with the provisions of this Act and the rules and regulations of the Board promulgated in accordance herewith.

#### Qualifications for Loans

Sec. 2. The Board may authorize loans from the Texas Opportunity Plan Fund to qualified students at any participating higher educational institution in Texas provided the applicant (1) is a resident of Texas as defined by the Board in accordance with Chapter 196, Acts of the 43rd Legislature, Regular Session, 1933, as amended (compiled as Article 2654c, Vernon's Texas Civil Statutes); (2) has been accepted for enrollment; (3) has established that he has insufficient resources to finance his college education; (4) has been recommended by reputable persons in his home community; and (5) has complied with such other requirements as may be established by rules and regulations adopted by the Board in conformity with this Act. In no event shall a higher standard of academic performance be required of an applicant than the minimum

For Annotations and Historical Notes, see V.A.T.S.

standard required for enrollment in the participating institution, and such student must be meeting the minimum academic requirements of the institution in the semester any loan is made.

#### Amount of Loan

Sec. 3. The amount of the loan to any qualified applicant shall be limited to the difference between the financial resources available to him (including but not limited to his income from parents and other sources, scholarships, gifts, grants, other financial aid and the amount he can reasonably be expected to earn) and the amount necessary to pay his reasonable expenses as a student at the participating higher educational institution where he has been accepted for enrollment, under such rules and regulations as shall be adopted by the Board. The total loan to any individual student shall never be more than the amount he can reasonably be expected to repay in a maximum period of five (5) years after he is last enrolled in a participating institution, except as otherwise provided for in other Sections of this Act.

#### Payments to Student

Sec. 4. No payment shall be made to any student until he shall have executed a note payable to the Texas Opportunity Plan Fund for the full amount of any authorized loan plus interest. For the purposes of this Act, a student shall have the capacity to contract and shall be bound by any contract executed by him; and the defense that he was a minor at the time he executed a note shall not be available to him in any action arising on said note. Payments to students executing such notes may be made annually, semi-annually, quarterly, monthly or for each semester as the Board may determine depending upon the demonstrated capacity of the student to manage his financial affairs. Disbursements may be made by the Board or by the participating institution pursuant to a contract between the Board and the institution executed in conformity with this Act. No funds shall be distributed to a participating institution except to make payments to a student under a loan authorized by this Act.

#### Term of Loans

Sec. 5. The term of all authorized loans shall be for the shortest possible period as determined by the Board; provided, however, no loan shall be made to any student for a period longer than five (5) years from the date he is last enrolled in a participating institution, except as a longer period is authorized for medical, dental, and students seeking professional or graduate degrees as authorized under the provisions of Section 8 hereof.

#### Loan Interest

Sec. 6. The Board shall annually, not later than September 1, fix the interest to be charged for any student loan at a rate sufficient to pay the interest on outstanding bonds plus any expenses incident to their issuance, sale and retirement. Interest shall be postponed by the Board so long as a student is enrolled at a participating institution and may be postponed at the Board's discretion so long as a student is enrolled at any other higher educational institution, provided that the total interest paid shall be equal to that fixed at the time the note evidencing the loan is executed.

#### Insurance

Sec. 7. The Board may contract with any insurance company, or companies licensed to do business in Texas for insurance on the life of any student borrower in an amount sufficient to retire the principal and interest owed under a loan made as provided in this Act. The cost of such insurance shall be paid by the student borrower. No contract for

insurance as provided for in this Section may be approved except by the Board, and during a regular meeting attended by a quorum of the total Board membership.

#### **Repayment of Loans**

Sec. 8. Repayment of any loan and interest authorized under this Act shall be made monthly and shall begin not later than four months after the date the student borrower is last enrolled in a participating institution or any other higher educational institution and in no event later than five years from the date the first note evidencing a loan under this Act is executed; provided, however, the Board may authorize a longer period before beginning repayment of loans to medical, dental and other students seeking professional or graduate degrees; and provided further, that the Board may extend the time for beginning repayment for unusual financial hardships, subject to approval by the Attorney General. Repayment shall be made directly to the Board or to a participating institution pursuant to a contract executed by the Board in accordance with its rules and regulations.

#### **Enforcement of Collection**

Sec. 9. When any person who has received a loan authorized by this Act shall have failed or refused to make as many as six monthly payments due in accordance with an executed note, then the full amount of remaining principal and interest shall become due and payable immediately and the amount due, the person's name and last known address and such other information as may be necessary shall be reported by the Board to the Attorney General. Suit for such remaining sum shall be instituted by the Attorney General or any county or district attorney acting for him in the county of the person's residence, the county in which is located the institution at which the person was last enrolled or in Travis County, unless the Attorney General shall find reasonable justification for delaying suit and shall so advise the Board in writing.

### **ARTICLE IV. GENERAL PROVISIONS**

#### **Advisory Committees**

Section 1. The Board may appoint such advisory committees from outside its membership as it deems necessary to assist it in achieving the purposes of this Act.

#### **Contracts**

Sec. 2. In achieving the goals outlined in this Act and the performance of functions assigned to it, the Board may contract with any other state governmental agency as authorized by law, with any agency of the United States Government and with corporations, associations, partnerships and individuals.

#### **Gifts and Grants**

Sec. 3. The Board may accept gifts, grants or donations of real or personal property from any individual, group, association or corporation or the United States Government subject to such limitations or conditions as may be provided by law and provided that gifts, grants or donations of money shall be deposited in the State Treasury in the Texas Opportunity Plan Fund, separately accounted for, and expended in accordance with the specific purpose for which given under such conditions as may be imposed by the donor and as provided by law.

#### **Rules and Regulations**

Sec. 4. The Board shall adopt and publish rules and regulations to effectuate the purposes of this Act in accordance with and under the

For Annotations and Historical Notes, see V.A.T.S.

conditions applied to other agencies by Article 6252-13, Vernon's Texas Civil Statutes.

#### Audit

Sec. 5. All transactions under the provisions of this Act shall be subject to audit by the State Auditor.

#### Annual Report

Sec. 6. The Board shall make a report of the operation of the Texas Opportunity Plan to the Governor annually and to the Legislature not later than December 1 prior to the Regular Session of the Legislature which report shall include, for the state as a whole and for each participating institution: (a) the number of loans; (b) the maximum loan; (c) the minimum loan; (d) total loans; (e) a list of persons who have failed or refused to make as many as six (6) monthly payments on any note, showing the amount due and the person's last known address; and (f) such other information as will describe the effectiveness of the loan program. Acts 1965, 59th Leg., p. 229, ch. 101.

Acts 1965, 59th Leg., p. 229, ch. 101, enacting the provisions set out in Article 2654g, provided in art. 4, § 7, that the act should become effective only if a constitutional amendment authorizing a loan program for students at institutions of higher education was proposed by the 59th Legislature and became a part of the State Constitution. H.J.R. No. 11 of the 1965 Regular Session proposed such an amendment by addition of section 50b to Article 3 of the Constitution. The amendment was approved by the voters at the election held on November 2, 1965.

#### Title of Act:

An Act providing for the issuance of bonds and the establishment of a loan program for students at institutions of higher education pursuant to Section 50b, Article III, Constitution of the State of Texas; providing for the administration of such program by the Coordinating Board, Texas College and University System or its successor or successors; and declaring an emergency. Acts 1965, 59th Leg., p. 229, ch. 101.

## CHAPTER NINE B—ADMINISTRATION OF PUBLIC FREE SCHOOLS

Art.

2654—3d. Regional Education Media Centers [New].

### Art. 2654—3d. Regional Education Media Centers

#### Establishment and operation of centers; purposes

Section 1. The State Board of Education is hereby authorized to provide for the establishment and a procedure for the operation of Regional Education Media Centers by rules and regulations adopted under the provisions of this law thereby to provide educational media materials, equipment, maintenance thereof, and services to the public free school districts of this state who participate therein.

#### Approval; services provided

Sec. 2. Such Centers approved by the Central Education Agency as meeting such regulation requirements are hereby established for the purpose of developing, providing and making available to participating school districts, among other educational media services, the following:

- a. Lending library service for educational motion picture films, 16 and 8 mm or improvements thereof, with such processing and servicing as is needed to maintain this program.
- b. Lending library service for 35 mm slides, or improvements thereof, film strips and disc recordings.
- c. A comprehensive lending library collection of programmed instruction materials for both remedial and enrichment purposes.

d. Educational magnetic tape duplicating service for both audio and visual tapes, with the Agency central duplicating faculty servicing the Regional Centers for program materials.

e. Overhead and other projection transparency duplicating service to provide visuals from prepared master copies.

f. Professional and other services to assist schools in effective and efficient utilization of all Center materials and services.

#### Location; minimum number of scholastics

Sec. 3. Such regional Centers shall be located throughout the state to the end that each school district would have opportunity to be served and participate in an approved Center, on a voluntary basis. No Center shall be approved unless the same shall serve an area having a minimum of 50,000 eligible scholastics in average daily attendance for the next preceding school year. Provided, however, that certain Agency approved exceptions or deviations for sparsely populated areas may be made as to the potential requirement.

#### Definition of center; regional media boards; uniform rules and regulations

Sec. 4. a. Regional Education Media Center for purposes of this Act is defined to be an area center, composed of one or more entire Texas school districts, that is approved to house, circulate and service educational media for the public free schools of the districts which are participant members thereof.

b. Each center shall be governed in its local administration by a Regional Media Board comprised of five or seven members locally to be determined and recommended in the initial application for Center approval.

c. The State Board of Education shall adopt uniform rules and regulations to provide for the local selection, appointment, and continuity of membership for regional center boards. Vacancies shall be filled by appointment by the remaining members of the regional board for the unexpired term; all members to serve without compensation.

#### Executive director; personnel

Sec. 5. The Regional Media Board is authorized to employ an executive director for its respective Center and such other personnel, professional and clerical, as it deems necessary to carry out the functions of the Center, and to do and perform all things which it deems proper for the successful operation thereof, and to pay for all such by warrants drawn on proper funds available for such purpose.

#### Withdrawal of participating school districts

Sec. 6. Any school district which is a participant member of a Regional Education Media Center may elect to withdraw its membership in the Center for a succeeding scholastic year thereby electing no longer to support nor to receive its services for any succeeding year; provided, however, that title to and all educational media and property purchased by the Center shall remain with and in the Center.

#### Review of services

Sec. 7. The Central Education Agency, through its audit and accreditation divisions, shall review for purposes of continuity and standardization these services of the several Centers.

#### Costs

Sec. 8. The cost incident to setting up of the Centers, the operation thereof and the purchase of educational media supplies and equipment shall be borne by the state and each participating district to the extent and in the manner provided in this Act.



**Initial allotments; original financing**

Sec. 9. One initial allotment to each Center in an amount determined on the basis of twenty cents (20¢) per scholastic in average daily attendance the next preceding school year in district(s) participant in the Center to be paid from the minimum Foundation School Fund for the purpose of original financing the Operation and setting up of the Center, provided the Center is established and operated for the school year 1965-66 and/or 1966-67.

**Further state allotments; matching funds of participating school districts; use of funds**

Sec. 10. a. The state shall further allot and pay to each approved Center annually an amount determined on the basis of not to exceed One Dollar (\$1.00) per scholastic in average daily attendance for the next preceding school year in the district or districts that are participants in an approved Center. School districts as participant members in the Center shall each provide for and pay to the proper Center a proportionate amount determined on its ADA for the next preceding school year matching the amount provided by the state.

b. The funds or amount provided by the state shall be used only to purchase educational media or equipment for the Center which have had prior approval of its Regional Media Board and by the Central Education Agency through its budgetary system.

c. The matching funds provided by the participant district(s), including any donated or other local source funds, may be used to pay for costs of administration of and/or servicing by the Center and to purchase supplemental educational media. Provided, no Center shall enter into obligations which shall exceed funds available and/or reasonably anticipated as receivable for the then current school year.

**Determination of annual rate**

Sec. 11. Annually, pursuant to such regulations and procedure as may be prescribed by the Agency, the governing board of each such Center shall determine the rate per pupil based on ADA the next preceding school year, not to exceed the One Dollar (\$1.00) limit prescribed in this Act, which shall constitute the basis for determination of total amount to be transmitted by participant district(s) to the Center and as matching funds from the state's contribution to this program.

**Payments from Minimum Foundation Program Fund**

Sec. 12. The state's share of the cost in the Regional Education Media Centers program herein authorized shall be paid from the Minimum Foundation Program Fund, and this cost will be considered by the Foundation Program Committee in estimating the funds needed for Foundation Program purposes, provided that nothing in this Act shall be construed to prohibit a Center from receiving and utilizing matching funds in any amount for which it may be eligible from federal sources. Acts 1965, 59th Leg., p. 912, ch. 448.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 13 of Acts 1965, 59th Leg., p. 912, ch. 448, provided that no state funds shall be expended for the purpose of the act until the 1967-1968 school year.

**Title of Act:**

An Act to authorize and provide for the establishment of Regional Education Media Centers pursuant to rules and regulations prescribed by the State Board of Educa-

tion and the Central Education Agency for the purposes and subject to certain provisions and limitations herein contained, thereby to provide for a system or program for the local development, operation and distribution of educational media services, professional and material for participating public school districts of Texas; to provide for a governing body or board for each Center and prescribing certain duties and functions; providing for fi-

ancing of the Centers' program, by district participants in the Center and the state on a formula basis, the state's share or cost therein to be paid out of the Minimum Foundation School Fund, and permitting additional financing thereof from other sources; to provide that no state funds shall be expended until the 1967-

1968 school year; providing for review of the Centers by audit and accreditation divisions of the Agency; providing for expenditure of such Center funds; providing a severability clause and an effective date of this Act; and declaring an emergency. Acts 1965, 59th Leg., p. 912, ch. 448.

CHAPTER TEN—STATE DEPARTMENT OF EDUCATION

2. STATE BOARD

Art. 2668e. Lubbock State School Independent School District [New].

2. STATE BOARD

Art. 2668e. Lubbock State School Independent School District

Section 1. Effective with the date persons are admitted to the Lubbock State School, such school shall become and is hereby created the Lubbock State School Independent School District. The territorial limits of the Independent School District created shall be coextensive with the territorial boundaries of the Lubbock State School.

Sec. 2. The Board for Texas State Hospitals and Special Schools or such Board's successor in function shall be ex officio trustees of the district so created. Said trustees shall take and certify the census of the children of scholastic age within the district, and funds shall thereafter be apportioned to such district accordingly. Acts 1965, 59th Leg., p. 358, ch. 170, emerg. eff. May 17, 1965.

Title of Act:

An Act creating the Lubbock State School Independent School District; providing for its territorial limits; providing

for trustees; providing for taking census and certifying scholastics; and declaring an emergency. Acts 1965, 59th Leg., p. 358, ch. 170.

Art. 2675—1. Acceptance of funds from Congress for vocational rehabilitation

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Section 3. The Vocational Rehabilitation Division of the Texas Education Agency is designated and authorized to provide for the rehabilitation of severely physically disabled Texas citizens, excepting those who are visually handicapped as defined by legislation relating to the State Commission for the Blind, and further that nothing herein contained would affect or repeal the present crippled children's restoration service as authorized by Article 4419c and administered by the Crippled Children's Division of the State Department of Health, so far as that authorization is consistent with the purpose of legislation relating to the State Commission for the Blind. As amended Acts 1965, 59th Leg., p. 243, ch. 106, § 4; Acts 1965, 59th Leg., p. 574, ch. 291, § 4.

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Effective Aug. 30, 1965, 90 days after date of adjournment.

Art. 2675c—2. Totally deaf and blind or totally blind and non-speaking children; education and maintenance; duties of board

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Sec. 2. The State Board of Education may provide for the maintenance, care and education of persons under the age of 21 years who

For Annotations and Historical Notes, see V.A.T.S.

are totally deaf and blind or who are totally blind and non-speaking. As amended Acts 1965, 59th Leg., p. 70, ch. 24, § 1.

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Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER ELEVEN—COUNTY SCHOOLS

1. TRUSTEES		Art.	
Art.		2688m.	Counties of 20,000 to 20,100; ex officio school superintendent and county school board; abolition of offices; transfer of duties [New].
2676b.	Election of county-wide district trustees in counties of 5,000 to 5,050 [New].		
2676c.	Election of county school trustees in counties of 1,000,000 or more [New].	2688n.	Counties of 25,750 to 28,000; county superintendents; abolition of office; transfer of duties [New].
2. SUPERINTENDENT			
2688i—1.	County superintendents, ex officio county superintendents and county boards of education; abolition of offices in certain counties; transfer of duties [New].	2688o.	Counties of 38,152 to 38,252; county superintendent; abolition of office; transfer of duties [New].
2688j.	Counties of 19,000 to 19,100, 3,998 to 4,208 and 8,399 to 8,422; county superintendents; abolition of offices; transfer of duties [New].	2700e.	Salaries of assistants in counties of 13,700 to 13,800; 29,000 to 30,000 and 46,000 to 47,000 [New].

### 1. TRUSTEES

**Art. 2676b. Election of county-wide district trustees in counties of 5,000 to 5,050**

Section 1. This Act applies to a county-wide school district in a county having a population of more than 5,000 and less than 5,050 according to the last preceding Federal Census. The board of trustees may order that the trustees of the district shall run at large in the county. If the board orders that its members shall run at large, each position shall be filled by election from the county at large upon expiration of the current term of office. Acts 1965, 59th Leg., p. 456, ch. 233.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the election of county-wide district trustees in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 456, ch. 233.

**Art. 2676c. Election of county school trustees in counties of 1,000,000 or more**

#### Elections for county school trustees in certain counties

Section 1. This Act applies to the elections for county school trustees in all counties having a population of 1,000,000 or more, according to the last preceding Federal Census.

#### Date of election

Sec. 2. The election for county school trustees shall be held on the first Saturday in April of each odd-numbered year, or on the first Saturday in October of those years as designated by the order of the board of county school trustees.

**Order for election**

Sec. 3. The order for election shall be made by the board of county school trustees at least 30 days before the date the election is to be held, and shall define the voting precincts and name the judges of election.

**Notice of election**

Sec. 4. The board of county school trustees shall give notice of an election by posting a notice in each of three public places in the county, one of which shall be at the courthouse door, or by publishing a notice more than 20 days before the date of the election at least once in a newspaper of general circulation in the county, or by both publication and posting.

**Election officers**

Sec. 5. So far as possible, the board of county school trustees shall designate the election officers holding the election for local trustees in each of the school districts in the county as the officers to hold the election for county school trustees.

**Expenses of holding an election**

Sec. 6. All expenses of holding an election shall be paid out of the administration funds under the jurisdiction of the board of county school trustees.

**Declaration of election results**

Sec. 7. The officers holding an election shall report the returns of the election to the secretary of the board of county school trustees at his office in the courthouse in the county seat immediately after the election is held. The board of county school trustees shall declare the results of an election within 10 days after the holding of an election.

**Candidate for county school trustee; application; eligibility**

Sec. 8. (a) Any person desiring to have his name printed on the ballot as a candidate for the office of county school trustee shall file his written application with the secretary of the board of county school trustees at least 15 days before the date of the election.

(b) No person is eligible to be a candidate unless he is a qualified elector in the State of Texas. Acts 1965, 59th Leg., p. 1291, ch. 595.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the holding of elections for county school trustees in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 1291, ch. 595.

**2. SUPERINTENDENT**

**Art. 2688i—1. County superintendents, ex officio county superintendents and county boards of education; abolition of offices in certain counties; transfer of duties**

Section 1. This Act applies to a county

(1) if the office of county superintendent and the county school board has been abolished in the county; and

(2) if the county has one county-wide independent school district and no common school district.

Sec. 2. The office of ex officio county superintendent is abolished upon the effective date of this Act.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 3. All duties and functions, except as hereafter provided, that are now required by law of the office of ex officio county school superintendent, shall be performed by the superintendent of the independent school district, and all the duties that may now be required by law of the county board of education shall be performed by the elected board of trustees of such independent school district, except that the county judge shall, without pay from the State of Texas, continue to approve or disapprove application for school transfers to other schools outside of the county. The commissioners court shall hereafter receive, hear and pass upon all petitions for the calling of elections for the creation, change or abolishment of county school districts and all authorized appeals from the independent school board of trustees shall be made directly to the State Board of Education or to the courts as provided by law.

Sec. 4. All school records of the original independent and/or common school district shall be transferred to the control and custody of the independent school district office, save and except the original financial records which shall be retained by the county treasurer, and thereafter the county judge shall be required to make no records or reports but said reports shall be made by the superintendent of such independent school district; that as soon as practicable after the effective date of this Act, all remaining state funds in the hands of the county board of education shall be transferred by the county treasurer and the county judge to the County Independent School District's Administration Account.

Sec. 5. The provisions of this Act shall not apply to counties having a population of between 5,000 and 5,025 and counties having a population between 14,500 and 14,525 according to the last preceding Federal Census.

Sec. 6. In all counties in this State having a population of more than 23,750 and less than 23,800 according to the last preceding Federal Census, the offices of county school superintendent, ex officio county school superintendent, and county board of education are hereby abolished effective as of the expiration of the current term of the incumbent county school superintendent.

All duties and functions, except as hereafter provided, that are now required by law of the office of county school superintendent or ex officio county school superintendent governed by this Section shall be performed by the superintendents of the independent and rural high school districts, and all duties that may now be required by law of the county board of education governed by this Section shall be performed by the elected Board of Trustees of such independent and rural high school districts, except that the county judge shall, without pay from the State of Texas, continue to approve or disapprove application for school transfers. The commissioners court of such county shall hereafter receive, hear and pass upon all petitions for the calling of elections for the creation, change or abolishment of county school districts and all authorized appeals from the independent school board of trustees shall be made directly to the State Board of Education or to the courts as provided by law.

All school records of the original independent and/or common school district governed by this Section, shall be transferred to the control and custody of the independent school district office, located at the county seat, save and except the original financial records which shall be retained by the county treasurer, and thereafter the county judge shall be required to make no records or reports but said reports shall be made by the superintendent of such independent or rural school district; that as soon as practicable after the effective date of this Act, all remaining State funds in the hands of the county board of education shall be transferred by the county treasurer and the county judge to the independent and

rural high school districts in proportion to the number of scholastics enrolled in such districts. Acts 1965, 59th Leg., p. 1641, ch. 706.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the abolishing of the office of ex officio county superintendent in certain counties; and relating to the

abolishing of the office of county school superintendent, ex officio county school superintendent, and county board of education in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 1641, ch. 706.

**Art. 2688i. Counties of 19,000 to 19,100, 3,998 to 4,208 and 8,399 to 8,422; county superintendents; abolition of offices; transfer of duties**

**Office of county superintendent abolished in certain counties**

Section 1. (a) The office of county superintendent in all counties having a population of not less than 19,000 nor more than 19,100, according to the last preceding Federal Census, is abolished and the duties of the office shall be performed by the county judge as ex officio county superintendent and by an ex officio assistant superintendent.

(b) The county judge is entitled to \$1,200 a year for being ex officio county superintendent.

(c) The ex officio assistant county superintendent, for serving as ex officio assistant county superintendent, is entitled to

(1) \$3,331 a year for a two-year period beginning on the effective date of this Act;

(2) more than \$3,330 but less than \$3,582 a year, after two years from the effective date of this Act, the exact amount to be determined by the county board of school trustees.

(d) The county judge shall receive in addition to the compensation listed in (b) above travel and office expense of \$600 per year to be used in his duties of ex officio county superintendent.

(e) Money paid under this section shall be paid from the State Available School Fund.

**Counties of 3,998 to 4,208 and 8,399 to 8,422 population**

Sec. 2. (a) The office of county superintendent in all counties having a population of not less than 3,998 nor more than 4,208 according to the last preceding Federal Census, is abolished and the duties of the office shall be performed by the county judge as ex officio county superintendent and by an ex officio assistant superintendent. The county judge shall receive and is entitled to \$1,200 a year for being ex officio county superintendent. The ex officio assistant county superintendent is entitled to \$2,400 per year. Money paid under this section shall be paid from the State Available School Fund.

(b) The office of county superintendent in all counties having a population of not less than 8,399 nor more than 8,422, according to the last Federal Census, is abolished. The office shall be abolished upon the expiration of the present county superintendent's term of office.

**Elected superintendents now holding office to serve until term expires**

Sec. 3. The county superintendents holding office in the counties included in this Act on the effective date of this Act shall serve until the expiration of the term for which they were elected. However, if a vacancy occurs before the expiration of the term, the office of county superintendent shall cease to exist and the duties of the office shall be

For Annotations and Historical Notes, see V.A.T.S.

performed by the county judge as ex officio county superintendent after that time. Acts 1965, 59th Leg., p. 416, ch. 204.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the abolishing of the office of county superintendent in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 416, ch. 204.

**Art. 2688m. Counties of 20,000 to 20,100; ex officio school superintendent and county school board; abolition of offices; transfer of duties**

Section 1. This Act applies in all counties having a population of more than 20,000 but less than 20,100, according to the last preceding Federal Census. Where the majority of the qualified electors approve the abolition of the office of the ex officio county superintendent and county school board, the duties of such abolished offices as may still be required by law shall be and become the duties of the office of county judge of said county upon the expiration of the current term of office of the ex officio county superintendent, and the county judge shall receive and retain in addition to all other compensation provided by law, not more than \$2,600 per year, as the commissioners court of the county may provide. Such amount may be paid in the manner specified in Chapter 49, Acts of the 41st Legislature, 4th Called Session, 1930,<sup>1</sup> and in Chapter 175, Acts of the 42nd Legislature, Regular Session, 1931.<sup>2</sup> Acts 1965, 59th Leg., p. 1021, ch. 506.

<sup>1</sup> Article 2700d—1.

<sup>2</sup> Article 2827a.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing additional compensation for county judges performing the

duties of ex officio county superintendent and county school board in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 1021, ch. 506.

**Art. 2688n. Counties of 25,750 to 28,000; county superintendents; abolition of office; transfer of duties**

Section 1. The office of County Superintendent is abolished in all counties having a population of not less than 25,750 nor more than 28,000 according to the last preceding Federal Census. After the effective date of this Act, the duties of the office shall be performed by the County Judge as ex officio County Superintendent. Acts 1965, 59th Leg., p. 1509, ch. 654, eff. Sept. 1, 1965.

Section 2 of Acts 1965, 59th Leg., p. 1509, ch. 654 provided that the Act should take effect on September 1, 1965.

**Title of Act:**

An Act abolishing the office of County Superintendent, and transferring its duties

to the County Judge, in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 1509, ch. 654.

**Art. 2688o. Counties of 38,152 to 38,252; county superintendent; abolition of office; transfer of duties**

Section 1. The office of county superintendent of schools in all counties having a population of not less than 38,152 inhabitants nor more than 38,252 inhabitants, according to the last preceding Federal Census, is hereby abolished. From and after the effective date of this Act, the duties of the office of county school superintendent shall be performed by the county judge as ex officio county school superintendent.

Sec. 2. In all counties governed by the provisions of Section 1 of this Act, the county judges as ex officio county school superintendents may re-

ceive and retain for their services in performing the duties of county school superintendent compensation of not more than One Thousand, Five Hundred Dollars (\$1,500) per year, payable in equal monthly installments. Said compensation shall be fixed and determined by the county board of school trustees.

Sec. 3. County judges governed by the provisions of Section 1 of this Act are authorized, with the consent of the county board of school trustees, to appoint one clerical assistant. Said assistant shall be paid a salary not to exceed Two Thousand Dollars (\$2,000) per year, payable in twelve equal monthly installments. Said compensation shall be fixed and determined by the county board of school trustees.

Sec. 4. The county board of school trustees in counties governed by the provisions of this Act is hereby authorized to provide for office and traveling expenses of the county judge when performing the duties as ex officio county school superintendent; provided, however, that such office and traveling expenses shall never exceed the sum of Eight Hundred Dollars (\$800) in any one year.

Sec. 5. All expenditures made pursuant to the provisions of this Act shall be paid from the State Available School Fund in the manner provided by law.

Sec. 6. No provision of this Act shall affect the term of office of the county superintendents of schools holding such office on the effective date of this Act, and such county school superintendents shall serve until the expiration of the terms for which they were elected. Provided, however, if a vacancy occurs in the office of county school superintendent, said office shall immediately cease to exist and the duties of said office shall be performed by the county judge of said county, as ex officio county school superintendent. Acts 1965, 59th Leg., p. 1645, ch. 709.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act abolishing the office of county superintendent of schools in counties having a population of not less than 38,152 inhabitants and not more than 38,252 inhabitants, according to the last preceding Federal Census; providing the duties of coun-

ty school superintendent shall be performed by the county judge as ex officio county school superintendent; providing for his compensation; providing for clerical assistants; providing for office and traveling expense; making other provisions relating to the subject; providing a repealing clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1645, ch. 709.

**Art. 2700e. Salaries of assistants in counties of 13,700 to 13,800; 29,000 to 30,000 and 46,000 to 47,000**

Section 1. In counties having a population of more than 13,700 and less than 13,800 inhabitants, or a population of more than 29,000 and less than 30,000 inhabitants, according to the last preceding Federal Census, and in counties having a population of more than 46,000 and less than 47,000 inhabitants, according to the last preceding Federal Census, the first assistant to the county superintendent of public instruction is entitled to receive an annual salary of not more than \$5,500; however, the aggregate salaries of all assistants to the county superintendent may not exceed \$8,800 a year. Acts 1965, 59th Leg., p. 1016, ch. 500.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the salary of the assistants to the county superintendent in

certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 1016, ch. 500.



**CHAPTER THIRTEEN—SCHOOL DISTRICTS**

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| <p><b>3. INDEPENDENT DISTRICTS IN CITIES</b></p> <p>Art.<br/>2774c—1. Districts converted from common school districts; alternative method of electing trustees [New].</p> <p>2775a—5. Election of trustees in districts within counties of 12,700 to 13,100 [New].</p> <p>2775a—6. Election of trustees in districts within counties of 21,300 to 21,700 [New].</p> <p>2775a—7. Election of trustees in districts within counties of 120,000 to 140,000 [New].</p> <p>2775c—1. Election of trustees in certain districts with average daily attendance of 2,100 to 2,200 [New].</p> <p>2775f. Election of trustees of independent districts in certain counties [New].</p> <p>2776a. Qualifications of trustees [New].</p> <p>2777d—3. Terms of office of trustees in districts within counties of 1,117 to 1,175 population [New].</p> <p>2777d—4. Terms of office of trustees in certain districts having city of 2,095 to 2,105 population [New].</p> <p>2784e—7. Additional tax for certain common or independent school districts in counties of 10,300 to 10,350 population [New].</p> <p><b>4. TAXES AND BONDS</b></p> <p>2790d—10. Time warrants of independent districts; counties of 6,500 to 6,700 [New].</p> | <p>Art.<br/>2802i—32. Tax rate in common school districts in counties of less than 50,000 [New].</p> <p>2802k. County-wide vocational school district and tax [New].</p> <p><b>6. DISTRICTS IN LARGE COUNTIES</b></p> <p>2815g—1d. Election of trustees in districts of 140,000 to 155,000 with 600 to 750 scholastics [New].</p> <p>2815g—58. Validation of districts; resolutions; orders and ordinances for divorcement or separation from municipal control; bonds; boundaries [New].</p> <p><b>7. JUNIOR COLLEGES</b></p> <p>2815m—2. Trustees of certain junior college districts; date for election [New].</p> <p>2815n—1. Administration of certain junior college districts with annexed school districts [New].</p> <p>2815q—2. Transfer of properties of county junior college districts after creation of senior college [New].</p> <p>2815r—2. Buildings, structures and additions; construction, acquisition and equipment; acquisition of land; powers of governing boards [New].</p> <p><b>8. REGIONAL COLLEGE DISTRICTS</b></p> <p>2815t—2. Abolition of Regional College Districts [New].</p> |
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**3. INDEPENDENT DISTRICTS IN CITIES**

**Art. 2774b. Trustees in districts of 200,000 scholastics containing city of 900,000**

**Number and term of trustees**

Section 1. In all Independent School Districts, whether created under the General Laws or by Special Act of the Legislature, having two hundred thousand (200,000) or more scholastics according to the last scholastic census and wherein there is situated a city having a population of nine hundred thousand (900,000) or more inhabitants according to the last Federal Census and having a board of seven (7) Trustees, the term of office of the Board of School Trustees shall be four (4) years.

**Election separately for positions; official ballots**

Sec. 2. All candidates for School Trustee in any such Independent School District, notwithstanding any contrary or inconsistent provisions in any other General or Special Law, shall be voted upon and elected separately for positions on said Board of Trustees and all candidates shall be designated on the official ballots according to the number of such positions to which they seek election. Such official ballot shall have printed on it the following: "Official Ballot for the Purpose of Electing Trustees" giving the name of the School District together with the designating num-

ber of each position to be filled, with the list of candidates under the position to which they respectively seek election. The names of the candidates for each position shall be arranged by lot by the Board of Trustees of such Independent School District. No language used in any part of this Act shall be interpreted to preclude the use of mechanical devices in voting.

#### **Time of election and term of different positions**

Sec. 3. The Trustees of such Independent School District who have been previously elected for Positions Nos. 1, 2, 3 and 4 shall serve until December 31, 1969; the Trustees to fill Positions Nos. 1, 2, 3 and 4 shall be elected at an election to be held on the third Saturday in November, 1969; those Trustees who have been previously elected for Positions Nos. 5, 6 and 7 shall serve until December 31, 1967; Trustees to fill Positions Nos. 5, 6 and 7 shall be elected at an election to be held on the third Saturday in November, 1967. The election of Trustees shall be by majority vote. The results of each election held on the third Saturday in November, as herein provided, shall be canvassed by the Board of Trustees within five (5) days after the election. In the event no candidate in a position received a majority of the votes cast therein, the Board of Trustees shall order a special election to be held not more than thirty (30) days from the date of the first election and shall cause the names of the two (2) candidates receiving the highest number of votes in any position in which no candidate received a majority to be placed on the ballot as candidates for that position. Said Board, in fixing the date of said special election, may take into consideration any other election to be held at or about the date of said special election. Those candidates elected for said positions shall enter upon the discharge of their duties on the first day of January next following. Thereafter, the election for Trustees of said School Districts shall be held every two years on the third Saturday in November.

#### **Filing notice of candidacy; designation of position; restriction to one position**

Sec. 4. Any person desiring election for a position on any such Board of Trustees shall, not less than thirty (30) days prior to the date of said election, file with the Board of Trustees ordering such election written notice announcing his or her candidacy, designating in such written notice and request to have his or her name placed on the official ballot the number of the position on such Board of Trustees for which he or she, as the case may be, desires to become a candidate, and all candidates so requesting shall have their names printed on the official ballot beneath the number of the position so designated. No person who does not so file said notice and request within the time aforesaid shall be entitled to have his or her name printed upon said official ballot to be used at any such election. No candidate shall be eligible to have his or her name placed on the official ballot under more than one (1) position to be filled at any such election.

#### **Organization of board**

Sec. 5. The said Board of Trustees shall organize by electing the officers of the Board at the first regular meeting of the said Board in January following the elections herein provided for.

#### **Vacancies**

Sec. 6. If any vacancy or vacancies occur in the membership of any such Board of School Trustees, the said Board shall within thirty (30) days thereafter appoint a person to fill said vacancy until the next regular election. Should the Board for any reason fail or refuse to appoint a person to fill such vacancy, then the Board shall order an election

For Annotations and Historical Notes, see V.A.T.S.

for the purpose of filling the vacancy or vacancies, and said election shall be held in accordance with the provisions of this Act. Said election shall be held not later than ninety (90) days after creation of said vacancy. The trustee or trustees so elected to fill the vacancy or vacancies shall be elected by majority vote as herein provided and shall serve for the unexpired term and shall assume office at the first regular meeting of the Board after the election.

#### Notice and conduct of election

Sec. 7. Notice of all elections for Trustees in any such Independent School District included within the terms of this Act heretofore created by Special Acts of the Legislature shall be given in the manner and for the time required by such Special Acts, and such elections in any such Districts shall be held in the manner and in conformity with such Special Acts so creating such School Districts, except where any such Special Act may be in conflict herewith, in which event this Act shall control; and, likewise, notice of all elections for Trustees in any Independent School District included within the terms of this Act heretofore created under the General Laws shall be given in the manner and in conformity with such General Laws except where any such General Laws may be in conflict herewith, in which event this Act shall control.

#### Election officers; returns; canvass; certificates of election

Sec. 8. The Board of Trustees, at the time of ordering an election, shall appoint election officers, establish election precincts, and designate the polling places in accordance with the general election laws. The returns of such an election shall be made to the Board of Trustees in accordance with the general election laws. The Board of Trustees shall canvass such returns, declare the results of the election, and issue certificates of election to the persons shown by such returns to be elected.

#### Partial invalidity

Sec. 9. If any section, sentence, clause, phrase or word of this Act is for any reason held to be invalid, the validity of the remaining portions of this Act shall not be affected thereby, it being the intent of the Legislature that no portion of this Act shall become inoperative by reason of the invalidity of any other portion. As amended Acts 1965, 59th Leg., p. 635, ch. 312, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

### Art. 2774c—1. Districts converted from common school districts; alternative method of electing trustees

#### Districts which may adopt this act

Section 1. An independent school district may adopt the provisions of this Act if it

- (1) has converted from a common school district;
- (2) had more than 120 scholastics in daily attendance at the time of conversion;
- (3) is located in a county with a population of more than 68,000 but less than 73,000 persons or in a county with a population of more than 16,815 but less than 16,900 persons.

#### Method of adoption

Sec. 2. The board of trustees of an independent school district meeting the requirements of Section 1 of this Act may adopt the provisions of this Act by resolution.

**Time of elections**

Sec. 3. All regular elections conducted under the provisions of this Act shall be conducted on the first Saturday in April.

**Notice of election**

Sec. 4. More than 14 days before the election, the board of trustees shall publish notice of the election and of the terms of the trustees to be elected. The notice shall be published in a newspaper printed or regularly distributed in the district.

**Form of election**

Sec. 5. Candidates receiving the largest number of votes are entitled to serve as trustees.

**First election**

Sec. 6. In the first election held under this Act seven trustees shall be elected. They shall determine by lot the length of the terms.

**Terms**

Sec. 7. (a) Three members drawing numbers one, two, and three serve for one year.

(b) Two members drawing numbers four and five serve for two years.

(c) Two members drawing numbers six and seven serve for three years.

(d) All members serve until their successors are elected and qualified.

(e) Succeeding trustees serve for three-year terms.

(f) Trustees elected in special elections to fill unexpired terms serve for the remainder of the unexpired terms. Acts 1965, 59th Leg., p. 104, ch. 39, emerg. eff. March 18, 1965.

**Title of Act:**

An Act providing three-year terms and an alternate method of election for trustees of certain independent school districts con-

verted from common school districts; and declaring an emergency. Acts 1965, 59th Leg., p. 104, ch. 39.

**Art. 2775a—1. Election of trustees by separate positions in independent districts of 500 or more scholastics**

Section 1. In all independent school districts, whether created under the General Laws or by Special Act of the Legislature, having five hundred or more scholastics according to the last scholastic census, in which the candidates for school trustee are not voted on and elected by separate positions under some other applicable statute, the Board of Trustees of any such independent school district may, by appropriate action taken at least sixty (60) days prior to any election of school trustees, order that all candidates for school trustee be voted upon and elected separately for positions on the Board of Trustees and all candidates shall be designated on the official ballots according to the number of the position to which they seek election. When an independent school district elects to come within the provisions of this Act, the Board of Trustees shall number the positions in the order in which the terms of office expire, the expiring terms which are to be filled at the first election to be numbered Position No. 1, Position No. 2, and so on, and the next succeeding terms expiring to take the next larger numbers, until all of the positions have been numbered. Thereafter, any candidate offering himself for a position as trustee of such district in any election shall indicate the number of the position for which he desires to run, and his application for a place

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on the ballot shall disclose the position number for which he is a candidate or the name of the incumbent member holding the position for which he desires to run. The names of the candidates for each position shall be arranged by lot by the Board of Trustees of the district. Once the Board of Trustees of an independent school district shall have adopted the foregoing procedure for elections, said Board of Trustees or their successors may not rescind the action which adopted the foregoing procedure. As amended Acts 1965, 59th Leg., p. 181, ch. 73, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 2 of the amendatory act of 1965 repealed all conflicting laws and parts of laws.

**Art. 2775a—5. Election of trustees in districts within counties of 12,700 to 13,100**

Section 1. The board of trustees of an independent school district in a county having a population larger than 12,700 but smaller than 13,100 according to the last preceding Federal Census, may order that each trustee position be designated by number and that each candidate be designated on the official ballot by the number of the position sought.

Sec. 2. At least 60 days before an election which is to be governed by the provisions of this Act, the board of trustees must number the positions in the order in which the terms of office expire, the expiring terms which are to be filled at the first election to be numbered position 1, position 2, and so on, and the terms which are to be filled at the next succeeding election to take the next larger numbers, until all of the positions have been numbered. A candidate for a position must indicate the number of the position in his application for a place on the ballot. The names of the candidates for each position shall be arranged by lot on the official ballot.

Sec. 3. An independent school district which comes under the provisions of this Act and which has less than 500 scholastics, as shown by the last preceding scholastic census roll approved by the State Board of Education and exclusive of transfers, may conduct its trustee elections in the same manner as an independent school district which has 500 scholastics or more. Acts 1965, 59th Leg., p. 917, ch. 452.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the election of trustees of independent school districts in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 917, ch. 452.

**Art. 2775a—6. Election of trustees in districts within counties of 21,300 to 21,700**

Section 1. The Board of trustees of an independent school district in a county having a population larger than 21,300, but smaller than 21,700, according to the last preceding Federal Census, may order that each trustee position be designated by number and that each candidate be designated on the official ballot by the number of the position sought.

Sec. 2. At least 60 days before an election which is to be governed by the provisions of this Act, the board of trustees must number the positions in the order in which the terms of office expire, the expiring terms which are to be filled at the first election to be numbered position 1, position 2, and so on, and the terms which are to be filled at the next succeeding election to take the next larger numbers, until all of the positions have been numbered. A candidate for a position must indicate the number of the position, and an application for a place on the ballot must disclose the position number. The names of the candidates for each position shall be arranged by lot on the official ballot.

Sec. 3. An independent school district which comes under the provisions of this Act and which has less than 500 scholastics as shown by the last preceding scholastic census roll approved by the State Board of Education and exclusive of transfers may conduct its trustee elections in the same manner as an independent school district which has 500 scholastics or more. Acts 1965, 59th Leg., p. 1501, ch. 652.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act relating to the election of trustees of independent school districts in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 1501, ch. 652.

Art. 2775a—7. Election of trustees in districts within counties of 120,000 to 140,000

Section 1. This Act shall apply to any independent school district having an assessed valuation of less than Three Million, Seven Hundred Thousand Dollars (\$3,700,000) located in any county having a population of not less than one hundred twenty thousand (120,000) and not more than one hundred forty thousand (140,000) according to the last preceding federal census.

Sec. 2. Immediately after the next election of a Board of School Trustees in any independent school district to which this Act applies, members of such Board of School Trustees may draw lots. Those members drawing numbers 1, 2, and 3 shall serve for a term of one year and until their respective successors are duly elected and qualified. Those members drawing numbers 4 and 5 shall serve for a term of two (2) years and until their respective successors are duly elected and qualified. Those members drawing numbers 6 and 7 shall serve for a term of three (3) years and until their respective successors be duly elected and qualified.

Sec. 3. Those members of the Board of School Trustees, in any district to which this Act applies, who are elected at the expiration of each of the terms provided for in Section 2 herein shall serve for a term of three (3) years and the term of office of members of such Board of School Trustees shall continue to be three (3) years with two (2) or three (3) members thereof, as the case may be, being elected each year thereafter. Acts 1965, 59th Leg., p. 1635, ch. 702, emerg. eff. June 18, 1965.

Title of Act:

An Act relating to the election and terms of office of members of the Board of Trustees in certain independent school districts located in counties having a population of not less than one hundred twenty thousand

(120,000) and not more than one hundred forty thousand (140,000) according to the last preceding federal census; repealing conflicting laws; and declaring an emergency. Acts 1965, 59th Leg., p. 1635, ch. 702.

Art. 2775c—1. Election of trustees in certain districts with average daily attendance of 2,100 to 2,200

Section 1. This Act applies to each independent school district created under general or special law if

(1) the average daily attendance for the 1963-1964 school year was more than 2,100 and less than 2,200; and

(2) the assessed valuation for school tax purposes on September 1, 1964, was more than \$41,866,000 and less than \$41,867,000.

Sec. 2. The board of trustees may order a special election to fill a vacancy on the board. The Election shall be in accordance with the provisions of Article 2776, Revised Civil Statutes of Texas, 1925. Acts 1965, 59th Leg., p. 373, ch. 179.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act relating to election of school trustees in certain districts; and declaring an emergency. Acts 1965, 59th Leg., p. 373, ch. 179.

For Annotations and Historical Notes, see V.A.T.S.

**Art. 2775f. Election of trustees of independent districts in certain counties**

Section 1. This Act applies to each independent school district created under general or special law:

(1) if the largest portion of the area of the school district is inside the boundaries of a county having a population of more than 46,400 and less than 46,600, according to the last preceding federal census; and

(2) if the district has, until the effective date of this Act, elected four trustees for two-year terms in even-numbered years, and elected three trustees for two-year terms in odd-numbered years.

Sec. 2. The four trustee positions filled by election in even-numbered years before the effective date of this Act are designated Position 1, Position 2, Position 3, and Position 4. The three trustee positions filled by election in odd-numbered years before the effective date of this Act are designated Position 5, Position 6, and Position 7.

Sec. 3. (a) At the even-year election following the effective date of this Act, Position 1 and Position 2 are filled by election for three-year terms, and there shall be an election each third year to fill these positions.

(b) At the even-year election following the effective date of this Act, Position 3 and Position 4 are filled by election for two-year terms. Upon expiration of the two-year term the positions are filled by election for three-year terms and there shall be an election each third year to fill these positions.

(c) At the odd-year election following the effective date of this Act, Position 5, Position 6, and Position 7 are filled by election for three-year terms and there shall be an election each third year to fill these positions.

Sec. 4. If a position is vacated before the term expires, the remaining trustees shall, by majority vote, select a person to serve in that position. A person so selected serves the unexpired term and the position is then filled by election. Acts 1965, 59th Leg., p. 100, ch. 36, emerg. eff. March 18, 1965.

Election of trustees in certain districts with average daily attendance of 2,100 to 2,200, see art. 2775c—1.

**Title of Act:**

An Act relating to the election of school trustees in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 100, ch. 36.

**Art. 2776a. Qualifications of trustees**

Section 1. No person shall be elected as a trustee of a school district in this state unless he is a qualified voter.

Sec. 2. This Act does not apply to a school district trustee elected or appointed before the effective date of this Act. Acts 1965, 59th Leg., p. 1017, ch. 501.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the qualifications of school district trustees; providing certain exceptions; and declaring an emergency. Acts 1965, 59th Leg., p. 1017, ch. 501.

**Art. 2777d—3. Terms of office of trustees in districts within counties of 1,117 to 1,175 population****Application of act**

Section 1. This Act applies in all independent school districts in counties which contain a population of not less than 1,117 nor more than 1,175 according to the last preceding federal census, where heretofore four trustees were elected for two-year terms on the first Saturday in April in even-

numbered years and three trustees were elected for two-year terms in odd-numbered years.

#### Terms of office

Sec. 2. The three trustees elected to office on the first Saturday in April of 1965 shall serve a term of three years and their terms of office shall expire on the first Saturday in April of 1968; and on the first Saturday in April of 1968, three trustees shall be elected in such districts for three-year terms each and the same procedure shall be followed on the first Saturday in April of each third year thereafter. The terms of office of two of the four trustees elected to office on the first Saturday of April in 1964 shall expire on the first Saturday in April of 1966; and an election shall be had on the first Saturday in April of 1966 in such independent school districts, and at such election two trustees shall be elected in such districts for a term of three years each, and there shall be an election of two trustees for a term of three years each on the first Saturday in April of each third year thereafter. The terms of office of the other two of the four trustees elected on the first Saturday in April of 1964 shall expire on the first Saturday in April of 1967; and there shall be an election in such independent school districts on the first Saturday in April of 1967 of two trustees for a term of three years each, and there shall be an election of two trustees for a term of three years each on the first Saturday in April of each third year thereafter.

#### Choosing terms by lots

Sec. 3. There shall be a drawing by lots by the four trustees elected on the first Saturday in April of 1964 at the first regular meeting of the board of trustees of the independent school districts within the purview of this Act after the effective date of this Act, and the lots shall be numbered 1, 2, 3, and 4; and the two trustees that draw the lots marked 1 and 2 shall have their terms of office expire on the first Saturday in April of 1966 and the terms of office of the two trustees that draw lots numbered 3 and 4 shall expire on the first Saturday in April of 1967.

#### Vacancies

Sec. 4. If a vacancy occurs on the board of school trustees, it shall be filled by majority vote of the remaining trustees, but any school trustees so elected to fill a vacancy shall serve only for the unexpired portion of the term.

#### Conduct of elections

Sec. 5. Except as modified by this Act, all elections in such independent school districts shall be held in the manner and in conformity with provisions of law now applicable. Acts 1965, 59th Leg., p. 371, ch. 178.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act providing the mode of election of trustees of independent school districts in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 371, ch. 178.

### Art. 2777d—4. Terms of office of trustees in certain districts having city of 2,095 to 2,105 population

#### Application of act

Section 1. This Act shall apply in all independent school districts, whether created under the General Laws or by Special Act of the Legislature, having as many as 704 and not more than 708 scholastics according to the last published official scholastic census, and wherein there is situated a city having a population of as many as 2095 and not more than 2105, according to the last preceding Federal Census, and where heretofore four (4) Trustees were elected for two (2) year terms on the first



Saturday in April in even-numbered years and three (3) Trustees were elected for two (2) year terms in odd-numbered years.

#### Terms of office

Sec. 2. The three (3) Trustees elected to office on the first Saturday in April of 1965 shall serve a term of three (3) years and their term of office shall expire on the first Saturday in April of 1968 and on the first Saturday in April of 1968, three (3) Trustees shall be elected in such districts for three (3) year terms each and the same procedure shall be followed on the first Saturday in April of each third year thereafter. The terms of office of two (2) of the four (4) Trustees elected to office on the first Saturday in April in 1964 shall expire on the first Saturday in April of 1966, and an election shall be had on the first Saturday in April of 1966 in such independent school districts and at such election two (2) Trustees shall be elected in such districts for a term of three (3) years and there shall be an election of two (2) Trustees for a term of three (3) years each on the first Saturday in April of each third year thereafter. The terms of office of the other two (2) of the four (4) Trustees elected on the first Saturday in April of 1964, shall expire on the first Saturday in April of 1967 and there shall be an election in such independent school districts on the first Saturday in April of 1967 of two (2) Trustees for a term of three (3) years each and there shall be an election of two (2) Trustees for a term of three (3) years each on the first Saturday in April of each third year thereafter.

#### Choosing terms by lots

Sec. 3. There shall be a drawing of lots by the four (4) Trustees who were elected on the first Saturday in April of 1964, at the first regular meeting of the Board of Trustees of the independent school districts within the purview of this Act after the effective date of this Act and the lots shall be numbered 1, 2, 3, and 4 and the two (2) Trustees that draw the lots marked 1 and 2 shall have their terms of office expire on the first Saturday in April of 1966 and the terms of office of the two (2) Trustees that draw lots marked 3 and 4 shall expire on the first Saturday of April of 1967.

#### Subsequent elections

Sec. 4. After the first election of a three (3) year term as herein provided for, all subsequent elections shall be held every three (3) years, and at such election there shall be elected alternately two (2) school Trustees, or three (3) school Trustees, as the case may be, for a term of three (3) years.

#### Vacancies

Sec. 5. If any vacancy or vacancies occur in the membership of any such Board of School Trustees, such vacancy or vacancies shall be filled by the majority vote of the remaining school Trustees of such school district, but any school Trustees so elected to fill a vacancy shall serve only for the unexpired term of his or her predecessor.

#### Conduct of elections

Sec. 6. Except as modified by this Act, all such elections in such independent school districts shall be held in the manner and in conformity with provisions of law now applicable.

#### Cumulative effect; conflicting provisions

Sec. 7. The provisions of this Act shall be cumulative of all General Laws on the subject not in conflict herewith, and where not otherwise provided herein, such General Laws shall apply, but in case of

conflict the provisions of this Act shall control and be effective. Acts 1965, 59th Leg., p. 520, ch. 266, emerg. eff. May 28, 1965.

**Title of Act:**

An Act relating to the terms of office of School Trustees in certain school districts; choosing terms by lots; providing for sub-

sequent elections and filling of vacancies; providing that provisions of this Act shall be cumulative; and declaring an emergency. Acts 1965, 59th Leg., p. 520, ch. 266.

#### 4. TAXES AND BONDS

##### Art. 2784e-7. Additional tax for certain common or independent school districts in counties of 10,300 to 10,350 population

Section 1. The Commissioners Court for any common or independent school district having a scholastic population of 200 or less, according to the last preceding scholastic census, and lying within a county having a population of not less than 10,300 persons nor more than 10,350 persons, according to the last preceding Federal Census, may levy and cause to be collected a tax, in addition to that authorized under Section 1, Chapter 304, Acts of the 49th Legislature, 1945, as amended (Article 2784e, Vernon's Texas Civil Statutes), and authorized under Section 1 of Chapter 528, Acts of the 54th Legislature, 1955, as amended (Section 1, Article 2784e-1, Vernon's Texas Civil Statutes), not to exceed \$1 on the \$100 valuation of taxable property for the district for the maintenance and use of the schools therein. The limitation imposed by Subsection 3, Section 1, Chapter 304, Acts of the 49th Legislature, 1945, as amended (Section 3, Article 2784e, Vernon's Texas Civil Statutes), shall not apply to the additional tax provided for in this Section and the tax provided for in this Section shall be in addition to that limit.

Sec. 2. No tax shall be levied, collected, abrogated, diminished or increased under provisions of this Act until such action has been authorized by a majority of the votes cast at an election held in the district for such purposes, at which none but property taxpaying qualified voters of the district shall be entitled to vote. Acts 1965, 59th Leg., p. 804, ch. 389.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to an additional tax for any common or independent school dis-

trict having 200 scholastics or less in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 804, ch. 389.

##### Art. 2790d-10. Time warrants of independent districts; counties of 6,500 to 6,700

Section 1. This Act shall apply to all independent school districts in counties having a population of not more than 6,700 and not less than 6,500 according to the last preceding Federal Census and having an approved tax roll assessment for the school year of 1964-65 of not less than \$23,000,000.00 and not more than \$24,500,000.00. If during the scholastic year the Board of Trustees of any such independent school district determines that there will be insufficient funds to properly maintain and operate the school in said district during the remainder of such scholastic year, said Board is hereby authorized to issue time warrants for the purpose of obtaining funds with which to maintain and operate the schools in said district during the remainder of such scholastic year. Said Board shall authorize the issuance of said time warrants by appropriate order and a tax shall be levied for the payment of the interest on and principal of such warrants. Said order shall further create an interest and sinking fund into which there shall be deposited, out of each year's taxes while said warrants are unpaid and in existence, a sufficient amount of money to pay the principal and interest on said warrants when the same becomes due and payable. Said warrants shall be payable serially and annually

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for a period of years not to exceed eight (8), and shall bear interest at a rate not to exceed five per cent (5%) per annum. Nothing herein shall prevent the Board from paying the interest on said warrants semi-annually if it so desires. Said warrants shall be signed by the president of the Board of Trustees and countersigned by the secretary; provided, however, that their facsimile signatures may be printed or lithographed on any coupon, if any, attached to said warrants. Said warrants shall not be sold for less than par and accrued interest. Monies placed in said interest and sinking fund shall be paid out only to pay the interest and principal requirements on said warrants. However the aggregate amount of time warrants that may be issued in any one scholastic year shall not exceed \$175,000.00.

Sec. 2. No warrants authorized to be issued or executed under this Act shall be issued or executed after the expiration of two years from the effective date of this Act.

Sec. 3. This Act shall not be construed as repealing any laws now in existence authorizing the issuance of interest-bearing time warrants, but this Act shall be cumulative of all said existing laws and Acts.

Sec. 4. Upon the issuance of any warrants provided for in this Act the affidavit of the president and secretary of the said Board of Trustees that said warrants have been issued in conformity with this Act and that all proper and necessary orders have been issued and the affidavit of the director of the Division of Research of the Texas Education Agency that such school issuing said warrants is according to said agency's records within the authorization of said Act shall be prima facie evidence of the validity of said warrants. Acts 1965, 59th Leg., p. 197, ch. 82, emerg. eff. April 13, 1965.

Title of Act:

An Act authorizing certain school districts to issue time warrants; and declaring an emergency. Acts 1965, 59th Leg., p. 197, ch. 82.

**Art. 2792. 2862 County or city assessor and collector for independent district**

When a majority of the Board of Trustees of an independent district prefer to have the taxes of their district assessed and collected by the county assessor and collector, or by the city assessor and collector, of an incorporated city or town in the limits of which the school district, or a part thereof is located, or collected only by the county or city tax collector, same may be assessed and collected, or collected only, as the case may be, by said county or city officers, as may be determined by the Board of Trustees of said independent school district, and turned over to the treasurer of the independent school district for which such taxes have been collected. The property of such districts having their taxes assessed and collected by the county or city assessor and collector may be assessed at a greater value than that assessed for city, county and State purposes, and in such cases the city or county tax assessor and collector may assess the taxes for said district on separate assessment blanks furnished by said district and shall prepare the rolls for said district in accordance with the assessment values which have been equalized by a Board of Equalization appointed by the Board of Trustees for that purpose. If said taxes are assessed by a special assessor of the independent district and are collected only by the city or county tax collector, the city or county tax collector in such cases shall accept the rolls prepared by the special assessor and approved by the Board of Trustees as provided in the preceding Article. When the county assessor and collector is required to assess and collect the taxes of independent school districts, the Board of Trustees of such school district may contract with the Commissioners Court of said county for payment for such services as they may see fit to allow, not to

exceed the actual cost incurred in assessing and collecting said taxes; and when the assessor and collector of an incorporated city, or town, as hereinbefore provided, is required to assess and collect the taxes of independent school districts, the Board of Trustees of such school districts may contract with the governing body of said city for payment for such services as they may see fit to allow, not to exceed the actual cost incurred in assessing and collecting said taxes. As amended Acts 1965, 59th Leg., p. 1579, ch. 685, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 2 of the amendatory act of 1965 amended article 2795.

#### Art. 2795. Levy of common school tax

The Commissioners Court, at the time of levying taxes for county purposes, shall also levy upon all taxable property within any common school district the rate of tax so voted if a specific rate has been voted; otherwise, said court shall levy such a rate within the limit so voted as has been determined by the board of trustees of said district and the county superintendent and certified to said court by the county superintendent. If such tax has been voted after the levy of county taxes, it shall be levied at any meeting of said court prior to the delivery of the assessment rolls by the assessor. The tax assessor shall assess said tax as other taxes are assessed and make an abstract showing the amount of special taxes assessed against each school district in his county and furnish the same to the county superintendent on or before the first day of September of the year for which such taxes are assessed. The taxes levied upon the real property in said districts shall be a lien thereon and the same shall be sold for unpaid taxes in the manner and at the time of sales for State and county taxes. The tax collector shall collect said taxes as other taxes are collected. The tax assessor shall receive a commission of one per cent (1%) for assessing such taxes, and the tax collector, a commission of one per cent (1%) for collecting the same. The tax collector shall pay all such taxes to the county treasurer and said treasurer shall credit each school district with the amount belonging to it, and pay out the same in accordance with law. As amended Acts 1965, 59th Leg., p. 1579, ch. 685, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 1 of the amendatory act of 1965 amended article 2792.

#### Art. 2802i—32. Tax rate in common school districts in counties of less than 50,000

Section 1. Any common school district with an average daily attendance in excess of one thousand, seven hundred (1,700) for the preceding school year, and located within a county of less than 50,000 population, may levy, assess, and collect a maintenance tax not to exceed Two Dollars and Twenty-five Cents (\$2.25) per One Hundred Dollars (\$100) of assessed valuation of taxable property.

Sec. 2. Before levying any maintenance tax in excess of the prevailing maximum maintenance tax rate in such a district, the Board of Education of said common school district shall order and hold an election within such district for the purpose of determining whether a majority of the voters voting desire to authorize the local Board of Education to levy a maintenance tax not to exceed Two Dollars and Twenty-five Cents (\$2.25) per One Hundred Dollars (\$100) of assessed valuation. At such election none but qualified voters who are property taxpayers of such district shall be entitled to vote. The Election Order and Notice of Election shall in all cases either state the specific rate of tax to be voted upon, or that the rate shall not exceed the limit herein specified. Notice of Election shall be given for the length of time and in the manner prescribed by law for

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elections for trustees of common school districts, and such election shall be conducted in accordance with the General Law so far as applicable thereto. The ballots for such maintenance tax election shall have written or printed thereon the words "For the School Tax" and "Against the School Tax." Acts 1965, 59th Leg., p. 1647, ch. 711, emerg. eff. June 18, 1965.

**Title of Act:**

An Act to fix the rate of tax to be levied for local maintenance school purposes in all common school districts having an average daily attendance in excess of one thousand, seven hundred (1,700) for the preceding school year and located in a county of less than 50,000 population; to levy and collect maintenance taxes not to exceed Two Dollars and Twenty-five Cents (\$2.25) per One Hundred Dollars (\$100) of assessed valuation of taxable property; providing for elections to authorize such tax levy; and declaring an emergency. Acts 1965, 59th Leg., p. 1647, ch. 711.

**Art. 2802k. County-wide vocational school district and tax**

**Application of act; creation of county-wide vocational school districts**

Section 1. This Act is applicable to every county of this State. For the purpose of levying, assessing and collecting a County-Wide Vocational School Tax for the county-wide support of area vocational school programs hereinafter set forth and authorized and for such further administrative functions as are set forth herein, the territory of each of such counties is hereby created into a school district, hereinafter described as the County-Wide Vocational School District, this taxing power to be exercised as hereinafter provided.

**Taxing power of school districts; election**

Sec. 2. There shall be exercised in and for the entire territory of each of such counties to the extent in this Act prescribed, the taxing power conferred on school districts by Article VII, Section 3, Constitution of Texas; provided, such taxing authority shall not be exercised until and unless authorized by the qualified property taxpaying voters residing therein at an election to be held for that purpose as hereinafter provided.

**Petition for election; notice; ballots; conduct of election; expenses**

Sec. 3. a. Whenever a petition is presented to the county judge of any such county, signed by at least one hundred (100) qualified property taxpaying voters residing therein, asking for an election to be ordered for the purpose of determining whether or not a County-Wide Vocational School Tax shall be levied, assessed and collected on taxable property within said county for the support of area vocational school program(s) so designated by the Texas Central Education Agency pursuant to a State Plan for Vocational Education, and operated by local school district(s) in said county, not exceeding twenty cents (20¢) on the One Hundred Dollars (\$100) of assessed valuation of taxable property, it shall be the duty of the county judge immediately to order an election to be held throughout the county to determine said question. The finding of the county judge that such petition is sufficient and signed by the number of taxpaying voters required by this law shall be conclusive.

b. The county judge shall give notice of such election by publication of the election order in a newspaper of general circulation in said county once a week for at least two (2) weeks, the date of the first publication to be not less than twenty (20) days prior to the date fixed for holding said election. Further notice shall be given by the posting of a copy of said election order within the boundaries of each school district having territory in the county, and one copy of said notice shall be posted at county courthouse door, posted at least twenty (20) days prior to the date fixed for said election.

c. The ballots for such election shall have written or printed thereon the words:

“For County-Wide Vocational School Tax.

“Against County-Wide Vocational School Tax.”

d. Except as otherwise provided herein, the manner of holding such election(s) shall be controlled by the General Laws of the State, and only legally qualified property taxpaying voters residing in the county who own taxable property in such county and who have duly rendered the same for taxation shall be qualified to vote at such election. The election shall be held at the regular polling places within the county with duly appointed election officers holding said election. The officers holding the election shall make returns thereof to the county judge within five (5) days after the same is held.

e. All expenses for such election shall be paid from the general fund of the county.

**Canvass of returns; authority to levy and assess tax; revocation of tax**

Sec. 4. a. The commissioners court shall, within ten (10) days after holding such election, make a canvass of the results of said election. If a majority of the votes cast shall favor such tax, the court shall declare the results which shall be recorded in the minutes of the commissioners court, and certify same to the county tax assessor-collector. The commissioners court shall thereupon be authorized to levy said tax and the county tax assessor-collector shall be authorized to assess and collect the same.

b. No election to revoke said tax shall be ordered until the expiration of three (3) years from the date of the election at which such tax was adopted.

**Annual levy and collection of tax; deposit of funds**

Sec. 5. a. It shall be the duty of the commissioners court, after such tax shall have been voted, at the time other taxes are levied in the county, annually to levy a tax under this law of not to exceed twenty cents (20¢) on the One Hundred Dollars (\$100) valuation in said county at the same rate of valuation as is assessed for State and county purposes. Such taxes shall be assessed by the tax assessor and collected by the tax collector as other taxes are assessed and collected.

b. The county tax assessor-collector shall deposit the money as collected from said tax to a separate fund in the county depository to be known as the County Vocational School District Fund, to be allocated and distributed for the support of area vocational school programs operated by designated school district or districts in the county. He shall have the same authority and the same laws shall apply as in the collection of other county ad valorem tax.

**Duties of commissioners court**

Sec. 6. As soon as the commissioners court of said county shall determine the total of assessed value of taxable property, which value shall be the same as those fixed by it as the Board of Equalization for State and County purposes, it shall then perform the following duties: (a) determine the estimated total receipts from the levying and collecting of said tax of not exceeding twenty cents (20¢) on the property in such County-Wide District according to such valuation; (b) determine the estimated amount of money apportionable for the ensuing school year to school district or districts under the jurisdiction of the county, which operate designated area vocational school(s), on the formula basis hereinafter prescribed; (c) transmit a copy of the order fixing the estimated proportioned amount available, to the president of the board of trustees of each such designated school district or districts eligible therefor.

**Apportionment of money; formula basis**

Sec. 7. The money collected from any taxes levied by the commissioners court under this Act shall be distributed to such designated eligible school district(s) in the county to be apportioned on the following formula basis: The combined average daily membership (ADM) of students in vocational programs of designated area vocational school(s) as determined for the preceding school year divided into the average daily memberships in vocational programs of each such area vocational school; except that for the first year of operation the apportionment will be upon average daily membership (ADM) in grades 9 through 12 inclusive, determined for the preceding year, in all of the school districts operating designated area vocational school programs.

**Monthly settlements with eligible independent school districts**

Sec. 8. As and when said taxes are collected by the tax collector of the county, he shall make monthly settlements with the independent school districts eligible therefor and situated in such county, said moneys to be received and held by said independent school districts and protected in accordance with the existing depository laws. And the tax collector shall place to the credit of the common or other school districts using the county depository such moneys as are apportioned to them.

**Alteration or enlargement of duties and powers of commissioners court**

Sec. 9. Until and unless said County-Wide Vocational School Tax has been authorized by an election held in such county, the duties and powers of the commissioners court shall not be considered as having been changed, altered or enlarged by this Act.

**Eligibility to attend school district operating vocational school program;  
tuition average daily attendance**

Sec. 10. a. Irrespective of whether a County-Wide School District Tax has been voted: Any resident of the County-Wide Vocational School District who shall have attained the age of fourteen (14) years prior to September 1 shall be considered eligible to attend a school district in his county designated as operating an area vocational school program, provided he is accepted by such district as qualifying under its entrance requirements.

b. No tuition shall be charged any such eligible resident of the county enrolled in said area vocational school program, if the county has voted and collects said county-wide tax in support thereof.

c. Any pupil under twenty-one (21) years of age on September 1 and who has not completed the twelfth grade shall be eligible to be counted in average daily attendance (ADA) for Foundation School Program purposes by the designated area school district in accordance with policies of the Central Education Agency.

Provided, however, where such a pupil attends school in his home district a part of a day and attends part of a day in vocational class(es) offered only in a designated area vocational school district, his ADA shall be counted by each district in approximate proportion to the time of attendance in each district, determinable under regulations of the Agency; his State per capita, if any, to remain with the home district.

d. Any eligible child residing in a school district which is under agreement with a neighboring school district designated to operate and accept such in its area vocational school program shall, on timely application of his parents for enrollment in the vocational program, be received by the designated area district free of tuition without the necessity of a formal transfer, any existing law to the contrary notwithstanding.

e. Any eligible child residing in a school district which is not listed under any agreement with a school district designated to operate and accept such in its area vocational school program may, on timely application of his parents for enrollment in its vocational program, be received by a designated area district in his county or in an adjoining county if there is none in his county, on such terms as the receiving district may deem just and proper, without the necessity of a formal transfer, any existing law to the contrary notwithstanding.

f. Upon certification of the acceptance and vocational program enrollment of such children from one district to another, by the superintendent of the receiving district, the State Department of Education shall adjust its records to pay over directly the state per capita apportionment to the respective district in which such children are received and educated.

#### Changing duties or powers of school district trustees

Sec. 11. This Act shall not have the effect of changing any duties imposed or powers conferred on the trustees of any school district of this State except as expressly provided herein; it being the intention of this law that said respective boards of trustees shall continue to administer their lawful duties and powers as now authorized by law, that the County-Wide Vocational School Tax herein authorized, if voted, shall be levied by the commissioners court and assessed and collected by the county tax assessor-collector to be distributed and used for the purpose expressed herein.

Nor shall this law affect the right and duty of the respective local school districts of the counties to levy, assess and collect local maintenance and/or bond taxes authorized for local school district purposes by the property taxpayers in said respective districts. Acts 1965, 59th Leg., p. 469, ch. 236.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act creating each county of the State into a County-Wide Vocational School District; authorizing counties to vote, levy, assess and collect a County-Wide Vocational School Tax; providing for the apportionment and administration thereof; providing for operation and further support of area vocational school programs by local school district(s) in the county, as designated by the Central Education Agency in line with State plan for vocational education, whether or not such county tax is voted; prescribing as to eligibility, procedures and receiving for attendance and/or enroll-

ment in area vocational school programs; authorizing counting of average daily attendance for Foundation School Program purposes in accordance with policies of the Central Education Agency; providing for adjustments and payment of State per capita on certain scholastics to the receiving district; providing this Act shall not have effect of changing any duties imposed or powers conferred on trustees of any school district of this State except as expressly provided herein; providing a severability and savings clause; and declaring an emergency. Acts 1965, 59th Leg., p. 469, ch. 236.

### 5. ADDITIONS AND CONSOLIDATIONS

#### Art. 2806. Election to consolidate

(a) On the petition of 20 or a majority of the legally qualified voters of each of several contiguous common school districts, or contiguous independent school districts, or one or more independent school districts and one or more common school districts constituting as a whole one continuous territory, praying for the consolidation of such districts for school purposes, the county judge shall issue an order for an election to be held on the same day in each such district. The county judge shall give notice of the date of such elections by publication of the order in some newspaper published in the county for at least 20 days prior to the date on which such elections are ordered, or by posting a notice of such elections in each of the districts, or by both such publication and



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posted notice as may be elected by the county judge. The commissioners court shall, at its next meeting, canvass the returns of such elections, and if the votes cast in each and all districts show a majority in each district voting separately in favor of such consolidation, the court shall declare the school districts consolidated. Provided that if any such district or districts are situated wholly in a county other than the county or counties embracing any other such district or districts the petitions and election orders prescribed in this Act shall be addressed to and issued by the respective county judges of the respective counties in which such districts respectively lie, each county judge ordering the election for the district or districts in his county, and the commissioners courts of such respective counties shall canvass the returns and declare the results of the elections in the district or districts of their respective counties. Where one or more independent school districts are consolidated together or with one or more common school districts the consolidated districts shall constitute an independent school district, and shall have all the rights, powers, and privileges granted to independent school districts by the laws of this state.

(b) If only one independent school district is consolidated with one or more common school districts the consolidated district shall bear the name of such independent school district, and the board of trustees of said independent school district shall serve as the board of trustees of the consolidated district until the next regular election of trustees, as prescribed by general law, at which time the consolidated district shall elect a board of seven trustees, whose powers, duties, and terms of office shall be in accordance with the provisions of the general laws governing independent school districts, as they now exist or may be thereafter enacted; provided, if two or more independent school districts are included in such consolidation the consolidated district shall bear the name as prescribed in the petitions for consolidation but such name shall include the words "Consolidated Independent School District," but the board of trustees of the independent school district having the greatest number of scholastics at the time of such consolidation shall serve as the board of trustees of the consolidated district until the next regular election of trustees, as prescribed by general law, at which time the consolidated district shall elect a board of seven trustees, at least two of which trustees shall be elected from the area of each former independent district included in said consolidation, whose powers, duties, and terms of office shall be in accordance with the provisions of the general laws as they now exist or may hereafter be enacted; provided, further, that when it is proposed to consolidate contiguous county line districts, the petitions and election orders prescribed in this Act shall be addressed to and issued by the county judge of the county having jurisdiction over the principal school of each district and the results of the election shall be canvassed and declared by the commissioners court of said county.

(c) If less than a majority of the votes cast in any one of the districts is in favor of the consolidation, then another election involving the same consolidation proposal may not be held until at least one year has elapsed since the date of the election. As amended Acts 1965, 59th Leg., p. 101, ch. 37, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Art. 2815—4. Incentive aid payments to independent school districts created through consolidation

##### Sec. 1.

\* \* \* \* \*

A. (1) The amount of Incentive Aid Payments shall not exceed the difference between the sum of the Foundation Program Payments

which would have been paid to the several districts included in the newly organized district had there been no consolidation, and the amount of Foundation Program Assistance for which the new district qualifies.

(2) Where, however, such newly organized district is budget balance (not eligible for Foundation Program Payments) the amount of the Incentive Aid Payments shall not exceed the sum of the Foundation Program Payments for which the several districts included in the newly organized district were eligible in the scholastic year when they were consolidated.

(3) Provided further, that where there have been, or hereafter may be one, or a series of consolidations at intervals in compliance with and pursuant to the provisions of Article 2815-4, Revised Civil Statutes of Texas, the lastly created or newly organized independent school district shall be eligible to receive at due times the total sum of the series of Incentive Aid Payments as computed separately at the time of the several consolidations, subject to provisions in this Act. With respect to all such consolidations heretofore effected, the ten (10) year payment period shall be computed from the date of consolidation, or from the effective date of this amendatory Act, whichever is the latest. As amended Acts 1965, 59th Leg., p. 105, ch. 40, § 1, emerg. eff. March 22, 1965.

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**6. DISTRICTS IN LARGE COUNTIES**

**Art. 2815a. Repealed. Acts 1965, 59th Leg., p. 1538, ch. 673, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment**

**Arts. 2815b to 2815g. Repealed. Acts 1965, 59th Leg., p. 1538, ch. 673, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment**

**Art. 2815g—1c. Election of trustees of districts having territory in county of 1,200,000 or more**

"Section 1. This Act shall apply to any school district, whether created by General Law or special Act, having all or the major portion of its territory situated within a county having a population of more than one million two hundred thousand (1,200,000), according to the last preceding Federal Census, except those independent districts having a scholastic population of one hundred seventy-five thousand (175,000), according to the last preceding scholastic census, and which were created by special Act of the Legislature and which operate under the provisions of that Act; provided, however, that this Act shall not apply to any district unless and until the board of trustees thereof adopts by majority vote an order or resolution adopting the provisions thereof. The board of trustees of said independent districts may adopt an order or resolution, adopting all or any one or more of the provisions hereof, then thereafter for a period of three (3) successive years all trustee elections in such district shall be held and governed by the terms and provisions thereof. As amended Acts 1965, 59th Leg., p. 522, ch. 268, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 2815g—1d. Election of trustees in districts of 140,000 to 155,000 with 600 to 750 scholastics**

Section 1. This Act shall apply to all independent school districts, whether created by General Law or Special Act, in counties having a population of more than one hundred forty thousand (140,000) and less

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than one hundred fifty-five thousand (155,000) according to the last preceding Federal Census, and having a scholastic population of more than six hundred (600) and less than seven hundred fifty (750), according to the last preceding scholastic census; provided, however, that this Act shall not apply to any district unless and until the board of trustees thereof adopts by majority vote an order or resolution adopting the provisions thereof. The board of trustees of said independent districts may adopt an order or resolution adopting all or any one or more of the provisions hereof, then thereafter for a period of three (3) successive years all trustee elections in such district shall be held and governed by the terms and provisions thereof.

Sec. 2. Hereafter, the trustees of any independent school district coming within the purview of Section 1 hereof may order by official resolution the election for the purpose of electing school trustees held on any one of the following dates: the first Saturday in April or the first Saturday in October. The board of trustees shall adopt and make public the resolution setting the date of the election at least sixty (60) days prior to said election. Except for the special provisions contained here, the General Laws applying to such elections shall govern.

Sec. 3. After the effective date of this Act the board of trustees of any independent school district coming within the purview of Section 1 hereof may adopt an order or resolution providing for the election of trustees by majority vote in accordance with the following provisions:

(1) The order or resolution providing for the election of trustees by majority vote shall be adopted and made public at least sixty (60) days prior to the election date.

(2) The results of the first election shall be canvassed by the board of trustees within five (5) days after the election. In the event no candidate in a position received a majority of the votes cast therein the board of trustees shall order a special election to be held not less than ten (10) days nor more than thirty (30) days from the date of the first election and shall cause the names of the two (2) candidates receiving the highest number of votes in any position in which no candidate received a majority to be placed on the ballot as candidates for that position. Said election shall be held and conducted in the manner prescribed by law for regular trustee elections.

Sec. 4. This Act shall be cumulative of all other laws, general and special, relating to the subject matter hereof. In all matters not covered by the terms hereof, the provisions of the existing laws shall govern. Acts 1965, 59th Leg., p. 1511, ch. 656.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act providing for the election of trustees of independent school districts in counties with population of more than one hundred forty thousand (140,000) and less than one hundred fifty-five thousand (155,000)

and with a scholastic population of more than six hundred (600) and less than seven hundred fifty (750); providing the method of electing trustees; providing the method of canvassing such elections; providing that this Act shall be cumulative; and declaring an emergency. Acts 1965, 59th Leg., p. 1511, ch. 656.

**Art. 2815g—58. Validation of districts; resolutions; orders and ordinances for divorcement or separation from municipal control; bonds; boundaries**

Section 1. All school districts of every kind and type whatsoever, including all types of junior and regional college districts, which have been recognized by either State or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally created, established, and/or organized in the first instance, regardless of the actual manner in which they were attempted to be created,

established, and/or organized; and the boundary lines and names of all such school districts are likewise validated. All resolutions, orders, ordinances, and other acts or attempted acts of all county boards of school trustees and county boards of education, Commissioners Courts, and county judges, in changing or attempting to change the boundaries of any school district of any kind or type whatsoever, including all types of junior and regional college districts, whether by rearrangement of boundaries or correction of boundary lines, by subdividing or detachment, by annexation or consolidation of all or part of one or more such school districts to or with all or part of one or more other such school districts, by grouping of such school districts, or otherwise, or in creating or attempting to create any such school district, or in abolishing or attempting to abolish any such school district, or in converting or attempting to convert any such school district into any other type of school district, are hereby validated in all respects, and all such boundary changes, creations, abolitions, and annexations, or attempts thereat, shall be valid as though they had been duly and legally accomplished in the first instance. The election of all members of the board of trustees of such school districts who have received favorable votes of a majority of the qualified electors voting at an election heretofore held is hereby in all things validated.

Sec. 2. All resolutions, orders, ordinances, and other acts or attempted acts of all governing bodies of all municipalities and of all governing bodies of all municipally controlled or assumed school districts and extended municipal school districts, in separating or divorcing or attempting to separate or divorce such schools or school districts from municipal control, jurisdiction, or authority, and/or of the governing bodies of all municipalities in annexing or attempting to annex any territory to any such municipally controlled, assumed, or extended school districts, are hereby validated in all respects, and all such separations or divorcements and annexations, or attempts thereat, shall be valid as though they had been duly and legally accomplished in the first instance.

Sec. 3. All bonds, including both tax and revenue bonds, and including voted or authorized but undelivered bonds as well as outstanding bonds, and all voted bond taxes and voted maintenance taxes, of and in all school districts of every kind and type whatsoever, including all types of junior and regional college districts, and all bond, maintenance tax, and bond assumption elections heretofore held in all such school districts, together with all proceedings, resolutions, orders, ordinances, and other acts or attempted acts of the governing bodies or bond-issuing authorities of all such school districts, pertaining to, or attempting to issue or authorize, any such bonds, bond taxes, maintenance taxes, and bond assumptions, be and are hereby validated in all respects, and all such bonds, bond taxes, maintenance taxes, and bond assumptions shall be valid as though they had been duly and legally issued, authorized, or accomplished in the first instance.

Sec. 4. Nothing in this Act shall be construed as validating any boundary change made or attempted to be made by any ex parte order, resolution, or other act of the board of trustees of any school district, and this Act shall have no application to litigation pending in any court of competent jurisdiction in this state on the effective date hereof questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same. Nor shall this Act apply to proceedings pending before the County Boards of Trustees, the State Commissioner of Education, or the State Board of Education on the effective date hereof questioning the validity of any matters hereby validated if such proceedings are ultimately determined against the validity of the same. Nor shall this Act apply to any district which has heretofore been declared invalid by a court of competent jurisdiction in this state or

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which may have been established and which was later returned to its original status. Acts 1965, 59th Leg., p. 518, ch. 265, emerg. eff. May 28, 1965.

**Title of Act:**

An Act validating all school districts, including all types of junior and regional college districts, together with the boundaries and names thereof; validating the creation, abolition, and conversion of all such school districts, and all changes in boundaries in all such school districts; validating the election of certain members to boards of trustees; validating the annexation of territory and the divorcement or separation from municipal districts; validating all bonds, bond taxes, maintenance taxes, and bond assumptions and the elections authorizing same, of and in all school districts, including all types of junior and regional college districts; providing this Act shall not be construed as validating

any boundary change made or attempted to be made by any ex parte order, resolution, or other act of the board of trustees of any school district; providing that this Act shall have no application to litigation now pending questioning the validity of matters hereby validated, or to proceedings now pending before the County Boards of Education, State Commissioner of Education, or the State Board of Education, or to any district which has heretofore been declared invalid by certain courts, or to districts which may have been established and later returned to original status, providing such litigation or proceedings are ultimately determined against the validity of matters hereby validated; providing a saving clause; and declaring an emergency. Acts 1965, 59th Leg., p. 518, ch. 265.

## 7. JUNIOR COLLEGES

### Art. 2815h. Junior college districts

#### Removal of territory of school district from union junior college district lying wholly within one county

Sec. 19a. (a) Before the first election to authorize the levy of a tax for any purpose is held in a union junior college district lying wholly within one county, which district was created prior to the effective date of this Act, the territory of a school district lying within the college district shall be removed therefrom, if

(1) a majority of the persons in any school district constituting a part of the union college district signing the petition praying for the creation of the college district filed a written request with the county board of education or, if none, with the commissioners court, asking that their names be removed from the petition, or otherwise signified their desire to nullify their signatures on the petition, prior to the date on which the election to create the college district was ordered; and

(2) the majority of the voters in the school district where the request for removal was requested, voting at the election to create the college district, voted against its creation.

(b) When the territory of a school district is removed from a college district as provided in Subsection (a) of this Section, the board of trustees of the college district, prior to entering an order calling an election to authorize the levy of a tax for any purpose, shall prepare an order redefining the boundaries of the college district and present the order to the commissioners court. The court, if satisfied with the accuracy of the order, shall enter the order in its minutes. The board of trustees shall send a copy of this order to the State Board of Education.

(c) The revised metes and bounds description of the boundary of the district shall be included in the order calling the following elections:

(1) each election on the question of levying a tax for any authorized purpose ordered within five years after the creation of the district;

(2) the first election on the question of levying a tax for any authorized purpose if that election is called more than five years after the creation of the district.

(d) Where the territory of a school district is removed under Section 19a of this Act, no review of feasibility and desirability shall be made and the college district shall be effective as created except with respect to its boundaries. Added Acts 1965, 59th Leg., p. 296, ch. 129, § 2, emerg. eff. May 6, 1965.

**Annexation of adjacent territory to Junior College District**

Sec. 21. Territory adjoining or lying adjacent to any Junior College District may be annexed to such Junior College District for Junior College purposes only by either of the following methods, to-wit:

(a) By Contract: Upon petition presented to the governing board of any Junior College District executed by all owners of all property situated in the territory proposed for annexation, which petition shall contain a legally sufficient description of such territory proposed for annexation, the governing board of such Junior College District, if such board deems such annexation to be in the best interest of the District, shall enter an order authorizing the annexation of such territory by contract and, thereupon, shall enter into a written agreement duly executed and acknowledged by all persons, corporations, and entities owning property within such territory thereby effecting such annexation.

(b) By Election: Any such territory may be annexed to a Junior College District for Junior College purposes only by an election called upon petition of five percent (5%) of the property tax paying voters in the territory seeking to be annexed, said petition to contain a legally sufficient description of the territory proposed for annexation and to be presented to the County Board of Education, or to the County Commissioners Court of the county in case there is no County Board of Education, together with a certified copy of an order by the governing board of the Junior College District affected approving the proposed annexation of such territory to the Junior College District for Junior College purposes only. The County Board of Education, or the County Commissioners Court, shall issue an order for an election to be held in such territory proposed for annexation, said election to be held not less than twenty (20) days nor more than thirty (30) days from the date of said order and shall give notice of the date of such election by posting notices of such election in three (3) public places within such territory proposed for annexation. Only those legally qualified voters residing in such territory proposed for annexation shall be permitted to vote. The County Board of Education, or County Commissioners Court, shall, at a meeting held not more than five (5) days after said election, canvass the returns of such election, and if the votes cast therein show a majority in favor of such annexation, then the County Board of Education, or County Commissioners Court, shall declare such territory annexed to the Junior College District for Junior College purposes only, and said County Board of Education, or County Commissioners Court, shall cause a certified copy of such order to be transmitted to the governing board of said Junior College District.

At the next regular or special meeting of the governing board of the Junior College District to which territory has been annexed, such governing board shall, in the event of annexation by election, enter an order concurring in the order of the County Board of Education, or County Commissioners Court, and, in any event, shall enter an order re-defining the boundary lines of the Junior College District as enlarged and extended and shall cause the same to be recorded upon the minutes of the governing board of said Junior College District.

Whenever any territory has been annexed to a Junior College District for Junior College purposes only in either manner provided by

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this Act, then, within thirty (30) days after such annexation, the governing board of the Junior College District shall, without the prerequisite of the filing of any petition, order an election to be held in the Junior College District as enlarged by the annexation on the question of the levy and collection of taxes for the support and maintenance of such Junior College District as enlarged under the provisions of Chapter 70, Acts of the 50th Legislature, 1947. If said Junior College District had issued bonds prior to such annexation and if any of such bonds are outstanding at the time of such annexation, then the question of the assumption of such bonded indebtedness by said Junior College District as enlarged and the levy and collection of taxes in payment thereof shall also be submitted at the same election. The election for the levy and collection of said taxes and the assumption of said bonds shall be in accordance with the provisions of the General Laws relative to Independent School Districts, provided, however, that no petition shall be necessary. As amended Acts 1965, 59th Leg., p. 195, ch. 80, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Annexation of territory added to independent school districts

Sec. 21a. Repealed. Acts 1965, 59th Leg., p. 195, ch. 80, § 2.

#### Annexation of territory in counties of less than 10,000 population

Sec. 21b. (1) This Section applies to any junior college district which is located wholly within a county having a population of less than 10,000 according to the last preceding federal census.

(2) By election upon a petition of five per cent of the property tax-paying voters of the county, all of the territory within the county, not lying within the boundaries of the district, may be annexed to the district for junior college purposes only.

(3) The petition shall be presented to the commissioners court of the county, together with a certified copy of an order by the board of trustees of the district approving the proposed annexation. Within 30 days after the petition is presented, the commissioners court shall issue an order for an election to be held in the county, and the election shall be held not less than 20 nor more than 30 days after the date of the order. The commissioners court shall give notice of the date of the election by posting notices at least 10 days before the date of the election. All legally qualified voters residing in the county shall be permitted to vote.

(4) At a meeting not less than five days after the election, the commissioners court shall canvass the returns of the election. If a majority of the votes cast are in favor of the annexation, then the commissioners court shall declare the territory annexed for junior college purposes only, and shall transmit certified copies of the order to the board of trustees of the district. The board of trustees shall make concurring orders and shall re-define the boundary lines of the district as enlarged and cause these to be recorded on the minutes of the board of trustees.

(5) Within 30 days after the annexation, the board of trustees shall order an election to be held in the district as enlarged, on the question of the levy and collection of taxes for the support and maintenance of the district as enlarged. No petition is required, and Chapter 70, Acts of the 50th Legislature, 1947,<sup>1</sup> applies. If the district issued bonds prior to the annexation, and any of the bonds are outstanding at the time of the annexation, then the question of the assumption of the bonded indebtedness by the district as enlarged and the levy and collection of taxes in payment of the indebtedness shall also be submitted at the same election. The

election for the levy and collection of taxes and assumption of bonded indebtedness shall be in accord with the general law relative to independent school districts, but no petition is necessary.

(6) If less than a majority of the votes cast at the election are in favor of the annexation, then the boundaries of the district remain the same as before the election, and no subsequent election may be held on the question within 30 days after the date of the election. Added Acts 1965, 59th Leg., p. 991, ch. 478, § 1.

<sup>1</sup> See article 2815h—3b.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Annexation of territory in counties of less than 65,000 population

Sec. 21c. (1) This Section applies to any Junior College District which is located wholly within a county having a population of less than 65,000, according to the last preceding Federal Census, but only after reclassification of the Junior College as a public senior college has been approved by the Coordinating Board, Texas College and University System.

(2) By election upon a petition of 51 per cent of the property tax-paying voters of the county who reside outside the Junior College District, all of the territory within the county, not lying within the boundaries of the District, may be annexed to the District for Junior College purposes only.

(3) The petition shall be presented to the Commissioners Court of the county, together with a certified copy of an order by the Board of Trustees of the District approving the proposed annexation. Within 30 days after the petition is presented, the Commissioners Court shall issue an order for an election to be held in the county, and the election shall be held not less than 20 nor more than 30 days after the date of the order. The Commissioners Court shall give notice of the date of the election by posting notices at least 10 days before the date of the election. All legally qualified voters residing in the county but outside the District shall be permitted to vote.

(4) At a meeting not less than five days after the election, the Commissioners Court shall canvass the returns of the election. If a majority of the votes cast are in favor of the annexation, then the Commissioners Court shall declare the territory annexed for Junior College purposes only, and shall transmit certified copies of the order to the Board of Trustees of the District. The Board of Trustees shall make concurring orders and shall redefine the boundary lines of the District as enlarged and cause these to be recorded on the minutes of the Board of Trustees.

(5) Within 30 days after the annexation, the Board of Trustees shall order an election to be held in the District as enlarged, on the question of the levy and collection of taxes for the support and maintenance of the District as enlarged. No petition is required, and Chapter 70, Acts of the 50th Legislature, 1947,<sup>1</sup> applies. If the District issued bonds prior to the annexation, and any of the bonds are outstanding at the time of the annexation, then the question of the assumption of the bonded indebtedness by the District as enlarged and the levy and collection of taxes in payment of the indebtedness shall also be submitted at the same election. The election for the levy and collection of taxes and assumption of bonded indebtedness shall be in accord with the General Law relative to Independent School Districts, but no petition is necessary.

(6) If less than a majority of the votes cast at the election are in favor of the annexation, then the boundaries of the District remain the same as before the election, and no subsequent election may be held on



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the question within six months after the date of the election. Added Acts 1965, 59th Leg., p. 1091, ch. 523, § 1.

<sup>1</sup> Article 2815h—3b.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Acts 1965, 59th Leg., p. 195, ch. 80, § 1 amended section 21 of this article; section 2 of the 1965 amendatory act provided: "This Act is cumulative to all existing laws, except that Chapter 52, Acts of the 57th Legislature, 1961, codified as Section 21a of Article 2815h, Vernon's Texas Civil Statutes, is hereby repealed."

Acts 1965, 59th Leg., p. 296, ch. 129 § 2 amended this article by adding section 19A relating to the removal of territory of a school district from a union junior college district lying wholly within one county. Section 1 of the amendatory act of 1965, entitled "Legislative Policy", provided: "The Legislature recognizes that union junior colleges are a voluntary association

of school districts where information regarding their creation has been freely and publicly disseminated.

"The policy of the Legislature expressed in this Act is to correct certain injustices which can occur when there has been a lack of free and public dissemination of full and accurate information regarding the creation of a union junior college district. It is not the intention of this Legislature to weaken the integrity or structure of the junior college system, to interfere with the boundaries of presently functioning union junior college districts, nor to establish legislative precedent for removing territory from union junior college districts, now in existence or to be created in the future."

**Art. 2815k—2. Repealed. Acts 1965, 59th Leg., p. 27, ch. 12, § 2. Eff. Sept. 1, 1965**

The repealed article, derived from Acts 1959, 56th Leg., p. 283, ch. 160, related to the jurisdiction of the Central Education Agency, State Board of Education and State Commission of Education over public junior

colleges. For provisions relating to the jurisdiction of the Coordinating Board, Texas College and University System over public junior colleges, see art. 2919e-2, §§ 17-19.

**Art. 2815m—2. Trustees of certain junior college districts; date for election**

Section 1. This Act applies to any junior college district, all or a part of which is located in a county having a population of more than 1,200,000 according to the last preceding federal census.

Sec. 2. (a) The board of trustees of any such district may set the date of trustee elections on either the first Saturday in April or the first Saturday in October.

(b) The date must be set by official resolution, and the resolution must be adopted and made public at least 60 days before the election.

(c) Once an election has been held on a date set as authorized by this Act, then the next two trustee elections must be held in the same month of the year. Acts 1965, 59th Leg., p. 386, ch. 188.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act relating to the date for election of trustees in certain junior college districts; and declaring an emergency. Acts 1965, 59th Leg., p. 386, ch. 188.

**Art. 2815n—1. Administration of certain junior college districts with annexed school districts**

**Board of trustees; how composed**

Section 1. Any Junior College District originally created pursuant to an election held for such purpose out of territory then comprising an independent school district in a city which had assumed control of its school within its limits, and wherein at the time of creation of such Junior College District the boundaries of said district were co-extensive or co-terminous with those of the independent district and in which Junior College District the members of the Board of Trustees were appointed by the governing body of said city and to which Junior College District there has

been annexed one (1) or more common school and/or independent school districts, and which Junior College District contains one (1) or more cities with a population in excess of fifty thousand (50,000) persons according to the last Federal Census, shall be governed, administered and controlled by a Board of Trustees, constituted and elected as hereinafter set out, whether or not such common school and/or independent districts so annexed for Junior College purposes only shall be in the county of the original Junior College District, or in adjoining counties and whether or not such common school and/or independent school districts so annexed for Junior College purposes only shall be contiguous to said original Junior College District or to districts annexed thereto for Junior College purposes only. Said Board of Trustees shall have the powers and duties now or hereafter prescribed by law for the government of public Junior Colleges, and all powers and duties conferred upon Junior Colleges by the General Laws of this state, except such as are in conflict with this Act, shall be possessed and may be exercised by such Junior Colleges.

#### Apportionment of trustees

Sec. 2. Members of the Board of Trustees of such Junior College District shall be elected from the original Junior College District and from a common and/or independent school district annexed thereto for Junior College purposes only on the following basis:

(1) The original Junior College District shall be entitled to elect one (1) trustee for each Ten Million Dollars (\$10,000,000) of taxable, assessed valuation of property according to the last assessed valuation for Junior College purposes in said district. Each of the annexed districts shall be entitled to elect one (1) trustee for each Ten Million Dollars (\$10,000,000) according to such last assessed valuation in said district for Junior College purposes; provided, however, if there be a district or districts annexed to said Junior College District for Junior College purposes only which has an assessed valuation for Junior College purposes according to such last assessed valuation of less than Ten Million Dollars (\$10,000,000), there shall be elected at large from such district and all other districts having such an assessed valuation of less than Ten Million Dollars (\$10,000,000) one (1) trustee for each Ten Million Dollars (\$10,000,000) of aggregate amount of assessed valuation for Junior College purposes in all of such districts according to the last assessment therefor; provided, however, if the aggregate of such assessed valuations in all annexed districts, each of which has an assessed valuation less than Ten Million Dollars (\$10,000,000), shall not amount to as much as Ten Million Dollars (\$10,000,000), there shall, nevertheless, be elected at large one (1) trustee from such annexed districts.

(2) In the event the original Junior College District or annexed district or combination of annexed districts should have an assessed valuation of more than Five Million Dollars (\$5,000,000) in excess of the Ten Million Dollars (\$10,000,000) units of valuation herein provided for, then such district or combination of districts shall be entitled to elect from the area of such district or combination of districts one (1) additional trustee.

#### Number of trustees

Sec. 3. Whenever the Board of Trustees of the Junior College District shall, under the provisions of Section 2 of this Act, reach a total number of ten (10), additional members of said Board of Trustees shall not be elected until such time as the assessed valuation of the original Junior College District shall amount to the sum of Two Hundred Million Dollars (\$200,000,000), or the assessed valuation of the annexed areas shall amount to Fifty Million Dollars (\$50,000,000); thereafter, additional members of said Board of Trustees shall continue to be selected by the use of

**For Annotations and Historical Notes, see V.A.T.S.**

the formula provided for in Section 2 of this Act; except, however, that Twenty-Five Million Dollars (\$25,000,000) of taxable assessed value of property shall be used in said formula instead of the Ten Million Dollars (\$10,000,000) of assessed valuation provided for in Section 2 hereof.

**Effect of decrease in taxable values**

Sec. 4. In the event, by reason of a decrease in taxable values, the number of trustees representing an area of any one (1) district shall decrease, the trustees then representing such district shall continue in office until the expiration of the respective terms of office for which appointed or elected.

**Board of district to which another district annexed;  
continuance in office; terms of office**

Sec. 5. The Board of Trustees of any Junior College District to which the provisions hereof are effective shall continue in office for the remainder of their respective terms and until such time as their successors shall have been elected and qualified according to the provisions of this Act. Such Board shall be the governing body of the Junior College District and shall administer the same according to the provisions of this Act. Trustees subsequently elected shall be elected for six (6) year terms and shall serve otherwise in the same manner as provided by this Act.

**Assessed valuation on which based**

Sec. 6. In the event at the time the first election for trustees under this Act shall be held there is no assessed valuation for Junior College purposes in some or all of the annexed districts, then the valuation of the property in such annexed districts for the purpose of determining the number of trustees to which such annexed district or districts shall be entitled, shall be based upon the last assessed valuation for school purposes in said annexed district or districts.

**Determination of assessed valuation; number of trustees;  
call of election; voting boxes; terms of office**

Sec. 7. The Board of Trustees shall on the first Monday in April of each year determine the amount of the assessed valuation in each district, according to the last approved assessment rolls for Junior College purposes, and shall determine the number of trustees to be elected in accordance with the provisions of this Act, and shall thereafter order an election for the purpose of electing trustees. Said order shall be made at least twenty (20) days prior to the date of said election and shall establish a voting box or boxes in the original Junior College District and in each annexed district involved. Such order shall also provide that said election shall be in conformity with the General Laws of the state relating to the election and qualifications of trustees for independent school districts insofar as the same are applicable. Said election shall be held on the first Monday in June of each year, and the returns thereof shall be canvassed by the Board of Trustees and the results declared within one (1) week after said election is held.

**Annexation of school districts; election; petition;  
expenses; terms of trustees**

Sec. 8. An adjacent common school district or districts and an adjacent independent school district or districts may be annexed to the Junior College District upon a majority vote of the qualified voters of the district or districts to be annexed, provided no election to annex any district or districts shall be ordered unless the governing body of the Junior College District has approved the proposed annexation. A petition praying for an election on the annexation of a district or districts shall be pre-

presented to the County Board of School Trustees in the county having jurisdiction over the principal school or schools of the district sought to be annexed and in the event there is no County Board of School Trustees in such county the petition shall be presented to the Commissioners Court of that county. Such petition shall be signed by not less than fifty (50) qualified voters of the district to be annexed and upon approval of the annexation by the governing body, the County Board or Commissioners Court shall order an election to be held within the district to be annexed on a date not less than fifteen (15) nor more than thirty (30) days from the date the election is ordered, and the order of election shall prescribe the method by which notice of the election shall be given. The expense of such elections shall be paid by the Junior College District. Any district annexed under the provisions hereof shall, at the next regular trustee election, be entitled to elect a representative or representatives in the same manner hereinabove provided. The trustee or trustees first elected shall serve for a period of two (2) years, successors in office shall serve for a period of six (6) years. Acts 1965, 59th Leg., p. 3, ch. 3, emerg. eff. Feb. 11, 1965.

Section 9 of the 1965 act repealed all conflicting laws or parts of laws.

**Title of Act:**

An Act providing for the annexation of common and/or independent school districts to certain Junior College Districts for Junior College purposes only; providing for the creation of Boards of Trustees for such Districts and annexed common and independent school districts, and determining the manner of representation on said Board from the several common or independent school districts, the territory of which has been annexed to such Junior College Districts for Junior College purposes only, and which Junior College Districts contain one or more cities with a population in excess of fifty thousand (50,000) persons according to the last Federal Census; providing the mode, manner and time of electing members of said Boards for their terms of office, and enacting other provisions relating to the subject matter; repealing laws in conflict therewith to the extent of such conflict; preserving to such Junior College Districts the powers and privileges of Junior College Districts generally; providing a saving clause; and declaring an emergency. Acts 1965, 59th Leg., p. 3, ch. 3.

poses only, and which Junior College Districts contain one or more cities with a population in excess of fifty thousand (50,000) persons according to the last Federal Census; providing the mode, manner and time of electing members of said Boards for their terms of office, and enacting other provisions relating to the subject matter; repealing laws in conflict therewith to the extent of such conflict; preserving to such Junior College Districts the powers and privileges of Junior College Districts generally; providing a saving clause; and declaring an emergency. Acts 1965, 59th Leg., p. 3, ch. 3.

**Art. 2815q-2. Transfer of properties of county junior college districts after creation of senior college**

**Creation of senior college; conveyance of assets; discontinuance of junior college**

Section 1. Whenever the Legislature has created or shall create within the boundaries of any county junior college district a State-supported senior college offering at least four (4) years college work upon the condition that the Board of Trustees of said county junior college district shall convey all of the assets, real, personal, tangible and intangible held in its name as of the date fixed for the establishment of said senior college and containing the other provision that said properties shall be conveyed to the governing body of the senior college free and clear of any indebtedness or indebtednesses, encumbrance or encumbrances of any kind or character and of whatsoever nature, the Board of Trustees of said county junior college district is hereby fully authorized and empowered to convey to the governing body of the senior college all of such assets, real, personal, tangible and intangible held by it on the date fixed for such conveyance in the Act creating such senior college, except monies on hand for the payment of outstanding obligations of the district.

From and after the conveyance of the properties of said county junior college district to the governing body of said senior college, the county junior college district shall not further maintain a junior college and shall function only for the purpose of carrying out the provisions of this Act.

**Outstanding tax obligations and bonds; tax levies; discharging indebtedness; tax-supported bonds; election**

Sec. 2. Where such county junior college district had or has outstanding tax obligations in the nature of bonds or other indebtedness, the Board

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of Trustees of said county junior college district shall continue to make the necessary tax levies annually for the purpose of paying necessary administrative expenses of the Board of Trustees and paying off and discharging such bonded or other indebtedness, both principal and interest, until all of the same has been fully paid off and discharged.

Where said county junior college district has outstanding any bonds payable from the revenues from any building or buildings which revenue bonds constitute an encumbrance upon the income of such building or buildings, the Board of Trustees of the county junior college district is hereby authorized to issue bonds of said county junior college district payable from ad valorem taxes of said district and to sell such tax-supported bonds and pay off such revenue bonds or to exchange such tax-supported bonds for said revenue bonds. No such tax-supported bonds shall be issued, however, until authorized at an election held for that purpose and at which election a majority of the qualified electors of said district who own taxable property and who have duly rendered the same for taxation voting thereon shall have voted in favor of the issuance of said bonds.

**Acts necessary toward final discharge of indebtedness;  
validation of proceedings**

Sec. 3. The Board of Trustees of the county junior college district is hereby authorized to perform all acts necessary toward the final discharge of all the indebtedness of said county junior college district and to perform all necessary administrative acts in connection therewith. Said Board of Trustees is specifically authorized to continue to levy and collect sufficient taxes annually within the limits prescribed by law and authorized by the required election for the purpose of discharging the principal and interest on all outstanding bonded and other indebtedness, including the repayment of any temporary loans which said Board may find necessary to obtain in order to pay all current operating expenses of the junior college up to the date of the conveyance of the properties until all such obligations have been fully discharged, and such temporary loans are hereby authorized, and such temporary loans heretofore obtained are hereby ratified and validated.

All proceedings had and taken by the Board of Trustees of said county junior college district, including any elections authorizing the issuance of tax-supported bonds with which to pay off and discharge any revenue bonds of the district now constituting an encumbrance on the income of any building or buildings, are in all things hereby validated, ratified and confirmed.

**Repeal of conflicting laws**

Sec. 4. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. Acts 1965, 59th Leg., p. 885, ch. 439, emerg. eff. June 16, 1965.

**Title of Act:**

An Act authorizing the transfer of properties of county junior college districts after a State-supported senior college has been created within said districts, to such senior college; providing that such junior college districts shall not further maintain a junior college; authorizing the levy of taxes annually to pay off outstanding indebtedness of the junior college districts and to pay necessary administrative costs;

authorizing the issuance of tax-supported bonds for the purpose of paying off revenue bonds of such districts; authorizing temporary loans for paying off current operating expenses; validating all proceedings of the Board of Trustees of such districts; repealing all laws or parts of laws in conflict; containing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 885, ch. 439.

Art. 2815r. Dormitories, libraries, cottages or stadiums; museums and other buildings

**Joint construction of museums, library and other buildings;  
lease contracts for use of buildings**

Sec. 2(a). The Boards aforesaid are hereby authorized and empowered to enter into contracts with municipalities or school districts for the joint construction of museums, library buildings, or such other buildings as may be deemed necessary.

(b). The Boards aforesaid are further authorized and empowered to enter into lease contracts with municipalities within the boundaries of their district, for the use, by either, of all or any part of library buildings, or such other buildings as may be deemed necessary.

(c). The governing bodies of the aforesaid municipalities are hereby expressly authorized and empowered to enter into lease contracts referred to in subparagraph (b) above, such lease contracts to run for a term of years not to exceed forty (40), and in the event any such municipality may be operating pursuant to a Home Rule Charter containing provisions in conflict herewith, the provisions hereof shall prevail and have precedence. As amended Acts 1965, 59th Leg., p. 103, ch. 38, § 1, emerg. eff. March 18, 1965.

Art. 2815r—2. Buildings, structures and additions; construction, acquisition and equipment; acquisition of land; powers of governing boards

**Authority to construct, acquire and equip buildings and structures and to acquire land; loans and contracts**

Section 1. The governing boards of all junior college districts heretofore or hereafter organized under the laws of the State of Texas are hereby severally authorized and empowered, each for its respective institution or institutions, to construct, acquire and equip, on behalf thereof, buildings and other structures and additions to existing buildings and other structures and to acquire land for said additions, buildings and other structures in any manner authorized by law, if deemed appropriate by said governing boards. Said constructions, equipping and acquisition may be accomplished in whole or in part with proceeds of loans obtained from any private or public source. The said governing boards are also severally authorized to enter into contracts with municipalities and school districts for the joint construction of said facilities.

**Approval of cost, types, plans and specifications**

Sec. 2. The buildings and structures and additions to buildings and structures constructed pursuant to the authority contained in this Act, together with the equipment therein shall be of types and for purposes which the authorizing governing board shall deem appropriate and shall deem to be for the good of the institution, provided such governing board shall approve the total cost, types, plans and specifications of such construction and equipment.

**Bonds and notes, authority to issue**

Sec. 3. Any such governing board is authorized and empowered to issue its bonds and notes from time to time and in such amounts as it shall consider necessary or appropriate for the construction, acquisition or equipment of buildings or structures or additions to buildings or structures or the acquisition of land herein authorized. Such bonds and notes may be made redeemable before maturity, at the option of such govern-

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ing board, at such price or prices and under such terms and conditions as may be fixed by the board prior to the issuance thereof. Such bonds or notes shall be sold for not less than par and accrued interest.

#### Use and pledge of tuition charges

Sec. 4. Any such governing board shall be authorized and empowered to use, out of the tuition charges now imposed or permitted to be imposed by law on each student enrolled in the institution or institutions operated by it, an amount not exceeding \$15.00 per enrolled student per semester during the long term and \$7.50 per enrolled student for each of the two summer terms and to pledge the tuition charges thus assigned irrevocably to the payment of the interest on and the principal of the bonds or notes authorized to be issued hereunder, and to enter into such agreements regarding the collection, pledging and disposition thereof as it may deem appropriate.

#### Pledge of fees, charges and revenues

Sec. 5. In addition to the tuition charges authorized by this Act to be used and pledged to the bonds and notes authorized herein, said governing boards shall have the authority to pledge to the payment of the bonds herein authorized any and all other fees, charges and revenues which are now or hereafter may be by law permitted to be pledged to the payment of revenue bonds issued under laws other than this Act; and the bonds authorized by this Act may be secured by a pledge of and be payable from the tuition charges authorized herein or may be secured by a pledge of and be payable from said tuition charges along with or in addition to said other fees, charges and revenues. The resolution, order or indenture authorizing such bonds or notes may provide that the tuition charges authorized herein may be abated for so long as said other fees, charges and revenues are sufficient to pay said bonds and the interest thereon, or the same may provide that the pledge of said other fees, charges and revenues may be abated for as long as said tuition charges are sufficient to pay the same. Each such governing board is authorized and empowered to enter into agreements relating to the maintenance of a maximum percentage of occupancy of dormitories and the maximum use of other properties, the revenues from which are pledged pursuant to the authority of this Act.

#### Obligations of governing boards

Sec. 6. The bonds and notes authorized to be issued hereunder shall be special obligations of the governing board issuing the same, and none of the bonds or notes authorized to be issued hereunder shall ever be an indebtedness of the State of Texas.

#### Legal and authorized investments

Sec. 7. All such bonds and notes shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

#### Priorities

Sec. 8. Any pledge of tuition charges, fees, other charges and revenues made under the terms of this Act shall be subject to any prior

lien and pledge thereof, but the existence of any such previous pledge shall not prevent the making of a subsequent and inferior pledge, unless such action is prohibited under the resolution, order or indenture authorizing the prior obligations.

**Form, conditions and details of bonds and notes**

Sec. 9. Subject to the restrictions contained in this Act, each such governing board is given complete discretion in fixing the form, conditions and details of such bonds and notes, and such bonds and notes may be refunded or otherwise refinanced whenever said governing board deems such action to be appropriate or necessary.

**Approval and registration of bonds and notes**

Sec. 10. Prior to delivery thereof, all bonds and notes authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination; and if he finds that they have been issued in accordance with the Constitution and this Act, and that they will be binding special obligations of the governing board authorizing their issuance, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration they shall be incontestable.

**Partial invalidity**

Sec. 11. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

**Cumulative effect**

Sec. 12. This Act shall not repeal any statute now in effect but shall be cumulative of all other statutes pertaining to any of the institutions affected by this Act, and shall not modify or abridge any powers now held by any of said institutions to control or pledge its funds; provided, however, that to the extent that the provisions of his Act may be in conflict with the provisions of any other law, the provisions of this Act shall take precedence and prevail. Acts 1965, 59th Leg., p. 420, ch. 207, emerg. eff. May 18, 1965.

**Title of Act:**

An Act authorizing the construction, acquisition, and equipping of buildings and other structures and additions to existing buildings and other structures and acquiring land therefor by the governing boards of the several junior college districts heretofore or hereafter organized; providing for the issuance of negotiable revenue bonds and notes for certain purposes; providing for the securing and payment of such obligations by the use and pledge of a certain part of student tuition charges;

authorizing the pledge of other fees, charges and revenues to the payment of such bonds and notes; providing that the bonds and notes thus authorized shall be legal and authorized investments; providing for the approval of such bonds and notes by the Attorney General and the registration thereof by the Comptroller of Public Accounts; containing a severance clause; enacting other provisions related to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 420, ch. 207.

## 8. REGIONAL COLLEGE DISTRICTS

### Art. 2815t—2. Abolition of Regional College Districts

Section 1. Any Regional College District which has conveyed all, or substantially all, of its property and assets to a state-supported Senior College or University located in such Regional College District and which Regional College District has no outstanding bonded indebtedness is hereby abolished and shall cease to exist and function; provided, however, that all delinquent and uncollected taxes in said Regional College District



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shall not hereby be discharged, but shall be and remain fully due, payable and collectible. The Tax Assessor and Collector of the county in which said Regional College District is located shall cause all delinquent and uncollected taxes of said Regional College District to be collected in accordance with the General Laws applicable to Regional College Districts. All of said taxes, as collected, shall be turned over to any such state-supported Senior College or University. All taxes turned over to any such state-supported Senior College or University in accordance with this Act may be used by it for any lawful purpose. Acts 1965, 59th Leg., p. 114, ch. 43, emerg. eff. March 25, 1965.

Section 2 of the act of 1965 repealed all conflicting laws and parts of laws.

**Title of Act:**

An Act abolishing Regional College Districts which have conveyed all or substantially all of their property to a state-supported Senior College or University, and

which have no outstanding bonded indebtedness; providing for the continued collection and disposition of delinquent taxes in said Regional College Districts; repealing all laws and parts of law in conflict herewith; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 114, ch. 43.

### CHAPTER FIFTEEN—SCHOOL FUNDS

**Art.**

2827b—1. Financial support for instructional television services [New].

2827d. Treatment of emotionally disturbed children in counties of 650,000 to 750,000; expenditures [New].

**Art.**

2827e. Use of county available fund apportionment by school districts operating vocational and technical schools [New].

#### **Art. 2827b—1. Financial support for instructional television services**

Section 1. Any school district of this state classified common, independent school district or rural high school district whose governing board elects to utilize and contract for available educational television programs and services, including transmission services with educational television stations and interconnecting communications common carriers, to enrich its classroom instruction shall, upon application and pursuant to regulations prescribed by the Central Education Agency, be reimbursed for such costs from state funds to the extent herein authorized.

Sec. 2. The annual cost of such television service programs of the district shall be borne equally by the state and the participating district eligible therefor on the basis, one-half ( $\frac{1}{2}$ ) by the state and one-half ( $\frac{1}{2}$ ) by the district, provided that the state's part therein shall not exceed Seventy-Five (75¢) Cents per pupil determined on the Average Daily Attendance (ADA) of the district for the preceding school year.

Sec. 3. The state's share of the cost shall be paid from the Foundation School Fund, and this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes. Provided, however, that the cost to the Foundation School Program shall not exceed Five Hundred Thousand Dollars (\$500,000) for the next biennium.

Sec. 4. The Act shall become effective for the school year 1965-66 and thereafter. Acts 1965, 59th Leg., p. 1157, ch. 545.

Effective Aug. 30, 1965, 90 days after date of adjournment for school year 1965-66 and thereafter.

**Title of Act:**

An Act to provide financial support from state funds on a limited basis for the development of instructional television services toward the enhancement of classroom instruction in the public elementary and

secondary school system of Texas; providing and prescribing for the reimbursement of a portion of the cost thereof by and pursuant to regulations of the Central Education Agency from the Foundation School Fund; making the Act effective for the school year beginning 1965-66 and thereafter; and declaring an emergency. Acts 1965, 59th Leg., p. 1157, ch. 545.

**Art. 2827d. Treatment of emotionally disturbed children in counties of 650,00 to 750,000; expenditures**

Section 1. In addition to all other powers granted or authorized by law, the board of trustees of any independent school district located in a county having a population of between six hundred fifty thousand (650,000) and seven hundred fifty thousand (750,000) according to the last preceding Federal Census shall have power and authority to make expenditures from local school funds of the district for the purpose of obtaining evaluation, counseling and/or treatment of emotionally disturbed children. The words "emotionally disturbed children" as used in this Article will be construed to include any child of educable mind whose ineffective adjustment to life's problems has resulted in abnormal behaviour and/or learning capacity so impaired as: to prevent the adequate and full education of such child; to burden the teacher of such child with unusual disciplinary, administrative, or educational duties; or to create physical, educational or emotional dangers for the pupils associated with such child. The board of trustees shall have power and authority to make such expenditures for salaries of doctors, counselors and/or therapists employed by the school system and/or for services rendered by nonprofit corporations on any basis determined to be appropriate by such board of trustees.

Sec. 2. This Act shall be cumulative of all laws of this state relating to the purposes for which public school funds may be expended. Acts 1965, 59th Leg., p. 174, ch. 68.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing boards of trustees of any independent school district located in a county having a population of between six hundred fifty thousand (650,000) and seven hundred fifty thousand (750,000), according to the last preceding Federal Census to make expenditures from local school funds of the district for the evaluation,

counseling, and/or treatment of emotionally disturbed children; defining the term "emotionally disturbed children"; setting forth the power and authority for the board of trustees to make such expenditures and to contract for services rendered by nonprofit corporations; providing that the Act shall be cumulative of all laws of this state relating to the purpose for which public school funds may be expended; and declaring an emergency. Acts 1965, 59th Leg., p. 174, ch. 68.

**Art. 2827e. Use of county available fund apportionment by school districts operating vocational and technical schools**

Section 1. a. Where any public school district or accumulation of districts of this State operates a school designated as an area vocational school for vocational and technical school purposes and/or which participates in such a designated area vocational school program, its annual county available school fund apportionment, if any, shall be employed in the operation of such school and/or in financing facilities therefor notwithstanding any laws to the contrary; provided further, that any such school district(s) shall not be held accountable for or charged with county available school funds in determination of eligibility for Minimum Foundation School Program Funds.

Sec. 2. This Act shall become and be effective for the scholastic year 1965-66 and thereafter. Acts 1965, 59th Leg., p. 487, ch. 249.

Effective Aug. 30, 1965, 90 days after date of adjournment for scholastic year 1965-66 and thereafter.

**Title of Act:**

An Act to authorize the use of county available fund apportionment by public school districts operating and/or participating in a designated area vocational and

technical school for such operational and/or facility purposes; providing that such districts shall not be accountable for nor charged with available county funds in computations relating to eligibility for Minimum Foundation School Program Funds; providing for an effective date of this Act; and declaring an emergency. Acts 1965, 59th Leg., p. 487, ch. 249.

**CHAPTER SIXTEEN—FREE TEXTBOOKS**

**Art. 2876k. Free textbooks for blind and visually handicapped scholastics**

**Section 1.** The State Board of Education is authorized to acquire, purchase and contract for, with or without bid, subject to rules and regulations adopted by the board, free textbooks recommended as suitable and usable for the education of blind and visually handicapped scholastics, hereinafter defined, in the public school systems of this state in grades one to twelve, inclusive. The board may also enter into agreements providing for the acceptance, requisition and distribution of books and instructional aids pursuant to Public Law 922, 84th Congress (20 U.S.C.A., Sections 101 and 102), or as amended.

**Sec. 2.** As used in this Act,

(a) "free textbooks" include books in Braille, large type or any other medium or any apparatus which conveys information to the reader or otherwise contributes to the learning process; and

(b) "blind and visually handicapped scholastics" include any child whose visual acuity is impaired to the extent that he is unable to read the print in regularly adopted textbooks used in the class concerned.

**Sec. 3.** Free textbooks and teacher copies requisitioned and purchased by the board pursuant to contract signed by the chairman of the board and the costs of administration thereof shall be paid out of the Textbook Fund of this state as are textbooks for children with normal vision. All books acquired by the board shall be distributed by the Central Education Agency pursuant to rules and regulations recommended by the state commissioner of education and adopted by the board.

**Sec. 4.** All free textbooks for blind and visually handicapped children available and submitted on invitation shall be examined by the State Textbook Committee for its recommendation as to their suitability and usability for the blind and visually handicapped in the public school systems.

**Sec. 5.** It is the intention of the Legislature that free textbooks for blind and visually handicapped children may be obtained and distributed pursuant to rules and regulations adopted by the State Board of Education as it may act on the recommendations of the State Textbook Committee and the state commissioner of education. All textbooks so acquired shall be the property of the State of Texas, to be controlled, distributed, and disposed of pursuant to board regulations. As amended Acts 1965, 59th Leg., p. 223, ch. 94, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**CHAPTER EIGHTEEN—COMPULSORY EDUCATION**

**Art. 2892. Attendance requirements**

Every child in this State who is seven years and not more than 17 years of age, other than a high school graduate, shall be required to attend the public schools in the district of his residence, or in some other district to which he may be transferred as provided by law, a minimum of 165 days of the regular school term of the district in which said child attends school. As amended Acts 1965, 59th Leg., p. 183, ch. 75, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## Art. 2893. Exemptions

The following classes of children are exempt from the requirements of this law:

1. Any child in attendance upon a private or parochial school which shall include in its course a study of good citizenship, and shall make the English language the basis of instruction in all subjects.

2. Any child whose bodily or mental condition is such as to render attendance inadvisable, and who holds definite certificate of a reputable physician specifying this condition and covering the period of absence.

3. Any child who is blind, dumb or feebleminded, for the instruction of whom no adequate provision has been made by the school district.

4. Any child living more than two and one-half miles by direct and traveled road from the nearest public school supported for the children of the same race and color of such child and with no free transportation provided.

5. Any child more than seventeen (17) years of age who has satisfactorily completed the work of the ninth grade, and whose services are needed in support of a parent or other person standing in parental relationship to the child, may, on presentation of proper evidence to the county superintendent, be exempted from further attendance at school. As amended Acts 1965, 59th Leg., p. 1020, ch. 504, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER NINETEEN—MISCELLANEOUS PROVISIONS

Art. 2905b. Vocational and other educational programs [New].	29191. Use of protective eye devices in public schools [New].
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## Art. 2905b. Vocational and other educational programs

Section 1. The Board of Trustees of any public free school district of this State, subject to rules and regulations of the Central Education Agency heretofore and hereafter adopted, is hereby authorized and empowered to conduct and supervise vocational classes and other educational programs for students of all ages; and whenever it deems necessary to expend local maintenance funds for the cost thereof.

Sec. 2. For purposes of conducting and/or supervision by the district of such vocational classes and other educational programs for students of any and all ages, said Board of Trustees is hereby authorized and empowered: to purchase, acquire or lease real or personal property; to contract or enter into agreement(s) with any department or agency of the United States Government and this State, subject to rules and regulations prescribed by the Central Education Agency appertaining to such educational programs; to contract or enter into agreement(s) with any person, partnership, firm or corporation pertaining to the local operation and supervision of such program(s) by the district. Acts 1965, 59th Leg., p. 381, ch. 184.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## Title of Act:

An Act authorizing the Board of Trustees of any public free school district of this State, subject to rules and regulations adopted by the Central Education Agency, to conduct and supervise vocational and other educational programs for students of all ages and to expend local maintenance funds for the cost thereof; authorizing such school districts to purchase, acquire

and/or lease real or personal property therefor; empowering such Board of Trustees to enter into contract or agreement(s) for purposes of conducting and supervision of vocational classes and other educational programs by the district; providing a savings clause; and declaring an emergency. Acts 1965, 59th Leg., p. 381, ch. 184.

For Annotations and Historical Notes, see V.A.T.S.

**Art. 2909c. Construction, acquisition, improvement and equipment of buildings by certain colleges and universities**

**Bonds and notes as legal and authorized investments**

Sec. 8b. All such bonds and notes shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto. Added Acts 1965, 59th Leg., p. 433, ch. 220, § 1, emerg. eff. May 21, 1965.

**Art. 2919e. Repealed. Acts 1965, 59th Leg., p. 27, ch. 12, § 2. Eff. Sept. 1, 1965**

The repealed article, derived from Acts 1953, 53rd Leg., p. 569, ch. 214, established the Texas Commission on Higher Education. See, now, the Higher Education Coordinating Act of 1965, codified as art. 2919e—2.

**Art. 2919e—2. Higher Education Coordinating Act of 1965**

**Title; purpose of act**

Section 1. This Act shall be known as the Higher Education Coordinating Act of 1965. Its purpose is to establish in the field of public higher education in the State of Texas an agency to provide leadership and coordination for the Texas higher education system, institutions and governing boards, to the end that the State of Texas may achieve excellence for college education of its youth through the efficient and effective utilization and concentration of all available resources and the elimination of costly duplication in program offerings, faculties and physical plants.

**Definitions**

Sec. 2. Wherever used in this Act the following words and phrases shall have the indicated meaning:

(a) "Board" means the Coordinating Board, Texas College and University System herein created.

(b) "Public Junior College" means any junior college certified as required by House Bill No. 454, Chapter 160, Acts of the 56th Legislature, 1959 (codified as Article 2815k—2, Vernon's Texas Civil Statutes), prior to the effective date of this Act or as provided by this Act, including but not limited to the following so long as they shall retain such certification: Alvin Junior College; Amarillo Junior College; Blinn Junior College, Brenham; Cisco Junior College; Clarendon Junior College; Cooke County Junior College, Gainesville; Del Mar Junior College, Corpus Christi; Frank Phillips Junior College, Borger; Grayson County Junior College, Denison; Henderson County Junior College, Athens; Hill County Junior College, Hillsboro; Howard County Junior College, Big Spring; Kilgore Junior College; Laredo Junior College; Lee Junior College, Baytown; Navarro County Junior College, Corsicana; Odessa Junior College; Pano-la County Junior College, Carthage; Paris Junior College; Ranger Junior College; San Antonio Junior College; San Jacinto Junior College, Pasadena; South Plains Junior College, Levelland; Southwest Texas Joint Counties Junior College, Uvalde; Temple Junior College; Texarkana Junior College; Texas Southmost College, Brownsville; Tyler Junior College;

Victoria Junior College; Weatherford Junior College; and Wharton County Junior College, Wharton.

(c) "General academic teaching institution" means The University of Texas, Main University; Texas Western College of The University of Texas; Texas A & M University, Main University; Arlington State College; Tarleton State College; Prairie View A. and M. College; Texas Maritime Academy; Texas Technological College; North Texas State University; Lamar State College of Technology; Texas College of Arts and Industries; Texas Woman's University; Texas Southern University; Midwestern University; University of Houston; Pan American College; East Texas State College; Sam Houston State Teachers College; Southwest Texas State College; West Texas State University; Stephen F. Austin State College; Sul Ross State College; Angelo State College; and any other college, university or institution so classified as provided in this Act.

(d) "Public senior college or university" means a general academic teaching institution as defined herein.

(e) "Medical and dental unit" means The University of Texas Medical Branch; Southwestern Medical School; South Texas Medical School; The University of Texas Dental Branch; M. D. Anderson Hospital and Tumor Institute; Graduate School of Biomedical Sciences at Houston; and such other medical or dental schools as may be established by statute or as provided in this Act.

(f) "Other agency of higher education" means The University of Texas System, Central Administration; Texas Western College Museum; Texas A & M University System, Administrative and General Offices; Texas Agricultural Experiment Station; Texas Agricultural Extension Service; Rodent and Predatory Animal Control Service (a part of the Texas Agricultural Extension Service); Texas Engineering Experiment Station (including the Texas Transportation Institute); Texas Engineering Extension Service; Texas Forest Service; Texas Technological College Museum; Sam Houston Memorial Museum; Panhandle-Plains Historical Museum; Cotton Research Committee of Texas; Water Resources Institute of Texas; and any other unit, division, institution or agency which shall be so designated by statute or which may be established to operate as a component part of any public senior college or university, or which may be so classified as provided in this Act.

(g) "Institution of higher education" means any public junior college, public senior college or university, medical or dental unit or other agency of higher education as herein defined.

(h) "Governing board" means the body charged with policy direction of any public junior college, public senior college or university, medical or dental unit, or other agency of higher education, including but not limited to boards of directors, boards of regents, boards of trustees, and independent school district boards insofar as they are charged with policy direction of a public junior college.

(i) "University system" means the association of one or more public senior colleges or universities, medical or dental units, or other agencies of higher education under the policy direction of a single governing board.

(j) "Degree program" means any grouping of subject matter courses which, when satisfactorily completed by a student, will entitle him to a degree from a public senior college or university or a medical or dental unit.

(k) "Certificate program" means a grouping of subject matter courses which, when satisfactorily completed by a student, will entitle him to a certificate, associate degree from a junior college or documentary evidence, other than a degree, of completion of a course of study from an institution of higher education, provided that programs approved by or sub-

For Annotations and Historical Notes, see V.A.T.S.

ject to the approval of the State Board of Vocational Education are excluded from this definition.

(l) "Recognized accrediting agency" means the Southern Association of Colleges and Schools and any such other association or organization so designated by the Board.

(m) "Educational and general buildings and facilities" means buildings and facilities essential to or commonly associated with teaching, research or the preservation of knowledge. Excluded are auxiliary enterprise buildings and facilities, including but not limited to dormitories, cafeterias, student union buildings, stadiums and alumni centers.

**Establishment of Coordinating Board, Texas College and University System; functions**

Sec. 3. There is hereby established the Coordinating Board, Texas College and University System which shall have its office in Austin, Texas. It shall perform only such functions as are herein enumerated and as the Legislature may assign to it. Functions vested in the governing boards of the respective institutions of higher education, not specifically delegated to the Board, shall be performed by such boards. The coordinating functions and other duties delegated to the Board in this Act shall apply to all public institutions of higher education.

**Members of board; appointment; Chairman and Vice Chairman; terms of office**

Sec. 4. The Board shall consist of eighteen (18) members appointed by the Governor so as to provide representation from all areas of the State with the advice and consent of the Senate, and as the Constitution provides. The Governor shall designate a Chairman and Vice-chairman. Initial appointments to the Board shall be made immediately following the effective date of this Act, six (6) such appointments for terms which shall expire August 31, 1967; six (6) for terms which shall expire August 31, 1969; and six (6) for terms which shall expire on August 31, 1971, or at such time as their successors are appointed and qualified. Thereafter, the Governor shall appoint members for terms of six (6) years. Members of the Texas Commission on Higher Education shall be eligible for appointment to the Board. No member shall be employed professionally for remuneration in the field of education during his term of office.

**Compensation and expenses of members**

Sec. 5. Members of the Board shall serve without pay but shall be reimbursed for their actual expenses incurred in attending meetings of the Board or in attending to other work of the Board when such other work is approved by the Chairman of the Board.

**Quorum; Meetings; agenda**

Sec. 6. A majority of the membership of the Board shall constitute a quorum. The first meeting of the Board shall be called by the Chairman as soon as membership of the Board is completed. Thereafter, the Board shall hold regular quarterly meetings in the City of Austin, Texas, and such other meetings at such places and times as shall be scheduled by it in formal sessions and as shall be called by the Chairman. An agenda for the meetings in sufficient detail to indicate the items on which final action is contemplated shall be mailed to the chairman of each governing board and to the chief administrative officer of each State institution of higher education at least thirty (30) days prior to the meeting.

**Committees and advisory committees**

Sec. 7. The Chairman may appoint such committees from the Board's membership as he or the Board may find necessary from time to time.

The Board may appoint such advisory committees from outside its membership as it may deem necessary.

**Rules of procedure; hearings; notice; minutes**

Sec. 8. The Board shall adopt and publish rules of procedure for the orderly transaction of its business and shall establish and publish rules and regulations in accordance with and under the conditions applied to other agencies by Article 6252—13, Vernon's Annotated Civil Statutes, to effectuate the provisions of this Act. The Board shall grant any institution of higher education a hearing upon request and after reasonable notice. Minutes of all meetings shall be available in the Board's office for public inspection.

**Commissioner of Higher Education; appointment; qualifications; personnel and consultants**

Sec. 9. The Board shall appoint a Commissioner of Higher Education who shall select and supervise the Board's staff and perform such other duties as may be delegated to him by the Board. The Commissioner shall serve at the pleasure of the Board. The Commissioner shall be a person of high professional qualifications having a thorough background by training and experience in the fields of higher education and administration and shall possess such other qualifications as the Board may prescribe. The Commissioner shall employ such professional and clerical personnel and consultants as are necessary to assist the Board and the Commissioner in performing the duties assigned by this Act. The number of employees, their compensation, and the other expenditures of the Board shall be within the limits and in compliance with the appropriation made therefor by the Legislature and within budgets that shall be approved from time to time by the Board.

**Public higher education matters; duties of board**

Sec. 10. The Board shall represent the highest authority in the State in matters of public higher education and shall

(1) Define a junior college, a senior college, a university and a university system; provided, that nothing herein shall be construed to authorize the Board to establish or create any university system, nor to alter any university system presently existing by virtue of statute or the Constitution of this State.

(2) Develop and publish criteria to be used as a basis (a) for determining the need for changing the classification of any public institution of higher education and (b) for determining the need for new public junior colleges, public senior colleges, universities or university systems.

(3) Classify, and prescribe the role and scope for, each public institution of higher education in Texas and make such changes in classification or role and scope of such institutions as it deems necessary.

(4) Hear applications from the institutions for changes in classification or role and scope.

(5) Review periodically all degree and certificate programs offered by the institutions of higher education to assure that they meet the present and future needs of the State.

(6) Order the initiation, consolidation or elimination of degree or certificate programs where such action is in the best interests of the institutions themselves or the general requirements of the State of Texas, or when such action offers hope of achieving excellence by a concentration of available resources. No new department, school, degree program, or certificate program shall be added at any institution of higher education after the effective date of this Act, except with specific prior approval of the Board.



For Annotations and Historical Notes, see V.A.T.S.

(7) Encourage and develop in cooperation with the State Board of Vocational Education new certificate programs in technical and vocational education in institutions of higher education as the needs of technology and industry may demand and recommend the elimination of certificate programs for which a need no longer exists.

(8) Develop and promulgate a basic core of general academic courses which, when offered at a junior college during the first two years of collegiate study, shall be freely transferable among all public institutions of higher education in Texas who are members of recognized accrediting agencies on the same basis as if the work had been taken at the receiving institution.

(9) Make continuing studies of the needs of the State for research and for extension and public services and designate the institutions of higher education to perform research, public service and extension programs, including limitation of extension programs for credit to specific geographic areas.

(10) Maintain an inventory of all institutional and programmatic research, extension, and public service activities being conducted by the various institutions, whether State-financed or not. Once a year, on dates prescribed by the Board, each institution of higher education shall report to the Board all research conducted at such institution during the last preceding year. All reports required by this paragraph shall be made subject to the limitations imposed by security regulations governing defense contracts for research.

(11) Develop and promote one or more degree or certificate programs to the highest attainable quality at each institution of higher education for which the particular institution is uniquely suited and for which there is marked promise of excellence.

**Lists of courses; contents; annual submission to board**

Sec. 11. Each governing board shall submit to the Board immediately following the effective date of this Act, and thereafter once each year on dates designated by the Board, a comprehensive list by department, division and school of all courses, together with a description of content, scope and prerequisites of all such courses, that will be offered by each institution under the supervision of said governing board during the following academic year. The Board may order the deletion or consolidation of any courses so submitted after giving due notice with reasons therefor and after providing a hearing if one is requested by the governing board involved.

**Orders affecting classification, role, scope and program of institutions of higher education; notice**

Sec. 12. Any order of the Board affecting the classification, role and scope and program of any institution of higher education shall be entered only (1) after a written factual report and recommendations from the Commissioner of Higher Education covering the matter to be acted upon has been received by the Board and distributed to the governing board and administrative head of the affected institution, (2) after the question has been placed upon the agenda for a regularly-scheduled quarterly meeting, and (3) after the governing board of the affected institution has had an opportunity to be heard. Notice of the Board's action shall be given in writing to the governing board concerned not later than four months preceding the fall term in which the change is to take effect.

**Expenditure of funds by institutions of higher education; new departments; additional institutions**

Sec. 13. No funds appropriated to any institution of higher education shall be expended for any program which has been disapproved by the

Board, unless said program is subsequently specifically approved by the Legislature. No new department, school or degree or certificate program approved by the Board or its predecessor, the Texas Commission on Higher Education, shall be initiated by any institution of higher education after the effective date of this Act until the Board shall make a written finding that the department, school or degree or certificate program is adequately financed by legislative appropriation, by funds allocated by the Board, and/or by funds from other sources. Any proposed statute which would establish an additional institution of higher education except a public junior college shall be submitted, either prior to introduction or by the standing committee considering same, to the Board for its opinion as to need of the State therefor, and the Board shall report its findings to the Governor and the Legislature, provided that a recommendation that an additional institution is needed shall require the favorable vote of at least two-thirds ( $\frac{2}{3}$ ) of the members of the Board. But a recommendation of the Board shall not be considered a condition to the introduction or passage of any proposed statute.

#### Teaching of students; duties of board

Sec. 14. To achieve excellence in the teaching of students at institutions and agencies of higher education, the Board shall:

(1) Develop and recommend (a) minimum faculty compensation plans, basic increment programs and incentive salary increases; (b) minimum standards for faculty appointment, advancement, promotion and retirement; (c) general policies for faculty teaching loads, and division of faculty time between teaching, research, administrative duties and special assignments; and faculty improvement programs, including a plan for sabbatical leaves, appropriate for the junior and senior colleges and universities, respectively.

(2) Develop and recommend minimum standards for academic freedom, academic responsibility and tenure.

(3) Pursue vigorously and continuously a goal of having all college and university academic classes taught by persons holding the minimum of an earned masters degree or its equivalent in academic training, creative work, or professional accomplishment.

(4) Explore, promote and coordinate the use of educational television among institutions of higher education and encourage participation of public and private schools and private institutions of higher education in educational television.

(5) Conduct, and encourage the institutions of higher education to conduct, research into new methods, materials and techniques for improving the quality of instruction and for the maximum utilization of all available teaching techniques, devices and resources, including, but not limited to, large classes, team teaching, programmed instruction, inter-library exchanges, joint libraries, specially designed facilities, visual aids and such other innovations as may offer promise for superior teaching or for meeting the need for new faculty members to teach anticipated larger numbers of students.

(6) Assume initiative and leadership in providing through the institutions of higher education in the State those programs and offerings which will achieve the objectives set forth in Section 1 of this Act.

#### Construction funds and development of physical plants; duties of board

Sec. 15. To assure efficient use of construction funds and the orderly development of physical plants to accommodate projected college student enrollments, the Board shall:

(1) Determine formulas for space utilization in all educational and general buildings and facilities at institutions of higher education;

For Annotations and Historical Notes, see V.A.T.S.

(2) Devise and promulgate methods to assure maximum daily and year-round use of educational and general buildings and facilities including but not limited to maximum scheduling of day and night classes and maximum summer school enrollment;

(3) Consider plans for selective standards of admission when institutions of higher education approach capacity enrollment;

(4) Require, and assist the public senior colleges and universities, medical and dental units and other agencies of higher education in developing, long-range plans for campus development;

(5) Endorse or delay until the next succeeding session of the Legislature shall have opportunity to approve or disapprove the proposed purchase of any real property by an institution of higher education, except public junior colleges;

(6) Develop and publish standards, rules and regulations to guide the institutions and agencies of higher education in making application for the approval of new construction and major repair and rehabilitation of educational and general buildings and facilities; and

(7) Approve or disapprove all new construction, and repair and rehabilitation of educational and general buildings and facilities at institutions of higher education financed from any source other than ad valorem tax receipts of the public junior colleges; provided (1) that the Board's consideration and determination shall be limited to the purpose for which such new or remodeled buildings shall be used and its gross dimensions to assure conformity with approved space utilization standards and the institution's approved programs and role and scope, (2) that such approval for new construction financed from other than appropriated funds shall be limited to projects the total cost of which is in excess of \$100,000, and (3) that such approval for major repair and rehabilitation of buildings and facilities shall be limited to projects the total cost of which is in excess of \$25,000; and provided further that such required approval or disapproval of the Board shall not apply to construction, repair or rehabilitation involving the use of Constitutional Funds which are authorized by Sections 11, 17, or 18 of Article VII of the Constitution of Texas.

**Financing system of higher education and distribution of state funds; duties of board**

Sec. 16. To finance a system of higher education and to secure an equitable distribution of State funds deemed to be available for higher education, the Board shall:

(1) Devise, establish, periodically review and may revise formulas for the use of the Governor and the Legislative Budget Board in making appropriations recommendations to the Legislature. The Board shall, not later than March 1 of every even-numbered calendar year, notify the governing boards and the chief administrative officers of the respective institutions of higher education and university systems, the Governor, and the Legislative Budget Board of such formulas designated by the Board to be used by the institutions in making appropriation requests for the next succeeding biennium and shall certify to the Governor and the Legislative Budget Board that each institution has prepared its appropriation request in accordance with such designated formulas and in accordance with the uniform system of reporting provided in this Act. The Board shall furnish such other assistance to the Governor and the Legislative Budget Board in the development of appropriations recommendations as either or both of them may request. Provided, however, that nothing in this Act shall prevent or prohibit the Governor, the Legislative Budget Board, the Board, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or

formulas prescribed by the Board and supporting any such request or recommendation with reasons and arguments in support thereof.

(2) Recommend to the Governor and the Legislative Budget Board supplemental contingent appropriations to provide for increases in enrollment at the institutions of higher education. Contingent appropriations may be made directly to the institutions or to the Board, as the Legislature may direct in each biennial appropriation Act. In the event the contingent appropriation is made to the Board, the funds shall be allocated and distributed by the Board to the institutions as it may determine, subject only to such limitations or conditions as the Legislature may prescribe.

(3) Recommend to the Governor and the Legislative Budget Board tuition policies for public junior colleges, public senior colleges and universities, medical and dental units and other agencies of higher education and vocational and technical programs receiving support from State funds.

(4) Distribute such funds as are appropriated to the Board for allocation for specified purposes under such limitations as may be prescribed by law and rules and regulations of the Board in conformity therewith, provided that no distribution or allocation shall be made to any institution of higher education which has failed or refused to comply with any order of the Board so long as such failure or refusal continues.

(5) Make continuing studies on its own initiative or upon the request of the Governor or the Legislative Budget Board of the financial needs of public higher education and all services and activities of the institutions of higher education and issue such reports to the Governor and the Legislative Budget Board as may result from its studies.

#### **Control of public junior colleges**

Sec. 17. The Board shall exercise, under the Acts of the Legislature, general control of the public junior colleges of this State, on and after September 1, 1965. All authority not vested by this Act or other laws of the State in the Board is reserved and retained locally in each respective public junior college district or the governing board of each public junior college as provided in the laws applicable thereto.

#### **Policies, rules and regulations respecting public junior colleges**

Sec. 18. The Board shall have the responsibility for adopting policies, enacting regulations and establishing general rules necessary for carrying out the duties with respect to public junior colleges placed upon it by the Legislature. The Commissioner of Higher Education shall be responsible for carrying out such policies and enforcing such rules and regulations.

#### **Powers respecting public junior colleges and districts**

Sec. 19. The Board shall have authority to:

(1) Authorize the creation of public junior college districts as provided in the laws pertaining thereto. In the exercise of this authority the Board shall give particular attention to the need for a public junior college in the proposed district, and the ability of the district to provide adequate local financial support;

(2) Dissolve any public junior college district which has failed to establish and maintain a junior college therein within three (3) years from the date of its authorization; provided that for any dormant junior college district in existence on the effective date of this Act, this provision shall not apply until on or after September 1, 1966;

(3) Adopt standards for the operation of public junior colleges and prescribe the rules and regulations therefor;

For Annotations and Historical Notes, see V.A.T.S.

(4) Require of each public junior college such reports as it may deem necessary in accordance with its rules and regulations; and

(5) Establish advisory commissions composed of representatives of public junior colleges and other citizens of the State to provide advice and counsel to the Board with respect to public junior colleges.

#### **Lists of public junior colleges; filing**

Sec. 20. It shall be the duty of the Commissioner of Higher Education to file with the State Auditor and the State Comptroller on or before the 1st day of October of each year a list of the public junior colleges in this State. The Commissioner shall certify the names of those colleges that have complied with the standards, rules and regulations as prescribed by the Board. Only those colleges which are so certified shall be eligible for and may receive any appropriation made by the Legislature to public junior colleges.

#### **Cooperative undertakings with private colleges and universities**

Sec. 21. The Board shall enlist the cooperation of private colleges and universities in developing a statewide plan for the orderly growth of the Texas system of higher education, shall encourage cooperation between public and private institutions of higher education wherever possible, may enter into cooperative undertakings with such institutions on a shared-cost basis as permitted by law, shall consider the availability of degree and certificate programs in private institutions of higher education in determining programs for public institutions of higher education and shall cooperate with such private institutions, within statutory and constitutional limitations, to achieve the purposes of this Act.

#### **Uniform system of reporting; financial reports**

Sec. 22. After consultation with the Governor, the State Auditor and the Legislative Budget Board, the Board shall prescribe a uniform system of reporting for institutions of higher education including definitions of the elements of cost upon the basis of which appropriations shall be made and financial records shall be maintained. Financial reports of the institutions of higher education shall classify accounts in accordance with the recommendation of the National Committee on the Preparation of a Manual on College and University Business Administration as set forth in Volume I of *College and University Business Administration* published by the American Council on Education with a copyright date of 1952, and subsequent published revisions with such modifications as may be developed as provided herein or as may be required to conform with specific provisions of the biennial appropriation Acts of the Legislature. The accounts of the institutions shall be maintained and audited in accordance with the approved reporting system.

#### **Studies and recommendations; reports**

Sec. 23. The Board shall make such studies and recommendations directed toward the achievement of excellence or as will improve effectiveness or efficiency in any phase of higher education in Texas and report thereon to the Governor and the Legislature. The officials of the several institutions of higher education shall comply with such requests for reports or information as may be made by the Board or the Commissioner. To assure that the institution of higher education shall timely file various reports with the several agencies, the Board shall receive and distribute such reports as are required by statute to be filed with the Governor, the Legislative Budget Board, the State Auditor, the State Library and any other State agency.

**Contracts and interagency contracts**

Sec. 24. In achieving the goals outlined in this Act and the performance of functions assigned to it, the Board may contract with any other State governmental agency as authorized by law, with any agency of the United States Government, and with corporations and individuals. The Board shall propose, foster and encourage the use of interagency contracts among the institutions of higher education to reduce duplication and achieve better use of personnel and facilities.

**Gifts, grants or donations**

Sec. 25. The Board may accept gifts, grants or donations of personal property from any individual, group, association or corporation or the United States Government subject to such limitations or conditions as may be provided by law and provided that gifts, grants or donations of money shall be deposited in the State Treasury and expended in accordance with the specific purpose for which given under such conditions as may be imposed by the donor and as provided by law.

**Annual reports to Governor and Legislature**

Sec. 26. The Board shall make a report of its activities to the Governor annually and to the Legislature not later than December 1st prior to the Regular Session of the Legislature.

**Transfer of appropriations; validation of contracts**

Sec. 27. All appropriations heretofore made and now effective and any appropriations hereafter made by the Legislature for the use and benefit of the Texas Commission on Higher Education and all property, records and supplies of the Texas Commission on Higher Education shall be transferred to the Coordinating Board, Texas College and University System. All contracts heretofore entered into on behalf of the Texas Commission on Higher Education are hereby ratified, confirmed, and validated for and on behalf of the Board. All records, statistics and files relating to public junior colleges held by the Central Education Agency shall also be transferred to the Board. As amended Acts 1965, 59th Leg., p. 27, ch. 12, § 1, eff. Sept. 1, 1965.

Acts 1965, 59th Leg., p. 27, ch. 12, § 1 amended this article. Section 2 of the amendatory act of 1965 provided: "Chapter 160, Acts of the Fifty-sixth Legislature, Regular Session, 1959 (codified as Article 2815k-2, Vernon's Texas Civil Statutes), and Chapter 214, Acts of the Fifty-third Legislature, 1953 (codified as Article 2919e, Vernon's Texas Civil Statutes), are hereby

repealed. All other laws or parts of laws inconsistent with the provisions of this Act are likewise repealed; it is specifically provided, however, that none of the duties or functions assigned by statute to the Central Education Agency except those relating to public junior colleges shall be in any way altered or modified by this Act."

**Art. 2919i. Use of protective eye devices in public schools**

Section 1. Industrial quality eye protective devices shall be worn by every teacher and pupil in Texas participating in any of the following courses:

- (1) vocational or industrial arts shops or laboratories involving experience with
  - (A) hot molten metals;
  - (B) milling, sawing, turning, shaping, cutting or stamping of any solid materials;
  - (C) heat treatment, tempering, or kiln firing of any metal or other materials;
  - (D) gas or electric arc welding;
  - (E) caustic or explosive materials;

For Annotations and Historical Notes, see V.A.T.S.

(2) chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids.

Sec. 2. In this Act, "industrial quality eye protective devices" means devices meeting the standards set by the State Department of Health.

Sec. 3. The governing boards and administrators of Texas school districts offering any of the listed courses are responsible for furnishing free of charge or providing at cost to teachers and pupils participating in the courses the required eye protective devices. Acts 1965, 59th Leg., p. 142, ch. 58.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act to require teachers and pupils in Texas public schools to wear protective

eye devices when participating in certain vocational, industrial arts, and chemical-physical courses or laboratories; and declaring an emergency. Acts 1965, 59th Leg., p. 142, ch. 58.

**CHAPTER TWENTY-TWO—FOUNDATION SCHOOL PROGRAM**

Art.

2922—13d. Combining average daily attendance of district to determine professional units allotment [New].

2922—14a. Salary for Head-Principal in two-year accredited high school district [New].

Art.

2922—14c. Supplemental state salary aid public free school districts [New].

2922—16e. Additional adjustment in local fund assignments in certain school districts [New].

2922—25. Governor's Committee on Public School Education [New].

**Art. 2922—13. Units**

**Professional Units**

**Section 1.**

\* \* \* \* \*

**(4) Exceptional Children Teacher Units.**

\* \* \* \* \*

a. It is the purpose of this allotment of exceptional children teacher units to provide competent educational services for the exceptional children in Texas between and including the ages of six (6) and twenty-one (21) for whom the regular school facilities are inadequate or are not available.

In interpreting and carrying out the provisions of this Act, the words "exceptional children," wherever used, will be construed to mean physically handicapped children, mentally retarded children and emotionally disturbed children. The words "physically handicapped children," wherever used, will be construed to include any child of educable mind whose body functions or members are so impaired that he cannot be safely or adequately educated in the regular classes of the public schools, without the provisions of special services; the words "mentally retarded children," wherever used, will be construed to include any child whose mental condition is such that he cannot be adequately educated in the regular classes of the public schools, without the provision of special services; and the words "emotionally disturbed children," wherever used, will be construed to include any child whose emotional condition is medically determined and psychologically determined to be such that he cannot be adequately educated in the regular classes of the public schools, without the provision of special services. The term "special services" may be interpreted to mean transportation; special teaching in the public school curriculum; corrective teaching, such as lip reading, speech correction, sight conservation, and corrective health habits; and the provision of special seats, books and teaching supplies, and equipment required for the instruction of exceptional children. Provided, no child shall receive special services per-

mitted by law as an emotionally disturbed child without the consent of his parent or guardian, and provided that said child is seventeen (17) years of age or under. Provided further, that the state-wide total of all classroom teacher units allocated for emotionally disturbed children under this Article in each year beginning September 1, 1965, shall be limited to twenty (20) classroom teacher units per year. It is the intent of the Legislature that these twenty (20) classroom teacher units per year be allocated as a pilot study only, to ascertain the most practical and effective means of educating emotionally disturbed children. As amended Acts 1965, 59th Leg., p. 910, ch. 447, § 1.

\* \* \* \* \*

Effective Aug. 30, 1965, 90 days after date of adjournment.

**(4A) Annual Transportation Cost Allotment.** An annual transportation cost allotment for each district operating an approved exceptional children program shall be computed as part of the Foundation School Program and paid from the Foundation School Fund on a per capita pupil formula basis as follows:

a. For physically and/or orthopedically handicapped, visually handicapped children with conditions making impracticable the use of public transportation, deaf, and/or trainable mentally retarded: The transportation allotment shall be One Hundred Fifty Dollars (\$150) per exceptional child pupil receiving such transportation, provided the district locally determines and certifies subject to the approval of the State Commissioner of Education that:

(1) Such a pupil is unable to utilize existing regular transportation services; and

(2) Such a pupil would be unable to attend the exceptional children class unless such special transportation is provided.

b. Allotments granted hereunder shall be used only for transportation purposes of children enrolled in a district-operated exceptional children program. Allotments received shall be deposited in the district's Exceptional Transportation Fund created hereby and are to be accountable separate from regular transportation funds. Added Acts 1965, 59th Leg., p. 905, ch. 444, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment for scholastic year 1967-68 and thereafter.

Acts 1965, 59th Leg., p. 905, ch. 444, § 1 amended this article by adding subsection (4A); section 2 of the act provided: "This Act is to become and be effective for the scholastic year beginning 1967-68 and thereafter."

Acts 1965, 59th Leg., p. 910, ch. 447, § 1 amended subsection (4) of this article; section 2 of the act of 1965 amended article 2922—15.

**Art. 2922—13d. Combining average daily attendance of district to determine professional units allotment**

**Section 1.** For purposes of determining professional units allotment under provisions of the Foundation School Program Act, the Central Education Agency may combine a district's average daily attendance (ADA) on request being made by the district timely, pursuant to Agency instructions.

**Sec. 2.** This Act shall be effective for the scholastic year beginning 1965-66 and thereafter. Acts 1965, 59th Leg., p. 1029, ch. 509.

Effective Aug. 30, 1965, 90 days after date of adjournment for scholastic year 1965-66 and thereafter.

Title of Act:

An Act vesting authority in the Central Education Agency to combine average daily

attendance of a school district on certain request, for purposes of determining professional units allotment under the provisions of the Foundation School Program Act; providing an effective date for this Act; and declaring an emergency. Acts 1965, 59th Leg., p. 1029, ch. 509.



**Art. 2922—14. Salaries****Salary Schedules****Section 1.**

\* \* \* \* \*

The salary of each professional position listed in Section 2 of Article II of this Act<sup>1</sup> shall be determined as follows:

1. Classroom teachers. The annual salary of classroom teachers shall be the monthly base salary, plus increments, multiplied by nine (9); provided that if the length of the school term is less than nine (9) months, the annual salary shall be such base salary and increments multiplied by the number of months of the term.

a. The minimum base pay for a classroom teacher who holds a Bachelor's Degree and no higher shall be Four Hundred Fifty-Six (\$456) Dollars per month. Thirteen (\$13) Dollars per month shall be added for each year of teaching experience but not to exceed One Hundred Fifty-Six (\$156) Dollars per month.

b. The minimum base pay for a classroom teacher who has less than a Bachelor's Degree shall be Three Hundred Twenty-Three (\$323) Dollars per month. Thirteen (\$13) Dollars per month shall be added for each year of teaching experience but not to exceed One Hundred Thirty (\$130) Dollars per month.

c. The minimum monthly base pay for a classroom teacher who holds a Master's Degree shall be Four Hundred Ninety (\$490) Dollars per month. Thirteen (\$13) Dollars per month shall be added for each year of teaching experience but not to exceed Two Hundred Thirty-Four (\$234) Dollars per month. As amended Acts 1965, 59th Leg., p. 880, ch. 438, § 1.

\* \* \* \* \*

<sup>1</sup> Article 2922—12, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 2 of the amendatory act of 1965 amended article 2922—16; section 3 appropriated money for the biennium ending

August 31, 1967 and is set out as a note under article 2922—16; section 4 is classified as article 2922—14c; section 5 is classified as article 2922—25 and section 6 is a severability provision.

**Art. 2922—14a. Salary for Head-Principal in two-year accredited high school district**

The part-time Principal who serves as Head-Principal in a district which operates a 2-year accredited high school but has no 4-year accredited high school shall receive the minimum monthly salary provided by Senate Bill No. 1, 2nd Called Session of the 57th Legislature,<sup>1</sup> for a full-time Principal and said monthly salary shall be paid for the same number of months provided for a full-time Principal. Acts 1962, 57th Leg., 3rd C.S., p. 116, ch. 40, § 1.

<sup>1</sup> Article 2922—14.**Title of Act:**

An Act providing a minimum monthly salary for the Head-Principal in a 2-year

accredited high school district; and declaring an emergency. Acts 1962, 57th Leg., 3rd C.S., p. 116, ch. 40.

**Art. 2922—14c. Supplemental state salary aid to public free school districts**

Section 1. [Amended art. 2922—14].

Sec. 2. [Amended art. 2922—16].

Sec. 3. [Appropriation. See art. 2922—16, note].

Sec. 4. Established hereby is a program to provide supplemental state salary aid to public free school districts in addition to funds provided under any other provision of the laws or constitution of this state.

Purpose of this supplementary aid program: To encourage higher salaries for classroom teachers as defined herein, of grades one through twelve.

(1) "Classroom teacher" for purposes of this program shall mean any professionally qualified teacher employed full time by a school district and spending at least one-half of his working time in actual instruction of pupils in regularly organized and scheduled classes, vocational and exceptional teachers included.

(2) Entitlement of each district for supplemental state aid authorized herein shall be determined by adding the number of classroom, vocational and exceptional teacher units allocated only to districts eligible under those provisions of Foundation School Program Act, (compiled subsections (1), (2) and (4) of Section 1, Article 2922—13, V.T.C.S., as amended), and multiplying the sum of all such classroom teachers as herein defined by Twenty-Five (\$25) Dollars in each of the school years 1965-66 and 1966-67; and in each school year thereafter by Fifty (\$50) Dollars.

(3) A school district may establish eligibility to receive funds to the amount determined under above Section (2) by submitting to the Central Education Agency a plan which shall meet the following conditions:

(a) State funds to be utilized as salary from amount determined under above Section (2) shall constitute not more than the same percentage of the total amount disbursed as supplemental salary to classroom teachers as the state share of the Foundation School Program bears to the total cost of the Foundation School Program in each participating school district; and

(b) All funds received as supplemental salary aid shall be paid as supplemental salary to persons who qualify as classroom teachers and of districts as defined in above Sections (1) and (2); and

(c) Supplemental salary paid to any such classroom teacher shall be in addition to the salary to which such teacher is entitled under the regularly established salary policy of the school district; and

(d) Not less than ten (10%) per cent of such classroom teachers employed by the school district shall participate in the state-aid supplemental salary funds disbursed to any district, and no classroom teacher shall receive less than Fifty (\$50) Dollars therefrom or in excess of Five Hundred (\$500) Dollars in the 1965-66 and 1966-67 school years; and in any school year thereafter, no teacher shall receive less than One Hundred (\$100) Dollars or in excess of One Thousand (\$1000) Dollars.

(4) On or before its first meeting day of the fiscal year beginning September, 1965, and September 1st of each fiscal year thereafter, the State Board of Education shall certify to the Comptroller of Public Accounts the amount of money required to meet the provisions of this salary aid program. Upon receipt of the certification or as soon thereafter as possible, the Comptroller shall cause to be set aside from funds collected or to be collected and credited to the General Revenue Fund a sum sufficient to meet such certification, and such sum(s) as so certified are hereby appropriated therefor. Any funds remaining unexpended and unencumbered in this salary program account on the last working day of the 1965-66 fiscal year and each fiscal year thereafter shall be credited to the General Revenue Fund. Acts 1965, 59th Leg., p. 880, ch. 438, § 4.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 1 of Acts 1965, 59th Leg., p. 880, ch. 438 amended art. 2922-14; section 2 thereof amended art. 2922-16; section 3

appropriated money for the biennium ending August 31, 1967 and is found in a note under art. 2922-16; section 5 is classified as article 2922-25 and section 6 is a severability provision.

## Art. 2922—15. Services and operating costs

## Current operating costs

Section 1. The total current operating cost for each school district, other than professional salaries and transportation, shall be determined by multiplying the number of approved classroom teacher units and exceptional children teacher units by Six Hundred Dollars (\$600) and grants therefor shall be allotted; provided, however, that with respect to exceptional children teacher units for the pilot program for emotionally disturbed children's program, the total current operating cost shall be determined by multiplying the number of eligible children in each classroom teacher unit by Two Hundred Dollars (\$200) and grants therefor shall be allocated; except where such classroom teacher units are located in cooperation with hospital facilities the allocation shall be Six Hundred Dollars (\$600) for each such unit. As amended Acts 1965, 59th Leg., p. 910, ch. 447, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## Contracts with public transportation companies for school bus service

Sec. 2A. (a) As an alternative to maintaining and operating a complete public school transportation system under Section 2 of this Article, a county board of school trustees may contract with public transportation companies for all or any part of the public school transportation if the board is able to obtain an economically advantageous contract. An independent school district may enter into contracts authorized by this Section if the county board of school trustees has authorized it to be responsible for the maintenance and operation of its school buses.

(b) A contract is economically advantageous if the cost of the service contracted for is less than the projected cost of the same service under Section 2 of this Article.

(c) Contracts for public school transportation are subject to review by the Commissioner of Education and subject to the approval of the State Board of Education.

(d) Contracts for public school transportation may include provisions for transporting students to and from approved school activities.

(e) Once a contract has been approved, the contract price for the service shall be included in the annual transportation cost allotment for the county or district.

(f) The Commissioner of Education shall make rules for the administration of this Section, subject to the approval of the State Board of Education. Added Acts 1965, 59th Leg., p. 1251, ch. 572, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment. Section 1 of the amendatory act of 1965 amended article 2922—13.

## Art. 2922—16. Finances

## Total local school funds to be charged to all school districts in the state

Sec. 2. The sum of the amounts to be charged for the 1965-66 school year against the local school districts of the state toward such Foundation School Program shall be One Hundred Thirty-Two Million Five Hundred Thousand (\$132,500,000) Dollars. For the 1966-67 school year, and for each school year thereafter, the sum of the amounts to be charged against the local school districts of the state toward such Foundation School Program shall be twenty (20%) per cent of the estimated total cost of the Foundation School Program for the immediately preceding school year, plus an amount equal to the difference between the gross

Local Fund Assignment and the net Local Fund Assignment for the immediately preceding school year. At its regular meeting in March 1966, and at each regular meeting in March thereafter, the State Board of Education after receiving the recommendation of the State Commissioner of Education, shall estimate the total cost of the Foundation School Program for the then current school year, based upon laws and approved school budgets in effect on the date when such estimate is made. Within thirty (30) days after such estimate has been made, the State Commissioner of Education, subject to the approval of the State Board of Education, shall assign each school district according to its taxpaying ability as determined in this Act, its proportionate part of such total to be raised locally for the next school year and applied towards the financing of its Minimum Foundation School Program. As amended Acts 1965, 59th Leg., p. 880, ch. 438, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Local funds available in each county**

Sec. 4. For the school year beginning 1966-67 and each school year thereafter, the State Commissioner of Education shall calculate and determine the total sum of local funds that the school districts of a county shall be assigned to contribute toward the total cost of the Foundation School Program by multiplying twenty (20%) per cent of the estimated Foundation Program cost for the immediately preceding school year, plus an amount equal to the difference between the gross Local Fund Assignment and the net Local Fund Assignment for the immediately preceding school year as determined under the provisions of this Act, by the economic index determined for each county. The product shall be regarded as the local funds available in each respective county toward the support of the Foundation School Program and shall be used in calculating the portion of said amount which shall be assigned to each school district in the county. As amended Acts 1965, 59th Leg., p. 880, ch. 438, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 1 of the amendatory act of 1965 amended article 2922-14; section 3 of the act provided:

"Sec. 3. In addition to the appropriation made from the Foundation School Fund by Article IV of House Bill No. 12, Acts of 58th Legislature, Regular Session, 1965, and supplemental thereto, there is hereby appropriated for the biennium ending August 31, 1967, all moneys allocated to the Foundation Program Fund by Senate Bill No. 117, Chapter 335, Acts 51st Legislature, 1949, (Article 7083a, Section 2 (4-a), V.T. C.S.) as amended, and any balances remaining in the Foundation School Fund at the end of each fiscal year, to pay the state's part of the Foundation School Program as provided for in Senate Bill No. 116, Chapter 334, Acts 51st Legislature, Regular Session, 1949, as amended.

"There is hereby specifically appropriated out of any moneys in the General Revenue Fund not otherwise appropriated the amount necessary for each month if on a monthly basis, or each year if on a yearly basis, of the biennium ending August 31, 1967, to pay the full amounts contemplated and provided by Senate Bill No. 117, Chapter 335, Acts 51st Legislature, Regular Session, as amended, should there be insufficient money in the Fund created by said Senate Bill No. 117 to carry out in full the purposes and provisions of said Senate Bill No. 117 and Senate Bill No. 116, supra, as amended. The above appropriation shall be expended under the terms and provisions of said Senate Bill No. 116 and Senate Bill No. 117, as amended, and by the same officers named therein respectively."

Section 4 of the amendatory act of 1965 is classified as article 2922-14c; section 5 is classified as article 2922-25 and section 6 is a severability provision.

**Art. 2922—16e. Additional adjustment in local fund assignments in certain school districts**

Section 1. In addition to the exceptions and exemptions provided in the Minimum Foundation Program's local fund assignments in Section 5 of Chapter 334, Article VI, Acts of the 51st Legislature, Regular Session, 1949, as amended, codified as Article 2922-16, Vernon's Texas Civil Statutes, there shall be provided an additional adjustment applicable to any school district having five per cent (5%) or more of its total scholastic

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population for the preceding school year composed of scholastic residents of tax-exempt institutions in the district for orphan, dependent, and/or neglected children.

Sec. 2. The local fund assignment charge to such a district having five per cent (5%) or more of its average daily attendance for the preceding school year composed of scholastic residents of tax-exempt institutions of the district shall be reduced for each respective current school year by an amount equal to the product of the total average daily attendance of students who were residents of the tax-exempt institutions for orphan, dependent, and/or neglected children during the preceding school year multiplied by One Hundred Fifty-One Dollars and Fifty Cents (\$151.50).

Sec. 3. The superintendent of each school district qualifying for an adjustment in his local fund assignment under the provision of Section 1 above and wishing to receive such reduction in local fund assignment authorized on the basis of the formula set out in Section 2 above shall certify to the Central Education Agency in Austin, Texas, not later than December 1 of each year the following information:

(1) The total average daily attendance of the school district determined for students residing in the district for the preceding school year; and

(2) The average daily attendance for the preceding school year determined for scholastic residents of the tax-exempt institution(s) in the district for orphan, dependent, and/or neglected children; and

(3) A list showing the name of each such institution scholastic, the total daily attendance earned for such students in the preceding school year; and the name and address of the institution. Acts 1965, 59th Leg., p. 1228, ch. 563.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act to provide an additional adjustment in the local fund assignment in any school district having five per cent (5%) or more of its total scholastic population for the preceding school year composed of

students who are residents of tax-exempt institutions for orphan, dependent, and neglected children; providing a formula for determining such adjustment; providing for the reporting of certain information to the Central Education Agency; and declaring an emergency. Acts 1965, 59th Leg., p. 1228, ch. 563.

**Art. 2922—25. Governor's Committee on Public School Education**

Section 1. [Amended art. 2922—14].

Sec. 2. [Amended art. 2922—16].

Sec. 3. [Appropriation. See art. 2922—16, note].

Sec. 4. [Codified as art. 2922—14c].

**Establishment of committee; membership; chairman; compensation**

Sec. 5. (a) There is hereby established the Governor's Committee on Public School Education to be comprised of fifteen (15) members appointed by the Governor. The Governor shall designate the Chairman of the Committee, and Committee members shall serve from the date of their respective appointments until August 31, 1968. Members of the Committee shall serve without compensation, but each shall receive reimbursement for actual travel expense when on official business of the Committee.

**Quorum; meetings; procedural rules; advisory committees**

(b) A majority of the Committee shall constitute a quorum. The Governor shall call the first meeting of the Committee immediately after a majority of the members have accepted appointment, and at that time the members shall elect a Vice-Chairman from among their number and adopt procedural rules governing membership and committee conduct.

The Committee may create advisory committees to efficiently and effectively perform the duties and responsibilities imposed by this Act.

**Study of education within framework of Foundation School Program**

(c) The Committee shall study the status of public school education in light of present organizational and philosophical structures within the framework of the Texas Foundation School Program, and shall develop, formulate and recommend to the Governor and the Legislature a definite long-range plan that will enable Texas to emerge as a national leader in educational aspiration, commitment and achievement. The Committee shall conduct a pervasive inquiry into every facet of Texas public elementary and secondary education.

**Director; staff and consultants; appropriations**

(d) The Committee shall appoint a Director qualified by broad experience in the field of public education, and he shall employ or contract for professional, technical and clerical staff necessary to accomplish the goals of this Act. The Committee shall also provide the Director with consultants in those areas of Committee inquiry requiring specialized knowledge and extensive experience in elementary and secondary education. The Committee is hereby appropriated, for the fiscal year ending August 31, 1966, from the general revenue fund the sum of \$100,000. For the fiscal year ending August 31, 1967, there is hereby appropriated from the general revenue fund the sum of \$150,000 plus the unexpended balance for the preceding fiscal year to carry out the work of the study.

**Federal grants to finance studies and activities; cooperation of State Board of Education**

(e) In a manner consistent with the objectives of the Elementary and Secondary Education Act of 1965, the State Board of Education is directed to seek basic grants from Title V of the Elementary and Secondary Education Act of 1965 (Public Law 89-10) to finance studies and activities of the Committee and of the State Board of Education.

The State Board of Education and the Committee shall coordinate their efforts and the State Board of Education shall cooperate with the Committee, and shall furnish professional, technical and clerical staff when deemed necessary to implement the joint efforts of the Committee and the State Board of Education.

**Duty of state agencies to provide information**

(f) Every state agency, department and institution and every state, county and school district official is directed to provide such information as may be requested by the Committee, and to assist the Committee in accomplishing its objectives.

**Report and recommendations to Governor**

(g) The Committee shall report the results of its study and make recommendations to the Governor and to each member of the Legislature not later than August 31, 1968.

**Contracts with state governmental agencies; donations**

(h) The Committee may contract with other state governmental agencies, with agencies of the U. S. Government and with corporations and individuals as authorized by law.

The Committee may accept gifts, grants or donations of personal property from any individual, group, association, corporation or the Federal Government, and such funds as are received shall be deposited in the State Treasury, and are hereby appropriated to be expended in accordance

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with the specific purpose for which given and under such conditions as may be imposed by the donor or as may be provided by law. Acts 1965, 59th Leg., p. 880, ch. 438, § 5.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 1 of Acts 1965, 59th Leg., p. 880, ch. 438 amended art. 2922—14; section 2 of the act amended art. 2922—16; section 3

appropriated money for this biennium ending August 31, 1967 and is set out as a note under art. 2922—16; section 4 is classified as article 2922—14c and section 6 is a severability provision.

## ELECTION CODE

## CHAPTER TWO—TIME AND PLACE

## Art. 2.03. Held in public buildings

In all cases where it is practicable to do so, all elections—general, special, or primary—shall be held in some school house, fire station, or other public building within the limits of the election precinct in which such election is being held. No charge shall be made for the use of such building, except that any additional expense actually incurred by the authorities in charge of such building on account of the holding of the election therein shall be repaid to them by the party who is liable for the expenses of holding the election under the existing law. If there is no public building available, the Commissioners Court of any county having a population of more than 31,000 and less than 60,000 according to the last preceding Federal Census, and an assessed valuation in excess of \$78,000,000 shall provide suitable space for conducting the elections held at the expense of the county, which space may be provided by renting or constructing a voting house or building. As amended Acts 1965, 59th Leg., p. 1314, ch. 603, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## Art. 2.04. County election precincts formed by commissioners court

(a) Each county shall be divided into convenient election precincts by the Commissioners Court of the county, each of which precincts shall be differently numbered and described by natural or artificial boundaries or survey lines by an order entered upon the minutes of the Court. At any July or August term, the Court may make such changes in the election precincts as they deem proper, by such order entered upon the minutes of the Court. When such an order is entered, they shall immediately thereafter publish in some newspaper in the county for three consecutive weeks a notice of the entry of such order, giving a brief description in general terms of the changes made, without the necessity of including in such notice the field notes or other detailed description of the precinct boundaries. If there be no newspaper in the county, then a copy of such order shall be posted in some public place in each election precinct in the county which is affected by the order.

(b) No election precinct shall be formed out of two or more justice precincts or commissioners precincts, nor out of the parts of two or more justice precincts or commissioners precincts; and no election precinct shall be formed out of two or more Congressional Districts or State Senatorial Districts or State Representative Districts, nor out of the parts of two or more such Districts. If in September of any year there exists any election precinct in the county which does not comply with the foregoing requirements, the Commissioners Court shall make the necessary changes before the first day of October, either at a regular meeting or at a special meeting called for that purpose; and the order shall be published as provided in Paragraph (a) of this Section. No election precinct shall have resident therein more than two thousand voters as ascertained by the current certified lists of qualified voters; provided, however, that in precincts in which voting machines have been adopted for use, the maximum number of voters shall be three thousand.

(c) In cities and towns having ten thousand or more inhabitants, each ward shall constitute an election precinct unless there shall reside in said ward more than two thousand qualified voters. In such cities and towns, no precinct shall be made out of parts of two wards; and



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no precinct shall include territory outside the corporate limits of the city or town unless the Commissioners Court finds that adjacent unincorporated territory is so situated that it cannot be formed into or included within an election precinct wholly outside the city, of suitable size and shape and containing a suitable number of voters. If the Commissioners Court finds this condition to exist, it may include such territory in a precinct or precincts formed within the city or town, and the finding of the Commissioners Court shall be conclusive.

(d) In cities, towns and villages of less than ten thousand inhabitants, election precincts may be formed without regard to the wards or the corporate limits of the city, town or village.

(e) Changes in election precincts shall not become operative in the holding of elections until the beginning of the following voting year. The Commissioners Court shall cause to be made out and delivered to the County Tax Collector before the first day of each September a certified copy of such last order for the year following; provided, however, that any order entered during the month of September, as provided in Paragraph (b) of this Section, shall be delivered to the Tax Collector forthwith. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 7; Acts 1965, 59th Leg., p. 1552, ch. 678, § 1, emerg. eff. June 18, 1965.

### CHAPTER THREE—OFFICERS OF ELECTION

#### Art. 3.01. Appointment of election officers

(a) For county elections. The commissioners court at its February term shall appoint from among the citizens of each election precinct one qualified voter as presiding judge of elections held at the expense of the county in that precinct and one qualified voter as alternate presiding judge, each of whom shall continue to act until his successor is appointed. Whenever a vacancy arises in either of such offices, the commissioners court may fill the vacancy at any regular or special term of court. All orders appointing judges and alternates shall be entered of record. Each presiding judge shall appoint two qualified voters, who are residents of the precinct, to serve as election clerks, and shall appoint for each election as many additional clerks as he deems necessary for the proper conduct of the election, not to exceed the maximum number authorized by the commissioners court. The commissioners court shall fix the maximum number of clerks which may be appointed for each precinct, and may fix different maximums depending on the type of election. The clerks shall be selected from different political parties, when practicable.

(b) For municipal elections. Unless a different method is prescribed by the city charter, the mayor, or if he fails to do so, then the governing body of the municipality, shall appoint for each municipal election precinct a presiding judge and an alternate presiding judge for elections held by such municipality and shall fix the maximum number of clerks which may be appointed to serve in each precinct, which shall be not less than two; and the presiding judge for each precinct shall appoint two clerks, and as many additional clerks within the authorized limit as he deems necessary for the proper conduct of the election, who shall be selected from different political parties when practicable.

(c) For elections held by other political subdivisions. In any election held by a political subdivision other than a city or a county, the statutes pertaining to the particular type of election shall govern the appointment of election officers if such statutes provide for their appointment. In the absence of such provisions, the governing body of the subdivision shall appoint a presiding judge and an alternate presiding judge for each election precinct of the subdivision and shall fix the maximum

number of clerks which may be appointed to serve in each precinct, which shall be not less than two; and the presiding judge for each precinct shall appoint two clerks and as many additional clerks within the authorized limit as he deems necessary for the proper conduct of the election.

(d) For primary elections. The primary elections of a political party shall be conducted in each precinct by a presiding judge, to be appointed by the chairman of the county executive committee of the party, with the assistance and approval of a majority of the members of the county executive committee. The presiding judge shall select two clerks to assist in conducting the election; and additional clerks may be appointed under such rules as may be made by the county executive committee. An alternate presiding judge shall be appointed for each precinct in like manner as the presiding judge.

(e) Alternate judge to preside. Whenever the regularly appointed presiding judge is unable to serve at an election, the alternate presiding judge shall serve as the presiding judge for that election. In any election conducted by the regularly appointed presiding judge, he shall appoint the alternate presiding judge as one of the clerks to serve at such election.

(f) Appointment of election officers for certain elections ordered by county officers. The election judges appointed under Paragraph (a) of this Section shall hold all elections ordered by the Governor or by the County Judge, county Commissioners Court, or other county authority, which are required to be held in the regular county election precincts established pursuant to Section 12 of this Code.<sup>1</sup> In any election ordered by the Commissioners Court, the County Judge, the county board of school trustees, or other county authority, which are not required to be held in the regular county election precincts or for which other election precincts may be designated under the provisions of Section 10 of this Code, the statutes pertaining to the particular type of election shall govern the appointment of election officers if such statutes provide for their appointment. In the absence of such provisions, the authority calling the election shall appoint a presiding judge and an alternate presiding judge for each election precinct and shall fix the maximum number of clerks which may be appointed to serve in each precinct, which shall not be less than two; and the presiding judge for each precinct shall appoint two clerks and as many additional clerks within the authorized limit as he deems necessary for the proper conduct of the election. As amended Acts 1965, 58th Leg., p. 1017, ch. 424, § 8; Acts 1965, 59th Leg., p. 1552, ch. 678, § 2, emerg. eff. June 18, 1965.

<sup>1</sup> Article 2.04.

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

### Art. 3.08. Pay of judges and clerks

The pay of judges and clerks of general and special elections shall be determined by the Commissioners Court of the county where such services are rendered and, in primary elections, by the County Executive Committee of the party conducting such primary election, but the same shall not exceed Twelve Dollars and Fifty Cents (\$12.50) per day for each judge or clerk; provided, however, that in counties having a population of 500,000 or more according to the last preceding Federal Census, said judges and clerks may each be paid at the rate of \$1.25 per hour for any time in excess of a day's work as hereafter defined. A judge who delivers returns of the election immediately after the votes have been counted shall be paid Five Dollars (\$5) for that service; provided also, he shall make returns of all election supplies not used when he makes the

For Annotations and Historical Notes, see V.A.T.S.

return of the election. Ten (10) working hours shall be considered a day within the meaning of this Article. The compensation of the judges and clerks of general and special elections shall be paid by the County Treasurer of the county where such service was rendered upon the order of the Commissioners Court. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 11; Acts 1965, 59th Leg., p. 1552, ch. 678, § 3, emerg. eff. June 18, 1965.

#### CHAPTER FOUR—ORDERING ELECTIONS

Art.

4.12. Special elections for members of the  
Legislature [New].

##### Art. 4.12. Special elections for members of the Legislature

Section 1. Whenever there is a special election in any representative or senatorial district in this State for the election of any Member of the Legislature, a majority vote of the electors participating in the election shall be necessary for election. If no candidate receives a majority of the votes cast at the first election, the Governor shall, within five days after the results of the election are officially declared, call a second election to be held 21 days after the date of the proclamation or order calling the election. In the second special election the candidates shall be limited to the participants in the first election who received the largest and next largest number of votes at the first election.

Sec. 2. (a) Whenever there is a special election in any representative or senatorial district in this State for the election of any Member of the Legislature, the Commissioners Court of each county in the district shall meet within three days after the election is held and canvass the returns. The county judge of each county in which the election was held shall, within 24 hours after the Commissioners Court has canvassed the result, make out duplicate returns of the election, one of which he shall immediately transmit to the seat of government of the state, sealed in an envelope, directed to the Secretary of State, and endorsed "Election Returns for \_\_\_\_\_ County, for \_\_\_\_\_" (filling the first blank with the name of the county and the other blank with the name of the office for which the election was held); and the other of the returns shall be deposited in the office of the county clerk where the election was held.

(b) On the seventh day after the election, the day of the election excluded, the Secretary of State in the presence of the Governor and the citizen appointed under Article 120 of this code<sup>1</sup> shall canvass the returns of the election and declare the results. If one person has received a majority of the votes cast at the election, the Secretary of State shall immediately make out, sign, and deliver a certificate of election to him for the unexpired term of the office for which he was a candidate. If no candidate has received a majority of the votes cast at the election, the Governor shall call a second election as provided in Section 1 of this article; and the Secretary of State shall within five days after the results of the first election are officially declared, certify to the county clerk of each county in the district the names of the two candidates who are eligible to participate in the second election, and the clerks shall make up the ballot for election according to the certificate. Notice of the second election shall be given in the manner provided by law but 10 days notice shall be sufficient, and the county judge shall, 10 days prior to the election, notify each presiding judge of his duty to hold the election. The returns of the second election shall be canvassed and the results declared in the same manner as provided for the first election, and the Secretary of State shall issue to the candidate who receives the largest number of votes in the second

election a certificate of election to the unexpired term of the office for which he was a candidate.

Sec. 3. All special elections called for the purpose of filling vacancies in the offices to which this Article applies shall be conducted according to existing law as supplemented by this Article, but if there is a conflict between this Article and the existing law, the provisions of this Article shall prevail. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 32c, added Acts 1965, 59th Leg., p. 777, ch. 368, § 1.

<sup>1</sup> Article 8.38.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 2 of Acts 1965, 59th Leg., p. 777, ch. 368 amended article 8.42; section 3 thereof amended article 5.05.

CHAPTER FIVE—SUFFRAGE

Art. 5.14a Application for poll tax receipts and exemption certificates mailed before February 1st [New].

Art. 5.16a Applications for poll tax exemption certificates [New].

Art. 5.02. Qualification and requirements for voting

Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one years and who shall be a citizen of the United States, and who shall have resided in this State one year next preceding an election, and the last six months within the district or county in which such person offers to vote, shall be deemed a qualified elector, provided that any voter who is subject to pay a poll tax under the laws of this State shall have paid said tax before offering to vote and hold a receipt showing that said poll tax was paid before the first day of February next preceding such election, and any voter who is exempt from paying a poll tax must procure a certificate showing his or her exemption, as required by this Code. If such voter shall have lost or misplaced said tax receipt or certificate of exemption, he or she shall be entitled to vote upon making and leaving with the judge of the election an affidavit that such tax was paid or such certificate was obtained in the manner and during the time allowed by law preceding such election at which he or she offers to vote, and that such receipt or certificate has been lost, misplaced, or left at home.

The provisions of this Section shall apply to all elections, including general, special, and primary elections; provided that a city poll tax shall not be required to vote in any election in this State except in city elections. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 13; Acts 1965, 59th Leg., p. 760, ch. 354, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Amendment of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 1 was conditioned upon the adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R.

No. 1, Acts 1963, 58th Leg., p. 1797. The proposed constitutional amendment was rejected by the voters at election held on Nov. 9, 1963, and therefore Acts 1963, 58th Leg. p. 1103, ch. 430, § 1 did not become effective or operative as a law.

Art. 5.02a. Voting for federal offices

Subdivision 1. Qualification and requirements for voting for federal offices. Notwithstanding any other provision of this Code or of the Constitution of this state, the payment of the poll tax shall not be required as a condition for voting for United States Senator, for United States Representative (including Congressman-at-Large), or for President and Vice-President or electors for President and Vice-President of the United States, in any general, special, or primary election. To be eligible to vote for such offices, a person must be a qualified elector under the Constitution and laws of this state in all other respects. If he is not subject to payment

For Annotations and Historical Notes, see V.A.T.S.

of the poll tax, he must have obtained an exemption certificate in accordance with the provisions of this Code if he is required to hold an exemption certificate as a condition for voting generally. If he is subject to payment of the poll tax, he must have paid the tax and obtained a receipt therefor prior to the first day of February preceding the election; or he must have obtained a poll tax receipt without payment of the tax, in the manner and within the time provided in Subdivision 2 of this section.

Subdivision 2. Issuance of poll tax receipts without payment of the tax. A person who is subject to payment of the poll tax and who is in other respects a qualified elector may apply to the tax collector of the county of his residence at any time between the first day of October and the thirty-first day of January following for issuance of a poll tax receipt without payment of the tax, to be used to identify him in voting for offices enumerated in Subdivision 1 of this section during the voting year beginning on the first day of February thereafter; provided, however, that a receipt to identify the voter at elections held during the voting year in which this section takes effect may be obtained at any time within the period of thirty days after the effective date, but must have been obtained at least four days before any election at which he offers to vote; and if this section takes effect during the month of January, a receipt to identify the voter at elections held during the ensuing voting year may be obtained at any time within the period of thirty days after its effective date. The applicant shall furnish to the tax collector all the information necessary to enable the tax collector to fill out the blanks in the poll tax receipt, and the tax collector shall issue the receipt as in cases where the poll tax is paid, except that he shall place the following notation on the face of the original and duplicate receipt: "Poll tax not paid." The application may be made in either of the manners authorized in Section 43 of this Code,<sup>1</sup> and all laws pertaining to issuance of poll tax receipts shall apply to issuance of receipts without payment of the tax insofar as they can be made applicable, except as otherwise provided in this section. At the time the tax collector makes up the lists of qualified voters, he shall make up separate lists of those persons to whom poll tax receipts have been issued without payment of the tax and shall furnish the lists to the election boards at the same time that he furnishes other lists.

Subdivision 3. Voting on receipts issued without payment of the tax. A person subject to payment of the poll tax who has obtained a receipt without payment of the tax shall not be eligible to vote at any election or on any office or proposition except at elections for the offices enumerated in Subdivision 1 of this Section. When such persons offer to vote, the election officers shall enter their names on a separate poll list and shall furnish them with a ballot containing only the offices and candidates on which they are entitled to vote. When other offices or propositions are to be voted on at the same election, the election officers may provide separate ballots listing only the Federal offices to be voted on, or may use the regular ballots prepared for the election, from which all other offices and propositions have been stricken. The same ballot boxes and stub boxes may be used for both the regular ballots and the ballots for Federal offices only, and the ballots may be tallied on the same tally sheets. When other offices are to be voted on and the regular voting is to be conducted on a voting machine or machines, the election officers may provide paper ballots for voting for Federal offices only, or they may provide for voting on a voting machine by persons entitled to vote for Federal offices only, by locking out all other offices as listed on the regular ballot, leaving only the Federal offices open for the voting, or by listing the Federal offices as a separate ballot on the face of the same machine, locking out the entire regular ballot, or by listing the Federal offices on a separate machine. When the ballot is to be cast on a voting machine, all other offices and propositions shall be locked out before the voter enters the machine. The returns of the

election shall show, separate from other voters, the number of persons voting on poll tax receipts issued without payment of the tax.

Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 34a added Acts 1963, 58th Leg., p. 1103, ch. 430, § 7; as amended Acts 1965, 59th Leg., p. 1552, ch. 678, § 4.

<sup>1</sup> Article 5.11.

The introductory portion of Acts 1963, 58th Leg., p. 1103, ch. 430, § 7 made this article effective and operative as a law upon the condition that the 24th amendment to the Constitution of the United States proposed by Senate Joint Resolution No. 29 of the 87th Congress became part of that Constitution prior to amendment of the Constitution of the State of Texas abolishing the payment of the poll tax to be effective on the date of publication of the certifying statement of the Administrator of General

Services that the amendment had been ratified. The 24th amendment was declared by the Administrator of General Services on Feb. 4, 1964 to have been ratified. The amendment to the Constitution of the State of Texas proposed by H.J.R. No. 13, Acts 1965, 59th Leg., p. A-88, providing for the repeal of the poll tax as a requirement for voting, is to be submitted to a vote of the electors at an election to be held on the first Tuesday after the first Monday in November, 1966.

### Art. 5.05. Absentee voting

Subdivision 1a. Elections to which applicable; officer to conduct absentee voting

(1) General provisions. Absentee voting shall be conducted in all elections, general, special, or primary, and in each election it shall be conducted by the officer designated or appointed in accordance with the applicable provision of this subdivision. In every election, the absentee voting shall be conducted under the same rules and in the same manner provided in this Section for absentee voting conducted by the County Clerk, and all references in other subdivisions of this Section to the County Clerk shall be deemed to mean the appropriate officer for conducting the absentee voting in that election unless the context requires a different construction.

(2) County-wide elections held at the expense of the county. In general elections for State and County officers, in special elections called by the Governor (including both county-wide elections and elections to fill vacancies in offices elected by districts which are less than county-wide), in all other county-wide elections held at the expense of the county, and in any other elections held at the expense of the county where a specific statute expressly requires it, the absentee voting shall be conducted by the County Clerk.

(3) Elections less than county-wide which are ordered by county authority. In elections less than county-wide which are ordered by the county Commissioners Court, the County Judge, the county board of school trustees, or other county authority, the authority calling the election shall appoint a clerk for absentee voting and shall designate the place for conducting the absentee voting. If the election is held at the expense of the county, the absentee voting clerk may be either the County Clerk or any qualified voter of the county. If the county clerk is appointed, the place for conducting the absentee voting by mail shall be at the office of the clerk, but the place for absentee voting by personal appearance may be either at the office of the clerk, regardless of whether it is situated within the territory covered by the election, or may be at some other public place which shall be within the boundaries of the territory covered by the election. If the expenses of the election are not paid out of county funds, the person appointed to conduct the absentee voting shall be a qualified voter of the county, and the place designated for conducting the absentee voting, both by mail and by personal appearance, shall be within the boundaries of the territory covered by the election. The County Clerk may delegate to one or more of his deputies any duty devolving upon him under this subdivision. Where some person other than the County Clerk is appointed, the authority calling the election may also appoint such

For Annotations and Historical Notes, see V.A.T.S.

number of deputy clerks, who shall be qualified voters of the county, as it deems necessary to assist in the conduct of the absentee voting. In any election ordered by county authority, or by any other authority, which election involves the creation, organization, reorganization, functioning or existence of one or more municipalities or other political subdivisions, only one clerk for absentee voting shall be appointed if only one political subdivision is affected by the election; but where more than one political subdivision is affected, the authority calling the election may appoint more than one clerk for absentee voting, and if more than one is appointed, the authority shall designate the political subdivision or subdivisions to be served by each clerk and the location at which he is to serve. No territory shall be served by more than one clerk.

(4) Municipal elections. In all elections held by a city or town, the absentee voting shall be conducted by the city secretary or city clerk.

(5) Primary elections. In primary elections held by political parties for nominating candidates to be voted on at general and special elections held at the expense of the county, the absentee voting shall be conducted by the County Clerk. In primary elections for nominating candidates for city offices, the absentee voting shall be conducted by the city secretary or city clerk.

(6) Elections held by other political subdivisions. In elections held by any school district, conservation district, or other defined district or political subdivision authorized to hold elections in this State, the absentee voting shall be conducted by a clerk for absentee voting, to be appointed by the governing board or other authority of the political subdivision empowered to call the election, which may also appoint such number of deputy clerks as it deems necessary to assist in the conduct of the absentee voting. Each clerk or deputy clerk shall be a qualified voter in the subdivision; provided, however, that if the election affects more than one political subdivision, residence anywhere within the territory covered by the election shall be sufficient. Persons in the employment of the political subdivision shall be eligible for appointment if otherwise qualified.

(7) Places and hours for absentee voting. Where the absentee voting is conducted at the regular office of the County Clerk or city secretary or city clerk, the provisions of Subdivision 3 of this Section relating to the days and hours for voting, as modified by Subdivisions 3d, shall apply. Where the voting is conducted at some other place, either by the County Clerk or by a clerk specially appointed for that purpose, the authority calling the election shall designate the hours during which the clerk for absentee voting shall keep his office open, which for the purposes of this Section shall constitute the clerk's regular working hours, and shall require that the office remain open for at least eight hours on each day for absentee voting which is not a Saturday, a Sunday, or an official State holiday. Except in elections for which absentee voting is required by law to be conducted by the County Clerk or city secretary or city clerk, the place or places and hours for absentee voting shall be stated in the order calling the election and in the election notice, which shall also state the clerk's mailing address to which ballot applications and ballots voted by mail may be sent.

(8) Compensation of clerk for absentee voting. Neither the County Clerk nor the city secretary or city clerk shall receive any additional compensation for performing the duties devolving upon him under this Section, but additional deputies necessitated thereby may be appointed and compensated under the General Law pertaining to appointment of deputies. Except as herein required or expressly authorized, the County Clerk shall not conduct absentee voting in any election. In all elections where some person other than the County Clerk or city secretary or city clerk conducts the absentee voting, the authority calling the election shall fix the com-

compensation of such person and his deputies, if any, which shall be paid out of the same fund as other expenses of the election are paid. Employees of the authority calling the election or employees of any political subdivision of the State which is affected by the election, with the permission of its governing board, may be appointed to serve as clerk or deputy clerk for absentee voting without additional compensation. Acts 1963, 58th Leg., p. 1017, ch. 424, § 14, as amended Acts 1965, 59th Leg., p. 1552, ch. 678, § 5, emerg. eff. June 18, 1965.

Subdivision 2a. Absentee voting by members of the Armed Forces, etc. Notwithstanding any provision of Subdivision 1 or Subdivision 2 of this Section, any qualified voter within any of the following categories shall be entitled to vote absentee by mail upon making a sworn application by mail for an absentee ballot on an official Federal Post Card Application for Absentee Ballot, without the necessity of accompanying the application with the voter's poll tax receipt or exemption certificate, and no further statement of his eligibility to vote absentee by mail shall be required of him, provided the application is mailed from outside the county and the ballot is to be mailed to an official address outside the county:

- (1) Members of the Armed Forces of the United States and their spouses and dependents residing with or accompanying them.
- (2) Members of the Merchant Marine of the United States, and their spouses and dependents residing with or accompanying them.
- (3) Members of religious or welfare organizations assisting servicemen, and their spouses and dependents residing with or accompanying them.
- (4) Civilians employed by the United States Government outside the territorial limits of the United States, and their spouses and dependents residing with or accompanying them.

Application made on a Federal Post Card Application by a voter coming within either of the foregoing categories shall not be subject to the provision of Paragraph (ii) of Subdivision 1 of this Section which requires that the application be made not more than sixty days before the day of the election; and an application received earlier than that date, but within the voting year during which the election is held, shall be accepted.

Before mailing an absentee ballot in response to a Federal Post Card Application which is not accompanied by the voter's poll tax receipt, exemption certificate, or affidavit in lieu thereof as provided in Subdivision 2 of this Section, the clerk shall ascertain that the voter's name appears on the list of qualified voters for the precinct of his residence and shall not mail a ballot to him unless his name is so listed.

The foregoing provisions shall not be construed as preventing the clerk from accepting either a sworn or an unsworn Federal Post Card Application for Absentee Ballot from any other person who is permitted by Federal law to use such application form, but unless the applicant comes within one of the categories listed above he shall furnish the information required by Subdivision 2 of this Section in addition to the information regularly supplied on the Federal Post Card Application, shall accompany the application with his poll tax receipt, exemption certificate, or affidavit in lieu thereof, and shall be subject to all of the provisions of Subdivision 1 of this Section pertaining to absentee voting by mail.

Where a poll tax receipt or exemption certificate accompanies a Federal Post Card Application, it shall be mailed back to the voter at the official address to which the ballot was mailed, unless the voter requests the clerk to mail it to some other address. Acts 1963, 58th Leg., p. 1017, ch. 424, § 14, as amended Acts 1965, 59th Leg., p. 1552, ch. 678, § 6, emerg. eff. June 18, 1965.



For Annotations and Historical Notes, see V.A.T.S.

Subdivision 3c. Voting on election day by disabled voter in voting machine counties. The provisions of this subdivision shall apply only to county-wide elections and to elections less than county-wide where the authority holding the election has provided that absentee ballots shall be counted by a special canvassing board, and shall apply only to voters residing in election precincts in which voting at the regular polling place on election day is being conducted by use of a voting machine or machines. Under these stated conditions, a voter may vote as herein provided if he is ill or disabled and thus cannot, without injury to his health or without personal assistance, cast his vote in the regular manner. A voter complying with these requirements may be voted in an ambulance or other conveyance at the entrance to the place in which absentee voting by mail was conducted for the election, between the hours of 8:00 a. m. and 2:00 p. m. on the day of the election, by the clerk who conducted the absentee voting for the election, using an absentee-by-mail ballot. Poll watchers appointed to observe absentee voting for the election shall be entitled to be present at the voting. Except as otherwise provided in this subdivision, the voting procedure shall be the same as for absentee voting by personal appearance in the clerk's office under the provisions of Subdivision 3b of this Section.

The application to vote under the provisions of this subdivision shall be in the form of an affidavit substantially as follows:

"AFFIDAVIT FOR VOTING AT ABSENTEE VOTING PLACE ON ELECTION DAY

"I, the undersigned, do solemnly swear that:

- (a) My name is \_\_\_\_\_.
- (b) My home address is \_\_\_\_\_.
- (c) I am a voter in Precinct \_\_\_\_\_.
- (d) My current poll tax receipt or exemption certificate number is \_\_\_\_\_.

(e) I am ill or disabled and thus cannot, without injury to my health or without personal assistance, cast my vote in the regular manner, and I have not previously voted in the election being held today.

Date \_\_\_\_\_

(Signature of voter)

(Jurat of officer administering the oath.)"

The voter shall not be required to fill out the affidavit on the carrier envelope. The clerk shall place the application and the carrier envelope containing the voted ballot into a jacket envelope and shall deliver the jacket envelope to the special canvassing board for counting absentee ballots. Thereafter, the ballot shall be handled in the same manner as an absentee ballot voted by mail, with such modifications as are necessary to fit the circumstances. Added Acts 1965, 59th Leg., p. 1552, ch. 678, § 7, emerg. eff. June 18, 1965.

Subdivision 3d. Voting absentee in person on last Saturday and Sunday of the absentee voting period before an election. Notwithstanding anything to the contrary written elsewhere in this Code, absentee voting in person may be conducted in the office of the County Clerk or city secretary or clerk between 2:00 p. m. and 8:00 p. m. on the last Saturday, Sunday, or Saturday and Sunday of the absentee voting period before any general, special, or primary election for which such officer is required to conduct the absentee voting under the provisions of Paragraph (2), (4), or (5) of Subdivision 1a of this Section. The officer conducting the absentee voting shall have the authority to decide whether to keep his office open during any or all of the hours herein permitted; provided, however, that if he keeps his office open during any of these hours, he shall give notice of such hours during which voting will be conducted by posting a notice at each entrance to his office at least ten days before said Saturday or Sunday.

The foregoing provisions of this subdivision shall not apply to any elections other than those stated in the first paragraph. However, nothing in this subdivision or in Subdivision 1a or Subdivision 3 of this Code shall prevent the authority calling any other type of election from requiring the clerk appointed to conduct the absentee voting to keep his office open during the hours stated in the first paragraph of this subdivision. Added Acts 1965, 59th Leg., p. 1552, ch. 678, § 8, emerg. eff. June 18, 1965.

Subdivision 4a. Period for absentee voting in special run-off elections held for Members of the Legislature. Notwithstanding the provisions of Subdivisions 3 and 4 of this Article, absentee voting in special run-off election held for the election of Members of the Legislature begins on the 10th day preceding the date of the election, and the period for absentee voting by mail in such election begins not later than the 10th day preceding the date of the election. Ballots to be voted by mail may be mailed to voters and may be marked and mailed back to the clerk before the 10th day, if the ballots are available before that date. In all other respects the procedure for absentee voting in the special run-off election is the same as in other elections. Added Acts 1965, 59th Leg., p. 777, ch. 368, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Subdivision 4b. Period for absentee voting in second primary. Notwithstanding the provisions of Subdivisions 3 and 4 of this Section, the period for absentee voting by personal appearance in each second (runoff) primary election held under the provisions of Section 181 of this Code<sup>1</sup> shall begin on the tenth day preceding the date of the election, and the period for absentee voting by mail in such election shall begin not later than the tenth day preceding the date of the election. Ballots to be voted by mail may be mailed to voters and may be marked and mailed back to the clerk before the tenth day, if the ballots are available before that date. In all other respects the procedure for absentee voting in the second primary shall be the same as in other elections. Former subd. 16 renumbered subd. 4b and amended by Acts 1965, 59th Leg., p. 1552, ch. 678, § 9, emerg. eff. June 18, 1965.

<sup>1</sup> Article 13.03.

Subdivision 16. Renumbered subdivision 4b by Acts 1965, 59th Leg., p. 1552, ch. 678, § 9, emerg. eff. June 18, 1965.

Section 1 of Acts 1965, 59th Leg., p. 777, ch. 368 added article 4.12; section 2 thereof amended article 8.42.

Former subdivision 16, added by Acts 1959, 56th Leg., p. 1055, ch. 483, § 2, was amended by Acts 1963, 58th Leg., p. 1017, ch. 424, § 17. See, now, subd. 4b of this article.

#### Art. 5.14a. Applications for poll tax receipts and exemption certificates mailed before February 1st

Where application for a poll tax receipt or for an exemption certificate to be issued under the provisions of Section 48 of this Code is made by mail, the application shall be deemed to have been received by the tax collector before the first day of February if the letter transmitting the application was placed in the mail on or before the 31st day of January, as shown by the postmark on the letter, and was delivered to the tax collector on or before the 5th day of February immediately following. Within the meaning of this Section, the application is delivered when it is actually placed into the possession of the tax collector or his duly authorized agent by a post office employee, or is deposited into the tax collector's mail box, or is left at the usual place of delivery for the tax collector's official mail. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 46a, added Acts 1965, 59th Leg., p. 791, ch. 378, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

For Annotations and Historical Notes, see V.A.T.S.

**Art. 5.16a. Applications for poll tax exemption certificates**

Notwithstanding any other provision of this Code, in counties having a population of 500,000 or more, according to the last preceding Federal Census, if the Commissioners Court of such county or counties shall by order direct, all persons shall be required to make application for his or her poll tax exemption certificate and receive same, irrespective of age or whether or not he or she lives in a city of less than 10,000 inhabitants. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 48a added Acts 1965, 59th Leg., p. 1552, ch. 678, § 10, emerg. eff. June 18, 1965.

**CHAPTER SIX—OFFICIAL BALLOT**

**Art. 6.05a. Ballots for elections involving precinct offices**

For any election, general or primary, at which the district office of United States Representative, State Senator, or State Representative, or the precinct office of county commissioner, justice of the peace, constable, public weigher, or precinct chairman of a political party is to be voted on, different ballots shall be prepared for the various districts or precincts involved in the election, to differ with respect to the district or precinct offices to be voted on. The election officers for each election precinct shall be furnished official ballots listing the district and precinct offices and candidates which are to be voted on by the voters in the particular election precinct, and no other district or precinct office shall be listed thereon, so that no voter shall receive a ballot listing any district or precinct office on which he is not entitled to vote. In furnishing ballots to absentee voters, the County Clerk shall furnish the voter with the ballot prepared for use in the election precinct in which he resides. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 61a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 34, as amended Acts 1965, 59th Leg., p. 1552, ch. 678, § 11, emerg. eff. June 18, 1965.

**CHAPTER EIGHT—CONDUCTING ELECTIONS AND RETURNS THEREOF**

**Art. 8.41. Returns for members of the Legislature in general elections**

In all general elections for State Senator or State Representative, the county judge shall make returns of the election within the time and in the manner provided for other officers in Section 119 of this Code.<sup>1</sup> On the Monday before the second Tuesday in January following the election, the Secretary of State shall open and count the returns of the elections. The opening and counting shall be done in the presence of the Governor and one citizen of the state appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two years; but in case of vacancy or of inability or failure of either the Governor or the appointed citizen to act, the opening and counting may be done in the presence of either of them. The Secretary of State shall immediately issue a certificate of election to the person receiving the highest number of votes for each of said offices. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 73; Acts 1965, 59th Leg., p. 199, ch. 83, § 1.

<sup>1</sup> Article 8.37.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 8.42. Returns for members of the Legislature in special elections**

Whenever a special election is held in any representative or senatorial district in this State for the election of any Member of the Legislature, the returns shall be canvassed and the results declared in accordance with

Article 32c of this Code<sup>1</sup>. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 74; Acts 1965, 59th Leg., p. 777, ch. 368, § 2.

<sup>1</sup> Article 4.12.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 1 of Acts 1965, 59th Leg., p. 777, ch. 368 added article 4.12; section 3 thereof amended article 5.05 by adding subdivision 4a.

## CHAPTER NINE—CONTESTING ELECTIONS

### Art. 9.20. For Legislature

#### Initiation of election contest

Section 1. A candidate for State Senator or Representative may initiate election contest proceedings at any time after the returns have been deposited in the office of the county clerk of every county comprising the district as provided in Articles 119, 123, and 124 of this code, but not later than 30 days after the date of the election.

#### Notice and statement

Sec. 2. The contestant initiates election contest proceedings by giving notice in writing to the candidate who is shown by the returns to have the greatest number of votes when the returns of all counties are totaled, and by delivering to him, his agent or attorney, a written statement of the grounds on which the election is contested. Within the same period of time, the contestant shall mail a certified copy of the notice and statement to the President of the Senate or to the Speaker of the House of Representatives, as the case may be, in care of the Secretary of State.

#### Reply

Sec. 3. The candidate who receives the notice and statement shall cause a reply in writing to be delivered to the contestant, his agent or attorney, within 10 days after receiving the notice and statement; and within the same period of time he shall mail a certified copy of the reply to the President of the Senate or to the Speaker of the House of Representatives, as the case may be, in care of the Secretary of State.

#### Service; use of certified mail

Sec. 4. (a) The notice, statement, and reply may be served as provided in Article 133 of this code, or by certified mail with return receipt requested.

(b) When certified mail is used for service or to transmit a copy of the notice, statement, or reply to the Secretary of State, the fact and date of sending and the fact and date of receipt may be proven with window receipts and return receipts for certified mail.

#### Duty of Secretary of State

Sec. 5. (a) If the contest involves the result of a general election, the Secretary of State shall submit the papers of the case to the President of the Senate or to the Speaker of the House of Representatives, as the case may be, on the second Tuesday in January following the election. The papers of the case consist of the copies of the notice, statement, reply, and the Secretary of State's certified statement of the total votes cast for each candidate for the office as shown by the official canvass of the returns.

(b) If the contest involves the result of a special election, and the Legislature is not in session when he receives the notice, statement, and reply, the Secretary of State shall submit the papers on the opening

For Annotations and Historical Notes, see V.A.T.S.

day of the first legislative session to be convened after the date of the election; and if the Legislature is in session when he receives the notice, statement, or reply, he shall submit the papers within three days after the day he receives the copy of the reply. As amended Acts 1965, 59th Leg., p. 199, ch. 83, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

### CHAPTER THIRTEEN—NOMINATIONS

- |   |  |
|---|--|
| <p>1. BY PARTIES OF TWO HUNDRED THOUSAND (200,000) VOTES OR OVER</p> <p>Art. 13.04b</p> | <p>13.08a—1 Assessment of candidates in counties having certain populations [New].</p> <p>13.18b Names of elected party officers to be recorded [New].</p> |
| <p>Name of party to be posted at polling place [New].</p>                               |  |

#### 1. BY PARTIES OF TWO HUNDRED THOUSAND (200,000) VOTES OR OVER

**Art. 13.04A.** Voting places of political parties in counties of five hundred thousand (500,000) population, and in counties in which there is a city containing more than one hundred thousand (100,000) inhabitants partially located in two counties

In counties having a population in excess of five hundred thousand (500,000) inhabitants, and in counties in which there is a city containing more than one hundred thousand (100,000) inhabitants partially located in two counties, according to the last preceding Federal Census, the places of holding primary elections of political parties in the various precincts of the state may be within one hundred (100) yards of the place at which such elections or conventions of a different political party are held, provided that the voting machines, ballots, election supplies, and election judges and officials of one primary election or convention shall not be used in the convention or election of another political party, and provided that said elections or conventions shall be held in separate rooms, the entrance to which shall be specifically designated as to political party designation, which identification shall be at the entrance to said separate rooms in 160 point type or larger if held within the same building; and provided further, that if such primary elections or conventions are held in adjoining rooms, then there shall be no avenue of communication from one such room to the other. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 182A, added Acts 1954, 53rd Leg., 1st C.S., p. 85, ch. 36, § 1, as amended Acts 1962, 57th Leg., 3rd C.S., p. 164, ch. 59, § 1.

Emergency. Effective Feb. 16, 1962.

#### Art. 13.04b. Name of party to be posted at polling place

Each political party holding a primary or primaries shall have signs, showing the party name, prominently displayed immediately above each entrance to each of the party's precinct polling places. Acts 1951, 52nd Leg., p. 1097, ch. 492, § 182b added Acts 1965, 59th Leg., p. 1552, ch. 678, § 12, emerg. eff. June 18, 1965.

#### Art. 13.08a—1. Assessment of candidates in counties having certain populations

Notwithstanding other provisions of law, the county executive committee in any county which has a population of 350,000 to 640,000, according to the last preceding Federal Census, shall require candidates

for State Senator or State Representative to pay the amount of \$300 to have their names placed upon the ballot in a primary election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 186a—1 added Acts 1965, 59th Leg., p. 1593, ch. 688, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 13.18b. Names of elected party officers to be recorded**

In certifying the names of the elected county chairman and precinct chairmen to the County Clerk, as required by Section 196 of this Code, the county chairman shall enter the names on a separate list from the list of party nominees certified by him. The county clerk shall record the names of the elected party officers, designating the office to which each person was elected, in the book provided for in Section 116<sup>1</sup> of this Code. The purpose of requiring certification of the names of the elected party officers is to provide a public record thereof, and the titles of the party offices and the names of the persons elected thereto shall not be placed on the general election ballot. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 196b added Acts 1965, 59th Leg., p. 1552, ch. 678, § 13, emerg. eff. June 18, 1965.

<sup>1</sup> Article 8.34.

**TITLE 51—ELEEMOSYNARY INSTITUTIONS**

**CHAPTER ONE—GENERAL PROVISIONS**

Art.  
 3174b—7. Easements and rights-of-way on  
 lands of institutions [New].

**Art. 3174b. Board for Texas State Hospitals and special schools**

*Acts 1965, 59th Leg., p. 173, ch. 67, § 1, the Texas Mental Health and Mental Retardation Act, codified as articles 5547-201 to 5547-204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished, in section 2 thereof, the Board for Texas State Hospitals and Special Schools. See article 5547-204, note.*

**Art. 3174b—2. Medical treatment and services, power to provide without consent of relatives, etc.**

*Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547-201 to 5547-204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547-204, note.*

**Art. 3174b—3. Occupational therapy programs; equipment and materials; sale of goods**

Section 1. The Board for Texas State Hospitals and Special Schools may furnish equipment, materials, and merchandise at any institution under the control and management of said Board for occupational therapy programs. The finished goods and products produced in these programs may be sold, and the proceeds thereof may be placed in the patients' benefit fund, patients' trust fund, or a revolving fund for their further use; or the patient may purchase from the state the material to be used and keep the finished product.

Sec. 2. Pursuant to such rules and regulations as the Board shall make, the superintendents of the institutions under the control and management of said Board may enter into agreements with private individuals, persons or corporations whereby such private individuals, persons or corporations may furnish equipment, materials, and merchandise for occupational therapy programs. Such agreements, when the finished or semi-finished goods and products produced in these programs remain the property of the private individuals, persons or corporations, shall provide for the payment to the institution of a fair and reasonable rental for the use of institutional buildings and premises and equipment based upon the amount of time such buildings and premises and equipment or parts thereof are used for such activities.

Sec. 3. The Board is authorized to accept donations in money or materials to be used in these programs and may use and expend the donations in the manner requested by the donor, if not contrary to the policy of the Board for Texas State Hospitals and Special Schools. Acts 1955, 54th Leg., p. 1183, ch. 462, § 1; as amended Acts 1965, 59th Leg., p. 238, ch. 104, § 1.

*Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547-201 to 5547-204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547-204, note.*

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act providing for the furnishing, use, and disposition of equipment, materials, and merchandise for use in occupational therapy programs; providing for the sale

of goods so produced; providing for disposition of funds realized from such sales; and declaring an emergency. Acts 1955, 54th Leg., p. 1183, ch. 462.

**Art. 3174b-4. Outpatient clinics; mental hospital; community hospital for research and education in mental illness**

**Statement of Purposes and Public Policies**

Section 1. It is the sense of the Legislature that the Board for Texas State Hospitals and Special Schools be authorized to establish such outpatient clinics for treating the mentally ill as such Board deems necessary and as funds for their operation are made available; and that a total mental health program be established in a given area of this State which shall consist of the following: (1) An area or community hospital of approximately sixty (60) beds to be used for treating the mentally ill and for research, training, and education in treating mental illness and an outpatient clinic which may be operated in conjunction with the community hospital; the outpatient clinics to be authorized and the community hospital and clinic to be provided for in this Act; and (2) A separate larger mental hospital of approximately five hundred (500) beds.

**Authorization for Outpatient Clinics**

Sec. 2. The Board for Texas State Hospitals and Special Schools is authorized to establish outpatient clinics for treatment of the mentally ill in such locations as deemed necessary by said Board and as money for their operation shall be made available. The Board shall acquire facilities, provide a staff, make rules and regulations, and make contracts with persons, corporations, and agencies of local, State, and Federal governments as shall be necessary for the establishment and operation of said clinics.

**Establishment of Community or Research Hospital**

Sec. 3. There shall be constructed, established, and maintained an area or community hospital of approximately sixty (60) beds to be used in treating the mentally ill and for research, training, and education in mental illness and an outpatient clinic which may be operated in conjunction with the community hospital. Such hospital and clinic shall be located within a city where a recognized medical center is located and operating. The Board for Texas State Hospitals and Special Schools shall designate the city and select a site or sites therein for the location of said community hospital and outpatient clinic. Such site or sites shall be accessible and convenient to the local medical center and shall contain sufficient land served by adequate utilities to meet the requirements of said hospital and outpatient clinic. Said Board shall take title to the land or lands so selected by them in the name of the State of Texas for the use and benefit of said hospital and clinic; provided, that the Attorney General's Department shall first approve the title to the land or lands so selected by the Board.



**Location and Construction of Mental Hospital**

Sec. 4. The Board for Texas State Hospitals and Special Schools shall select the site for said mental hospital, and the Board, in selecting such site, shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants and available medical facilities, and the same shall contain sufficient land and have utilities readily available. Said Board shall take title to the land so selected by them in the name of the State of Texas for the use and benefit of said hospital; provided, however, that the Attorney General's Department shall first approve the title to the land so selected by the Board. There shall be constructed upon said grounds so selected permanent, suitable, substantial, and fireproof buildings sufficient in all respects to be used for the treatment of the mentally ill; said buildings are to be provided with modern improvements for furnishing water, heat, ventilation, and sewage.

**Preparation of Plans**

Sec. 5. The Board for Texas State Hospitals and Special Schools shall proceed, within the limits of legislative appropriation of funds, to prepare plans and specifications for said buildings; and said Board is authorized to make contracts with such persons, corporations, or agencies of State, local, and Federal governments, and to accept gifts or grants of land as said Board deems proper and necessary to effect the purposes of this Act within the limits of appropriations authorized therefor.

**Personnel; Patients**

Sec. 6. Upon the completion of the buildings and facilities for either or both of said research hospital or the larger separate mental hospital, the Board for Texas State Hospitals and Special Schools shall appoint such personnel as are necessary to operate and maintain such hospital and clinic and to adequately treat such patients as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit patients to the area or community hospital and shall provide for their care and maintenance under the same applicable laws, rules and regulations as govern the admission and care of mentally ill persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally ill. The outpatient clinic shall be operated under such rules and regulations as the Board may promulgate.

The Board for Texas State Hospitals and Special Schools is hereby authorized, in its discretion, to operate and maintain such hospital and clinic as a part of such other hospital as may be constructed or operated by the Board.

**Appropriation**

Sec. 7. There is hereby appropriated to the Board for Texas State Hospitals and Special Schools such Federal funds as the United States Government may grant for the construction of such buildings, and such other funds as may be given or granted by any State agency, foundation, estate, or individual, and said Board is authorized and directed to obtain and expend such funds as may become available for the programs and facilities authorized by this Act.

**Contracts**

Sec. 8. In carrying out the research authorized by this Act, the Board or such Board's successor in function may contract with any public or private agency as it deems necessary for such purposes. Acts 1957, 55th Leg., p. 1280, ch. 427, as amended Acts 1961, 57th Leg., p. 626, ch. 293,

§ 1; Acts 1963, 58th Leg., p. 336, ch. 128, § 1; Acts 1965, 59th Leg., p. 624, ch. 309, § 1, emerg. eff. June 1, 1965.

*Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547-201 to 5547-204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547-204, note.*

**Title of Act:**

An Act authorizing outpatient clinics and establishing and providing for a community hospital for research and education in mental illness; for a large mental hospital and

for outpatient clinics; regulating and providing for the operation of same; and declaring an emergency. Acts 1957, 55th Leg., p. 1280, ch. 427.

**Art. 3174b—5. Contracts for medical care and treatment**

*Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547-201 to 5547-204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547-204, note.*

**Art. 3174b—6. Conveyance of waterworks and sanitary sewer system to Smith County Water Control and Improvement District No. 1**

*Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547-201 to 5547-204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547-204, note.*

**Art. 3174b—7. Easements and rights-of-way on lands of institutions**

Section 1. The Board for Texas State Hospitals and Special Schools or such Board's successor in function is hereby authorized and empowered to grant permanent and temporary easements and rights-of-way over and on lands of institutions under the control and management of such Board as shall be necessary to insure the efficient and expeditious construction, improvement, renovation, use and operation of such institutions. Acts 1965, 59th Leg., p. 562, ch. 285.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing the Board for Texas State Hospitals and Special Schools or such Board's successor in function to grant

such easements and rights-of-way as shall be necessary to construct, improve, renovate, use and operate institutions under its control and management; and declaring an emergency. Acts 1965, 59th Leg., p. 562, ch. 285.

**Art. 3174c. Refund of moneys by Board for Texas State Hospitals and Special Schools**

*Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547-201 to 5547-204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547-204, note.*

**Art. 3179a. Refunds of excess funds received as support payments**

*Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547-201 to 5547-204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547-204, note.*

**Art. 3183e. Contracts with public schools for education of inmates**

*Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547-201 to 5547-204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547-204, note.*

**CHAPTER TWO—STATE HOSPITALS**

**Art.**  
**3201a—1. Care, treatment and custody of**  
 mentally ill and retarded per-  
 sons infected with tuberculosis  
 [New].

*Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547-201 to 5547-204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547-204, note.*

**Art. 3201a—1. Care, treatment and custody of mentally ill and retarded persons infected with tuberculosis**

Section 1. Effective September 1, 1965, the neuropsychiatric wards of the San Antonio State Tuberculosis Hospital shall be under the control, management and supervision of the State Department of Health and shall be operated as a part of the San Antonio State Tuberculosis Hospital. The Texas Department of Mental Health and Mental Retardation may transfer mentally ill persons and mentally retarded persons infected with tuberculosis to the San Antonio State Tuberculosis Hospital with or without such person's consent. The cost of maintaining and treating such persons at the San Antonio State Tuberculosis Hospital shall be paid from appropriations to the San Antonio State Tuberculosis Hospital. Acts 1965, 59th Leg., p. 1139, ch. 535.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the care, treatment and custody of mentally ill and mentally

retarded persons infected with tuberculosis; and declaring an emergency. Acts 1965, 59th Leg., p. 1139, ch. 535.

## CHAPTER THREE—OTHER INSTITUTIONS

MOODY STATE SCHOOL FOR CEREBRAL PALSIED CHILDREN

COLORED GIRLS TRAINING SCHOOLS

Art.

3259a—1. Crockett State School for Girls [New].

Art. 3254c—2. Control and management [New].

## Art. 3202—c. Superintendents of schools for blind and deaf

## School for blind; qualifications of superintendent

Section 1. The Superintendent of the Texas School for the Blind shall be a graduate of an accredited university or college and shall have a minimum of four years of educational administrative experience, at least two years of which shall have been in the education or supervisory training of the blind. As amended Acts 1965, 59th Leg., p. 119, ch. 47, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## TEXAS SCHOOL FOR THE BLIND

## Art. 3207a. State Commission for the Blind

## Bureau of Information; powers and duties of commission; definitions

Sec. 2. (a) The State Commission for the Blind shall maintain a Bureau of Information, the object of which shall be to aid the blind and visually handicapped in finding employment.

(b) The Commission may in its discretion furnish materials, tools, books, and other necessary apparatus and assistance for use in rehabilitating such persons.

(c) The Commission may establish workshops and salesrooms, and shall have authority to use any receipts or earnings that accrue from the operation of industrial schools, salesrooms or workshops as provided in this Chapter, but detailed statements of receipts or earnings and expenditures shall be made monthly to the Auditor of the state.

(d) Through the employment of teachers the Commission may give instruction to adult blind persons in their homes, but the Commission shall not undertake the permanent support or maintenance of any blind person.

(e) The Commission shall maintain a current register of the blind and of persons handicapped by a visual condition which is likely to deteriorate either to blindness or to a substantial visual handicap.

(f) The Commission shall take such measures as it may deem advisable to prevent blindness and to conserve eyesight.

(g) In cases where it determines that it may appropriately and adequately do so, the Commission may provide supplemental services to visually handicapped children, in addition to those provided by the regularly established educational agencies and authorities of the state, and provide them with whatever other services the Commission determines necessary for better equipping them to achieve self-supporting economic status and to otherwise enjoy a fuller and richer life; it is the intention of the Legislature that there be full and complete cooperation between all concerned state agencies or departments toward the realization of these purposes.

(h) In cases where it determines that it may appropriately and adequately do so, the Commission shall provide vocational guidance and related services through its vocational rehabilitation division to adults having seriously defective sight.

For Annotations and Historical Notes, see V.A.T.S.

(i) The Commission may receive and expend gifts, bequests, and devises from individuals, associations and corporations, in accordance with the provisions of this Act.

(j) When used in this Act, unless the context requires a different meaning:

(1) "Commission" means the State Commission for the Blind;

(2) "blind" means a person having not more than 20/200 of visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees;

(3) "visual handicap" includes any eye condition for which there is a medical prognosis indicating that the eye condition is of a progressive nature and may deteriorate either to blindness or to a substantial loss of vision, or any eye condition meeting the definition of blindness contained in Subsection (2) of this Section, and shall include any physical or psychological handicap which accompanies or complements a disorder or imperfection of the eye; and

(4) "visually handicapped children," in addition to including any child with a visual handicap as defined in Subsection (3) of this Section, includes any child with a visual problem requiring cosmetic treatment, psychological assistance, counseling or other assistance which the Commission can render and which deals with a problem that relates to an unfavorable visual condition. As amended Acts 1965, 59th Leg., p. 243, ch. 106, § 1; Acts 1965, 59th Leg., p. 574, ch. 291, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Responsibility for rendering services to the visually handicapped; inter-agency agreements; cooperation with federal government**

Sec. 2a. (a) In order to promote the greater consolidation of counseling, guidance, restoration and rehabilitation services to visually handicapped adults and children, the Commission is designated as the state agency having primary responsibility for rendering all services to the visually handicapped except those which are purely of a welfare nature or, in the case of visually handicapped children, those which are provided by the regularly established educational agencies and authorities of the state.

(b) In cases involving individuals with multiple handicaps, where one of the handicaps is of a visual nature and the other handicap is not complementary to the visual handicap, the Commission and any other agency authorized to render services shall enter into inter-agency agreements regarding the treatment of the individual with a multiple handicap. The agreement is to be negotiated with a view to providing the most beneficial service to the multiple handicapped individual with the greatest possible economy. The Commission and all other concerned state agencies are authorized to enter into general agreements regarding individuals with multiple handicaps, so that a new agreement will not have to be negotiated for each particular case.

(c) The Commission shall cooperate, pursuant to agreements, with the Federal Government in carrying out the purposes of any Federal Statutes pertaining to services authorized by Sections 2 and 2a of this Chapter and is authorized to adopt such methods of administration as are found by the Federal Government to be necessary for the proper and efficient operation of such agreements or plans, and to comply with such conditions as may be necessary to secure the full benefits of applicable Federal Statutes.

(d) The Commission and other concerned state agencies may not refuse to enter into any inter-agency agreement designed to secure the full benefits of all applicable Federal Statutes for the blind of this state; all inter-agency agreements shall be negotiated with a view to securing all benefits for the visually handicapped made possible by Federal Statutes. Added Acts 1965, 59th Leg., p. 243, ch. 106, § 2, as amended Acts 1965, 59th Leg., p. 574, ch. 291, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Art. 3207c. Vocational rehabilitation of blind

Definitions

Section 1. As used in this Act:

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(n) "Blind disabled individual" means any person for whom a medical prognosis indicates a progressive visual condition which may deteriorate so as to constitute a substantial vocational handicap, or which does constitute a substantial vocational handicap, or any person meeting the definition of blindness contained in Subsection (f) of this Section, or any person whose visual condition both falls within the definition of blindness contained in Subsection (f) and constitutes a vocational handicap. Added Acts 1965, 59th Leg., p. 243, ch. 106, § 5, as amended Acts 1965, 59th Leg., p. 574, ch. 291, § 5.

Effective Aug. 30, 1965, 90 days after date of adjournment.

AUSTIN STATE HOSPITAL ANNEX

Change of Name

*The name of the Texas Confederate Home for Men was changed to the Austin State Hospital Annex by Acts 1965, 59th Leg., p. 1267, ch. 581, § 1. See article 3213a.*

Art. 3213a. Change of name to Austin State Hospital Annex

Section 1. The name of the "Texas Confederate Home for Men" is hereby changed to the "Austin State Hospital Annex."

Sec. 2. The Austin State Hospital Annex, after the effective date of this Act, shall be a part of the Austin State Hospital and shall be maintained and operated by the Superintendent of the Austin State Hospital, under control and management of the Board for Texas State Hospitals and Special Schools or such Board's successor in function. The function of the Austin State Hospital Annex will be to provide support, maintenance, and treatment to persons admitted or committed thereto suffering from mental illness.

Sec. 3. All appropriations heretofore made by the Legislature for the use and benefit of the Texas Confederate Home for Men and now effective shall be available for the use and benefit of the Austin State Hospital Annex.

Sec. 4. All contracts heretofore entered into in behalf of the Texas Confederate Home for Men are hereby ratified, confirmed and validated for and in behalf of the Austin State Hospital Annex. Acts 1965, 59th Leg., p. 1267, ch. 581.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act changing the name of the "Texas Confederate Home for Men" to the "Aus-

tin State Hospital Annex" and providing for its management, operation and function; repealing all laws in conflict herewith; and declaring an emergency. Acts 1965, 59th Leg., p. 1267, ch. 581.

**Art. 3221c. Texas Blind, and Deaf School; jurisdiction of State Board of Education**

Section 1. From and after the passage of this Act, all management and administrative responsibility for the Texas Blind, Deaf and Orphan School shall be transferred from the Board for Texas State Hospitals and Special Schools to the State Board of Education.

Sec. 2. The name of the Texas Blind, Deaf and Orphan School, located at Austin, Texas, is hereby changed and shall hereafter be known and designated as the Texas Blind, and Deaf School.

Sec. 3. The State Board of Education shall have exclusive jurisdiction and control over the Texas Blind, and Deaf School; and it shall be the duty of the Commission of Education to appoint a superintendent for the institution subject to the approval of the State Board of Education. Such jurisdiction shall extend to all physical assets, including lands, property, etc., now owned or purchased for the benefit of the Texas Blind, and Deaf School, and appropriations, grants, funds, and gifts, made for the benefit of the Texas Blind, and Deaf School shall be administered and expended by the State Board of Education. Acts 1963, 58th Leg., p. 208, ch. 111, as amended Acts 1965, 59th Leg., p. 117, ch. 45, § 1, eff. Sept. 1, 1965.

Section 2 of the amendatory act of 1965 September 1, 1965 and section 3 thereof provided that the effective date shall be repealed all conflicting laws.

**COUNTY-WIDE DAY SCHOOLS FOR THE DEAF [NEW]**

**Art. 3222b—1. Participation of certain school districts in day school for the deaf program**

Section 1. School districts in counties contiguous to those authorized to operate a bi-county day school for the deaf under the provisions of Section 1a, Chapter 99, Acts of the 58th Legislature, Regular Session, 1963 (codified as Article 3222b, Vernon's Texas Civil Statutes), may participate in the day school for the deaf program upon approval by the Texas Education Agency of requests from a school district in a county contiguous to those counties authorized to operate the bi-county day school and the school district designated to conduct the school. Participation of school districts in counties contiguous to those authorized to operate the bi-county day school for the deaf shall be on the same basis as for school districts within the counties authorized to operate the school. Acts 1965, 59th Leg., p. 819, ch. 397.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act to provide that school districts in counties contiguous to those authorized to operate a bi-county day school for the deaf may participate in the program upon approval by the Texas Education

Agency of requests from a school district in a contiguous county and the school district designated to conduct the bi-county day school for the deaf; and declaring an emergency. Acts 1965, 59th Leg., p. 819, ch. 397.

**MOODY STATE HOSPITAL FOR CEREBRAL PALSID CHILDREN**

**Art. 3254c—2. Control and management**

Section 1. From and after the passage of this Act the control, management and supervision of the Moody State School for Cerebral Palsied Children and the fee simple title to said property shall be transferred from the Board for Texas State Hospitals and Special Schools to the Board of Regents of The University of Texas for the use and benefit of The University of Texas Medical Branch at Galveston.

Sec. 2. Fee simple title to said property shall vest in the Board of Regents of The University of Texas, and it shall control, manage and supervise the Moody State School for Cerebral Palsied Children as a part of the operation of The University of Texas Medical Branch, and shall appoint such staff as is necessary to carry out the functions of the school. Such control shall extend to all physical assets, including lands, property, etc., now owned or purchased for the benefit of the Moody State School for Cerebral Palsied Children, and all appropriations, grants, funds, and gifts made for the benefit of the Moody State School for Cerebral Palsied Children shall be administered and expended by the Board of Regents of The University of Texas as all other funds of The University of Texas Medical Branch. Acts 1965, 59th Leg., p. 215, ch. 87, emerg. eff. April 22, 1965.

**Title of Act:**

An Act transferring fee simple title and the control and management of Moody State School for Cerebral Palsied Children to the Board of Regents of The University of Texas for the use and benefit of The University of Texas Medical Branch at Galveston; providing for the appointment of a staff; providing for jurisdiction over the physical assets; providing that all

appropriations, grants and gifts made for the benefit of the Moody State School for Cerebral Palsied Children shall be administered and expended by the Board of Regents of The University of Texas for the use and benefit of The University of Texas Medical Branch at Galveston; repealing all laws; and declaring an emergency. Acts 1965, 59th Leg., p. 215, ch. 87.

## COLORED GIRLS TRAINING SCHOOLS

Art. 3259a. Repealed. Acts 1965, 59th Leg., p. 330, ch. 155, § 3, Emerg. Eff. May 13, 1965

See, now, arts. 3259a-1 and 5143d.

Art. 3259a-1. Crockett State School for Girls

### Change of name; jurisdiction and control of school

Section 1. The school established pursuant to the provisions of Chapter 293, Acts of the 40th Legislature, Regular Session, 1927 (codified in Vernon's as Article 3259a, Vernon's Civil Statutes) shall from and after the effective date of this Act be known as "Crockett State School for Girls" and shall be under the jurisdiction and control of the Texas Youth Council.

### Exercise of powers and duties

Sec. 2. In exercising jurisdiction and control over the Crockett State School for Girls, the Texas Youth Council shall exercise all powers and duties conferred by the provisions of Chapter 281, Acts of the 55th Legislature, Regular Session, 1957 (codified in Vernon's as Article 5143d, Vernon's Civil Statutes).

### Repealer

Sec. 3. The provisions of Chapter 293, Acts of the 40th Legislature, Regular Session, 1927 (codified in Vernon's as Article 3259a, Vernon's Civil Statutes) are hereby repealed. Acts 1965, 59th Leg., p. 330, ch. 155, emerg. eff. May 13, 1965.

**Title of Act:**

An Act changing the name of the school established for the care of dependent and delinquent colored girls by the provisions of Chapter 293, Acts of the 40th Legislature, Regular Session, 1927 (codified in Vernon's as Article 3259a, Vernon's Civil Statutes) to the name "Crockett State School for Girls"; repealing the provisions of Chapter 293, Acts of the 40th Legislature, Regular Session, 1927 (codified in Vernon's as Article 3259a, Vernon's Civil Statutes); placing "Crockett State School

for Girls" under the control and jurisdiction of the Texas Youth Council; authorizing the Texas Youth Council to exercise all powers and authority provided in Chapter 281, Acts of the 55th Legislature, Regular Session, 1957 (codified in Vernon's as Article 5143d, Vernon's Civil Statutes) in the administration and control of "Crockett State School for Girls"; making other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 330, ch. 155.



## TITLE 52—EMINENT DOMAIN

## Art. 3266. 6507-28 General provisions

6. If either party be dissatisfied with the decision, such party may, on or before the first Monday following the 20th day after the same has been filed with the county judge, file his objection thereto in writing, setting forth the grounds of his objection, and thereupon the adverse party shall be cited and the cause shall be tried and determined as in other civil causes in the county court. In computing the period of time prescribed or allowed by this Subdivision, the last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday. As amended Acts 1961, 57th Leg., p. 203, ch. 105, § 2; Acts 1965, 59th Leg., p. 766, ch. 357, § 1, emerg. eff. June 9, 1965.

## TITLE 52A—ENGINEERS

## Art. 3271a. Texas Engineering Practice Act

## Title of act

Section 1. This Act shall be known and may be cited as "The Texas Engineering Practice Act." As amended Acts 1965, 59th Leg., p. 207, ch. 85, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Practicing privileges; strict compliance and enforcement of act; use of term "engineer"; professional standards and ethics; graduate engineers**

Sec. 1.1. In recognition of the vital impact which the rapid advance of knowledge of the mathematical, physical and engineering sciences as applied in the practice of engineering is having upon the lives, property, economy and security of our people and the national defense, it is the intent of the Legislature, in order to protect the public health, safety and welfare, that the privilege of practicing engineering be entrusted only to those persons duly licensed, registered and practicing under the provisions of this Act and that there be strict compliance with and enforcement of all the provisions of this Act, and, in order that the state and members of the public may be able to identify those duly authorized to practice engineering in this state and fix responsibility for work done or services or acts performed in the practice of engineering, only licensed and registered persons shall practice, offer or attempt to practice engineering or call themselves or be otherwise designated as any kind of an "engineer" or in any manner make use of the term "engineer" as a professional, business or commercial identification, title, name, representation, claim or asset, and all the provisions of this Act shall be liberally construed and applied to carry out such legislative intent. In furtherance of such intent and purpose of the Legislature, the practice of engineering is hereby declared a learned profession to be practiced and regulated as such, and its practitioners in this state shall be held accountable to the state and members of the public by high professional standards in keeping with the ethics and practices of the other learned professions in this state. There is specifically reserved to graduates of all public universities recognized by the American Association of Colleges and Universities the right to disclose any college degrees received by such individual and use the word Graduate Engineer on his stationery, business cards, and personal communications of any character. Added Acts 1965, 59th Leg., p. 207, ch. 85, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Prohibited acts and conduct**

Sec. 1.2. From and after the effective date of this Act, unless duly licensed and registered in accordance with the provisions of this Act, no person in this state shall:

(1) Practice, continue to practice, offer or attempt to practice engineering or any branch or part thereof.

(2) Directly or indirectly, employ, use, cause to be used or make use of any of the following terms or any combinations, variations or abbreviations thereof as a professional, business or commercial identification, title, name, representation, claim, asset or means of advantage or benefit: "engineer," "professional engineer," "licensed engineer," "registered engineer," "registered professional engineer," "licensed professional engineer," "engineered."

For Annotations and Historical Notes, see V.A.T.S.

(3) Directly or indirectly, employ, use, cause to be used or make use of any letter, abbreviation, word, symbol, slogan, sign or any combinations or variations thereof, which in any manner whatsoever tends or is likely to create any impression with the public or any member thereof that any person is qualified or authorized to practice engineering unless such person is duly licensed, registered under and practicing in accordance with the provisions of this Act.

(4) Receive any fee or compensation or the promise of any fee or compensation for performing, offering or attempting to perform any service, work, act or thing which is any part of the practice of engineering as defined by this Act.

Within the intent and meaning and for all purposes of this Act, any person, firm, partnership, association or corporation which shall do, offer or attempt to do any one or more of the acts or things set forth in numbered paragraphs (1), (2), (3) or (4) of this Section 1.2 shall be conclusively presumed and regarded as engaged in the practice of engineering. Added Acts 1965, 59th Leg., p. 207, ch. 85, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Professional identification

Sec. 1.3. Every person licensed and registered by the Board to engage in the practice of engineering shall in the professional use of his name on any sign, directory, listing, contract, document, pamphlet, stationery, letterhead, advertisement, signature, or any other such means of professional identification, written or printed, use one of the following legally required identifications: Engineer, Professional Engineer or P. E. Added Acts 1965, 59th Leg., p. 207, ch. 85, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Definitions

Sec. 2. As used in this Act the term:

(1) "Board" shall mean the State Board of Registration for Professional Engineers, provided for by this Act.

(2) "Certificate of Registration" shall mean a license issued by the State of Texas granting its licensee the privilege of practicing engineering in accordance with the provisions of this Act.

(3) "Engineer," "professional engineer," "registered engineer," "registered professional engineer," or "licensed professional engineer" shall mean a person who has been duly licensed and registered by the Board to engage in the practice of engineering in this state.

(4) "Practice of engineering," or "practice of professional engineering" shall mean any service or creative work, either public or private, the performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical, or engineering sciences to such services or creative work.

(5) "Practice engineering" or "practicing engineering" shall mean performing or doing, or offering or attempting to do or perform any service, work, act or thing within the scope of the practice of engineering. As amended Acts 1965, 59th Leg., p. 207, ch. 85, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Powers of board; violations of rules and regulations; actions and proceedings

Sec. 8. The Board shall have the authority and power to make and enforce all rules and regulations necessary for the performance of its duties, to establish standards of conduct and ethics for engineers in

keeping with the purposes and intent of this Act or to insure strict compliance with and enforcement of this Act. The violation by any engineer of any provision of this Act or any rule or regulation of the Board shall be a sufficient reason or ground to suspend or revoke the certificate of registration of such engineer. In addition to any other action, proceeding or remedy authorized by law, the Board shall have the right to institute an action in its own name against any individual person to enjoin any violation of any provision of this Act or any rule or regulation of the Board and in order for the Board to sustain such action it shall not be necessary to allege or prove, either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation thereof. Either party to such action may appeal to the appellate court having jurisdiction of said cause. The Board shall not be required to give any appeal bond in any cause arising under this Act. The Attorney General shall represent the Board in all actions and proceedings to enforce the provisions of this Act. As amended Acts 1965, 59th Leg., p. 207, ch. 85, § 4.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### **Defenses in proceedings for injunction**

Sec. 8a. In any proceeding for injunction as provided in Section 8 above the defendant may assert and prove as a complete defense to such action that he was deprived of certification by the Board by action or proceedings of the Board which were

- (1) arbitrary or capricious
- (2) contrary to legal requirements
- (3) conducted without due process of law.

Added Acts 1965, 59th Leg., p. 207, ch. 85, § 8a.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### **Expirations and renewals**

Sec. 16. Certificates of registration shall expire on the December 31st following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the Secretary of the Board to notify every person registered under this Act of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a renewal fee not to exceed Ten Dollars (\$10.00). The Board is hereby given authority and duty to determine the amount of such renewal fee required to effectively carry out the administration and enforcement of all the provisions of this Act for each coming year on or before December 1st of each year. Failure on the part of any registered engineer to renew his certificate annually in the month of December as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased ten per cent (10%) for each month or fraction of a month that renewal payment is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the normal renewal fee. As amended Acts 1965, 59th Leg., p. 207, ch. 85, § 5.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### **Use of words and terms of identification**

Sec. 18. No firm, partnership, association, corporation or other business entity shall hold itself out to the public or any member thereof

For Annotations and Historical Notes, see V.A.T.S.

as being engaged in the practice of engineering under any assumed, trade, business, partnership or corporate name or employ, use, cause to be used or make use of in any manner whatsoever any such words or terms as "engineer," "engineering," "engineering services," "engineering company," "engineering, inc.," "professional engineers," "licensed engineer," "registered engineer," "licensed professional engineer," "registered professional engineer," "engineered," or any combinations, abbreviations or variations thereof, or in combination with any other words, letters, initials, signs or symbols on, in or as a part of, directly or indirectly, any sign, directory, listing, contract, document, pamphlet, stationery, letterhead, advertisement, signature, trade name, assumed name, corporate or other business name unless such firm, partnership, association, corporation or other business entity is actually and actively engaged in the practice of engineering or offering engineering services to the public, and any and all services, work, acts or things performed or done by it which constitute any part of the practice of engineering are either personally performed or done by a registered engineer or under the responsible supervision of a registered engineer. As amended Acts 1965, 59th Leg., p. 207, ch. 85, § 6.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Exemptions

Sec. 20. The following persons shall be exempt from the provisions of this Act, provided that such persons are not represented or held out to the public as duly licensed and registered by the Board to engage in the practice of engineering:

(a) A person not a resident of and having no established place of business in this state, practicing or offering to practice here the profession of engineering, when such practice does not exceed in the aggregate more than sixty (60) days in any calendar year; provided, such person is legally qualified by registration to practice the said profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this Act.

(b) A person not a resident of and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice herein for more than sixty (60) days in any calendar year the profession of engineering, if he shall have filed with the Board an application for a certificate of registration and shall have paid the fee required by this Act. Such exemption shall continue only for such time as the Board requires for the consideration of the application for registration; provided, that such a person is legally qualified to practice said profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this Act.

(c) An employee or a subordinate of a person holding a certificate of registration under this Act, or any employee of a person exempted from registration by classes (a) and (b) of this Section; provided, his practice does not include responsible charge of design or supervision.

(d) Officers and employees of the Government of the United States while engaged within this state in the practice of the profession of engineering for said Government.

(e) Nothing in this Act shall be construed to apply to persons doing the actual work of installing, operating, repairing, or servicing locomotive or stationary engines, steam boilers, Diesel engines, internal combustion engines, refrigeration compressors and systems, hoisting engines, electrical engines, air conditioning equipment and systems, or mechanical and electrical, electronic or communications equipment and apparatus;

nor shall this Act be construed to prevent any citizen from identifying himself in the name and trade of any engineers' labor organization with which he may be affiliated. Provided, however, that nothing in this Act shall be construed as permitting any person other than a licensed professional engineer affixing his signature as such to engineering plans, or specifications.

(f) A person, firm, partnership, joint stock association or private corporation, erecting, constructing, enlarging, altering or repairing, or drawing plans and specifications for: (1) any private dwelling, or apartments not exceeding eight units per building for one story buildings, or apartments not exceeding four units per building and having a maximum height of two stories, or garages or other structures pertinent to such buildings; or (2) private buildings which are to be used exclusively for farm, ranch or agricultural purposes, or used exclusively for storage of raw agricultural commodities; or (3) other buildings, except public buildings included under Section 19 of this Act, having no more than one story and containing no clear span between supporting structures greater than 24 feet on the narrow side and having a total floor area not in excess of five thousand square feet; provided that on unsupported spans greater than 24 feet on such buildings only the trusses, beams, or other roof supporting members need to be engineered or pre-engineered; provided that no representation is made or implied that engineering services have been or will be offered to the public.

(g) Any regular full time employee of a private corporation or other private business entity who is engaged solely and exclusively in performing services for such corporation and/or its affiliates; provided, such employee's services are on, or in connection with, property owned or leased by such private corporation and/or its affiliates or other private business entity, or in which such private corporation and/or its affiliates or other business entity has an interest, estate or possessory right, or whose services affect exclusively the property, products, or interests of such private corporation and/or its affiliates or other private business entity; and, provided further, that such employee does not have the final authority for the approval of, and the ultimate responsibility for, engineering designs, plans or specifications pertaining to such property or products which are to be incorporated into fixed works, systems, or facilities on the property of others or which are to be made available to the general public. This exemption includes the use of job titles and personnel classifications by such persons not in connection with any offer of engineering services to the public, providing that no name, title, or words are used which tend to convey the impression that an unlicensed person is offering engineering services to the public.

(h) Any regular full time employee of a privately owned public utility or cooperative utility and/or affiliates who is engaged solely and exclusively in performing services for such utility and/or its affiliates; provided, that such employee does not have the final authority for the approval of, and the ultimate responsibility for engineering designs, plans or specifications to be incorporated into fixed works, systems, or facilities on the property of others or which are to be made available to the general public. This exemption includes the use of job titles and personnel classifications by such persons not in connection with any offer of engineering services to the public, providing that no name, title, or words are used which tend to convey the impression that an unlicensed person is offering engineering services to the public.

(i) Qualified scientists engaged in scientific research and investigation of the physical or natural sciences, including the usual work and activities of meteorologists, seismologists, geologists, chemists, geochemists, physicists and geophysicists.

For Annotations and Historical Notes, see V.A.T.S.

(j) Nothing in this Act shall be construed or applied so as to prohibit or in any way restrict any person from giving testimony or preparing exhibits or documents for the sole purpose of being placed in evidence before any administrative or judicial tribunal of competent jurisdiction. As amended Acts 1965, 59th Leg., p. 207, ch. 85, § 7.

(k) Nothing in this Act shall apply to any agricultural work being performed in carrying out soil and water conservation practices.

(l) This Act shall not be construed as applying to operating telephone companies and/or affiliates or their employees in respect to any plans, designs, specifications, or services which relate strictly to the science and art of telephony. This exemption includes the use of job titles and personnel classifications by such persons not in connection with any offer of engineering services to the public, providing that no name, title, or words are used which tend to convey the impression that an unlicensed person is offering engineering services to the public. As amended Acts 1965, 59th Leg., p. 207, ch. 85, § 7; Acts 1965, 59th Leg., p. 529, ch. 273, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Acts 1965, 59th Leg., p. 207, ch. 85, §§ 1-7 amended various sections of this article and added sections 1.1 to 1.3 thereto; sec-

tion 8 of the act of 1965 was a severability provision; section 8a thereof is set out as section 8a of this article and section 9 repealed all conflicting laws and parts of laws.

## TITLE 53—ESCHEAT

Art.  
3272b. Duties of Depositories of Dormant  
or Inactive Accounts [New].

## Art. 3272a. Personal property subject to escheat

## Notice and Publication of Lists of Abandoned Property

Sec. 3. (a) Within sixty (60) days after the date in which the reports specified in Section 2 are received, the State Treasurer shall mail a notice thereof, as hereinafter described, to the Sheriff of the county of the domicile or principal place of business of the holder so reporting. The notice to the Sheriff shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property," and shall contain:

(1) The names in alphabetical order and the last known addresses, if any, of persons listed in the report and entitled to notice as hereinbefore specified; and

(2) A statement that information concerning the amount and description of the property and the name and address of the holder may be obtained by any persons possessing or claiming an interest in the property by addressing an inquiry to the holder so reporting. Within ten (10) days after receipt of said notice, it shall be the duty of the Sheriff to post it on the courthouse door or the courthouse bulletin board, where it shall remain posted for a period of not less than thirty (30) days. Thereafter the Sheriff shall return the notice to the State Treasurer with his certificate showing the date and time of posting required by this Section

(b) Within 120 days from the filing of the report specified in Section 2, the State Treasurer shall cause notice to be published in an English language newspaper of general circulation in the county in this State in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this State, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business or registered office or agent for service within this State.

(c) The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property" and shall contain:

(1) The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified.

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the State Treasurer.

(3) A statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within 60 days from the date of the published notice, then not later than 90 days after such publication date the property will be deemed abandoned and escheated to the State and will be placed in the custody of the State Treasurer to whom all further claims must thereafter be directed.



For Annotations and Historical Notes, see V.A.T.S.

(d) The State Treasurer is not required to publish in such notice any item which is not in excess of Fifty Dollars (\$50) unless he deems such publication to be in the public interest.

(e) Within 120 days from the receipt of the report specified in Section 2, the State Treasurer shall mail a notice to each person having an address listed therein, who appears to be entitled to property of the value of more than Fifty Dollars (\$50) which is reported under this Article.

(f) The mailed notice shall contain:

(1) A statement that, according to a report filed with the State Treasurer, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the State Treasurer, to whom all further claims must be directed.

(g) The fact that the publication and mailing of the notice required by this Section does not occur within the specified 120 day period shall not affect the right of the owner to claim the property from the holder within 60 days after the date the required notice is published or the duty of the holder to deliver such property to the State Treasurer within 90 days after the date the required notice is published. Added Acts 1961, 57th Leg., 1st C.S., p. 49, ch. 21, § 1; as amended Acts 1965, 59th Leg., p. 1230, ch. 565, § 1, emerg. eff. June 17, 1965.

#### Payment or delivery of abandoned property

Sec. 4. (a) All personal property reported under the provisions of this Article remaining unclaimed at the expiration of ninety (90) days from the date of publication of the notice required by Section 3 or, if no publication is required, at the expiration of 120 days from the date the report was filed, shall be deemed to be abandoned and shall escheat to the State of Texas.

(b) At the expiration of ninety (90) days from the date of publication of the notice required by Section 3 or, if no publication is required, at the expiration of 120 days from the date the report was filed, every person who has filed a report under this Article shall pay or deliver to the custody of the State Treasurer all property contained in such report which is deemed to be abandoned and escheated to the State, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in Section 3, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the State Treasurer, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

(c) Upon the payment or delivery of abandoned property to the State Treasurer, the State shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the State Treasurer under this Article is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property.

(d) In the event that any person fails or refuses to deliver property to the State Treasurer as required by this Section, the Attorney General shall, upon the relation of the State Treasurer, bring an action in the name of the State of Texas to compel delivery of such property. Venue for such suits shall be in any District Court of Travis County, Texas. The fact that such suit may seek to compel the delivery of property from several different holders shall not be grounds for objections as to misjoinder of parties or causes of action. In such suits it shall be shown that the notice required by Section 3 has been given, and the verified report of the holder, unless rebutted, shall, when introduced into evidence, constitute sufficient evidence that such property is abandoned and has escheated and for entry of judgment transferring such property to the State Treasurer. Added Acts 1961, 57th Leg., 1st C.S., p. 49, ch. 21, § 1; as amended Acts 1965, 59th Leg., p. 1230, ch. 565, § 2, emerg. eff. June 17, 1965.

**Claim of Interest in Abandoned Money and Intangible Personal  
Property Escheated to the State**

Sec. 6. (a) Any person claiming an interest in any property paid or delivered to the State Treasurer which has been presumed abandoned and escheated to the State under the provisions of this Article may file a claim to such property with the State Treasurer, which claim shall be filed on forms and through procedures prescribed by the State Treasurer. Provided that any such person claiming an interest in money which has been paid to the State Treasurer by any insurance company may file his claim to such property with the insurance company where such money was originally deposited, which claim shall be filed on forms and through procedures prescribed by the State Treasurer. Upon approval of any such claim the insurance company shall pay the amount of any such claim. Any insurance company paying such a claim may file a claim for reimbursement as provided for in Section 7 of this Act.

(b) No person holding a power of attorney from a claimant who files a claim to such property as hereinabove provided on behalf of any claimant, shall contract for or receive from the claimant for his services an amount in excess of ten per cent (10%) of the value of the property recovered, except that where suit has been instituted as provided in Section 8 hereof, such person may contract for and receive a fee to be fixed by the Court, not to exceed twenty-five per cent (25%) of the value of the property recovered. Added Acts 1961, 57th Leg., 1st C.S., p. 49, ch. 21, § 1; as amended Acts 1965, 59th Leg., p. 1230, ch. 565, § 3, emerg. eff. June 17, 1965.

**Determination of Claims**

Sec. 7. (a) It shall be the joint duty and responsibility of the State Treasurer and the Attorney General or their duly authorized assistants, to consider the validity of any claim filed under this Article.

(b) The State Treasurer and the Attorney General may hold a hearing and receive evidence concerning any claim filed under the provisions of Section 6 of this Article. If a hearing is deemed necessary in order to determine a claimant's right to receive funds which have escheated to the State, a finding and a decision in writing on each claim filed, stating the substance of the evidence heard and the reasons for such decision, shall be signed by both the State Treasurer and the Attorney General, and shall be a public record. If the claim is allowed as a valid, just and equitable one in the discretion of the above-mentioned officers, it shall be approved and signed by both officers.

(c) If the claim is for money which has been declared abandoned and escheated under the provisions of Section 4 of this Article, and the claim has been allowed, approved, and signed as provided herein,

For Annotations and Historical Notes, see V.A.T.S.

the claim shall be paid by the State Treasurer from the Escheat Expense and Reimbursement Fund. If the claim is for personal property other than money which has been declared to be abandoned and escheated under the provisions of Section 4 of this Article, and the property has not been sold by the State Treasurer as provided in Section 5 of this Article, the State Treasurer shall promptly deliver such property to the claimant. If such property has been sold, as provided in Section 5 of this Article, the full amount of the claim shall be paid to the claimant without deduction for costs of administration, service charges, or notices of any kind whatsoever.

(d) If the claim is for reimbursement by any insurance company for payments made pursuant to Section 6, and if such claim has been allowed, approved, and signed as provided herein, the claim shall be paid to such insurance company by the State Treasurer from the Escheat Expense and Reimbursement Fund. Added Acts 1961, 57th Leg., 1st C.S., p. 49, ch. 21, § 1; as amended Acts 1965, 59th Leg., p. 1230, ch. 565, § 4, emerg. eff. June 17, 1965.

#### Prior reports under this article

Sec. 16. (a) Personal property reported under this Article prior to the effective date of this Act, and which is not the present subject of a judicial proceeding to declare such property abandoned and escheated, shall, upon the giving of the notice required by Section 3 as hereby amended, be paid or delivered to the State Treasurer in accordance with Section 4 as hereby amended. Provided that, if the notice specified in Section 3(a) has heretofore been given it shall not be necessary to give such notice again.

(b) In any pending judicial proceeding to declare the abandonment and escheat of personal property reported under this Article prior to the effective date of this amendment, the defendant holder of such property may pay or deliver same to the custody of the State Treasurer. Provided that the citation by publication made at the institution of such judicial proceeding shall be deemed to be in lieu of any notice required to be given under Section 3(b) or 3(e). Upon the certification by the State Treasurer of such delivery, the Attorney General shall move to dismiss such defendant holder from the court action.

(c) In those instances where a defendant shall fail or refuse to comply with Subsection (b) of this Section, the court action then pending shall be considered to be an action to compel delivery of the abandoned and escheated property to the custody of the State Treasurer. The State shall have leave to amend its petition so as to conform the allegations and prayer to the provisions of this Act. Notwithstanding any provisions of the Rules of Civil Procedure to the contrary, all Exhibits attached to the petition as originally filed shall become Exhibits to the petition as amended and the contents of said Exhibits may be incorporated in such pleadings by reference. In these suits it shall not be necessary for the State to allege or prove compliance with Section 3(b) or 3(e), but in lieu thereof it shall be shown that notice has been posted and citation published in compliance with Section 3 and Section 4(d) of House Bill No. 5, Acts of the 57th Legislature, First Called Session, 1961, Page 49, Chapter 21<sup>1</sup>, as such Sections read prior to the effective date of this amendment, and the verified report of the holder, unless rebutted, shall, when introduced in evidence, constitute sufficient evidence that the property is abandoned and has escheated and for entry of judgment transferring such property to the State Treasurer. The judgment entered shall accord the defendant the full protection of the provisions of this Article with regard to the property decreed abandoned. Added Acts 1965, 59th Leg., p. 1230, ch. 565, § 5, emerg. eff. June 17, 1965.

<sup>1</sup> Sections 3 and 4(d) of this article.

**Art. 3272b. Duties of Depositories of Dormant or Inactive Accounts****Duty; definitions**

Section 1. Every depository holding dormant deposits or inactive accounts of depositors or owners whose existence and whereabouts are unknown to the depository, shall preserve intact the deposits and accounts so long as they remain in a dormant or inactive status.

a. The term "depository" as used in this Article means any bank, savings and loan association, banking institution or organization which receives and holds for others deposits of money or its equivalent in banking practice or other personal property in this State, or in other States for residents last known to have resided in this State.

b. The terms "dormant deposits" and "inactive accounts" mean those demand, savings, or other deposits of money or its equivalent in banking practice, including but not limited to sums due on certified checks, dividends, notes, accrued interest, or other evidences of indebtedness, held by a depository for repayment to the depositor or creditor, or his order, which on or after the effective date of this Article have continuously remained inactive for a period of more than one (1) year without credit or debit whatsoever through the act of the depositor, either in person or through an authorized agent other than the depository itself. "Dormant deposits" and "inactive accounts" lose their status as such when a deposit is made by the depositor, or a check is drawn or withdrawal is made therefrom by such depositor, either in person or through an authorized agent other than the depository itself.

**Conversion or Reduction Prohibited**

Sec. 2. It shall be unlawful for any depository to transfer, convert or reduce any dormant deposit or inactive account to the profits or assets of the depository, either through book transfer, assessments, service charges or any other procedure so long as the deposit or account remains in a dormant or inactive status. This shall not apply to the charges hereinafter specifically authorized for efforts to locate the depositors.

**Advertising for Owners**

Sec. 3. When, on or after the effective date of this Article, dormant deposits or inactive accounts have remained in such condition for more than seven (7) years, and the depository does not know the whereabouts of the depositors or any owners thereof, the depository, during the first month of May following the seven (7) year period, shall cause to be published once in a newspaper, published in the city or county in which the depository is located, a notice entitled "Notice of the names of persons appearing as the owners of unclaimed amounts held by (name and address of depository)" which shall list the names, in alphabetical order, and the last known address, if any, of such missing depositors, but not the amounts of such deposits. Newspapers eligible for such publications shall be those defined in Section 2 of Article 28a, Revised Civil Statutes of Texas, 1925, as amended, and if no such newspaper is published in the county of a depository, publication shall be made in a newspaper published in an adjoining county.

Annually thereafter during the month of May of each year the depository shall again publish in like manner the names of such depositors or creditors whose deposits or accounts have not been reported and delivered to the State in accordance with Section 4 hereof, if the whereabouts of any owner thereof still remains unknown to the depository and their deposits or accounts still remain in a dormant or inactive status as herein defined.

Each of such publications shall state that the unclaimed amounts will be paid upon proof of ownership at the office of the depository with-

For Annotations and Historical Notes, see V.A.T.S.

in nine (9) months, and that if unclaimed thereafter they may be subject to report to and conservation by the State Treasurer in accordance with Article 3272b. Duplicate copies of each publication shall be mailed to the State Treasurer together with sworn proof of publication, and the publication thereof shall constitute notice on the part of the depository and the State that the listed deposits or accounts may be subject to the provisions of this Article. The depository shall certify under oath of the subscribing officer that the attached list is a full and complete list of the names of all depositors and creditors for whom dormant deposits or inactive accounts have been held for more than seven (7) years and whose existence and whereabouts are unknown to the depository, and that such listed depositors and creditors have not asserted any claim or exercised any act of ownership with respect to their deposits or accounts during the past seven (7) years.

Newspapers shall charge for such publications not to exceed the rate for legal notice publications fixed in Article 29, Revised Civil Statutes of Texas, 1925, as amended. The amount paid to a newspaper for such publications may be charged equally against the accounts owing to the persons whose names are published.

#### Report to State Treasurer

Sec. 4. On or before May 1st of the year following the first publication required by this Article, the depository shall submit in duplicate copies a report to the State Treasurer listing the names of all such depositors or creditors whose names were published, whose whereabouts and the whereabouts of any owner of such deposit or credit still remain unknown, and each of whose deposits or accounts are Twenty-five Dollars (\$25) or less and still remain in a dormant or inactive status. Under the same conditions the depository may include in the report the same information with respect to any deposit or account in excess of Twenty-five Dollars (\$25) if it should conclude that further cost and effort to locate the depositor or creditor would be unwarranted. Such report shall set forth in alphabetical order the name and last known address of the depositor or creditor, the date and amount appearing to be due each depositor or creditor when the account first became dormant or inactive, or on January 1, 1959, whichever date is later, the amount credited to such account at the time of the report, the date of the last transaction with the depositor or creditor, and its identification number, if any. If the amount then credited to an account is less than the amount of the initial dormant deposit or inactive account, except for its share of publication costs, the reason for such reduction shall be stated.

The subscribing officer shall certify under oath that the report is a complete and correct statement of all dormant deposits and inactive accounts held by the depository subject to the reporting provisions of Section 4 of Article 3272b; that the existence and whereabouts of the listed depositors or creditors are unknown to the depository; and that the listed depositors or creditors have not asserted any claim or exercised any act of ownership with respect to the reported accounts during the past seven (7) years.

Together with the foregoing report, the depository shall deliver to the State Treasurer a sum equal to the total amount of the accounts listed in the report, and the State Treasurer shall sign a receipt therefor and shall assume custody thereof. The State shall be responsible for the safekeeping thereof, and any depository delivering such deposits or accounts to the State Treasurer under this Act is relieved of all liability for any claim which then exists or which may thereafter arise or be made in respect to the property.

The depository shall also attach a list certified under oath of the subscribing officer of the names of the depositors and creditors of all other dormant deposits or inactive accounts in excess of Twenty-five Dollars (\$25) which were advertised under Section 3 hereof, but which have been retained by the depository for further advertising, and the depository shall be responsible for the safekeeping thereof until such sums are finally delivered to the owners or to the State Treasurer under Section 4 of this Article, or until otherwise directed by escheat proceedings filed under other Articles of this Title.

#### State Conservator Fund

Sec. 5. All funds received by the State Treasurer under the provisions of this Article or from the escheat of any deposit, credit, account or other property held by any bank or other institution covered by Section 1(a) hereof shall be deposited into a separate fund to be known as the "State Conservator Fund," from which there shall be set aside and maintained a revolving expense fund of Twenty-five Thousand Dollars (\$25,000) for the purpose of paying expenses incurred by the State Treasurer in the enforcement of the provisions of this Article, including the expense of publications, forms, notices, examinations, travel, and employment of necessary personnel; and thereafter any amounts remaining unpaid to owners shall be transferred to the Available School Fund; provided that the State Conservator Fund shall never be reduced below Two Hundred and Fifty Thousand Dollars (\$250,000). This sum shall remain available for payments to those who may at any time in the future establish their ownership or right as herein provided to any deposit or account delivered to the State Treasurer under this Act. The moneys in such fund over Fifty Thousand Dollars (\$50,000) shall be invested from time to time by the State Treasurer in investments which are approved by law for the investment of any State funds, and the income thereof shall be and become a part of the said State Conservator Fund. The expense fund of Twenty-five Thousand Dollars (\$25,000) is hereby appropriated to the State Treasurer for the purposes above stated for the biennium ending August 31, 1963.

The State Banking Commissioner shall transfer to the State Treasurer for deposit in the State Conservator Fund all dormant deposits and other funds formerly owned by or deposited in liquidated depositories which have been held by the Commissioner for more than twenty (20) years and of which the whereabouts of the depositors, creditors or owners have been unknown to him for more than twenty (20) years. Upon delivery, together with a certificate of such facts under oath of the State Banking Commissioner, the funds shall be subject to conservation and disposition under the terms of this Article. The State Banking Commissioner shall deliver to the State Treasurer a record of the names of the liquidated depositories, and the names and last known addresses of the depositors and creditors and the amounts of the deposits, credits, or other funds.

The State Treasurer shall keep a record of the name and last known address of each depositor or creditor listed on the depository reports and the amount of each depositor account. The record shall be available for inspection at all reasonable business hours by anyone satisfying the State Treasurer that he has an interest or possible interest therein.

#### Future Claims of Owners

Sec. 6. Any person claiming an interest in any property delivered to the State and deposited in the State Conservator Fund may file a claim thereto and receive payment thereof from the State Conservator Fund by following the procedures set out in Sections 6 and 7 of Article 3272a. All of such claims, determinations thereof, and all other rights, fees, procedures, and actions with respect thereto, shall be governed

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by and conducted in accordance with the applicable provisions of Sections 6, 7 and 8 of Article 3272a, the same as if the delivery of funds had been made to the State Treasurer under that Article, except that payments to owners shall be made from the State Conservator Fund.

Provided, however, that any person claiming an interest in money which has been paid to the State Treasurer by a depository under this Article may file his claim with the depository, which claim shall be filed on forms and through procedures prescribed by the State Treasurer. If the depository finds in good faith that such claim is valid, the depository may pay the same, and if the amount is One Hundred Dollars (\$100) or less, the State Treasurer shall reimburse the depository upon receipt of a written statement subscribed and sworn to by an officer of the depository, listing the name and address of the person to whom payment was made and stating that the depository believes in good faith that such claim was and is valid. If the amount is in excess of One Hundred Dollars (\$100), the claim and any supporting affidavit or evidence thereof shall be examined, approved, and signed by the State Treasurer and the Attorney General, after which reimbursement shall be made to the depository. Any such reimbursements shall be made by the State Treasurer out of the State Conservator Fund.

#### Presumption

Sec. 7. Any person or persons who shall have dormant deposits or inactive accounts held by any depository for seven (7) years or more, whose existence and whereabouts are reported under oath to be unknown to the depository after advertising therefor, and who shall not have asserted any claim thereto or exercised any act of ownership thereof for a period of seven (7) years, shall be presumed, unless shown to the contrary, to have died intestate and without heirs. The sworn report of any depository filed under this Article or any evidence thereof adduced under oath shall constitute prima facie evidence of the facts stated therein.

#### Rules and Regulations

Sec. 8. The State Treasurer is hereby authorized to make necessary rules and regulations to carry out the provisions of this Act, provided such rules and regulations shall not become operative until and unless they have been filed with the Secretary of State as provided by law. The State Treasurer is hereby authorized to examine the records of any depository to determine that this law is being complied with.

#### Penalties

Sec. 9. Any depository or person who wilfully fails to publish the list of depositors or creditors, or who fails to file a report as required by this Article, or who violates any provision of this Article, shall be punished by a fine of not less than Five Hundred Dollars (\$500), nor more than One Thousand Dollars (\$1,000), or by confinement for not more than six (6) months in the county jail, or both, and in addition, shall be subject to civil penalties of not exceeding One Hundred Dollars (\$100) for each day of such failure or refusal or other violation, said civil penalties to be collected by suit in a district court of Travis County, Texas, by the Attorney General in the name of the State of Texas.

#### Article Supplementary

Sec. 10. The provisions of this Article 3272b are in addition and supplementary to and shall not be construed to repeal, alter, change, or amend any of the provisions of Article 3272a to 3289, inclusive, Title 53, Revised Civil Statutes of Texas, 1925, as amended. Acts 1962, 57th Leg., 3rd C.S., p. 5, ch. 3.

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

## TITLE 55—EVIDENCE

## 1. WITNESSES AND EVIDENCE

**Art. 3726a. Certain documents admitted in suits involving title to real estate or seeking a declaration of heirship**

Section 1. (a) The following documents, when offered in a suit which involves the title to real estate or which seeks a declaration of heirship under Section 48, Texas Probate Code, are admissible in evidence if they concern the family history, genealogy, marital status, or heirship of a decedent:

(1) a final judgment of a court of record of this state;

(2) an affidavit or other instrument which, for five or more years, has been filed or recorded in the office of a district or county clerk located in the county in which the suit is pending or in which the land involved, in whole or part, is situated;

(3) a final judgment of a court of record of another state which is subject to recordation in this state and (A) has been on file for 15 or more years in the official records of the court rendering it, or (B) has been filed or recorded for 15 or more years in the office of a department or agency of this state or of a district or county clerk of this state located in a county other than that in which the suit is pending or in which the land involved, in whole or part, is situated;

(4) an affidavit or other instrument which, for 15 or more years, has been filed or recorded in the office of a department or agency of this state or of a district or county clerk of this state located in a county other than that in which the suit is pending or in which the land involved, in whole or part, is situated.

(b) A document described in Subsections (a) (3) or (a) (4) of this section is not admissible unless, for 30 or more days before trial, it has been on file among the papers of the suit in which it is offered.

Sec. 2. (a) A statement concerning family history, genealogy, marital status, or heirship of a decedent, when contained in a document described in Subsection (a), Section 1 of this Article which is admitted in evidence, is prima facie true. Nevertheless, the statement may be rebutted, and the true facts shown, by any person other than a person who is estopped to deny the statement under a statute or the common law of this state.

(b) A properly certified and authenticated copy of a document described in Subsection (a), Section 1 of this Article is equally admissible with the original. Acts 1957, 55th Leg., p. 266, ch. 125, § 1, as amended Acts 1965, 59th Leg., p. 994, ch. 480, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 2 of the Act of 1957 provided: "When enacted the foregoing Section 1 of this Act shall be designated as Article 3726a of Title 55, Revised Civil Statutes of Texas (1925)."

Acts 1927, 40th Leg., p. 362, ch. 244, § 1, relating to statements of facts concerning family history as prima facie evidence when contained in certain recorded instruments, formerly set out under this article, is now set out under Article 8597a.



**TITLE 59—FEEBLE MINDED PERSONS—PROCEEDINGS  
 IN CASE OF**

Art.

3871f. Additional state school for mentally retarded [New].

*Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547—201 to 5547—204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547—204, note.*

**Art. 3871b. Mentally retarded persons**

*Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547—201 to 5547—204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547—204, note.*

**Art. 3871f. Additional state schools for mentally retarded**

**Construction, establishment and maintenance; sites**

Section 1. There may be constructed, established and maintained additional schools for the diagnosis, special training, education, supervision, treatment, care or control of mentally retarded persons of this state. They shall be known as state schools, and after each state school has been located, then the name of the city at or near which it is located shall be added before the words "State School," which shall be the name in each case.

The Board for Texas State Hospitals and Special Schools shall select and acquire by gift or purchase, within the limits of legislative appropriations, sites for the schools, and the Board, in selecting each site, shall make the selection with a view to its accessibility and convenience to the greatest number of inhabitants. Each site shall have sufficient land and have utilities readily available. The Board shall take title to the land selected for each school in the name of the State of Texas for the use and benefit of the school; provided, however, that the Attorney General's Department shall first approve the title to the land selected by the Board.

**Buildings**

Sec. 2. There shall be constructed upon each site selected permanent, suitable, substantial and fireproof buildings sufficient in all respects to care for mentally retarded persons. The buildings shall be provided with modern improvements for furnishing water, heat, ventilation and sewage, within the limits of legislative appropriations.

The Board for Texas State Hospitals and Special Schools shall proceed to prepare plans and specifications for buildings at each state school. After title for the land for a school shall have been approved by the Attorney General as being vested in the State of Texas, and upon the availability of sufficient appropriations, the Board shall contract for the erection of necessary buildings for the proper operation of the school, as provided by law; and the Board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

**Personnel; patients**

Sec. 3. Upon the completion of the buildings and facilities for a school, the Board for Texas State Hospitals and Special Schools shall appoint personnel necessary to operate and maintain the school and to adequately treat persons admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit persons and shall provide for their care and maintenance under the same laws, rules and regulations as govern the admission and care of mentally retarded persons provided in the General Laws of the State of Texas governing institutions for the care of the mentally retarded. Acts 1965, 59th Leg., p. 440, ch. 224.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the establishment of additional state schools for the mentally

retarded; regulating and providing for the operation of same; and declaring an emergency. Acts 1965, 59th Leg., p. 440, ch. 224.

**TITLE 61—FEEES OF OFFICE****CHAPTER ONE—GENERAL PROVISIONS**

<p>Art. 3886b—1. Salaries of assistant county attorneys in counties of 110,000 to 120,000 [New].</p> <p>3899b—1. Automobile expense allowances for tax assessors and collectors in counties of 20,000 to 200,100 [New].</p>	<p>Art. 3903f. Salaries of district clerks in counties of 141,000 to 151,000 [New].</p> <p>3912c—1. Compensation of county judges in counties of 141,000 to 152,000 [New].</p> <p>3912e—5e. Additional compensation for Brazoria County Judge as member of Juvenile Board [New].</p>
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**Art. 3883i. Maximum and minimum salaries; certain precinct, county and district officials in certain counties**

**Certain counties of 14,000 to 15,000**

Sec. 1A. The Commissioners Court of a county having a population of more than 14,000 but less than 15,000, according to the last preceding Federal Census, having a valuation in excess of \$60,000,000, according to the last preceding county tax roll, and paying all county officials on a salary basis, may increase the compensation prescribed by Section 1 of this Act for the county judge, county attorney, county clerk, county treasurer, county auditor, county assessor-collector of taxes, county commissioners, sheriff, and district clerk in an amount not exceeding \$2,600 a year. Added Acts 1965, 59th Leg., p. 1644, ch. 708, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Counties of 15,000 to 20,000**

Sec. 1½. Provided, however, that in addition to the maximum compensation provided in Section 1, that in all counties having a population of not less than fifteen thousand (15,000) and not more than twenty thousand (20,000) inhabitants according to the last preceding Federal Census, which counties may now, or hereafter, have a valuation in excess of Eighty Million Dollars (\$80,000,000), according to the last preceding approved County Tax Roll and, where all such county officials are compensated on a salary basis, the Commissioners Courts are authorized to increase the compensation allowed in Section 1 above in an additional amount not to exceed Two Thousand, Six Hundred Dollars (\$2,600) per annum, provided, however, that no salary shall be set at a figure lower than that actually paid on the effective date of this Act. Added Acts 1965, 59th Leg., p. 578, ch. 293, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Counties of 98,001 to 195,000**

Sec. 4.

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**Counties of 140,000 to 195,000 having assessed valuation of over \$250,000,000**

(b) In each county of the State of Texas governed by Section 4 and Subsection 4(a) hereof and having a population of at least one hundred forty thousand (140,000) inhabitants but less than one hundred ninety-five thousand (195,000) inhabitants according to the last preceding Federal Census and having an assessed valuation of more than Two Hundred Fifty Million Dollars (\$250,000,000) according to the last preceding approved tax roll where the County Judge is compensated on a salary basis,

the Commissioners Court may fix the salary of the County Judge at a sum of not more than Eighteen Thousand Dollars (\$18,000) per annum; providing that no salary covered by this Act shall be set at a lower figure than that actually paid on the effective date of this Act and further providing that this subsection shall be cumulative of all other laws pertaining to the compensation of County Judges. Added Acts 1962, 57th Leg., 3rd C.S., p. 71, ch. 26, § 4.

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

Sections 1 to 3 of the act of 1962, codified as art. 2372f-2, authorized the commis-

sioners court to furnish each member an adequate motor vehicle in certain counties of 140,000 to 200,000 population.

**Counties of 900,000 to 1,200,000 inhabitants; enumeration of salaries and restrictions**

Sec. 8. (a) In all counties of this State having a population of not less than nine hundred thousand (900,000) inhabitants and not more than one million, two hundred thousand (1,200,000) inhabitants, according to the last preceding Federal Census, the Commissioners Court shall fix the salaries of county officials as follows:

The salary of the county judge shall be Eighteen Thousand Dollars (\$18,000) per annum; the county commissioners, Fourteen Thousand, Six Hundred Dollars (\$14,600); criminal district attorney and district attorney, not less than Sixteen Thousand Dollars (\$16,000) nor more than Nineteen Thousand, Nine Hundred Dollars (\$19,900); probate judge, not less than Fourteen Thousand Dollars (\$14,000) nor more than Eighteen Thousand Dollars (\$18,000); sheriff, not less than Fourteen Thousand, Six Hundred Dollars (\$14,600) nor more than Eighteen Thousand, Two Hundred Dollars (\$18,200); tax assessor and collector, not less than Fourteen Thousand, Six Hundred Dollars (\$14,600) nor more than Sixteen Thousand, Two Hundred Dollars (\$16,200); judges of the county courts at law and county criminal courts, not less than Fourteen Thousand, Four Hundred Dollars (\$14,400) nor more than Seventeen Thousand, Five Hundred Dollars (\$17,500); county clerk and district clerk, not less than Fourteen Thousand, Four Hundred Dollars (\$14,400) nor more than Fifteen Thousand, Four Hundred Dollars (\$15,400); county treasurer, not less than Thirteen Thousand, Two Hundred Dollars (\$13,200). Salaries fixed by this Section shall be payable in equal monthly installments; provided, however, that the total salary received by the tax assessor and collector, including all additional fees and compensation, shall not exceed Nineteen Thousand, Five Hundred Dollars (\$19,500) per annum in the aggregate; justices of the peace and the constables shall receive not to exceed Twelve Thousand Dollars (\$12,000) per annum to be paid in equal monthly installments; provided that the justices of the peace and constables whose precincts lie wholly or in part in cities having a population of six hundred thousand (600,000) or more, according to the last preceding Federal Census, shall receive not less than Ten Thousand Dollars (\$10,000) per annum. The Commissioners Court of every county, having a population of not less than nine hundred thousand (900,000) nor more than one million, two hundred thousand (1,200,000), according to the last preceding Federal Census, shall pay the district clerk and the county clerk the same amount for automobile allowance as it pays to the other officers receiving the allowance. The county judge in such counties, shall be allowed, in addition to all other compensation fixed herein, the sum of Three Thousand Dollars (\$3,000) per annum for serving as a member of the County Juvenile Board which shall be paid in twelve (12) equal monthly installments out of the general fund of such county and which additional compensation shall be in addition to all other salary or other compensation now paid to such county judge. Acts 1955, 54th Leg., p. 1137, ch. 427; as amended Acts 1959, 56th Leg., 2nd C.S., p. 167, ch. 43, § 1; Acts 1965, 59th Leg., p. 1000, ch. 487, § 1, emerg. eff. June 16, 1965.

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(b) In all counties of this State having a population of one million (1,000,000) or more inhabitants, according to the last preceding Federal Census, the Commissioners Court of such counties shall fix the salaries of county officials in the following manner:

The salary of the county judge shall be Eighteen Thousand Dollars (\$18,000) per annum, provided, the county judge in such counties shall be allowed, in addition to all other compensation fixed herein, the sum of Three Thousand Dollars (\$3,000) per annum for serving as a member of County Juvenile Board, which shall be paid in twelve (12) equal monthly installments out of the general fund of such county and which additional compensation shall be in addition to all other salary or other compensation now paid to such county judge. The salary of the county commissioners shall be Fourteen Thousand, Six Hundred Dollars (\$14,600); criminal district attorney and district attorney, not less than Sixteen Thousand Dollars (\$16,000) nor more than Nineteen Thousand, Nine Hundred Dollars (\$19,900); probate judge, Nineteen Thousand Dollars (\$19,000); county attorney, not less than Fourteen Thousand, Six Hundred Dollars (\$14,600) nor more than Nineteen Thousand Dollars (\$19,000); sheriff, not less than Fourteen Thousand, Six Hundred Dollars (\$14,600) nor more than Eighteen Thousand, Two Hundred Dollars (\$18,200); judges of the county courts at law and county criminal courts, Seventeen Thousand, Five Hundred Dollars (\$17,500); county clerk and district clerk, Fifteen Thousand, Four Hundred Dollars (\$15,400); county treasurer, not less than Twelve Thousand Dollars (\$12,000) nor more than Thirteen Thousand, Eight Hundred Dollars (\$13,800); tax assessor and collector, Twenty Thousand Dollars (\$20,000); each of such salaries shall be payable in equal monthly installments; provided, however, that the total salary received by the tax assessor and collector, including all additional fees and compensation, shall not exceed Twenty Thousand Dollars (\$20,000) per annum in the aggregate; justices of the peace and the constables at not to exceed Twelve Thousand Dollars (\$12,000) per annum, to be paid in equal monthly installments; provided, however, that the justices of peace and constables whose precincts lie wholly or in part in cities having a population of six hundred thousand (600,000) or more, according to the last preceding Federal Census, shall receive not less than Ten Thousand Dollars (\$10,000) per annum. Added Acts 1961, 57th Leg., p. 281, ch. 154, § 1, as amended Acts 1965, 59th Leg., p. 999, ch. 487, § 1, emerg. eff. June 16, 1965.

**Counties of 600,000 to 900,000 inhabitants; salaries of sheriffs, county commissioners, district and county clerks**

Sec. 8a. In all counties having a population of more than 600,000 inhabitants and less than 900,000 inhabitants, according to the last preceding Federal Census, the commissioners court may fix the salaries of the sheriff, county commissioners, district clerk and county clerk at not more than \$15,000 per annum, payable in equal monthly installments. Added Acts 1965, 59th Leg., p. 1627, ch. 697, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Increase in maximum compensation**

Sec. 18. The Commissioners Court in each county in the State is hereby authorized to increase the maximum compensation of each officer enumerated in House Bill No. 374, as amended, in an additional amount not to exceed twenty per cent (20%) of the maximum sum authorized by House Bill No. 374, as amended; provided that the compensation of no official governed by the provisions of House Bill No. 374,<sup>1</sup> as amended, shall be set at a figure lower than that actually paid on the effective date of this Act; and provided, further, that no increased compensation shall

be authorized pursuant to this Act until and unless a public hearing shall be had by the Commissioners Court, at a regular meeting of such Court, upon the question of any proposed increase, following publication of notice of such public hearing at least two (2) times, one time a week, in a newspaper of general circulation in such county, prior to such public hearing. Added Acts 1965, 59th Leg., p. 1569, ch. 680, § 1.

<sup>1</sup> Acts 1955, 54th Leg., p. 1137, ch. 427, codified as this article.  
 Effective Aug. 30, 1965, 90 days after date of adjournment.  
 Section 2 of the amendatory act of 1965 provided: "All other salary and compensation laws applicable to the officials named in this Act are hereby repealed to the extent that they are in conflict with this Act."

**Art. 3883i—1. Compensation of judges of county criminal courts and county courts at law for counties of 375,000 to 600,000**

In each county in the State of Texas having a population of at least three hundred and seventy-five thousand (375,000) inhabitants and less than six hundred thousand (600,000) inhabitants, according to the last preceding Federal Census, the commissioners courts shall fix the salaries of the judges of the county criminal courts and the judge of the county court at law at not less than Sixteen Thousand Dollars (\$16,000) per annum; provided, however, that the commissioners court shall fix the salaries of the district clerk, county clerk and county sheriff at not less than Fifteen Thousand Dollars (\$15,000) per annum, and the commissioners court shall fix the salary of the tax assessor-collector at not less than Sixteen Thousand, Two Hundred Dollars (\$16,200) per annum, and the commissioners court shall fix the salary of the criminal district attorney at not less than Eighteen Thousand Dollars (\$18,000) per annum; and the commissioners court shall fix the salary of the county treasurer at not less than Twelve Thousand Dollars (\$12,000) per annum, and the commissioners court shall fix the salary of the justices of the peace in Precinct One of such county at not less than Ten Thousand Dollars (\$10,000) each per annum, and the commissioners court shall fix the salary of the constable of Precinct One of such county at not less than Ten Thousand Dollars (\$10,000) per annum; provided further, that no salary shall be set at a figure lower than that actually paid on the effective date of this Act, and such salaries as are designated herein shall be payable in equal monthly installments. Acts 1965, 59th Leg., p. 1627, ch. 697, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.  
 Section 1 of Acts 1965, 59th Leg., p. 1627, ch. 697 amended article 3883i and section 3 amended article 326k-50.  
 Section 2 of the amendatory act of 1965 is codified as article 3883i--1 and section 3 thereof amended article 326k-50.

**Art. 3886b—1. Salaries of assistant county attorneys in counties of 110,000 to 120,000**

Section 1. In any county having a population of not less than 110,000 nor more than 120,000, according to the last preceding federal census, the commissioners court may fix the salary of the first assistant county attorney at not more than \$10,000 per year and may fix the salaries of second assistant county attorneys at not more than \$8,000 per year. Salary supplements authorized by this Act shall be paid from appropriate county funds and shall not be charged against the state. Acts 1965, 59th Leg., p. 997, ch. 484, emerg. eff. June 16, 1965.

Title of Act:  
 An Act relating to the salaries of the first and second assistant county attorneys in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 997, ch. 484.

**Art. 3886g. Seventy second district; supplemental salary**

Section 1. The commissioners courts of the counties comprising the 72nd Judicial District shall pay the district attorney at least \$2,410 a year

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in addition to the salary paid to him by the State. As amended Acts 1965, 59th Leg., p. 858, ch. 419, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sec. 2. In no event shall the district attorney be paid a total salary less than the salary of the county attorney of Lubbock County. As amended Acts 1965, 59th Leg., p. 858, ch. 419, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Art. 3897. 3895 Sworn statement

#### REPEAL

*Article 3897 is repealed by Acts 1965, 59th Leg., p. 610, ch. 302, § 2, insofar as the provisions thereof are applicable to counties whose officers are compensated on a salary basis. See note under this article.*

Acts 1965, 59th Leg., p. 610, ch. 302, § 1 repealed paragraph (q), section 19 of article 3912e insofar as the provisions thereof were applicable to counties whose officers were compensated on a salary basis. Section 3 of the act of 1965 provided: "The provisions of paragraph (q), Section 19 of

Chapter 465, Acts of the Second Called Session, 44th Legislature, 1935, as amended, and the provisions of Article 3897, Revised Civil Statutes of Texas, 1925, shall, from and after the effective date of this Act, be applicable only to those counties whose officers are compensated on a fee basis."

#### Art. 3899b—1. Automobile expense allowances for tax assessors and collectors in counties of 20,000 to 20,100

Section 1. This Act applies in any county having a population of not less than 20,000 nor more than 20,100, according to the last preceding Federal Census. The commissioners court may, in lieu of purchasing automobiles for the use of the county tax assessor and collector, authorize the use of personally owned automobiles by him and his deputies for official business. A person so authorized may be allowed an amount not to exceed eight cents per mile for each mile traveled on official business, but not more than \$100 during any calendar month. He shall file monthly sworn reports with the county auditor showing mileage covered by the automobile on official business and stating the nature of the business. Claims for reimbursement under this Act shall be audited and allowed in the manner provided by Section 19, Chapter 465, Acts of the Forty-fourth Legislature, Second Called Session, 1935<sup>1</sup>, for other expenses of county and district officers. Acts 1965, 59th Leg., p. 1412, ch. 625.

<sup>1</sup> Article 3912e, § 19.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act relating to automobile expense allowances for tax assessors and collectors in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 1412, ch. 625.

#### Art. 3903f. Salaries of district clerks in counties of 141,000 to 151,000

Section 1. The Commissioners Court of any county having a population of more than 141,000 and less than 151,000 according to the last preceding Federal Census may pay the district clerk in that county an annual salary not to exceed \$12,000. Acts 1965, 59th Leg., p. 526, ch. 270.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act relating to the salary of the district clerk in certain counties; and declar-

ing an emergency. Acts 1965, 59th Leg., p. 526, ch. 270.

**Art. 3912c—1. Compensation of county judges in counties of 141,000 to 152,000**

Section 1. (a) The Commissioners Court of any county in this state which has, according to the last preceding Federal Census, more than 141,000 persons but less than 152,000 persons, may supplement the compensation of the county judge of such county. However, the total annual compensation paid or authorized to be paid from whatever source to the judge may not exceed \$14,000.

(b) The supplemental compensation authorized by this Section is in addition to all other compensation now paid or authorized to be paid to the judge. Acts 1965, 59th Leg., p. 227, ch. 98.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the compensation of county judges of certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 227, ch. 98.

**Art. 3912e. Method of compensation of district and certain designated county and precinct officers**

**REPEAL IN PART**

*The provisions of paragraph (q), section 19 of this article, insofar as applicable to counties whose officers were compensated on a salary basis, were repealed by Acts 1965, 59th Leg., p. 610, ch. 302, § 1. See note under article 3897.*

Acts 1965, 59th Leg., p. 610, ch. 302, § 2 repealed article 3897 insofar as the provisions thereof were applicable to counties whose officers were compensated on a salary basis.

**Art. 3912e—5e. Additional compensation for Brazoria County Judge as member of Juvenile Board**

Section 1. (a) The Commissioners Court of Brazoria County may supplement the salary of the County Judge, as compensation for his services as a member of the Juvenile Board, in an amount not to exceed \$3,500 per year, to be paid in 12 equal monthly installments out of the general fund or other appropriate fund of Brazoria County.

(b) The supplemental salary authorized by this Section is in addition to all other salary or compensation now paid or authorized to be paid to the County Judge from any source. Acts 1965, 59th Leg., p. 874, ch. 430, emerg. eff. June 14, 1965.

**Title of Act:**

An Act relating to compensation of the County Judge of Brazoria County as a

member of the Juvenile Board; and declaring an emergency. Acts 1965, 59th Leg., p. 874, ch. 430.

**Art. 3912i. Maximum salaries of justices of the peace and constables; precinct officers; certain counties**

**Amount of salaries; fixing; construction of act**

Sec. 9. The Commissioners Courts shall not be required to fix the salaries in all precincts at equal amounts, but shall have discretion to determine the amount of salaries to be paid each Justice of the Peace and each Constable in the several precincts on an individual basis without regard to the salaries paid in other precincts or to other officials. In arriving at the compensation to be paid the officials governed by the provisions of this Act the Commissioners Courts shall consider the financial condition of their respective counties and the duties and needs of their officials, but in no event shall any Commissioners Court set the salary of any official



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at a figure in excess of the maximum compensation prescribed for the officials of that county by this Act, save and except as hereinafter provided, to wit:

(1) In any county where the number of Justices of the Peace holding office and performing the duties of such office is less than the maximum number of Justices of the Peace authorized by the Constitution of Texas, the Commissioners Courts may increase the maximum salary of the Justice or Justices so performing the duties of the offices an additional amount not to exceed ten per cent (10%) of the maximum salary applicable to such office for each such constitutionally authorized Justice of the Peace not holding such office and not performing the duties of such office, provided that under no circumstances shall any Justice of the Peace under this subsection be paid more than twenty-five per cent (25%) over and above the maximum salary herein applicable to such office; except that in any county having a population of more than forty-six thousand (46,000) inhabitants according to the last preceding Federal Census and having not more than four Justices of the Peace holding office and performing the duties of such office any Justice of the Peace who is licensed to practice law in the State of Texas and who maintains in the courthouse or other county building at the county seat an office which is open for the transaction of the business of such office during the same hours as the principal offices in the courthouse of such county may be paid under this subsection not more than the following per cent over and above such maximum salary herein applicable to such office, to wit: in any such county having a population of not more than ninety-eight thousand (98,000) inhabitants according to the last preceding Federal Census, forty per cent (40%); in any such county having a population of at least ninety-eight thousand and one (98,001) and not more than one hundred ninety-five thousand (195,000) inhabitants according to such census, thirty-five per cent (35%); and in any such county having a population of more than one hundred ninety-five thousand (195,000) inhabitants according to such census, thirty per cent (30%).

(2) In the event there are any Justices of the Peace or Constables in the State of Texas who are now being paid salaries in excess of the amount permissible under the provisions of this Act, this Act shall not be construed to require a reduction in the salaries being paid such officials so long as the present incumbents of such offices continue to hold such offices and perform the duties thereof, including both the present term for which they were elected and any terms for which they are re-elected; but in such cases, when the present incumbents of such offices vacate such offices for any reason, their successors in such offices shall receive not to exceed the maximum salaries fixed and determined in accordance with the provisions of this Act. As amended Acts 1965, 59th Leg., p. 1287, ch. 591, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER TWO—ENUMERATION

### Art.

3927b. District clerks in counties of 1-200,000 [New].

3933a. Sheriffs and constables in counties of 1,200,000 [New].

### Art. 3913. 3833 to 36 Certain State Officers

The Secretary of State, Land Commissioner, Comptroller, State Treasurer, Commissioner of Agriculture, Banking Commissioner, State Librarian, and the Attorney General, shall furnish to any person who may apply for the same a copy of any paper, document or record in their respective

offices, or with a certificate under seal, certifying to any fact or facts contained in the papers, documents or records of their offices unless such paper, document or record is deemed by Statute to be confidential or privileged; provided neither of said officers shall demand nor collect any fee from any officer of the state for copies of any papers, documents or records in their offices, or for any certificate in relation to any matter in their offices, when such copies are required in the performance of any of the official duties of such office.

Each of said officers, and all other officers of the state and heads of state departments hereinafter required to collect fees enumerated below, shall deposit all fees received for any service named in this Article in the State Treasury to the credit of the General Revenue Fund, provided, however, that the Banking Commissioner shall deposit such fees received in the manner provided by Section 8 of Chapter 139, Acts of the 52nd Legislature, 1951, and provided further, that the Texas Employment Commission shall deposit such fees in accordance with Federal law, and provided further, that any fees collected under this Article by the State Librarian shall be retained by the Texas Library and Historical Commission.

Each officer named above and all other officers of the state and heads of state departments shall cause to be collected the following fees for the services mentioned, except as otherwise provided by law:

For copies, other than photostatic or photo-copy, of any paper, document or record in their offices, in the English language, for each page or fraction thereof, One Dollar and Fifty Cents (\$1.50);

For copies, other than photostatic or photo-copy, of any paper, document or record in their offices in any other language than the English, for each page or fraction thereof, Two Dollars (\$2);

For each translated copy of any paper, document or record in their offices, Three Cents (3¢) per word, provided that no charge shall be less than Five Dollars (\$5);

For the copy of any plat or map in their offices, such fee as may be established by the officer in whose office the same is made, to be determined with reference to the amount of labor, supplies and materials required;

For each copy by photostatic or other photo process, One Dollar (\$1) per page, provided that the State Librarian may charge a fee for this service in an amount to be determined by the Library and Historical Commission with reference to the amount of labor, supplies and materials required;

For examination or search of records in their offices when the state or any county has no interest, for each one-half (1/2) hour or fraction of one-half (1/2) hour spent in such examination or search, One Dollar (\$1).

For each sealed certificate affixed to any of the above, One Dollar (\$1). As amended Acts 1961, 57th Leg., p. 449, ch. 222, § 1; Acts 1965, 59th Leg., p. 909, ch. 446, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Art. 3927b. District clerks in counties of 1,200,000

Section 1. In counties containing a population in excess of one million, two hundred thousand (1,200,000) inhabitants according to the last preceding Federal Census, the Clerks of the District Courts shall receive the following fees for their services:

(1) The fees in this Subsection shall be due and payable, and shall be paid at the time suit or action is filed.

For each suit filed, including appeals from inferior courts	\$15.00
For each cross action, intervention, contempt action or motion for new trial filed	\$10.00

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For issuing each subpoena, including one (1) copy thereof, when requested at the time a suit or action is filed \$ 1.00

For issuing each citation or other writ or process not otherwise provided for, including one (1) copy thereof, when requested at the time a suit or action is filed \$ 4.00

For issuing each additional copy of any process, not otherwise provided for, when requested at the time a suit or action is filed \$ 2.00

(2) The fees in this Subsection shall be due and payable at the time or times of performance or request for performance of services; shall be an obligation of the person initiating the request, and shall be additional to the fees provided for in Subsection (1) of this Act; provided, however, that the District Clerk may accept bond or bonds as security therefor.

For issuing each subpoena not provided for in Subsection (1), including one (1) copy thereof \$ 1.00

For issuing each citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, writ of sequestration not provided for in Section 1, or any other writ or process not otherwise provided for, including one (1) copy thereof when required by law \$ 4.00

For issuing each additional copy of any writ or process not otherwise provided for \$ 2.00

For searching the files or records:

a. To locate any one cause when the person requesting same does not furnish the docket number of said cause, or

b. To ascertain the existence or nonexistence of any instrument or record in his office \$ 5.00

For issuing certificate to any fact or facts contained in the records of his office \$ 1.00

For taking deposition, each one hundred (100) words \$ .20

For issuing interrogatories with certificate and seal, per page or portion thereof \$ 1.00

For abstracting judgment \$ 2.00

For approving each bond \$ 2.00

For making copy of all records, judgments, orders, pleading, or papers on file or of record in his office, whether certified or not, for any person applying for same, including the certificate and seal, per page or portion thereof \$ 1.00

Acts 1965, 59th Leg., p. 1288, ch. 592, emerg. eff. June 17, 1965.

**Title of Act:**

An Act providing for fees to be received by Clerks of the District Courts in counties containing a population in excess of one million, two hundred thousand (1,200,000)

inhabitants according to the last preceding Federal Census; enacting other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 1288, ch. 592.

**Art. 3933a. Sheriffs and constables in counties of 1,200,000**

Section 1. In counties containing a population in excess of one million, two hundred thousand (1,200,000) inhabitants, according to the last preceding Federal Census, Sheriffs and Constables shall receive the following fees:

For each person, corporation or legal entity, on whom service of citation, subpoena, summons, or process not otherwise provided for, is performed or attempted, and return made, including mileage, if any, a fee of \$4.00

For executing or attempting to execute each writ of garnishment, injunction writ, distress warrant, writ of attachment, writ of sequestration, writ of execution, order of sale, writ of execution and order of sale, or writ not otherwise provided for, and making return thereon, including mileage, if any, a fee of \$4.00

For posting written notices in public places, as may be required by law, a fee for posting each location including mileage, if any	\$1.00
For the taking and approving of bonds as may be required by law, and returning same to the court as may be required, a fee of	\$2.00
For each case tried in District or County Court, a jury fee of	\$ .50
For executing a deed to each purchaser of real estate under execution or order of sale, a fee of	\$2.00
For executing a bill of sale to each purchaser of personal property under an execution or order of sale, when demanded by purchaser, a fee of	\$2.00

Collecting money on an execution or an order of sale, when the same is made by a sale, for the first One Hundred Dollars (\$100) or less, six per cent (6%); for the second One Hundred Dollars (\$100), three per cent (3%); for all sums over Two Hundred Dollars (\$200) and not exceeding One Thousand Dollars (\$1,000), two per cent (2%); for all sums over One Thousand Dollars (\$1,000) and not exceeding Five Thousand Dollars (\$5,000), one per cent (1%); for all sums over Five Thousand Dollars (\$5,000), one-half (1/2) of one per cent (1%).

When the money is collected by the Sheriff or Constable without a sale, one-half (1/2) of the above rates shall be allowed him. Acts 1965, 59th Leg., p. 1626, ch. 696.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act providing for fees to be received by Sheriffs and Constables in counties containing a population in excess of one mil-

lion, two hundred thousand (1,200,000) inhabitants, according to the last preceding Federal Census; enacting other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 1626, ch. 696.

**TITLE 64—FORCIBLE ENTRY AND DETAINER**

Art.

3975b. Judgment against tenant for attorney's fees and costs of suit.  
 [New].

**Art. 3975a. Notice to tenant to vacate for non-payment of rent; action to enforce**

**SAVED FROM REPEAL**

*This article was expressly saved from repeal and was in no way amended by Acts 1965, 59th Leg., p. 769, ch. 360. See article 3975b, § 3.*

**Art. 3975b. Judgment against tenant for attorney's fees and costs of suit**

Section 1. Whenever a forcible entry and detainer suit or a forcible detainer suit is brought by a landlord against a tenant unlawfully holding over the premises of the landlord and the landlord has given the tenant written notice and demand to vacate such premises, by registered or certified mail, at least ten (10) days prior to filing suit in accordance with Section 2 of this Act, and such tenant vacates the premises after suit is filed but before judgment is rendered therein, the justice of the peace may render judgment for the landlord and against the tenant for attorney's fees in an amount determined by the court to be reasonable, plus costs of suit. If, under such circumstances, said tenant does not vacate the premises prior to rendition of judgment therein, and judgment in such suit is rendered in favor of the landlord, the landlord may recover reasonable attorney's fees in an amount determined by the court to be reasonable, at the discretion of the court.

Sec. 2. In the written notice and demand to vacate provided for in Section 1, the landlord shall give notice to the tenant that in the event he has not vacated the premises within ten (10) days and suit is brought by the landlord, judgment may be entered against the tenant for attorney's fees in an amount determined by the court to be reasonable, plus costs of suit.

Sec. 3. The provisions of this Act shall be cumulative of all other remedies presently available to landlords as provided by law, and shall not be construed as repealing or in any way amending Chapter 163, Acts of the 55th Legislature, Regular Session, 1957 (compiled as Article 3975a of Vernon's Annotated Civil Statutes). Acts 1965, 59th Leg., p. 769, ch. 360.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Acts 1965, 59th Leg., p. 769, ch. 360, § 4 was a severability provision; section 5 thereof provided that the Act does not apply to litigation pending as of its effective date.

**Title of Act:**

An Act providing for the rendering of judgment for attorney's fees, in an amount determined by the court to be reasonable, plus costs of suit, in favor of landlords and against tenants in forcible entry and de-

tainer suits and in forcible detainer suits where tenants are unlawfully holding over the premises of the landlord at the time the suit is filed but vacate the premises prior to the rendition of judgment when the landlord follows certain prescribed procedures; providing that this Act shall be cumulative of all other remedies available to the landlord; providing for severability; providing the Act shall not apply to pending litigation; providing a savings clause; and declaring an emergency. Acts 1965, 59th Leg., p. 769, ch. 360.

## TITLE 65—FRAUDS AND FRAUDULENT CONVEYANCES

## Art. 4000. 3970, 2548 Chattel mortgage

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed art. 4000 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

## Art. 4001. 3971 Sales in bulk

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed art. 4001 effective June 30, 1966. Pending publication of a fully annotated edition of the Code, see Vernon's Legislative Session Law Service Pamphlet No. 6 containing complete text, tables and index.*

§§ 4002, 4003. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102.  
Eff. June 30, 1965

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed arts. 4002, 4003 effective June 30, 1966. See page 127 for text, tables, and index of the Uniform Commercial Code.*

**TITLE 67—FISH, OYSTER, SHELL, ETC.**

**CHAPTER TWO—FISH AND OTHER MARINE LIFE**

**Art.**  
 4050f. Sale of shellfish taken from polluted areas [New].

**Art. 4050e. Commercial fisheries research and development**

Section 1. The State of Texas hereby assents to the provisions of the Act of Congress entitled "Commercial Fisheries Research and Development Act of 1964" (codified in Title 16, Sections 779-779f, U.S.C.A.) and approved May 20, 1964, and the Parks and Wildlife Department is hereby authorized, empowered and directed to perform such acts as said Department may deem necessary to the research and development of commercial fisheries, as provided for in the said Act of Congress, in compliance with said Act and rules and regulations promulgated by the Secretary of Interior thereunder; provided further that any funds received from the Federal Government for research and development of commercial fisheries, as well as any funds appropriated by the State of Texas for research and development of commercial fisheries, shall be placed in a Game and Fish Fund No. 9 in the treasury of the State of Texas. Acts 1965, 59th Leg., p. 473, ch. 238.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act assenting to the provisions of an Act of Congress entitled the Commercial Fisheries Research and Development Act of

1964 (codified in Title 16, Sections 779-779f, U.S.C.A.) approved May 20, 1964; making other provisions relating thereto; and declaring an emergency. Acts 1965, 59th Leg., p. 474, ch. 238.

**Art. 4050f. Sale of shellfish taken from polluted areas**

**Definitions**

Section 1. In this Act, unless the context requires a different definition,

(a) "shellfish" means oysters, clams, and mussels, either fresh or frozen, and either shucked or in the shell;

(b) "polluted area" means an area which is continuously or intermittently subject to the discharge of sewage or other wastes, or to the presence of coliform organisms in quantities likely to indicate that shellfish taken therefrom are unfit for human consumption;

(c) "Commissioner" means the Commissioner of Health of the State of Texas;

(d) "person" includes individual, partnership, corporation, and association.

**Declaration of polluted areas; closing waters; maps of polluted areas**

Sec. 2. (a) The Commissioner shall declare any area within the jurisdiction of this State to be polluted if he finds that it is a polluted area.

(b) The Commissioner shall close to the taking of shellfish for a period he deems advisable any waters to which shellfish from polluted areas may have been transferred.

(c) The Commissioner shall establish by order or orders the areas which he declares to be polluted and shall modify or revoke the orders in accordance with the results of sanitary and bacteriological surveys conducted by the State Health Department. The Commissioner shall file the orders in the office of the State Health Department and shall furnish

copies of the orders describing polluted areas to any interested person without charge.

(d) The Commissioner shall cause polluted areas to be conspicuously outlined upon maps, which he shall furnish without charge to any interested person. The failure of any person or persons to avail themselves of this information shall not relieve them from a violation of this Act.

#### Rules and regulations; enforcement of act

Sec. 3. (a) The Commissioner, with the approval of the State Board of Health, shall promulgate rules and regulations establishing specifications for plant facilities and for the harvesting, transporting, storing, handling and packaging of shellfish. The Commissioner shall file the rules and regulations in the office of the Secretary of State. The rules and regulations are effective three months from the date of their promulgation. The Commissioner shall furnish without charge printed copies of the specifications to any interested person upon request.

(b) The Commissioner may promulgate reasonable and necessary regulations, not inconsistent with any provision of this Act, for the efficient enforcement of this Act. The violation of a regulation promulgated under this Act is a violation of this Act.

#### Inspection of shellfish plants; reinspection

Sec. 4. (a) The Commissioner, or his duly authorized agent, shall inspect all shellfish plants and the practices followed in the handling and packaging of shellfish. If it is found that the operator is complying with the rules and regulations promulgated under this Act, the Commissioner shall issue a certificate attesting to the compliance.

(b) The Commissioner, or his duly authorized agent, may cause a reinspection to be made at any time and shall revoke the certificate upon refusal of the operator to permit an inspection or free access at all reasonable hours, or upon a finding that the plant is not being operated in compliance with the rules and regulations promulgated under this Act.

#### Taking shellfish from polluted areas; purification of shellfish; transplanting shellfish

Sec. 5. It shall be unlawful for any person to take, to sell, offer or hold for sale any shellfish from an area declared by the Commissioner to be polluted, without complying with all rules and regulations promulgated by the Commissioner to insure that the shellfish have been purified. The intent of this Section is not to prohibit the transplanting of shellfish from polluted waters, provided, however, that permission for the transplanting is first obtained from the Parks and Wildlife Department and is supervised by that Department. The Parks and Wildlife Department shall furnish a copy of the transplant permit to the Commissioner prior to the commencement of transplanting activity. The Commissioner may also allow purification of shellfish taken from polluted areas by artificial means, subject to the rules and regulations of the Commissioner and subject to supervision deemed necessary by the Commissioner in the interest of public health.

#### Sale of shell stock or shucked shellfish; handling and packaging

Sec. 6. It shall be unlawful for any person to sell, offer or hold for sale any shell stock or shucked shellfish which has not been handled and packaged in accordance with specifications fixed by the Commissioner under this Act.

#### Sale of shellfish; handling and packaging

Sec. 7. It shall be unlawful for any person to sell, offer or hold for sale any shellfish where the facilities for packaging and handling of such



For Annotations and Historical Notes, see V.A.T.S.

shellfish does not comply with specifications fixed by the Commissioner under this Act.

#### Shellfish plants; certificates

Sec. 8. It shall be unlawful for any person to operate a shellfish plant engaged in the handling and packaging of shellfish, either shucked or in the shell, without a valid certificate issued by the Commissioner for each such plant or place of business.

#### Sale of shellfish in certified containers

Sec. 9. It shall be unlawful for any person to sell, offer or hold for sale any shellfish not in a container bearing a valid certificate number from a state or a nation whose shellfish certification program conforms to the then current Manual of Recommended Practice for Sanitary Control of the Shellfish Industry, issued by the United States Public Health Service. The provisions of this Section do not apply to the sale for on-premises consumption of shellfish removed from a certified container.

#### Application of act; compliance with regulations

Sec. 10. The provisions of this Act are applicable to all plants hereafter constructed or altered upon its effective date. The Commissioner shall give any plant which is in operation at the time of promulgation of the rules and regulations of this Act a reasonable length of time within which to comply with the rules and regulations, but in no event longer than six months. The Commissioner may extend the length of time within which to comply with the rules beyond six months upon sufficient showing that it will reasonably require additional time to complete compliance with the rules and regulations.

#### Enforcement of act

Sec. 11. The commissioned enforcement officers of the Parks and Wildlife Department shall enforce the provisions of Section 5 of this Act and shall lend reasonable assistance as may be determined by the Executive Director of the Parks and Wildlife Department to the Commissioner or his designated representatives in carrying out other provisions of this Act. The Commissioner of the State Health Department and his duly authorized representatives shall enforce all other provisions of this Act.

#### Violations; punishment

Sec. 12. A person who violates any of the provisions of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$200 nor more than \$500. Each day of violation is a separate offense.

#### Condemnation, seizure and confiscation of shellfish

Sec. 13. Any shellfish which are held or offered for sale at retail or for human consumption, and which have not been handled and packaged in accordance with the specifications fixed by the Commissioner under this Act, or which are not in a certified container as provided in Section 9 of this Act, or which are otherwise found by the Commissioner to be unfit for human consumption, are subject to immediate condemnation, seizure, and confiscation by the Commissioner or his authorized agents; and they shall be held, destroyed, or otherwise disposed of as directed by the Commissioner.

#### Performance bond

Sec. 14. Should the Commissioner deem it reasonably necessary for the enforcement of this Act, he is empowered to require of each person holding a certificate as required by Section 8 of this Act to post and main-

tain with him a good and sufficient bond, with a corporate surety or two personal sureties approved by the Commissioner, or a cash deposit in a form acceptable to the Commissioner, conditioned that the certificate holder will faithfully comply with all legal requirements imposed by virtue of this Act, and that, failing such, the certificate holder or his surety will pay as forfeiture to the Commissioner a sum not to exceed One Thousand Dollars (\$1,000).

#### Repealer

Sec. 15. Articles 965 and 972, Penal Code of Texas, 1925, are repealed. Any and all other statutes both General and Special in conflict with any of the provisions of this Act are hereby repealed but to the extent of such conflict only. Acts 1965, 59th Leg., p. 1575, ch. 683.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act regulating the sale of shellfish, authorizing the State Commissioner of Health to declare polluted areas from which shellfish may not be taken for the purpose of sale and to establish rules and regulations fixing standards of sanitation in the handling of shellfish; defining "shellfish," "polluted area," "Commissioner," and

"person"; providing for the issuance of certificates of compliance to operators of shellfish shucking and packing plants; making certain acts unlawful; enacting other provisions relating thereto; fixing penalties for violation; repealing Articles 965 and 972, of the Penal Code of Texas, 1925, and other laws in conflict; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1575, ch. 683.

### CHAPTER FIVE—COASTAL WATERS [NEW]

Art.  
4075c. Texas Territorial Waters Act  
[New].

#### Art. 4075b. Texas Shrimp Conservation Act

**Trawls and spreading devices in coastal waters of Orange and Jefferson Counties; shrimp taken from coastal waters of another state**

Sec. 11A. Notwithstanding any other provision of this Act, it shall be lawful to possess or have on board any boat in the coastal waters of Orange or Jefferson County any trawl and the spreading device therefor which may be lawfully used in the coastal waters of another state, provided (1) that such trawl and equipment are immediately en route to or from a home port or destination on land, (2) that such trawl and equipment have been used during open season on shrimp in such state, and (3) that such trawl and equipment are not used or intended for use in the coastal waters of this State in violation of this Act. It is also lawful to possess or have on board any boat in the coastal waters of Orange or Jefferson County any shrimp which are lawfully caught in the coastal waters of another state if the catch is immediately en route to or from a home port or destination on land. As amended Acts 1963, 58th Leg., p. 1008, ch. 415, § 1; Acts 1965, 59th Leg., p. 776, ch. 367, § 1, emerg. eff. June 9, 1965.

#### Art. 4075c. Texas Territorial Waters Act

##### Title of Act

Section 1. This Act may be known and cited as the Texas Territorial Waters Act.

##### Purpose of Act

Sec. 2. It is the purpose of this Act to exercise and exert full sovereignty and control of the territorial waters of the State of Texas.

**Alien-owned commercial fishing or shrimping vessels; licensing;  
 reciprocity and retortion**

Sec. 3. (a) No commercial fishing boat license, commercial gulf shrimp boat license, commercial bay shrimp boat license, commercial bait shrimp boat license, or any other license which may hereafter be prescribed as a requirement for boats used in fishing or shrimping in the coastal waters of this State, shall be issued for any boat or vessel owned in whole or in part by any alien power or any subject or national thereof, or any individual who subscribes to the doctrine of international communism, or who shall have signed a treaty of trade, friendship and alliance or a nonaggression pact with any communist power. The Parks and Wildlife Department shall grant or withhold said licenses where other alien vessels are involved on the basis of reciprocity and retortion, unless the nation concerned shall be designated as a friendly ally or neutral by a formal suggestion transmitted to the Governor by the Secretary of State of the United States. Upon the receipt of such suggestion the Department shall issue licenses for vessels of such nations without regard to reciprocity and retortion.

(b) The term "coastal waters," as used herein, has the meaning assigned to it by Section 3 of the Texas Shrimp Conservation Act (compiled as Section 3 of Article 4075b of Vernon's Texas Civil Statutes).

**Taking natural resources from coastal waters**

Sec. 4. It is unlawful for any unlicensed alien vessel to take by any means whatsoever, attempt to take, or having so taken to possess, any natural resource of the coastal waters of this State.

**Use of port facilities; assistance from Coast Guard**

Sec. 5. It shall be the duty of the various port authorities and navigation districts of this State to prevent the use of any port facility in a manner which they reasonably suspect may assist in the violation of this Act. They shall endeavor by all reasonable means, which may include the inspection of nautical logs, to ascertain from masters of newly arrived vessels of all types other than warships of the United States, the presence of alien commercial fishing vessels within the coastal waters of this State, and shall transmit such information promptly to the Parks and Wildlife Department and to such law enforcement agencies of the State as the situation may indicate. Such districts and port authorities shall request assistance from the United States Coast Guard in appropriate cases to prevent unauthorized departure from any port facility.

**Duties of harbor pilots**

Sec. 6. All harbor pilots are required to promptly transmit any knowledge coming to their attention regarding possible violations of this Act to the appropriate navigation district or port authority or the appropriate law enforcement officials.

**Arrest of vessel masters and crews; taking crews or property before court;  
 requesting assistance from Coast Guard**

Sec. 7. All law enforcement agencies of the State, including but not limited to sheriffs and agents of the Parks and Wildlife Department, are empowered and directed to arrest the masters and crews of vessels who are reasonably believed to be in violation of this law, and to seize and detain such vessels, their equipment and catch. Such arresting officers shall take the offending crews or property before the court having jurisdiction of such offenses. All such agencies are directed to request assistance from the United States Coast Guard in the enforcement of this Act when having knowledge of vessels operating in violation or probable vio-

lation of this Act within their jurisdictions when such agencies are without means to effectuate arrest and restraint of vessels and their crews.

**Violations and punishments**

Sec. 8. Any captain, master or owner of any unlicensed alien boat or vessel who violates any provision of Section 4 of this Act shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or by confinement in the county jail for not more than one year, or by both such fine and confinement.

**Political asylum**

Sec. 9. No crew member or master seeking bona fide political asylum shall be fined or imprisoned hereunder. Acts 1965, 59th Leg., p. 532, ch. 275.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the territorial waters of the State of Texas; prohibiting the licensing of certain alien-owned commercial fishing or shrimping vessels; making cer-

tain operations unlawful when conducted by such vessels in Texas waters; providing for enforcement of this Act; providing penalties; providing for severability; and declaring an emergency. Acts 1965, 59th Leg., p. 532, ch. 275.

**TITLE 68A—GOOD NEIGHBOR COMMISSION OF TEXAS**

Art. 4101—2. Good Neighbor Commission continued; powers and duties; compensation; expenses

**Powers**

Sec. 4. The Commission shall have the power:

a. To elect from its members a chairman and other such officers as it may be deemed desirable. All officers of the Commission shall serve as such only during the pleasure of the Commission.

b. To hold such meetings, at such places within the State of Texas and at such times, as the Commission may designate.

c. To conduct such research, investigations, and inquiries as may be necessary to inform the Commission as to matters concerning inter-American relations.

d. To appoint committees from its membership and prescribe their duties.

e. To appoint consultants and committees to the Commission.

f. To make rules and regulations for its government and that of its officers and committees; and to prescribe the duties of its officers, consultants and employees.

g. To employ an executive director, a coordinator of migrant labor, and such other employees as it may think necessary and to fix the pay and compensation of such employees within the limits of funds made available to it by the General Appropriations Act.

h. To receive funds and expend in payment of salaries and necessary expenses, any funds donated to it. Such funds, when received by the Commission, shall be deposited with the State Treasurer and shall be placed to the credit of a special account to be known as "Good Neighbor Commission of Texas Fund." Expenditures from such Fund shall be only to defray the salaries or other necessary expenses of the Commission.

i. To coordinate the work of federal, state and local governmental units toward the improvement of travel and living conditions of migrant laborers in Texas. In furtherance of this purpose, the Commission shall:

"(1) Promote the formulation of specific rules and regulations to achieve the betterment of migrants' travel and living conditions in the areas of authority of the respective agencies; such rules and regulations to be promulgated and enforced by the agency or agencies concerned;

"(2) Analyze federal and state rules and regulations affecting migrant labor to determine their effect on Texas citizens, both migrant laborers and employers of migrant labor, and when opportunity arises, consult and advise with representatives of federal and state agencies in the promulgation and formulation of rules and regulations;

"(3) Survey conditions and study problems related to migrant labor in Texas;

"(4) Hold public hearings on matters pertaining to migrant labor;

"(5) Advise and consult with local governmental units, and with interested groups and organizations concerning matters affecting migrant labor;

"(6) Facilitate and endorse inter-departmental agreements and arrangements to effectuate the purpose of this Act;

"(7) Perform any other functions which may be necessary for improving the well-being of migrant laborers." As amended Acts 1965, 59th Leg., p. 213, ch. 86, § 1, eff. Sept. 1, 1965.

Acts 1965, 59th Leg., p. 213, ch. 86, § 1 amended section 1 of this article; sections 2-4 of the 1965 amendatory act provided:

"Sec. 2. Chapter 417, Page 1255, Acts of the 55th Legislature, 1957, (codified as Article 5221e, Vernon's R.C.S.) and all laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

"Sec. 3. The effective date of this Act shall be September 1, 1965.

"Sec. 4. All appropriations heretofore made and now effective, and any appro-

priations hereafter made by the Legislature for the use and benefit of the Texas Council of Migrant Labor, and all property, records, and supplies of the Texas Council of Migrant Labor shall be available for the use and benefit of the Good Neighbor Commission. All contracts heretofore entered into on behalf of the Texas Council on Migrant Labor are hereby ratified, confirmed, and validated for and on behalf of the Good Neighbor Commission."

**TITLE 70—HEADS OF DEPARTMENTS**

<b>Chap.</b>		<b>Art.</b>
4-D. State-Federal Relations [New]		4413d-1

**CHAPTER TWO—COMPTROLLER OF PUBLIC ACCOUNTS**

Art. 4344b. Purpose; construction of laws; reorganization and consolidation of divisions; electronic data processing center

**REPEAL IN PART**

*Acts 1965, 59th Leg., p. 685, ch. 325, § 8 repealed this article to the extent of conflict with chapter 325, relating to automatic data processing systems for state agencies. See article 6252-12a, § 8.*

**CHAPTER THREE—STATE TREASURER**

Art. 4382. [4381] Register of warrants issued

The Treasurer shall keep registers of warrants issued, one for each class of warrant. The Comptroller shall furnish to the Treasurer lists of warrants issued, which lists shall constitute the Treasurer's registers of warrants issued. The Treasurer shall keep a "Warrants Paid Register." In this register the warrants shall be entered each day when paid, the number and amount of each warrant paid being entered. Warrants may be grouped by classes and separate totals of warrants paid from each class may be shown, as well as the grand total of all warrants paid each day. The Treasurer, on request of the Comptroller, shall furnish to the Comptroller each day a copy of the warrants paid register showing the warrants paid. The Treasurer shall keep a register of warrants cancelled, on which shall be entered the details of all warrants cancelled. As amended Acts 1965, 59th Leg., p. 311, ch. 143, § 1, emerg. eff. May 13, 1965.

Section 2 of the amendatory act of 1965 repealed all conflicting laws and parts of laws.

**CHAPTER FOUR—D STATE-FEDERAL RELATIONS [NEW]**

Art.  
4413d-1. Division of State-Federal Relations.

Art. 4413d-1. Division of State-Federal Relations

**Establishment**

Section 1. There is established the Division of State-Federal Relations in the Office of the Governor.

**Director**

Sec. 2. The Governor shall appoint a director of the Division, with the advice and consent of the Senate. The director serves at the will of the Governor.

**Location**

Sec. 3. The director may maintain office space for carrying out the powers and functions assigned to him by this Act inside and outside the State, at such places as he, with the approval of the Governor, may direct.

**Staff**

Sec. 4. The director, with the approval of the Governor, may employ such staff as is necessary to carry out the powers and functions assigned to him by this Act.

**Compensation**

Sec. 5. The director and staff are entitled to the compensation and the transportation and per diem allowances provided for in the General Appropriations Acts.

**Powers and functions**

Sec. 6. The powers and functions of the director include

- (1) coordinating all State and Federal programs dealing with the same matter;
- (2) informing the Governor and the Legislature of the existence of Federal programs which will be or may be carried out in the State, or which affect State programs;
- (3) providing Federal agencies and the Congress with information about State policy and about conditions in the State, on matters about which the Federal Government is concerned;
- (4) providing the Legislature with information useful to it in measuring the effect of Federal programs on State and local programs.
- (5) the director shall make an annual report of its operations and recommendations and shall supply all Members of the Legislature with a copy thereof.

**Legislative information**

Sec. 7. The Legislature may establish interim committees to work with and receive information from the director and develop and recommend legislation the committees think would be beneficial. Acts 1965, 59th Leg., p. 687, ch. 326.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the coordination of State-Federal relations; and declaring an emergency. Acts 1965, 59th Leg., p. 687, ch. 326.

**CHAPTER FIVE—DEPARTMENT OF PUBLIC SAFETY**

Art. 4413(29aa). Commission on law enforcement officer standards and education [New].

Art. 4413(29aa). Commission on Law Enforcement Officer Standards and Education

**Creation**

Section 1. There is hereby created the Commission on Law Enforcement Officer Standards and Education, hereinafter called "Commission."

**Studies, recommendations and reports**

Sec. 2. The Commission shall have authority to make full and complete studies, recommendations and reports to the Governor and the Legislature for the purpose of: (1) suggesting reasonable minimum standards of officers appointed to enforce the laws of this state and the political subdivisions thereof; (2) suggesting basic minimum courses of training, training facilities, and qualifications and methods of training for law enforcement officers; (3) suggesting procedure for the certification of law



**HEADS OF DEPARTMENTS Art. 4413(29aa)**

For Annotations and Historical Notes, see V.A.T.S.

enforcement officers and the certification of law enforcement officer instructors.

**Membership; qualifications and terms; vacancies**

Sec. 3. The Commission shall be composed of nine members, residents of the State of Texas, and appointed by the Governor with the advice and consent of the Senate. Such members shall be persons well qualified by experience or education in the field of law enforcement. The Commissioner of the Texas Education Agency, the Director of the Texas Department of Public Safety and the Attorney General shall serve as ex officio members of the Commission. In the event a public officer shall be appointed, service by such officer or officers shall be an additional duty of the office. Such appointive members shall be appointed for a term of six years, provided, however, that of the members first appointed, three shall be appointed for a term of two years, three for a term of four years, and three for a term of six years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed. Such appointment for unexpired term shall be with the advice and consent of the Senate.

**Officers; quorum; meetings**

Sec. 4. The Commission shall elect a chairman, vice-chairman, and secretary from among the appointed members at its first meeting, and thereafter at its first meeting succeeding new appointments to fill regular terms. Five members shall constitute a quorum. The Governor shall summon the Commission to its first meeting.

**Compensation; expenses**

Sec. 5. Members of the Commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

**Authority of commission**

Sec. 6. The Commission shall have the authority to: (a) certify law enforcement training and education programs as having attained the minimum required standards suggested by such Commission; (b) certify instructors as having qualified as law enforcement officer instructors under such conditions as the Commission may prescribe; (c) direct research in the field of law enforcement and to accept grants for such purposes; (d) recommend curricula for advanced courses and seminars in law enforcement training in junior colleges and institutions of higher education at the request of the Coordinating Board of the Texas College and University System.

**Duties of commission**

Sec. 7. In carrying out its duties and responsibilities the Commission shall have the following additional duties: (a) to meet at such times and places in the State of Texas as it deems proper; meetings shall be called by the chairman upon his own motion, or upon the written request of five members; (b) to contract with other agencies, public or private, or persons, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports as it may require to cooperate with city, county, state and federal law enforcement agencies in training programs; (c) to make reasonable rules and regulations to carry out the duties and powers of the Commission.

**Powers and duties of municipal or county governments**

Sec. 8. Except as expressly provided in this Act, nothing herein contained shall be deemed to limit the powers, rights, duties and responsibilities

ties of municipal or county governments, nor to affect provisions of Article 1269m, Fire and Police Civil Service Acts of the Vernon's Civil Statutes.

**Funds**

Sec. 9. The Legislature of the State of Texas shall appropriate the necessary funds for the purpose of carrying out the provisions of this Act. Acts 1965, 59th Leg., p. 1158, ch. 546.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating the Commission on Law Enforcement Officer Standards and Education; providing for the functions of the Commission; providing for membership thereof and the terms and methods of the appointment of the members; providing that members of the Commission may hold public office in addition to the member-

ship on the Commission; providing for a chairman, vice-chairman and secretary; providing that members of the Commission shall receive actual and necessary expenses; providing for the authorities, duties and responsibilities of the Commission; providing that the Act is not to affect provisions of Article 1269m, V.C.S.; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1158, ch. 546.

**CHAPTER SEVEN—INTERAGENCY COOPERATION**

**Art. 4413(32). Cooperation by state departments and agencies**

**Authority to contract to furnish services; reimbursement of cost**

Sec. 3. Any state agency may enter into and perform a written agreement or contract with other agencies of the state for furnishing necessary and authorized special or technical services, including the services of employees, the services of materials, or the services of equipment. The actual cost of rendering the services, or the nearest estimate of the cost that is practicable, shall be reimbursed, except in case of service rendered in the fields of national defense or disaster relief, or in cooperative efforts, proposed by the Governor, to promote the economic development of the state. Provided, however, nothing herein shall authorize any agency to construct any highway, street, road, or other building or structure for any other agency, except as otherwise specifically authorized by existing law, and, except as to the right of the Texas Highway Department to enter into interagency agreements with any state college or university or public junior colleges providing for the maintenance, improvement, relocation or extension of existing on-campus streets, parking lots and access-ways. Provided, however, no agency shall supply any services, supplies, or materials to another agency which are required by Section 21 of Article 16 of the Constitution of Texas to be supplied under contract given to the lowest responsible bidder. As amended Acts 1965, 59th Leg., p. 564, ch. 287, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

TITLE 71—HEALTH—PUBLIC

CHAPTER ONE—HEALTH BOARDS AND LAWS

PART C.—MISCELLANEOUS

Art.

4417e. Phenylketonuria [New].

Art. 4419c. Crippled children, restoration service for; Crippled Children's Division's powers; transfer of funds; federal funds

"Crippled child" defined; eligibility

Sec. 2. A crippled child is defined as any person under twenty-one (21) years of age, whose physical functions or movements are impaired by reason of a joint, bone, or muscle defect or deformity, to the extent that the child is or may be expected to be totally or partially incapacitated for education or remunerative occupation. To be eligible for rehabilitation service under this Act, the child's disability must be such that it is reasonable to expect that such child can be improved through hospitalization, medical or surgical care, artificial appliances, or through a combination of these services. For the purposes of this Act, a "crippled child" includes a child whose sole or primary handicap is blindness or other substantial visual handicap, but the responsibility for rendering services to a child crippled with blindness or other substantial visual handicap is that of the Commission for the Blind. As amended Acts 1965, 59th Leg., p. 243, ch. 106, § 3; Acts 1965, 59th Leg., p. 299, ch. 132, § 1; Acts 1965, 59th Leg., p. 574, ch. 291, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Right to care and treatment; entering homes; death of hospitalized patient; expenses

Sec. 4. No child shall be entitled to the care and treatment provided in this Act unless the county judge of the county in which the child resides shall certify to the State Department of Health upon sworn petition of the parents of said child, or persons standing in loco parentis, proven to the satisfaction of said judge, that the parents of said child, or persons standing in loco parentis, are financially unable to provide for said care and treatment.

That children whose parents, or those in loco parentis are financially able to pay in part for such treatment and care may be provided for by the State Department of Health under such rules and regulations as may be prescribed by the Department of Health.

Provided further that said county judge must also certify that one or more physicians, regularly practicing under the laws of the State of Texas, have examined said child and have recommended said child as coming under the provisions and intent of this Act. Provided further that no judge or official agent shall, by virtue of this Act, have any right to enter any home over the objection of the parents, or either of them, or the person standing in loco parentis of such child, and nothing in this Act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis over such child.

Provided further that funds of the Division of Crippled Children's Services may be expended for the care of any patients either under the regular Crippled Children's Program or the Cardiac Program who expire while being hospitalized under the State Program for the following:

Transportation of the deceased and a parent or anyone who may accompany the body of the deceased from the hospital to the place of burial designated by the parents.

Expenses incidental to embalming of the deceased as required for transportation.

A casket purchased at the minimum price as required for transportation.

Any other necessary expenses directly related to the care of the body of the deceased and the return of the body to place of burial. As amended Acts 1965, 59th Leg., p. 300, ch. 132, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 4436. [984] Health control in cities, towns, and villages**

The governing body of any incorporated city, town, or village, whether organized under the general laws, the home rule provisions of the Constitution, or by special legislative Act shall have the power to require the filling up, drainage, and regulating of any lot or lots, grounds or yards, or any other places in the city, town, or village which shall be unwholesome or have stagnant water therein, or from any other cause be in such condition as to be liable to produce disease; to cause all premises to be inspected and to impose fines on the owners of houses under which stagnant water may be found, or upon whose premises such stagnant water may be found, and to pass such ordinances as they may deem necessary for the purposes stated above, and for making, filling up, altering, or repairing of all sinks, and privies, and directing the mode and material for constructing them in the future, and for cleaning and disinfecting the same; and for cleansing of any house, building, establishment, lot, yard or ground from filth, carrion, or any other impure or unwholesome matter of any kind; to require the owner of any lot or lots within such city, town, or village to keep the same free from weeds, rubbish, brush, and any other objectionable, unsightly, or unsanitary matter of whatever nature, and if such owner fails or refuses to do so, within ten (10) days after notice in writing, or by letter addressed to such owner at his post office address, or by publication as many as two (2) times within ten (10) consecutive days, if personal service may not be had as aforesaid, or the owner's address be not known, such city, town, or village may do such work or may cause the same to be done and may pay therefor and charge the expenses incurred in doing or having such work done or improvements made, to the owner of such property as herein provided; and to punish any owner or occupant violating the provisions of any ordinance so passed, as aforesaid; and the governing body of such city, town, or village shall also, in addition to the foregoing remedy, have the power to cause any of the improvements above-mentioned to be done at the expense of the city, town, or village on account of the owners, and cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing with the county clerk of the county in which the city, town, or village is situated, a statement by the mayor or city health officer of such city, town or village of such expenses, and such city, town, or village shall have a privileged lien thereon, second only to tax liens and liens for street improvements to secure the expenditure so made and ten per cent (10%) interest on the amount from the date of such payment. For any such expenditures, and interest, as aforesaid, suit may be instituted and foreclosure had in the name of the corporation; and the statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work or improvements. As amended Acts 1965, 59th Leg., p. 975, ch. 470, § 1, emerg. eff. June 16, 1965.

## Art. 4437d. Texas Hospital Survey and Construction Act

## Advisory Hospital Council

Sec. 5. The Governor, within thirty (30) days after this Act takes effect, shall appoint a Hospital Advisory Council, hereinafter referred to as "the council," consisting of twelve (12) members, who shall advise and consult with the State Board of Health and the State Commissioner of Health in carrying out the administration of this Act. The State Commissioner of Health shall serve as an ex officio member of said Advisory Council. Of the members of the Hospital Advisory Council first appointed, four (4) shall serve for a term of two (2) years, or until their successors shall be appointed and qualified; four (4) shall serve for a term of four (4) years or until their successors shall be appointed and qualified; and the remaining four (4) members shall serve for a term of six (6) years, or until their successors shall be appointed and qualified. Thereafter, at the expiration of the term of each member of the Council just appointed, his successor shall be appointed by the Governor for, and he shall serve for, a term of six (6) years, or until his successor shall be appointed and qualified. All members so appointed shall be confirmed by the Senate. On the death, resignation or removal of any member, the Governor shall fill the vacancy by appointment for the unexpired portion of the term. Each member shall serve until his successor is appointed and qualified. The twelve (12) members of the Council to be appointed shall include representatives of nongovernmental organizations or groups, and of public agencies, concerned with the operation, construction, or utilization of hospital or other facilities for diagnosis, prevention or treatment of illness or disease, or for the provision of rehabilitation services, and an equal number of representatives of consumers familiar with the need for the services provided by such facilities. Council members while serving on business for the Council shall be entitled to receive actual and necessary travel and subsistence expenses while so serving away from their places of residence. The Council shall meet as frequently as the State Commissioner of Health deems necessary, but not less than once each year. Upon request by five (5) or more members, it shall be the duty of the State Commissioner of Health to call a meeting of the Council. As amended Acts 1965, 59th Leg., p. 312, ch. 144, § 1, emerg. eff. May 13, 1965.

## PART C. MISCELLANEOUS

## Art. 4437f. Texas Hospital Licensing Law

## Definitions

Sec. 2. For the purpose of this Act:

(a) The term "person" means any individual, firm, partnership, corporation, association or joint stock company, and includes any receiver, trustee, assignee, or other similar representative thereof.

(b) The term "general hospital" means any establishment offering services, facilities, and beds for use beyond twenty-four (24) hours for two (2) or more non-related individuals requiring diagnosis, treatment or care for illness, injury, deformity, abnormality, or pregnancy, and regularly maintaining at least clinical laboratory services, diagnostic X-ray services, treatment facilities which would include surgery and/or obstetrical care, and other definitive medical or surgical treatment of similar extent.

(b) (1) The term "special hospital" means any establishment offering services, facilities and beds for use beyond twenty-four (24) hours for two (2) or more non-related individuals who are regularly admitted, treated

and discharged and require services more intensive than room, board, personal services and general nursing care and which has clinical laboratory facilities, diagnostic X-ray facilities, treatment facilities and/or other definitive medical treatment and has a medical staff in regular attendance, and maintains records of the clinical work performed for each patient.

The definition of "hospital" does not include those facilities licensed pursuant to the provisions of Article 4442c, Acts 1953 Legislature, page 1005, Chapter 413.

The definition of "hospital" does not include those institutions licensed pursuant to Articles 5547—88 to Articles 5547—99 of the Mental Health Code.

The definition of "hospital" does not include facilities maintained or operated by the Federal Government or agencies thereof, nor does it include facilities maintained or operated by the State of Texas or agencies thereof. The definition of "hospital" does, however, include those facilities maintained or operated by "governmental" or "governmental unit" as those terms are defined in Section 2, Subsection (d) of this Act.

(c) The term "licensing agency" means the State Board of Health.

(d) The term "governmental" or "governmental unit" means any hospital district, county, municipality or other political subdivision, or any department, division, board, or other agency of any of the foregoing.

(e) The term "medical staff" means that physician or group of physicians, licensed to practice medicine by the Texas State Board of Medical Examiners, who by action of the governing body of a hospital, are privileged to work within and use the facilities of a hospital for or in connection with the observation, care, diagnosis or treatment of individuals who are, or may be, suffering from any disease or disorder, mental or physical, or any physical deformity or injury. As amended Acts 1962, 57th Leg., 3rd C.S., p. 92, ch. 32, § 1.

Emergency. Effective Feb. 15, 1962.

#### Art. 4442c. Convalescent and nursing homes and related institutions

##### Definitions

Sec. 2. (a) "Institution" means an establishment which furnishes (in single or multiple facilities) food and shelter to four (4) or more persons unrelated to the proprietor, and, in addition, provides minor treatment under the direction and supervision of a physician licensed by the Texas State Board of Medical Examiners, or services which meet some need beyond the basic provision of food, shelter, and laundry. Nothing in this Act shall apply to hotels or other similar places that furnish only food and lodging, or either, to their guests. And, provided further, that the provisions of this Act shall not apply to any hospital as that term is defined in the Texas Hospital Licensing Law. The provisions of this Act shall not apply to any nursing home conducted by or for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend exclusively upon prayer or spiritual means for healing, without the use of any drug or material remedy, provided safety, sanitary, and quarantine laws and regulations are complied with, nor shall this Act apply to establishments that furnish only baths and massages in addition to food, shelter and laundry, nor shall this Act apply to institutions operated by persons licensed by the Texas State Board of Chiropractic Examiners.

"Institution" also means any place or establishment in or at which any person receives, treats or cares for, overnight or longer, within a period of twelve months, four or more pregnant women or women who

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have within two weeks prior to such treatment or care had a child born to them; provided, however, that this definition shall not include women who receive maternity care in the home of a relative within the third degree of consanguinity or affinity, nor shall it include general or special hospitals licensed in pursuance of or as those terms are defined in the Texas Hospital Licensing Law. As amended Acts 1965, 59th Leg., p. 228, ch. 100, § 1.

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Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Art. 4447e. Phenylketonuria

Section 1. The State Department of Health shall establish, maintain, and carry out a program designed to combat mental retardation in children suffering from a genetic defect which causes phenylketonuria. The State Department of Health is authorized to adopt regulations necessary to carry out the program. The Department shall establish and maintain a diagnostic laboratory for conducting experiments, projects, and other undertakings necessary to develop tests for the early detection of phenylketonuria; for developing ways and means or discovering methods to be used for the prevention and treatment of phenylketonuria in children; and for such other purposes considered necessary by the Department to carry out the program.

Sec. 2. The physician attending a newborn child, or the person attending a newborn child that was not attended by a physician, shall cause the child to be subjected to the phenylketonuria test that has been approved by the State Department of Health. Providing, however, that such test shall not be given to any child whose parents or guardian object thereto on the grounds that such tests conflict with their religious tenets or practices. Provisions of this Act are mandatory with the exception above-stated; however, no physician, technician, or person giving such test shall be liable or responsible because of the failure or refusal of the parent or guardian to give permission or consent to tests herein provided. The county health officer shall follow up all positive tests with the attending physician who notified such officer or with the parent of the newborn child if such notification was made by a person other than a physician. When a positive test is confirmed, the services and facilities of the State Department of Health, and those of other boards, departments, agencies, and political subdivisions of the State cooperating with the Department in carrying out the program, shall be made available to the extent needed by the family and physician. The State Department of Health and the other departments, boards, agencies, and political subdivisions of the State cooperating with it shall, in cooperation with an attending physician, provide for the continued medical care, dietary, and other related needs of such children where necessary or desirable.

Sec. 3. The various boards, departments, agencies and political subdivisions of the State capable of assisting the State Department of Health in carrying out any program established under the authority of this Act may cooperate with the department and are encouraged to furnish their services and facilities in aid of any such program.

Sec. 4. The State Department of Health may invite the cooperation of all physicians and hospitals in the state which provide maternity and newborn infant care to participate in any program established by the Department under the authority of this Act. Acts 1965, 59th Leg., p. 506, ch. 262.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act directing the State Department of Health to establish a program combating

phenylketonuria; requiring the testing of newborn children for phenylketonuria; and declaring an emergency. Acts 1965, 59th Leg., p. 506, ch. 262.

## CHAPTER THREE—FOOD AND DRUGS

Art.

4476—6. Imported fresh meats [New].

## Art. 4476—6. Imported fresh meats

## Wholesale or retail sales

Section 1. No person shall knowingly sell at wholesale or retail any fresh meat imported from any foreign nation without complying with all of the rules prescribed by this Act.

## Definitions

Sec. 2. As used in this Act—

(a) "Fresh meat" means any quarter, half, or whole carcass of beef, pork, or mutton, or any cut or portion thereof which has not been canned, cooked, or otherwise processed.

(b) "Person" means any individual, firm, partnership, association, or corporation.

(c) "Retail store" means any retail grocery store, butcher shop, delicatessen, or other place where fresh meat is sold at retail for consumption off-premises.

(d) "Ground meat" includes any meat subsequently ground or commingled and any portion of which is imported from a foreign nation.

## Labels, brands or signs; contents

Sec. 3. (a) On each quarter, half, or whole carcass of imported fresh meat offered for sale at wholesale or retail, and also on any individually wrapped or packaged cut or portion thereof, there shall be placed a label or brand bearing the words "Product of \_\_\_\_\_" (naming the country), or other words clearly indicating the country of origin of the meat. Where unwrapped or unpackaged cuts or slices are displayed in a tray or case for selection by the patron, each tray or case shall have a conspicuous, legible, and clearly visible sign or label bearing such an inscription. Every tray or other container of hamburger, ground meat, sausage, or other fresh meat displayed in the bulk shall have a sign or label conforming to the same requirements.

## Violations; penalties

Sec. 4. (a) Any person who knowingly violates any provision of this Act shall, for the first offense, be fined not less than \$25 nor more than \$200.

(b) For a second or subsequent violation of this Act, a person shall be fined not less than \$100 nor more than \$500, or confined in the county jail for not less than 30 days nor more than 90 days, or both.

(c) The State Department of Public Health shall enforce the provisions of this Act and shall file a sworn complaint against any person who violates the provisions of this Act. Acts 1965, 59th Leg., p. 88, ch. 32.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 5 of the 1965 act was a severability provision.

## Title of Act:

An Act relating to the sale at wholesale or retail of imported fresh meats; requiring

that signs be posted and labels be used to give notice that imported meats are sold; providing a penalty for violations of this Act; providing for severability; and declaring an emergency. Acts 1965, 59th Leg., p. 88, ch. 32.



**CHAPTER FOUR—SANITARY CODE**

**Art. 4477. Sanitary code**

**VITAL STATISTICS**

**Rule 50b. Marriage license application.**—(a) After January 1, 1966, the county clerk in each county in this state shall file without fee a copy of each completed application for marriage license with the Bureau of Vital Statistics of the State Department of Health within 90 days after the date of the application.

(b) The Bureau of Vital Statistics shall establish and maintain a consolidated state-wide alphabetical index of all applications for a marriage license based upon the names of both parties. The state-wide index does not take the place of the indexes required in each county.

(c) The Bureau of Vital Statistics shall upon request furnish any information it has on record pertaining to the marriage of any person, but the Bureau shall not issue any certificate or certified copies of the information. The Bureau may charge a fee of one dollar for the information it gives relating to any person under this Section. All fees collected under this Section shall be deposited in the State Treasury to the credit of the Vital Statistics Fund. Acts 1927, 40th Leg., 1st C.S., p. 116, ch. 41, § 17A, added Acts 1965, 59th Leg., p. 1151, ch. 543, § 2.

Effective Aug. 30, 1965, 90 days after date thereof repealed Vernon's Ann.P.C. art. 405 and all other conflicting laws and parts of laws.

Section 1 of Acts 1965, 59th Leg., p. 1151, ch. 543 amended article 4605 and section 3

**CHAPTER FOUR A—SANITATION AND HEALTH PROTECTION**

Art.

4477—3. Professional sanitarians [New].

4477—4. Clean Air Act of Texas [New].

**Art. 4477—3. Professional sanitarians**

**Purpose**

Section 1. In order to safeguard life, health and property, and to establish and protect the professional status of those persons whose duties in environmental sanitation call for knowledge of the physical, the biological and the social sciences, there is hereby established a program for the Registration for Professional Sanitarians. It shall be the duty of the State Board of Health to carry out the provisions of this Act.

**Definitions**

Sec. 2. As used in this Act:

(a) The term "field of sanitation" means the study, art, and technique of applying scientific knowledge for the improvement of the environment of man for his health and welfare.

(b) The term "sanitarian" means a person trained in the field of sanitary science to carry out educational and inspectional duties in the field of environmental sanitation.

(c) The term "Board" means the State Board of Health.

**Audit; Annual Report**

Sec. 3. The funds collected under this Act and all appropriations to the Board shall be subject to audit by the State Auditor. The Board

shall preserve a copy of all annual reports and State Audit reports issued with respect to this Act

**Record of Proceedings; Register of Application**

Sec. 4. The Board shall keep a record of all proceedings with respect to this Act, and a register of all applications for registration, which register shall show: (a) the place of residence, name and age of each applicant; (b) the name and address of employer or business connection of each applicant; (c) the date of the application; (d) complete information on educational and experience qualifications; (e) the action of the Board; (f) the serial number of the certificate of registration issued to the applicant; (g) the date on which the Board reviewed and acted on the application; and (h) such other information as may be deemed necessary by the Board.

**Certificates of Registration; Eligibility for Registration**

Sec. 5. The Board, upon application on the form prescribed by it, and upon the payment of a fee of Ten Dollars (\$10.00), shall issue a certificate of registration as a professional sanitarian to any person who has the qualifications stipulated under the provisions of this Act, and who submits evidence by passing a written examination prescribed by the Board satisfactory to the Board that the applicant is qualified under the provisions of this Act. In evaluating the evidence submitted to it, the Board shall carefully consider the applicant's knowledge and understanding of the principles of sanitation, the physical, biological, and social sciences, provided that:

(a) Any person, who, within six (6) months after the effective date of this Act, submits under oath evidence satisfactory to the Board that he has been a resident of the State of Texas for at least one (1) year immediately preceding the date of application, and that he was employed in the field of sanitation for a period of one (1) year prior to the effective date of this Act may be registered as a professional sanitarian.

(b) Any person, other than those covered under paragraph (a), who after the effective date of this Act applies for registration shall have had not less than one (1) year of full time experience in the field of sanitation and shall have completed training in the basic sciences and/or public health to the extent deemed necessary by the Board in order to effectively serve as a registered sanitarian. The educational requirements set forth by the Board shall not be at variance with the definition for Sanitarian set forth by the Position Classification Act of 1961. Other qualifications may be established by the Board in accordance with the rules and regulations adopted under this Act. Persons employed in the field of sanitation who meet all qualifications for registration as a professional sanitarian, except the qualifications of experience, shall, upon the approval by the Board and after payment of a fee of Five Dollars (\$5.00) and by passing a written examination prescribed by the Board, be granted a certificate of Sanitarian in Training. This certificate shall remain in effect unless revoked by the Board for a period not to exceed one (1) year after date of issue.

**Renewal of Certificates; Fee; Delinquency and Reinstatement**

Sec. 6. Every professional sanitarian registered under the provisions of this Act who desires to continue in the field of sanitation shall annually pay to the Board a fee to be fixed by the Board for the annual renewal of each license, but the fee for renewal of license shall not be fixed in excess of Ten Dollars (\$10.00). Certificates of registration revoked for failure to pay renewal fees shall be reinstated under the rules and regulations of the Board.

**Suspension or Revocation of Certification; Refusing Registration**

Sec. 7. The Board shall have the power to suspend or revoke the certificate of registration of any registrant for the practice of any fraud or deceit in obtaining registration, or any gross negligence, incompetency, or misconduct in the practice of professional sanitation. The Board may refuse to issue a certificate to any one whose certificate or license to engage in sanitation or in any other profession has been revoked, in this state or elsewhere, on the ground of unprofessional conduct, fraud, deceit, negligence, or misconduct in the practice of his profession; and it may also refuse to issue a certificate to anyone upon satisfactory proof that he has been guilty of any of these charges in the practice of sanitation or any other profession. No such suspension or revocation of a certificate or refusal to register shall be permitted until at such time as a hearing is held and the person affected given the opportunity to answer the charges that may have been filed against him with the Board.

**Administration, Fees and Expenses**

Sec. 8. (a) The Board shall issue regulations consistent with the provisions of this Act for the administration and enforcement of this Act and shall prescribe forms which shall be issued in connection therewith.

(b) There is created a special Sanitarians Registration and License Fund which will consist of any and all fees charged or collected under any of the provisions of this Act. The Fund shall be under the supervision of the Board which shall file annually a statement of income and expenses with the Secretary of State. All expenses necessary to the administration and enforcement of this Act, as well as any other expenses of whatsoever character that may arise because of the terms and provisions hereof, shall be made from the Fund, including the reimbursements made to Board members, as provided for by the provisions of this Act. Any surplus remaining in the Sanitarians Registration and License Fund, at the end of each fiscal year, not necessary to defray the expenses mentioned and provided under the terms of this Act, shall be paid into the State Treasury.

(c) All expenses necessary to administering the provisions of this Act shall be paid out of the special Sanitarians Registration and License Fund, mentioned under Subsection (b) above, so that the passage of this Act shall never become a financial burden or obligation to the State of Texas. If the fees and charges set out herein prove to be inadequate to pay all costs created by this Act, the Board is hereby authorized to increase such fees and charges in such amount as will make the administration of this Act financially self-supporting without incurring any new or additional financial obligations to the State of Texas.

**Advisory Committee**

Sec. 9. The Board shall appoint a Sanitarian Advisory Committee to assist in the establishing of rules and regulations under this Act, said Advisory Committee to consist of not over five (5) members. The Sanitarian Advisory Committee shall meet at the request of the Board, and the State Comptroller is authorized to pay travel expenses of the Sanitarian Advisory Committee at the same rate paid regular employees of the state when such expenses have been approved by the Commissioner of Health, but for not over four (4) meetings in any one (1) state fiscal year.

**Reciprocity**

Sec. 10. Agreements for reciprocity with those states having a registered Sanitarian's Act may be entered into by the Board under such rules and regulations as the Board may prescribe.

**Exemptions**

Sec. 11. Those persons such as physicians, dentists, engineers, and doctors of veterinary medicine, who are duly licensed by another official State Licensing Agency, who by nature of their employment or duties might be construed to come under the provisions of this Act, shall be exempt from the provisions of this Act.

**Offenses**

Sec. 12. After six (6) months from the effective date of this Act, no person engaging or offering to engage in work in the field of sanitation, in this state shall represent himself to be a sanitarian, or use any title containing the word "sanitarian," unless he is a registrant in good standing with the Board, either as a registered professional sanitarian or as a sanitarian in training. Any person who violates any provisions of this Section shall be guilty of a misdemeanor and shall be fined not less than Ten Dollars (\$10.00) nor more than Two Hundred Dollars (\$200.00).

**Employment of sanitarian**

Sec. 12a. No term, Section, or provision of this Act shall ever be construed so as to require any city or governmental agency, or any person or persons whomsoever, to employ a sanitarian provided for or created under the terms of this bill. Acts 1965, 59th Leg., p. 606, ch. 300.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Acts 1965, 59th Leg., p. 606, ch. 300, § 13 was a severability provision.

**Title of Act:**

An Act relating to professional sanitarians; providing for a procedure for Registration of Professional Sanitarians; and prescribing its powers, duties and functions; dealing with qualifications, appointment, removal, compensation and expenses of members thereof; providing for registration of professional sanitarians and sanitarians in training; and for issuance, renewal, revocation, and reinstatement of certificates of registration, and fixing fees

therefor; providing for expenditure and other disposition of funds collected under provisions of the Act and fixing purposes for which such funds may be used; prohibiting use of the title or designation of "sanitarian" in any public or private employment in this state unless the person employed is registered hereunder; exempting physicians, dentists, engineers and doctors of veterinary medicine who are duly licensed by another State Licensing Agency; and providing a penalty for violation; providing that employment of sanitarian not required; providing for severability; and declaring an emergency. Acts 1965, 59th Leg., p. 606, ch. 300.

**Art. 4477—4. Clean Air Act of Texas****Title of act; safeguarding state air resources**

Section 1. This Act may be cited as the "Clean Air Act of Texas." It is the purpose of this Act to safeguard the air resources of the State from pollution by controlling or abating air pollution consistent with the protection of normal health, general welfare and physical property of the people, maximum employment and full industrial development of the State.

**Definitions**

Sec. 2. The following terms as used in this Act shall, unless the context otherwise requires, have the following meanings:

(A) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combination thereof produced by processes other than natural

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(B) "Source" is any and all points of origin of the items defined in Section 2(A), whether privately or publicly owned or operated.

(C) "Undesirable levels" of the items defined in Section 2(A) hereof is the presence in the atmosphere, as limited by Section 4(C) hereof, or one or more of such items or combinations thereof in quantities and concentrations and of such characteristics, properties and duration as to appreciably injure human life beyond inconvenience or in quantities and concentrations and of such characteristics, properties and duration as to materially injure or interfere with the reasonable use of animal or plant life or property.

(D) "Board" is the Air Control Board of the State of Texas.

(E) "Person" is any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity or their legal representatives, agents or assigns.

**Texas Air Control Board; creation and composition; terms of office; vacancies; compensation; ex officio members; expenses; officers; consultants; appropriations; reports**

Sec. 3. (A) There is hereby created and established a Texas Air Control Board which shall be composed of nine (9) members. The Board is directed to carry out the functions and duties conferred on it by this Act. The Governor shall appoint, by and with the advice and consent of the Senate of Texas, six (6) members to the Texas Air Control Board. Two shall be appointed for a two-year term, two for a four-year term, and two for a six-year term. Thereafter, all appointments by the Governor to fill a vacancy at the end of a term shall be for a full six-year term. The appointments by the Governor shall be made as follows: one shall be a registered professional engineer with at least ten years' experience in the actual practice of his profession, which experience shall include work in air control; one shall be a physician licensed to practice in this State, currently engaged in general practice in this State, with experience in the field of industrial medicine; one shall be an individual who shall have been actively engaged in the management of a private manufacturing or industrial concern for at least ten years immediately prior to his appointment; one shall be experienced in the field of municipal government; and two members to be chosen to represent the general public.

(B) Vacancies occurring in any such office of the Board filled by appointment by the Governor during any term shall, with the advice and consent of the Senate, be filled by appointment by the Governor, which appointment shall extend only to the end of the unexpired term.

(C) The nine members of the Board shall receive no fixed salary for duties performed as members of the Board but each member, excepting those representing the specified state agencies, shall be allowed, for each and every day in attending meetings of the Board, the sum of Twenty Dollars (\$20), including time spent in travel to and from such meetings, and all members shall be allowed traveling and other necessary expenses while in the performance of official duty, to be evidenced by vouchers approved by the Executive Secretary. The members of the Board appointed by the Governor and confirmed by the Senate shall qualify by taking the Constitution Oath of Office before an officer authorized to administer an oath within this State, and, upon presentation of such oath, together with the certificate of appointment, the Secretary of State shall issue commissions to them, which shall be evidence of their authority to act as such.

(D) In addition to the six (6) members appointed by the Governor as provided herein, the Board shall also consist of the following State officers, each of whom shall be an ex officio member of said Board during the time

that he is serving in such other official capacity, to wit: the State Commissioner of Health, the Executive Director of Texas Industrial Commission, and the Executive Director of the Texas Animal Health Commission, each of whom shall perform the duties required of a member of the Board by this Act, in addition to those duties required of him in said other official capacities.

(E) Each ex officio member of the Board listed in paragraph (D) above, is authorized to delegate to a personal representative from his office the authority and duty to represent him on the Board, said personal representative shall serve at the will of said ex officio member of the Board, but by such delegation a member shall not be relieved of responsibility for the acts and decisions of his representative. The designated personal representative, while engaged in the discharge of official Board duties on behalf of and as authorized by such member, stands in the place and stead of such member for purposes of attending Board meetings, and for purposes of participating in and voting on matters arising at Board meetings and hearings. The designated personal representative may exercise all of the powers, duties and responsibilities of the ex officio member, including the taking of testimony in any hearing called by the Board under the provisions of Section 4(A), paragraph (4); may receive reimbursement for traveling and other necessary expenses, while engaged in the performance of official Board business in the same manner as the one he represents; under the provisions of paragraph (D) above; and may serve as either chairman or vice-chairman of the Board under the provisions of Section 3(G), subject to the provision above.

(F) Actual and necessary travel and other expenses incurred by the three (3) ex officio members, or their designated personal representatives, in the discharge of their official duties as members of the Board shall be paid out of any funds made available to the agency of such ex officio member or his designated personal representative for the purposes of this Act. Employees of the Board shall receive such traveling expenses as may be authorized by the Legislature.

(G) The Board shall elect a chairman and a vice-chairman from its members whose terms of office shall be for two (2) years commencing on February 1st of each odd-numbered year hereafter. At the first meeting of the Board, the chairman and vice-chairman shall be elected to serve until February 1, 1967. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board and perform the other duties hereinafter prescribed. The Board shall meet at regular intervals as may be decided upon by majority vote of the Board. Special meetings may be called by the chairman upon his own motion and must be called by him upon receipt of a written request therefor signed by two (2) or more members of the Board. Six members of said Board shall constitute a quorum to transact business. The Board shall have the power to make all necessary rules for its procedure and shall have a seal, the form of which it shall prescribe.

(H) The Executive Secretary of the Texas Air Control Board shall be an employee of the State Health Department and the State Commissioner of Health shall designate such employee as Executive Secretary following consultation with the Board. The Executive Secretary shall keep full and accurate minutes of all transactions and proceedings of said Board and perform such duties as may be required by the Board, and he shall be the custodian of all files and records of the Board. The Executive Secretary shall be the administrator of air control activities for the Board.

(I) Technical, scientific, legal or other services shall be performed by personnel of other State agencies when requested by the Board, but the Board may employ and compensate with funds available therefor professional consultants, assistants and employees that may be necessary to carry

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out the provisions hereof and prescribe their powers and duties. The Board may request and shall receive the assistance of any State educational institution, experimental station, or other State agency.

(J) To carry out the provisions of this Act, any agency of this State with responsibilities under the laws of this State for air control, and for which appropriations are made in the biennial Appropriations Act, is hereby authorized to transfer to the Board out of such appropriations such annual amounts as may be mutually agreed upon by such an agency and by the Board, subject only to the concurrence of the Governor. In the event such transfers are insufficient to finance adequately the necessary activities of the Board, the Governor is authorized to transfer to the Board from the appropriations made to the Governor such amounts as he may determine. It is further provided that said Board is authorized to request, solicit, contract for, receive or accept money from any Federal or State agency, political subdivision or other legal entity to carry out the duties required of it by this Act. Such moneys as may be transferred under the provisions of this Subsection, and such gifts and grants as may be received by said Board, shall be deposited in the State Treasury in a special fund. Such moneys shall be appropriated to said Board for any of the purposes set forth in this Act, including salaries, professional fees, wages, travel expenses, equipment, and other necessary expenses.

(K) The Board shall make biennial reports in writing to the Governor and the Legislature, in which shall be included statements of its activities. All data collected by the Board shall be the property of the State of Texas.

(L) Upon application of any person and upon payment of the fees prescribed therefor in the rules and regulations of the Board, the Board shall furnish certified copies of any of its proceedings or other official acts of record, or of any paper, map or document filed in the office of the Board. Such certified copies over the hand of the chairman or the Executive Secretary and the seal of the Board shall be admissible in evidence in any court or administrative proceeding, in the same manner and with like effect as the original would be. Provided, however, nothing contained in this Section shall be so construed as to in any way violate the provisions contained in Section 10 of this Act.

**Intent and purpose of act; powers and duties of board; recommendations, orders and determinations; personnel and laboratory facilities; limitations on authority**

Sec. 4. It is the intent and purpose of this Act to maintain purity of the air resources of the State consistent with the protection of the health and physical property of the people, maximum employment and the full industrial development of the State. The Board shall seek the accomplishment of this objective through the control of the items defined in Section 2(A) by all practical and economically feasible methods consistent with its powers and duties as hereinafter set forth.

(A) The Board shall have the power:

(1) To prepare and develop a general plan for the proper control of the air resources of Texas.

(2) To adopt and promulgate rules and regulations consistent with the general intent and purposes of this Act in accordance with the provisions of Section 6 hereof. Such rules and regulations may not specify any particular method to be used to reduce undesirable levels as defined in Section 2(C) hereof, nor the type, design, or method of installation of any equipment to be used to reduce undesirable levels as defined in Section 2(C), nor the type, design, method of installation of type of construction of any manufacturing processes or other kinds of equipment. However, subject to the provisions of Section 4(C), the Board may include in said rules and regulations requirements as to the particular method to be used to reduce

undesirable levels as defined in Section 2(C), which arise from the outdoor burning of waste material or refuse.

(3) To develop such facts and make such investigations as are consistent with the purposes of this Act, and in connection therewith to enter at all reasonable times in or upon any private or public property except private residences or dwellings of not more than three families for the purpose of inspection and investigation of any condition which the Board shall have reasonable cause to believe to be a source as defined in Section 2(B). Provided, however, before entering private property an agent of the Board shall present in writing to the owner of such property or his agent the conditions alleged to exist which warrants the belief that such property is a "source" as defined herein. The results of any such inspection and investigation shall be reduced to writing and a copy shall be furnished to the owner or operator of the source.

(4) To hold hearings upon complaints or upon petitions for variance and in connection therewith to issue subpoenas requiring the attendance of witnesses and the production of such papers and documents as are related to such hearing.

(5) (a) To enter such orders or determinations as may be necessary to effectuate the purposes of this Act. If the Board shall determine that a condition as defined in Section 2(C) hereof exists, it may recommend such action as is indicated by the circumstances to cause the control of such condition.

The Board shall grant such time for the owner or operator of a source to comply with its recommendation as is provided for in the rules and/or regulations it shall adopt pursuant to the provisions of Section 4(A) (2) which shall make provision for such time gauged to such general situations as hearings on such proposed rules and regulations may indicate are necessary.

(b) If such recommendations of the Board are not complied with in the required time then the Board may order such action as is indicated by the circumstances to cause the control of such condition.

In making its recommendations, order and determinations hereunder, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions involved including, but not limited to:

(i) The character and degree of injury to, or interference with, the health and physical property of the people;

(ii) The social and economic value of the source of the undesirable levels as defined in Section 2(C);

(iii) The question of priority of location in the area involved; and

(iv) The technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from such source.

(6) To cause to be instituted in a court of competent jurisdiction legal proceedings to compel compliance with any order entered by the Board.

(7) To request and be entitled to receive the assistance of any State educational institution, experiment station, board, department or other State agency and the officials and employees thereof when it is deemed necessary or beneficial by the Board to carry out the provisions of this Act.

(B) The Board shall have the following duties with respect to the control of the conditions defined in Section 2(C):

(1) Encourage voluntary cooperation by persons, or affected groups in restoration and preservation of a reasonable degree of purity of air within this State.

(2) Encourage and conduct studies, investigations and research concerning air control.



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(3) Collect and disseminate information on air control.

(4) Advise, consult and cooperate with other agencies of the State, industries, other states and Federal Government, and with interested persons or groups in regard to matters of common interest in air control.

(5) Represent the State of Texas in any and all matters pertaining to plans, procedures, or negotiations for interstate compacts.

(6) The basic personnel and necessary laboratory and other facilities as may be required to carry out the provisions of this Act shall be personnel employed by the Texas State Department of Health; provided, however, that the Board, through the Department of Health acting as the agent of the Board, may by agreement secure such services as it may deem necessary from any other departments and agencies of the state government and may arrange for compensation for such services, and may employ and compensate, within appropriations available therefor such consultant and technical assistants on a full- or part-time basis as may be necessary to carry out the provisions of this Act and to prescribe their powers and duties.

(C) Nothing contained in this Act shall be deemed to grant to the Board any jurisdiction or authority to make any rule, regulation, recommendation or determination or to enter any order with respect to air conditions existing solely within the property boundaries of commercial and industrial plants, works or shops or to affect the relations between employers and employees with respect to or arising out of any air condition. Provided further that nothing contained in this Act shall vest the Board any power with respect to any matter subject to the jurisdiction of the Texas Radiation Control Agency as defined in Article 4590F, Revised Civil Statutes of Texas, as amended, or over any source licensed by the Atomic Energy Commission under the Atomic Energy Act of 1954, Title 42 USC 2011-2281, Incl.

#### Executive Secretary; powers and duties

Sec. 5. The Executive Secretary of the Board shall have the following powers and duties:

(A) The Executive Secretary shall prepare and recommend to the Board plans and procedures necessary to effectuate the aims and objects of this Act, including but not limited to rules and regulations, and proposals of administrative procedures not inconsistent with this Act.

(B) The Executive Secretary, or his authorized representative, shall attend all meetings of the Board but shall not be entitled to a vote.

(C) The Executive Secretary, or his authorized representative, during the interim between meetings of the Board, shall handle such correspondence, make or arrange for such inspections and investigations, and obtain, assemble or prepare such reports and data as the Board may direct or authorize.

(D) The Executive Secretary shall exercise general supervision over all persons employed by the Board. He shall be responsible for the investigation of complaints, the recommendation to the Board of the issuance of formal complaints by the Board and for the presentation of such complaints before the Board, and shall have such other duties as the Board may prescribe.

#### Adoption of rules and regulations or amendments; hearing and notice; differences in rules for particular areas

Sec. 6. (A) Any rule or regulation or amendment or repeal thereof shall not be deemed adopted or in force and effect until it shall have been approved in writing by at least six (6) members of the Board. A rule or regulation or any amendment or repeal thereof shall not be adopted until

after a public hearing. Notice of such hearing shall be given at least thirty (30) days prior to the scheduled date of the hearing by public advertisement in at least three (3) newspapers with state-wide circulation of the date, time, place and purpose of such hearing as required for public notice in Article 29a, Revised Civil Statutes of Texas, as amended. At such hearing, opportunity to be heard by the Board with respect to the subject thereof shall be given to any person. A record of the names and addresses of such persons shall be made by the Executive Secretary. A rule or regulation or an amendment or repeal thereof shall not become effective until a certified copy thereof has been filed with the Secretary of State. Any person heard or represented at such hearing or requesting notice shall be given written notice by registered or certified mail of the action of the Board with respect to the subject thereof.

(B) A rule or regulation or any amendment thereof which shall be adopted by the Board may differ in its terms and provisions as between particular conditions, as between particular sources and as between particular areas of the State. In exercising the power granted it by Section 4 to adopt and promulgate rules and regulations for air control, the Board shall give due recognition to the fact that the quantity or characteristics of air contaminants or the duration of their presence in the atmosphere, which may cause a need for air control in one area of the State may not cause need for air control in another area of the State, and it shall take into consideration in this connection such factors, among others found by it to be proper and just, as existing physical conditions, topography and prevailing wind directions and velocities and also the fact that a rule or regulation and the degree of conformance therewith which may be proper as to an essentially residential area of the State may not be proper as to a highly developed industrial area of the State.

#### **Validity of rule or regulation; declaratory judgment**

Sec. 7. The validity of any rule or regulation may be determined upon the petition of any person as defined in Section 2(E) for a declaratory judgment thereon addressed to the District Court of the judicial district in which petitioner has his principal place of business in Texas, or where the property affected is located, when the rule or regulation or its threatened application interferes with or impairs, or threatens to interfere with or impair the legal rights or privileges of the petitioner. The Board shall be made a party to the proceedings, and service shall be made upon the Executive Secretary of the Board, whose domicile for the purpose of service under this Act shall be deemed to be the office of the Board.

#### **Investigation of alleged violations; complaints and answers; hearing and determination**

Sec. 8. (A) The Executive Secretary shall cause investigations to be made upon the request of the Board. Upon receipt of information concerning an alleged violation of this Act or any rule or regulation promulgated hereunder, the Executive Secretary may cause investigations to be made as he shall deem advisable.

(B) If, in the opinion of the Executive Secretary or of the Board, such investigation discloses that a violation does exist, he or the Board shall by private conference, conciliation and persuasion, endeavor to the fullest extent possible to eliminate such violation. In case of the failure of such conference, conciliation and persuasion to correct or remedy any claimed violation and the filing by the Executive Secretary of a formal complaint with the Board, the Board may cause to have issued and served upon the person complained against a written notice, together with a copy of the formal complaint, which shall specify the provision of this Act or the rule or regulation hereunder which such person is said to be in violation, and a statement of the manner in, and the extent to, which such person is said

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to violate this Act or such rule or regulation and shall require the person so complained against to answer the charges of such formal complaint at a hearing before the Board at a time not less than thirty (30) days after the date of notice.

(C) The respondent to such a formal complaint may file a written answer thereto and may appear at such hearing in person or by representative, with or without counsel, and may make oral argument, offer testimony and cross-examine any witnesses or take any combination of such actions.

The Executive Secretary, on behalf of the Board, at the request of any respondent to a formal complaint made pursuant hereto, shall subpoena and compel the attendance of such witnesses as the respondent may reasonably designate and shall require the production for examination of any book or paper relating to the matter under investigation at any such hearing as the respondent may reasonably designate.

At such hearings the Board shall be controlled by the rules of evidence in effect in the District Courts of the State of Texas at the time of such hearing.

(D) After due consideration of the written and oral statements, the testimony and arguments that shall be submitted at the hearing upon such complaint or, upon default in appearance of the respondent on the return day which shall be specified in the notice given as provided in Subsection (B) hereof, the Board shall issue and make and enter the recommendations called for by Section 4(A) (5) (a) hereof. If such recommendations are not complied with within the time specified in Section 4(A) (5) (a) then the Board shall make such final determination and enter such order as is provided for in Section 4(A) (5) (a) as it shall deem appropriate under the circumstances giving due regard to the matters required to be considered under Section 4 hereof, and it shall immediately notify the respondent thereof in writing by registered mail.

In all proceedings before the Board with respect to any alleged violation of this Act or any rule or regulation hereunder, the burden of proof shall be upon the Executive Secretary. Any determination, recommendation or order by the Board shall be approved in writing by at least six (6) members of the Board.

#### Public hearings; testimony; transcripts; examination of witnesses

Sec. 9. (A) At any public hearing, all testimony taken before the Board shall be under oath and recorded stenographically. The transcript so recorded shall be made available to any member of the public or to the respondent or party to a hearing on a complaint upon payment of the usual charges therefor.

(B) In any such hearings, any member of the Board may examine witnesses.

(C) All hearings shall be had before at least five (5) members of the Board.

#### Confidential information; disclosure

Sec. 10. No information identified as confidential when submitted relating to secret processes or methods of manufacture or production shall be disclosed at any public hearing or otherwise. Wilful disclosure or conspiracy to disclose confidential information obtained under this Act shall constitute an offense against the State. Any member of the Board or employee thereof having knowledge of confidential information who shall wilfully disclose or conspire to disclose such information in violation of this provision shall forfeit his appointment and shall be subject to the punishment provided in Section 15(B).

**Variances; extent and duration; petitions**

Sec. 11. (A) The Board may grant individual variance beyond the limitations prescribed in this Act, whenever it is found, upon presentation of adequate proof, that compliance with any provision of this Act, or any rule or regulation, final order or determination of the Board, will result in an arbitrary and unreasonable taking of property or in the practical closing and elimination of any lawful business, occupation or activity, in either case without sufficient corresponding benefit or advantage to the people.

(B) In determining under what conditions and to what extent a variance from this Act or rule or regulation hereunder may be granted, the Board shall give due recognition to the progress which the person requesting such variance shall have made in controlling or preventing any condition which may have existed as defined by Section 2(C). In such a case, the Board shall grant such variance conditioned upon such person effecting a partial abatement over a period of time which the Board shall consider reasonable under the circumstances; or the Board, in conformity with the intent and purpose of this Act to protect health and property, may prescribe other and different requirements with which the person who receives such variance shall comply.

(C) Any variance granted pursuant to the provisions of this Section shall be granted for such period of time as shall be specified by the Board at the time of the grant of such variance. Any variance may be granted by the Board upon the condition that the person who received it shall make such periodic reports to the Board as the Board shall specify as to the progress which such person shall have made toward compliance with any rule or regulation as to which a variance has been granted. Such variance may be extended by affirmative action of the Board upon recommendation of the Executive Secretary.

(D) Any person seeking a variance shall do so by filing a petition for variance with the Executive Secretary. The Executive Secretary shall promptly investigate such petition and make a recommendation to the Board as to the disposition thereof. Upon receiving the recommendation of the Executive Secretary, the Board may, if such recommendation is for the granting of a variance, do so without hearing. If the recommendation of the Executive Secretary is against the granting of a variance, or the Board, in its discretion, concludes that a hearing would be advisable, then a hearing shall be held as provided in Section 8 hereof, except that the burden of proof shall be on the petitioner.

**Failure to enter order granting variance; favorable findings**

Sec. 12. (A) Upon the failure of the Executive Secretary to take action within sixty (60) days after receipt of a petition for variance, or upon the failure of the Board to enter a final order or determination within sixty (60) days after the final argument in any hearing held under Section 8, the person affected shall be entitled to treat for all purposes such failure to act as a grant of the variance or of finding favorable to the respondent in any hearing under Section 8 hereof, as the case may be.

(B) No fees shall be charged by the Executive Secretary or the Board for the performance of any of their respective functions under this Act.

**Judicial review**

Sec. 13. All orders or determinations of the Board hereunder shall be subject to judicial review by the District Court of any judicial district wherein is located, in whole or in part, the property affected by the order of determination, or in the District Court of Travis County, Texas. In any such review, the record made before the Board shall be admissible as evidence, but either the petitioner or the Board may introduce additional

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evidence. Review of any rule or regulation promulgated by the Board shall not be limited by this Section but review may be had as provided in Section 7 hereof.

**Trial de novo; substantial evidence rule; severability**

Sec. 14. In all appeals prosecuted in any of the Courts of this State pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from Justice of the Peace Courts to County Courts. When such an appeal is filed and the Court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the Court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the Courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the Courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act. The Legislature hereby specifically declares that the provisions of this Section shall not be severable from the balance of this Act, and further specifically declares that this Act would not have been passed without the inclusion of this Section. If this Section, or any part thereof, is for any reason ever held by any Court to be invalid, unconstitutional or inoperative in any way, such holding shall apply to this entire Act, and in such event this entire Act shall be null, void and of no force and effect.

**Injunctive relief; wilful disclosure of confidential information; liabilities**

Sec. 15. (A) In the event the Board determines that any order made by it and not then the subject of judicial review is being violated, the Board may cause to have instituted a civil action in the District Court for any county in which the violation occurs for injunctive relief to prevent any further violation of such order and/or for the assessment of such penalty not to exceed \$50 per day for each day such violation continues as the court may deem proper. It shall be the duty of the Attorney General to bring such action, at the request of the Board, in the name of the State of Texas.

(B) Any member of the Board or employee thereof who is convicted of wilful disclosure or conspiracy to disclose confidential information identified as confidential when submitted to any person other than one entitled to the information under this Act, in violation of Section 10, is guilty of a felony, and shall be confined in the penitentiary not less than two (2) nor more than ten (10) years, or shall be fined not less than Two Hundred Dollars (\$200) nor more than Five Thousand Dollars (\$5,000), or shall be punished by both such fine and imprisonment.

(C) The liabilities which shall be imposed pursuant to any provision of this Act upon persons violating the provisions of this Act or any standard, rule or regulation hereunder shall not be imposed due to any violation caused by an Act of God, war, strike, riot, or other catastrophe.

**Basis for proceedings or actions**

Sec. 16. The basis for proceedings or other actions that shall result from violations of any rule or regulation which shall be promulgated by the Board shall inure solely to and shall be for the benefit of the people of the State generally and it is not intended to create in any way new rights or to enlarge existing rights or to abrogate existing private rights. A determination by the Board that the conditions defined in Section 2(C) exist or that any rule or regulation has been disregarded or violated; whether or not a proceeding or action may be brought by the State, shall not create

by reason thereof any presumption of law or finding of fact which shall inure to or be for the benefit of any person other than the State.

#### Partial invalidity

Sec. 17. If any Section, Subsection, sentence or clause of this Act shall be adjudged unconstitutional, such adjudication shall not affect the validity of the Act as a whole or of any Section, Subsection, sentence or clause hereof not adjudged unconstitutional.

#### Municipal ordinances or resolutions

Sec. 18. Regulations, ordinances, or resolutions, now or hereafter in effect, of other State Agencies, the governing body of a municipality or county or board of health relating to air pollution shall not be superseded by this Act; provided, that such regulations, resolution or ordinances are and continue to be consistent with the rules and regulations promulgated by the Agency under the provisions of this Act. Acts 1965, 59th Leg., p. 1583, ch. 687.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act creating the Texas Air Control Board; providing for the method of establishing such Board; prescribing its functions, powers, duties and administrative procedures; establishing the office of Executive Secretary to the Board; providing for the cooperative control of the air re-

sources of the State through conference, conciliation and persuasion; providing for the adoption of rules and regulations and methods of enforcement; providing for penalties; providing for a method of appeal and judicial review of the decisions of the Board; establishing the right of the Board to grant variances; providing for severability of the sections of the Act; and declaring an emergency. Acts 1965, 59th Leg., p. 1583, ch. 687.

### CHAPTER FOUR-B—TUBERCULOSIS

Art.

4477—12. Prevention, eradication and control of tuberculosis [New].

Art. 4477—12. Prevention, eradication and control of tuberculosis

**Custody and control of tuberculosis hospitals; jurisdiction of State Board of Health; transfer of plants, equipment, staffs funds and records**

Section 1. From and after September 1, 1965, all tuberculosis hospitals in the custody and control of the State Board for Hospitals and Special Schools shall be transferred to the State Health Department. This transfer is made to unify and consolidate the responsibility and functions of tuberculosis case finding and follow-up with treatment and cure of the disease. From and after September 1, 1965, the custody, control, maintenance and operation of all tuberculosis hospitals maintained by the State of Texas shall be under the jurisdiction and control of the State Board of Health and all responsibilities, powers and duties concerning the care and treatment of those afflicted with tuberculosis heretofore possessed by the Board for Texas State Hospitals and Special Schools are hereby transferred to the State Health Department, including all powers provided in House Bill No. 421, Acts of the 56th Legislature, Regular Session, 1959, Chapter 181, codified in Vernon's as Article 4477—11, Vernon's Civil Statutes.

There shall be transferred to the State Health Department from the State Board for Hospitals and Special Schools all equipment, staff, inventory and perishable stores necessary to insure the continual functioning of all state tuberculosis hospitals without interruption. This transfer shall also include the transfer to the State Health Department of all personnel employed by the Board for Hospitals and Special Schools in its tuberculosis program, authorized salary rates for employment of person-

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nel and all appropriations made to the Texas State Board for Hospitals and Special Schools for the operation of tuberculosis hospitals. This transfer shall be made effective September 1, 1965.

It is the intent and desire of the Legislature that the State Board for Hospitals and Special Schools and the State Health Department consult with the State Auditor, the Comptroller of Public Accounts, Budget Board and any other State Agency necessary for the orderly transfer of all physical plants, equipment, perishable stores, inventories, staff, funds and all records from the State Board for Hospitals and Special Schools to the State Health Department.

#### **Contracts for care and treatment of tubercular patients; outpatient clinics**

Sec. 2. The State Board of Health may contract for the support, maintenance, care and treatment of tubercular patients admitted to any facilities under the jurisdiction of the Board and/or for the support, maintenance, care and treatment of tubercular patients under its jurisdiction. Such contract may be made between the Board and city, county and state hospitals, private physicians, licensed nursing homes and hospitals and hospital districts, and the State Board of Health may contract for such existing diagnostic and other services available in a community or region as deemed necessary to prevent further spread of tuberculosis. Full development of these essential services needed for the control of tuberculosis is the responsibility of the State Board of Health.

Authority to contract provided herein shall be cumulative of all other contractual rights of the State Board of Health. Provided such contract shall not include the assignment of any lien accruing to the state.

The State Board of Health is authorized to establish and operate Outpatient Clinics on the premises of the State's Tuberculosis Hospitals or other locations deemed necessary for the purpose of providing follow-up treatment on discharged patients. Persons receiving such treatment are financially liable as are inpatients.

From and after the effective date of this Act, the Board for Texas State Hospitals and Special Schools shall not have the authority to contract for the support, maintenance, care and treatment of tubercular patients committed to the State Board of Health. Provided, however, nothing herein shall affect the contractual obligations created by the Board for Texas State Hospitals and Special Schools prior to the effective date of this Act for the support, maintenance, care and treatment of tubercular patients, and all such contractual obligations on behalf of the state created by the Board for Texas State Hospitals and Special Schools prior to the effective date of this Act, pursuant to the provisions of Acts of the 58th Legislature, Regular Session, 1963, Chapter 43, codified in Vernon's as Article 3174b—5, Vernon's Civil Statutes, shall be performed and carried out by the State Board of Health.

#### **Reports; pathological findings**

Sec. 3. All reports required by Section 4 of House Bill No. 421, Acts of the 56th Legislature, Regular Session, 1959, Chapter 181, codified in Vernon's as Section 4, Article 4477—11, Vernon's Civil Statutes, shall be accompanied by a copy or results of any and all pathological findings or reports pertinent to the disease of tuberculosis by the physician diagnosing, treating or offering to treat the disease. The State Board of Health shall be responsible for obtaining, where desirable, subsequent pathological reports and/or findings relating to tubercular patients so reported.

#### **Examination of pupils for tuberculosis infection**

Sec. 4. The State Board of Health shall provide for the examination for tuberculosis infection of all pupils in the first and seventh grades of

the public, parochial and private schools of this state, and of all pupils transferred to the public, parochial and private schools of this state from another state or country.

**Annual certificate of examination of school personnel**

Sec. 5. All school personnel, including teachers, clerical employees, supervisory personnel, bus drivers, personnel handling food and personnel performing janitorial services, shall be required to furnish the governing board of any public school in this state on or before September 1 of each year a certificate signed by a person licensed to practice medicine in this state, revealing that such school personnel have been examined for the disease of tuberculosis during a period of time not exceeding one hundred twenty (120) days prior to September 1 of each year, and revealing the results of such examination, and revealing that the results of such examination have been furnished the State Board of Health by the person performing the examination. No person shall be permitted to perform his or her duties in the absence of such certificate being furnished the governing board of the school.

**Examination of migratory workers; duties of labor agents; violations**

Sec. 6. All persons seeking to perform migratory work in this state shall furnish the labor agent for such person a certificate signed by a person licensed to practice medicine in this state revealing: (1) that the person seeking to perform migratory work has been examined for the disease of tuberculosis; (2) the results of such examination; and (3) that the results of such examination have been furnished to the State Board of Health. No labor agent shall obtain employment for any migratory worker unless and until such labor agent has been furnished a certificate revealing that such worker has been examined for the disease of tuberculosis within a period of time not exceeding sixty (60) days prior to employment. Violation of the provisions of this Section shall be grounds to revoke and cancel the license of any labor agent who violated the provisions of this Section.

As used in this Section, "labor agent" means a person, partnership, corporation, association, legal representative, trustee, or receiver who is licensed by the Commissioner of Labor Statistics and who, for a fee, procures or attempts to procure employment for a migratory worker.

**Form of certificates and reports; rules and regulations of State Board of Health**

Sec. 7. The State Board of Health shall have the power to prescribe the form of the certificates and reports required to be furnished the State Health Department by the provisions of this Act and shall also have the power to pass such reasonable rules and regulations as it deems necessary to carry out the provisions of this Act, and such rules and regulations it deems necessary to prevent, control and eradicate the disease of tuberculosis.

**Director of the Division of Tuberculosis Services; personnel; Tuberculosis Advisory Committee; Credentials Committee**

Sec. 8. The Commissioner of Health, upon the recommendation of the State Board of Health and with the advice of the Tuberculosis Advisory Committee, shall appoint a Director of the Division of Tuberculosis Services, who shall be a person licensed to practice medicine in this state, with a comprehensive knowledge of tuberculosis control and management, to carry out the provisions of this Act and to perform such other duties as may be imposed upon the State Department of Health, relating to the prevention, control and eradication of the disease of tuberculosis and to the care and treatment of those afflicted with tuberculosis. The Commis-



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sioner of Health and the State Board of Health are directed to confer with and seek the advice of the Tuberculosis Advisory Committee hereinafter provided for.

The Commissioner of Health is hereby authorized to employ such additional personnel as he deems necessary in the performance of his duties concerning the enforcement of the provisions of this Act and relating to the prevention, control and eradication of the disease of tuberculosis.

The Governor, as soon as practicable, shall appoint a committee to be known as the Tuberculosis Advisory Committee. The Tuberculosis Advisory Committee shall be composed of twelve (12) members who shall serve without compensation, but who shall receive reimbursement for expenses incurred in carrying out their duties imposed by this Act. The Governor shall designate four (4) members of the Tuberculosis Advisory Committee to serve for a term ending August 31, 1967; and shall designate four (4) members to serve for a term ending August 31, 1969; and shall designate four (4) members to serve for a term ending August 31, 1971. Thereafter, all members of the Tuberculosis Advisory Committee shall serve for a term of six (6) years. All vacancies occurring on the Tuberculosis Advisory Committee shall be filled by appointment by the Governor for the unexpired term.

The Tuberculosis Advisory Committee shall consist of a representative licensed to practice medicine by the State Board of Medical Examiners, a representative from the Texas Tuberculosis Association, a representative from the Texas Thoracic Society, a representative from the Texas Chapter of the American College of Chest Physicians, a representative from the Texas Hospital Association; and seven (7) members chosen from the public at large, no more than three (3) of whom shall be licensed to practice medicine in this state.

The Tuberculosis Advisory Committee will meet periodically and advise the State Board of Health, the State Commissioner of Health and the Director of the Division of Tuberculosis Services and work with official and voluntary agencies involved in the prevention, control and eradication of the disease of tuberculosis, with the view of making recommendations as will most effectively prevent, control and eradicate the disease of tuberculosis. The Committee shall provide the Governor, the Legislature and the Board of Health with a written annual program evaluation.

The Commissioner of Health shall appoint a Credentials Committee as an advisory group to the Director of the Division of Tuberculosis Services. The Credentials Committee shall consist of persons licensed to practice medicine in this state in a number to be determined by the Health Commissioner, as can most effectively advise and work with the Director of the Division of Tuberculosis services in the performance of the duties of the Director, as the duties relate to the development and administration of a contract medical care and treatment program as provided in Section 2 of this Act.

#### Violations; punishment

Sec. 9. Any person violating the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500) and/or by imprisonment in the county jail for not more than thirty (30) days.

#### Cumulative effect

Sec. 10. The provisions of this Act shall be cumulative of all other power now possessed by the State Department of Health relating to the care and treatment of those afflicted with tuberculosis and relating to the control and sanitary management of tuberculosis, and shall be cumulative

of the provisions of House Bill No. 421, Acts of the 56th Legislature, Regular Session, 1959, Chapter 181, codified in Vernon's as Article 4477—11, Vernon's Civil Statutes. Acts 1965, 59th Leg., p. 124, ch. 51; eff. Sept. 1, 1965.

**Title of Act:**

An Act relating to the unification and consolidation in the State Health Department of the responsibility, powers, duty, authority and functions of case finding, follow-up, treatment, cure, prevention, eradication and control of tuberculosis in

the State of Texas; amending Chapter 43, Acts of the 58th Legislature, Regular Session, 1963 (codified as Article 3174b—5 Vernon's Civil Statutes); providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 124, ch. 51.

**CHAPTER FIVE—COUNTY HOSPITAL**

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| <p><b>Art.</b><br/>4494c—1. Use of hospital operating funds for improvements to hospitals in counties of 20,425 to 20,500 [New].</p> <p>4494i—1. Joint county-city hospital boards [New].</p> <p>4494q—1a. Validating creation of hospital districts in Ochiltree, Hansford and Castro Counties [New].</p> <p>4494q—22. Wilbarger County Hospital District [New].</p> <p>4494q—23. Swisher Memorial Hospital District [New].</p> <p>4494q—24. Cisco Hospital District [New].</p> <p>4494q—25. Parker County Hospital District [New].</p> <p>4494q—26. Matagorda County Hospital District [New].</p> <p>4494q—27. Uvalde County Hospital District [New].</p> <p>4494q—28. Palo Pinto County Hospital District [New].</p> <p>4494q—29. Stamford Hospital District [New].</p> <p>4494q—30. Maverick County Hospital District [New].</p> | <p><b>Art.</b><br/>4494q—31. Cuero Hospital District of De Witt County [New].</p> <p>4494q—32. Yoakum Hospital District [New].</p> <p>4494q—33. Hunt County Hospital District [New].</p> <p>4494q—34. Gray County Hospital District [New].</p> <p>4494q—35. Mathis Hospital District [New].</p> <p>4494q—36. Sinton-Odem Hospital District [New].</p> <p>4494q—37. Motley County Hospital District [New].</p> <p>4494q—38. Muenster Hospital District [New].</p> <p>4494q—39. Taft Hospital District [New].</p> <p>4494q—40. Poteet Community Hospital District of Atascosa County [New].</p> <p>4494q—41. Presidio County Hospital District [New].</p> <p>4494q—42. Nixon Hospital District [New].</p> <p>4494q—43. Childress County Hospital District [New].</p> <p>4494q—44. Terry Memorial Hospital District [New].</p> <p>4494s. Parking stations near hospitals in counties 900,000 or more [New].</p> |
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**Art. 4494c—1. Use of hospital operating funds for improvements to hospitals in counties of 20,425 to 20,500**

Section 1. In all counties in this state with not less than 20,425 inhabitants or more than 20,500 inhabitants according to the last preceding Federal Census, the Commissioners Court may use excess money in the county hospital operating fund for making permanent improvements to the county hospital and for the payment of county bonds issued for the construction and improvement of county hospital facilities. Acts 1965, 59th Leg., p. 917, ch. 451.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act permitting the Commissioners Courts of certain counties to use hospital

operating funds for making permanent improvements to county hospitals and for paying hospital bonds; and declaring an emergency. Acts 1965, 59th Leg., p. 917, ch. 451.

**Art. 4494i—1. Joint county-city hospital boards**

**Resolutions creating boards; designation**

Section 1. The commissioners court of any county, and the governing body of any city (including any Home Rule Charter City) located wholly or partially in said county, shall be authorized to

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adopt resolutions creating a joint county-city hospital board, without taxing powers, to constitute a public agency and body politic, and to be designated the "\_\_\_\_\_ County-City of \_\_\_\_\_, Texas, Hospital Board."

**Directors; appointment; boards as separate entities**

Sec. 2. Said Hospital Board shall consist of seven Directors, to be appointed and serve as hereinafter provided, and said Hospital Board shall constitute a joint agent of said county and city for hospital purposes, and shall act solely for the joint benefit of said county and city. Although acting as such joint agent, said Hospital Board shall constitute a separate entity in the exercise and performance of the powers, duties, and functions authorized by this Act, and with reference thereto said Hospital Board shall act and proceed independently, and may sue and be sued separately, in its own name, capacity, and behalf.

**Terms of directors; reimbursement for expenses; chairman and secretary; officers**

Sec. 3. In the resolution of the commissioners court creating said Hospital Board four Directors of said Board shall be appointed, with two being designated to serve for two-year terms of office, and with two being designated to serve for one-year terms of office. At the expiration of the term of office of any Director appointed by the commissioners court, said commissioners court shall appoint his successor to serve for a two-year term of office. In the resolution of the governing body of the city creating said Hospital Board three Directors shall be appointed, with two being designated to serve for two-year terms of office, and with one being designated to serve for a one-year term of office. At the expiration of the term of office of any Director appointed by the governing body of said city, said governing body shall appoint his successor to serve for a two-year term of office. It is the intention of this Act that at all times said Hospital Board shall consist of four Directors appointed by said commissioners court and three Directors appointed by the governing body of said city. All Directors shall serve until their successors are appointed, except that in the case of any vacancy the unexpired term of office shall be filled by the appointment of a Director by said commissioners court or the governing body of said city, as the case may be, which appointed the Director whose death or resignation has caused the vacancy. All Directors shall be eligible to succeed themselves in office. Directors shall not receive any remuneration or emolument of office, but they shall be entitled to reimbursement for their actual expenses incurred in performing their duties as Directors, to the extent authorized and permitted by the Hospital Board. The Directors shall elect one of their number as Chairman of the Hospital Board, and he shall preside at meetings of said Board and perform such other duties and functions as are prescribed by the Board. The Chairman of the Hospital Board shall have a vote the same as the other Directors. The Directors shall elect a secretary of the Hospital Board, who may or may not be a Director, and who shall be the official custodian of the minutes, books, records, and seal of said Board, and who shall perform such other duties and functions as are prescribed by the Board. The Directors shall be authorized to elect any other officers of said Hospital Board as they deem necessary or advisable; and said Directors shall be authorized to appoint or employ such agents, employees, and officials as they deem necessary or advisable to carry out any power, duty, or function of said Hospital Board. Said Hospital Board shall act and proceed by and through resolutions adopted by the Directors, and the affirmative vote of four Directors shall be required to adopt a resolution.

**Acquisition of hospital facilities; purchase or sale of property; donations**

Sec. 4. Said Hospital Board shall be authorized to purchase, construct, receive, lease, or otherwise acquire hospital facilities, and to improve, enlarge, furnish, equip, operate and maintain the same. Further, the Hospital Board shall be authorized to own, hold title to, receive, encumber, sell, lease, or convey, any interest in real or personal property, including gifts, grants, and donations from any source.

**Transfer of hospital facilities to boards; contracts for care and treatment of needy patients; federal and state funds**

Sec. 5. The county and the city, respectively, which created said Hospital Board shall be authorized to lease, or to convey and transfer the title or any other interest in, all or any part of their hospital facilities, including all real and personal property pertaining thereto, to said Hospital Board, upon such terms and conditions, if any, as shall be determined by the parties. It is provided, however, that said Hospital Board shall not be authorized to encumber, sell, lease, or convey any real or personal property unless such encumbrance, sale, lease, or conveyance is approved, prior to the final consummation thereof, by resolutions of the commissioners court of said county and the governing body of said city, respectively. Said county and said city, respectively, further shall be authorized to enter into contracts with said Hospital Board for the care and treatment of indigent or needy patients, or for any other hospital services, and each shall be authorized to expend money and make payments to said Hospital Board pursuant to such contracts, and to levy ad valorem taxes, and to pledge any of their funds or resources, for the payments to be made under said contracts. Said Hospital Board shall be authorized to apply for, receive, and expend any available funds from the federal or state government for hospital purposes. Further, said county and said city, respectively, may adopt resolutions authorizing and designating such Hospital Board as the lawful agency to apply for, receive, and expend any available funds from the federal or state government for county or city hospital purposes; and to the extent of such authorization the Hospital Board may apply for, receive, and expend any such funds.

**Bond issue**

Sec. 6. For the purpose of carrying out any power, duty, or function authorized by this Act, said Hospital Board shall be authorized to issue its revenue bonds to be payable from, and secured by a pledge of, all or any part of the revenues, income, or resources of the Hospital Board and the hospital facilities of said Board. Said bonds may be additionally secured by mortgages and deeds of trust on any real or personal property, and said Board may authorize the execution and delivery of trust indentures, or other forms of encumbrances to evidence same. Said Hospital Board shall have no right or power whatsoever to levy taxes of any nature, and all bonds issued by said Board shall contain substantially the following statement: "The owner hereof shall never have the right to demand payment of this obligation from taxes levied by said Hospital Board." If so provided in the proceedings authorizing the issuance of the bonds, any required part of the proceeds from the sale thereof may be used for paying interest on the bonds during the period of the construction of any hospital facilities to be acquired through the issuance of said bonds, and for the payment of operation and maintenance expenses of said hospital facilities to the extent, and for the period of time, specified in said proceedings, and also for the creation of reserves for the payment of the principal of and interest on the bonds; and such moneys may be invested, until needed, to the extent and in the manner provided in the Bond Resolution or any trust indenture executed in connection therewith.

**Interest rate; additional parity bonds**

Sec. 7. Said bonds may be issued to mature serially or otherwise within not to exceed 40 years from their date, and may be issued to bear interest at any rate or rates not to exceed 6% per annum. In the authorization of any such bonds, the Directors may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms or conditions as may be set forth in the proceedings authorizing the issuance of said bonds, all within the discretion of the Directors. Said bonds, and any interest coupons appertaining thereto, shall be negotiable instruments (provided that such bonds may be made registrable as to principal alone or as to both principal and interest), and they may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be executed, as provided by the Directors in the proceedings authorizing the issuance of said bonds. Said bonds may be sold at public or private sale and at a price and under such terms as shall be determined by the Directors, provided that the interest cost to said Hospital Board, including any discount on the bonds, shall not exceed 6% per annum calculated by the use of standard bond interest tables currently in use by insurance companies and investment banking companies.

**Approval of bond issue**

Sec. 8. Notwithstanding the foregoing provisions of this Act, said Hospital Board shall not deliver any bonds unless the issuance thereof is approved by resolutions adopted by the commissioners court of said county and the governing body of said city, respectively.

**Charges for services and facilities**

Sec. 9. All hospital facilities of said Hospital Board shall be operated for the use and benefit of the public, but it shall be the duty of said Board to establish and collect sufficient charges for services and facilities, and to utilize all other available sources of revenues and income, in order to pay all expenses in connection with the ownership, operation, and maintenance of its hospital facilities, to pay the principal of and interest on its bonds, and to create and maintain reserves and any other funds as provided in the proceedings authorizing the issuance of its bonds. In the proceedings authorizing the issuance of its bonds said Hospital Board may prescribe systems, methods, routines, and procedures under which its hospital facilities shall be operated and maintained.

**Notice of bond resolution; petition for election; adoption of bond resolution**

Sec. 10. (a) Before authorizing the issuance of any bonds, other than refunding bonds, the Directors shall cause a notice to be prepared stating that the Directors of said Hospital Board intend to adopt a resolution (herein called the "Bond Resolution") authorizing the issuance of bonds, on a named date, and stating the maximum amount and maximum maturity thereof. Such notice shall be published once each week for two consecutive weeks in a newspaper having general circulation in the county and the city, with the first publication thereof to be made at least fourteen days prior to the date set for adopting the Bond Resolution.

(b) If, prior to the date set for the adoption of the Bond Resolution, there is presented to the secretary of said Hospital Board a petition signed by not less than ten per centum (10%) of the qualified voters residing within the county and any part of the city which is not within the county, praying that the Directors order an election be held on the proposition of the issuance of the bonds, such bonds shall not be issued unless an election is held and such bonds are duly and favorably voted at said election.

Such election shall be called by the Directors and held within said county and any part of the city which is not within the county, substantially in accordance with the procedures prescribed in Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended. If no such petition is filed, the Bond Resolution may be adopted on the date set therefor, or within not to exceed thirty days thereafter, and the bonds may be issued and delivered without any election in connection with the issuance thereof or the creation of any encumbrance pertaining thereto. It is provided, however, that the Directors may call such election on their own motion, if they deem it advisable, on the proposition of the issuance of such bonds, without the filing of any petition.

#### **Examination and approval of bonds; registration**

Sec. 11. All bonds permitted to be issued under this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with this Act he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

#### **Refunding bonds**

Sec. 12. Any bonds issued under this Act may be refunded by the issuance of refunding bonds for such purpose, in such manner as may be determined by the Directors; and any such refunding bonds shall be issued as provided herein for other bonds authorized under this Act, except that the refunding bonds may be issued to be exchanged for the bonds being refunded thereby. In such case, the Comptroller of Public Accounts shall register the refunding bonds and deliver the same to the holder or holders of the bonds being refunded thereby, in accordance with the provisions of the proceedings authorizing the refunding bonds, and any such exchange may be made in one delivery, or in several installment deliveries.

#### **Bonds as legal and authorized investment**

Sec. 13. All bonds issued under this Act shall be legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

#### **Depository**

Sec. 14. Said Hospital Board may select a depository or depositories according to the procedures provided by law for the selection of county and city depositories, or it may enter into a depository contract with any depository or depositories selected by the county or the city, and on the same terms.

#### **Exemption of facilities from taxation**

Sec. 15. Recognizing the fact that all hospital facilities of said Hospital Board will be held for public purposes only, and will be devoted

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exclusively to the use and benefit of the public, such hospital facilities shall be exempt from taxation of every character.

#### **Eminent domain**

Sec. 16. For the purpose of carrying out any power, duty, or function authorized by this Act, said Hospital Board shall have the right to acquire the fee simple title or any other interest in land and any other property by condemnation in the manner provided by Title 52, Revised Civil Statutes of Texas, 1925, as amended, relating to eminent domain. Said Hospital Board shall have the same rights as counties and cities under Article 3268, as amended, of said Title 52. The amount and character of interest in land or other property thus to be acquired shall be determined by the Directors.

#### **Investment of funds**

Sec. 17. The law as to the security for, and the investment of, funds of counties and cities shall be applicable to funds of said Hospital Board. The Bond Resolution, or any trust indenture executed in connection therewith, may further restrict the securing and investment of funds of said Hospital Board. Also, said Hospital Board shall have the power to invest all or any part of the proceeds received from the sale and delivery of its bonds, until such proceeds are needed, in direct obligations of the United States of America, to the extent authorized in the Bond Resolution or any trust indenture executed in connection therewith.

#### **Cumulative effect; conflicting laws**

Sec. 18. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions or limitations contained therein, except as herein specifically provided; and when any bonds are being issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act shall prevail and control; provided, however, that any Hospital Board shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act. Acts 1965, 59th Leg., p. 1030, ch. 511, emerg. eff. June 16, 1965.

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

An Act authorizing the creation of joint county-city hospital boards, without taxing powers; providing for the powers and functions of counties and cities with reference to said joint hospital boards; providing for the control, operation, powers, duties, and functions of said joint hospital boards, including the power to issue, sell, and deliver revenue bonds, providing for a referendum-type election as to the issuance of revenue bonds, upon the filing of the required peti-

tion; providing for the issuance of refunding bonds; providing that all bonds issued under this Act shall be legal investments and security for publicly regulated funds; providing that this Act shall be cumulative of all laws on the subject, but shall prevail and control in case of conflict with any other law; providing for other matters pertaining to said hospital boards and the directors thereof; prescribing a severability provision; and declaring an emergency. Acts 1965, 59th Leg., p. 1030, ch. 511.

### **Art. 4494n. County hospital districts; counties of 190,000 and Galveston County**

#### **Hospital districts in counties of 450,000 or more; assessment and collection of taxes; rate; fees; election and ballots**

Sec. 2a. Hospital Districts created under this Act, in counties which contain a population of 450,000 or more, according to the last preceding Federal Census, shall have the taxes of said Hospital Districts assessed and collected by the Assessor and Collector of Taxes in the man-

ner provided for in Section 2, except as in this Section 2a, provided. The property assessed for said Hospital Districts, upon the order of the Commissioners Court of the county, shall be assessed at such percentage of its fair cash market value as the Commissioners Court orders, which may be a greater percentage than that used in assessing the property for state and county purposes.

Further, the Assessor and Collector of Taxes of said counties shall charge and deduct from payments to the Hospital District the fees for assessing and collecting the tax at the rate of not exceeding one and one-half ( $1\frac{1}{2}$ ) per cent of the amounts assessed as approved by the Board of Equalization and one and one-half ( $1\frac{1}{2}$ ) per cent of the amounts collected, as may be determined by the Commissioners Court.

Provided, however, that the property within said Hospital District shall not be assessed at a greater percentage of its fair cash market value than the percentage at which it is assessed for county and state purposes, nor shall the Assessor and Collector of Taxes of such county charge a fee for assessing and collecting the tax at a rate different from that authorized in Section 2 unless and until an election is duly held in said Hospital District for the purpose of approving such procedure. Said election may be initiated by the Commissioners Court upon its own motion or upon petition of one hundred (100) resident qualified property taxpaying voters, to be held not less than thirty (30) days from the time said election is ordered by the Commissioners Court. At said election there shall be submitted to the qualified property taxpaying voters the proposition of whether the property within said Hospital District, upon the order of the Commissioners Court to the Assessor and Collector of Taxes of the county, shall be assessed at a greater percentage of its fair cash market value than that percentage assessed for county and state purposes, as may be determined by the Commissioners Court, and a majority of the qualified property taxpaying voters participating in said election shall determine the result of the election. The ballots shall have printed thereon:

FOR authorizing the County Assessor and Collector of Taxes, upon the order of the Commissioners Court, to assess the property within the Hospital District at a greater percentage of its fair cash market value than that assessed for state and county purposes

AGAINST authorizing the County Assessor and Collector of Taxes, upon the order of the Commissioners Court, to assess the property within the Hospital District at a greater percentage of its fair cash market value than that assessed for state and county purposes. As amended Acts 1965, 59th Leg., p. 494, ch. 255, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Art. 4494q—4a. Validating creation of hospital districts in Ochiltree, Hansford and Castro Counties

##### Hospital districts; validation; subsisting political subdivisions

Section 1. All hospital districts, created or purporting to have been created by authority of Chapter 103, Acts of the 57th Legislature, Regular Session, 1961 (codified as Article 4494q—4 of Vernon's Texas Civil Statutes), and pursuant to orders of the Commissioners Courts of the counties to which said law applies declaring or attempting to declare such districts created, are hereby ratified, validated and confirmed in all respects and to the same extent and with like effect as if duly and legally established in the first instance; and each such district is hereby declared to be, from and after the date of the entering of such order by the proper Commissioners Court, a valid and subsisting political subdivision of the State of Texas acting under the aforesaid law and fully possessed of all rights, powers,



duties and responsibilities granted and imposed thereby and granted and imposed by Article 9, Section 11 of the Constitution of this State.

**Acts and proceedings of commissioners courts; validation**

Sec. 2. Without in any way limiting the generalization of the provisions of Section 1 hereof, all creation and organizational acts and proceedings of the Commissioners Courts of the counties to which said law applies which acts and proceedings created and organized or attempted to create and organize hospital districts pursuant to said law are hereby ratified, validated and confirmed in all respects to the same extent and with like effect as if duly and legally established in the first instance. All acts and proceedings of the Commissioners Courts of said counties in ordering and holding elections wherein the question of the levy of a tax not to exceed seventy-five cents (75¢) on the one hundred dollar valuation and/or question of assumption of any bonds was or were submitted to a vote of the resident qualified property taxpaying electors who had duly rendered their property for taxation, irrespective of whether or not the questions of the levy of such tax and the assumption of such bonds were joined together or were severally or jointly joined with any other matters in a single proposition, are hereby validated and confirmed; and all acts, proceedings and orders of said Commissioners Courts declaring or attempting to declare the results of said election are hereby in all respects ratified, validated and confirmed. The fact that by inadvertence or oversight any act was omitted by the Commissioners Court of any such county in ordering an election or in giving sufficient statutory notice or in declaring the results thereof shall in no wise invalidate any of such proceedings nor the creation or organization of any such hospital district sought to be created thereby.

**Acts and proceedings of boards of directors; validation**

Sec. 3. All acts and proceedings of the board of directors of any such districts in organizing the districts and in electing officers or other matters and in ordering and holding a bond election or elections, declaring the results thereof, and all acts and proceedings levying, attempting or purporting to levy taxes for and on behalf of such hospital districts, and all bonds issued and outstanding and all bonds heretofore voted but not yet issued, are hereby in all respects ratified, validated and confirmed. The fact that by inadvertence or oversight any act of the board of directors of any such district or by the officers thereof in ordering and holding such election or elections, or in declaring the results thereof, or in levying the taxes for such district or in the issuance of the bonds thereof, shall not invalidate any of such acts and proceedings or any bonds so issued or authorized to be so issued by such districts.

**Acts and proceedings of hospital districts; validation**

Sec. 4. All acts and proceedings of such hospital districts in assuming full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing within said respective districts, as required by said law, are hereby in all respects ratified, validated and confirmed.

**Litigation**

Sec. 5. This Act does not apply to litigation pending before the effective date of this Act. Acts 1965, 59th Leg., p. 121, ch. 49, emerg. eff. March 25, 1965.

**Title of Act:**

An Act to validate the creation of all hospital districts created or attempted so to be by authority of Chapter 103, Acts of the 57th Legislature, 1961, and pursuant to orders of the Commissioners Courts declar-

ing or attempting to declare such districts created; declaring such districts validated from the date of the entry or attempted entry of any such orders; validating all acts and proceedings of the proper Commissioners Courts in creating or attempting

to create such districts and in calling, holding, and declaring the results of elections for the purpose of voting on the levy of taxes not exceeding seventy-five cents (75¢) on the one hundred dollar valuation and the assumption of bonds by resident qualified taxpaying electors who have duly rendered their property for taxation; validating all acts and proceedings of the Boards of Directors of such districts in ordering, holding, and declaring the results of, bond elections and acts and proceedings levying

taxes; validating all bonds voted and authorized and/or now outstanding of such district; validating all acts and proceedings of such districts in assuming responsibility for the care of needy and indigent persons; providing the Act shall not apply to litigation pending before the effective date of the Act; providing a savings clause; and declaring an emergency and providing that this Act shall take effect immediately upon its passage. Acts 1965, 59th Leg., p. 121, ch. 49.

Art. 4494q—7. Hopkins County Hospital District

Adoption of senate joint resolution

Section 1. Upon the adoption of Article IX, Section 11, as a part of the Constitution of the State of Texas, as proposed by Senate Joint Resolution No. 22 of the Fifty-seventh Legislature, Regular Session, 1961, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a hospital district within the State of Texas, such district to have boundaries coextensive with the boundaries of Hopkins County; said District shall have the powers and responsibilities provided by the aforesaid constitutional provision. As amended Acts 1965, 59th Leg., p. 18, ch. 9, § 1, emerg. eff. Feb. 25, 1965.

Increasing tax rate; election

Sec. 5(a). After the creation and establishment of such hospital district, it shall be known as the "Hopkins County Hospital District," and the Board of Directors thereof shall have the power and authority to levy an annual ad valorem tax not to exceed 75 cents on the one hundred dollar valuation of taxable property within said District for all hospital district purposes mentioned in this Act and in Article IX, Section 11, of the Texas Constitution; provided, however, that no such annual tax in excess of the currently voted 25 cents on the one hundred dollar valuation of taxable property within said District shall be levied until approved by a majority vote of the participating resident, qualified, property taxpaying voters who have duly rendered their property for taxation, all as permitted and required by Article IX, Section 11, of the Texas Constitution. An election shall be called by the Board of Directors of said District in order to obtain the approval by the aforesaid voters of any increase in such taxes, and notice of any such election shall be given as provided for bond elections in Section 6 of this Act, and the cost of all such elections shall be paid by the District. In the event that approval of any increase in such taxes is so obtained, the annual tax limitation of 25 cents on the one hundred dollar valuation of taxable property within the District, referred to in Sections 2, 5, and 6 of this Act, shall no longer be applicable, and such limitation automatically shall be raised to, and shall be construed as being, the maximum rate approved by the aforesaid voters at any such election. In particular, the Board of Directors of the District shall have the power and be authorized to issue bonds as provided in Section 6 hereof, and to levy annual ad valorem taxes sufficient to pay the principal thereof and interest thereon, provided that such bond taxes, together with all other taxes levied by the District, shall not exceed in any year the maximum rate approved by the aforesaid voters at any such election, nor shall such aggregate taxes exceed in any year the rate of 75 cents on the one hundred dollar valuation of taxable property within the District, being the maximum permitted by Article IX, Section 11, of the Texas Constitution. Added Acts 1965, 59th Leg., p. 18, ch. 9, § 2, emerg. eff. Feb. 25, 1965.

Acts 1965, 59th Leg., p. 18, ch. 9, which amended section 1 of this article and which added section 5(a) to this article, provided

in section 3: "That the creation, establishment, organization, maintenance, and operation of the hospital district in Hopkins

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County, coextensive with the boundaries of said County, and known as the Hopkins County Hospital District, and the establishment and organization of the Board of Directors thereof, are hereby validated in all respects as though they had been duly and lawfully accomplished in the first instance; and all taxes and bonds voted in said District, and all elections held to au-

thorize same, are hereby validated in all respects, as though they had been duly and lawfully conducted in the first instance; and all acts and proceedings performed, had, or attempted pursuant to this Act are hereby validated in all respects as though they had been duly and lawfully accomplished in the first instance."

#### Art. 4494q—22. Wilbarger County Hospital District

##### Constitutional authority

Section 1. In accordance with the provisions of Article IX, Section 9, Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a hospital district within the State of Texas, such district to have boundaries coextensive with the boundaries of Wilbarger County; and said district shall have the powers and responsibilities provided by the aforesaid constitutional provision.

##### Purpose of district; election; ballots

Sec. 2. That said district hereby provided for shall assume full responsibility for providing medical and hospital care for the needy persons residing within the district; provided, however, that such hospital district shall not be created unless and until an election is duly held in the county for such purpose, which said election may be initiated by the Commissioners Court of the county upon its own motion or upon a petition of one hundred (100) resident legally qualified property taxpaying electors, to be held not less than thirty (30) days from the time said election is ordered by the Commissioners Court. At said election there shall be submitted to the legally qualified property taxpaying electors the proposition of whether or not a hospital district shall be created in the county; and a majority of the legally qualified property taxpaying electors participating in said election voting in favor of the proposition shall be necessary. The ballots shall have printed thereon:

"FOR the creation of a hospital district; providing for the levy of a tax not to exceed Fifty Cents (50¢) on the One Hundred Dollars (\$100) valuation";

and

"AGAINST the creation of a hospital district; providing for the levy of a tax not to exceed Fifty Cents (50¢) on the One Hundred Dollars (\$100) valuation."

##### Canvass of returns; board of directors; terms of office; bond; officers

Sec. 3. Within ten (10) days after such election is held, the Commissioners Court of Wilbarger County shall convene and canvass the returns of the election, and if a majority of the legally qualified property taxpaying electors voting at said election voted in favor of the proposition, the court shall so find and declare the hospital district established and created and appoint seven (7) persons as directors of the hospital district to serve until the first Saturday in April, 1966, at which time seven (7) directors shall be elected. The four (4) directors receiving the highest vote at such first election shall serve for two (2) years, the other three (3) directors shall serve for one (1) year. Thereafter, all directors shall serve for a period of two (2) years and until their successor has been duly elected or appointed and qualified. No person shall be appointed or elected as a member of the board of directors of said hospital district unless he is a resident thereof and owns land subject to taxation therein and unless at the time of such election or appointment he shall be more than twenty-one (21) years of age. Each member of the board of directors shall qualify

by executing the constitutional oath of office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to said district conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the district for safekeeping.

The board of directors shall organize by electing one (1) of their number as president and one (1) of their number as secretary. Any four (4) members of the board of directors shall constitute a quorum and a concurrence of four (4) shall be sufficient in all matters pertaining to the business of the district. A meeting of the board of directors may be called by the president or any four (4) directors. Notice of the time and place of any meeting must be given to all the directors not less than seven (7) days prior to the time of the meeting. Nothing herein shall prevent the board of directors from establishing by resolution a regular time and place for meetings, for which no special notice need be given. All vacancies in the office of director shall be filled for the unexpired term by appointment of the remainder of the board of directors. In the event the number of directors shall be reduced to less than four (4) for any reason, the remaining directors shall immediately call a special election to fill said vacancies, and upon failure to do so a district court may, upon application of any voter or taxpayer of the district, issue a mandate requiring that such election be ordered by the remaining directors.

A regular election of directors shall be held on the first Saturday in April of each year and notice of such election shall be published in a newspaper of general circulation in the county one (1) time at least ten (10) days prior to the date of the election. Any person desiring his name to be printed on the ballot as a candidate for director shall file a petition, signed by not less than one hundred (100) legally qualified voters asking that such name be printed on the ballot, with the secretary of the board of directors of the district. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election.

#### **Management and control of district**

Sec. 4. The management and control of such hospital district created pursuant to the provisions of this Act is hereby vested in the board of directors of the district who shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the board of directors.

#### **Taxes; levy and collection**

Sec. 5. Upon the creation of such hospital district, the board of directors shall have the power and authority and it shall be their duty to levy on all property subject to hospital district taxation for the benefit of the district at the same time taxes are levied for county purposes, using the county values and the county tax rolls, a tax of not to exceed Fifty Cents (50¢) on the One Hundred Dollars (\$100) valuation of all taxable property within the hospital district, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds which may be issued by the hospital district for hospital purposes as herein provided; (2) providing for the operation and maintenance of the hospital or hospital system; and (3) for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

Not later than October 1st of each year, the board of directors shall levy the tax on all taxable property within the district which is subject to taxation and shall immediately certify such tax rate to the tax assessor and collector of Wilbarger County. The tax so levied shall be collected on all property subject to hospital district taxation by the assessor and

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collector of taxes for the county on the county tax values, and in the same manner and under the same conditions as county taxes. The assessor and collector of taxes shall charge and deduct from payments to the hospital district the fees for assessing and collecting the tax at the rate of not exceeding one per cent (1%) of the amounts collected as may be determined by the board of directors but in no event in excess of Five Thousand Dollars (\$5,000) for any one (1) fiscal year. Such fees shall be deposited in the county's general fund, and shall be reported as fees of office of the tax assessor and collector. Interest and penalties on taxes paid to the hospital district shall be the same as in the case of county taxes. Discounts shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the district depository and such funds shall be withdrawn only as provided herein. All other income of the hospital district shall be deposited in like manner with the district depository.

The board of directors shall have the authority to levy the tax aforesaid for the entire year in which the said hospital district is established for the purpose of securing funds to initiate the operation of the hospital district.

#### Bonds

Sec. 6. The board of directors shall have the power and authority to issue and sell as the obligations of the hospital district, and in the name and upon the faith and credit of the hospital district, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any and all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures, provided that the maintenance and operation tax, together with the bond tax, shall not exceed Fifty Cents (50¢) in any one (1) year, or such maximum amount as may hereafter be voted as provided in Section 7 hereof. Such bonds shall be executed in the name of the district and on its behalf by the president of the board of directors, and countersigned by the secretary of the board of directors, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of such county. Upon the approval of such bonds by the Attorney General of Texas the same shall be incontestable for any cause. No bonds shall be issued by the hospital district (except refunding bonds) until authorized by a majority vote of the legally qualified property taxpaying electors, residing in the hospital district, voting at an election called and held for such purpose. Such election may be called by the board of directors on its own motion, shall specify the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, the maximum interest rate (not to exceed six per cent (6%) per annum) and the maximum maturity date of such bonds (not to exceed forty (40) years from their date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such county once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) full days prior to the date set for the election. The costs of such election shall be paid by the hospital district.

In the manner hereinabove provided, the bonds of such hospital district may, without the necessity of any election therefor, be issued for the purpose of refunding and paying off any bonded indebtedness theretofore issued by such hospital district; such refunding bonds may be sold and the proceeds thereof applied to the payment of any such outstanding bonds

or may be exchanged in whole or in part for not less than a like amount of said outstanding bonds and interest matured thereon, but unpaid; provided the average interest cost per annum on the refunding bonds, computed in accordance with recognized standard bond interest cost tables, shall not exceed the average interest cost per annum so computed, upon the bonds to be discharged out of the proceeds of the refunding bonds, unless the total interest cost on the refunding bonds, computed to their respective maturity dates, is less than the total interest cost so computed on the bonds to be discharged out of such proceeds. In the foregoing computations, any premium or premiums required to be paid upon the bonds to be refunded as a condition to payment in advance of their stated maturity dates shall be taken into account as an addition to the net interest cost to the hospital district of the refunding bonds.

**Increasing tax rate; election**

Sec. 7. The board of directors shall have the authority to call an election on the question of whether or not the tax hereinabove provided for shall be increased to a specified rate not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollars (\$100) valuation of all taxable property within the hospital district, if and when the board of directors determines that an increase in such tax rate is necessary to carry out the purposes for which the initial tax rate was authorized. Said election shall be held in the same manner as the election for the creation of the district and the levy of the initial tax as hereinabove provided.

**Purchases and expenditures; books and records; rules and regulations**

Sec. 8. The board of directors of the district shall have the power to prescribe the method and manner of making purchases and expenditures by and for the hospital district, and also shall prescribe all accounting and control procedures; the method of purchasing necessary supplies, materials and equipment; and shall have the power to adopt a seal for such district; and may employ a general manager, and such professional and clerical assistance as may be necessary.

All books, records, accounts, notices and minutes and all other matters of the district and the operation of its facilities shall, except as herein provided, be maintained at the office of the district and there be open to public inspection at all reasonable hours.

The board of directors is specifically empowered to adopt rules and regulations governing the operation of the district and its facilities which rules and regulations shall supplement but shall not contravene any of the provisions of this Act. Such rules and regulations may, upon approval of the board of directors, be published in booklet or pamphlet form at the expense of the district and may be made available to any taxpayer upon request.

**Fiscal year; annual budget**

Sec. 9. The fiscal year of the hospital district authorized to be established by the provisions hereof shall commence on October 1st of each year and end on September 30th of the following year. The district directors shall cause an annual independent audit to be made of the books and records of the district, such audit to be made covering such fiscal year, and the same shall be filed with the Comptroller of Public Accounts of the State of Texas and at the office of the district not later than December 31st of each year.

The board of directors shall each year cause a budget to be prepared showing the proposed expenditures and disbursements and the estimated receipts and collections for the following fiscal year and shall hold a public hearing on the proposed budget after publication of a notice of

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hearing in a newspaper of general circulation in the county at least once not less than ten (10) days prior to the date set for the hearing. Any person who is a taxpayer of the district shall have the right to appear at the time and place designated in the notice and be heard with reference to any item shown in the proposed budget. The proposed budget shall also show the amount of taxes required to be levied and collected during such fiscal year and upon final approval of the budget, the board of directors shall levy such tax as may be required and certify the tax rate for such year to the county tax assessor and collector as provided in Section 5 hereof, and it shall be the duty of the said tax assessor and collector to assess and collect such tax.

#### **Eminent domain**

Sec. 10. The hospital district organized in pursuance of this Act shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of said district, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said district shall not be required to make deposits in the registry of the trial court of the sum required by paragraph Number 2 in Article 3268, Vernon's Civil Statutes, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the said district, the district shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any court of civil appeals or to the Supreme Court.

#### **Depository**

Sec. 11. Within thirty (30) days after appointment and qualification of the board of directors of the hospital district, the said directors shall by resolution designate a bank or banks within Wilbarger County as the district's depository or treasurer and all funds of the district shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two (2) years and until a successor has been named.

#### **Inspection of district**

Sec. 12. The hospital district established or maintained under the provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any State Board of Charities (or Public Welfare) that now exists or that may be hereafter created, and any resident officers shall admit such representatives into all hospital district facilities and give them access on demand to all records, reports, books, papers, and accounts pertaining to the hospital district.

#### **Limiting powers of county and cities**

Sec. 13. After the hospital district has been organized pursuant to this Act, neither Wilbarger County nor any city therein shall levy any tax for hospital purposes; and such hospital district shall be deemed to have assumed full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said hospital district from the date that taxes are collected for the hospital district.

#### **Patients; inquiry as to ability to pay; liability of relatives**

Sec. 14. Whenever a patient claiming indigence has been admitted to the facilities of the hospital district, the directors shall cause inquiry

to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If it is found that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the hospital district for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The district shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the district to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the hospital district. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the district's directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the district court.

#### **Donations, gifts and endowments**

Sec. 15. Said board of directors of the hospital district is authorized on behalf of said hospital district to accept donations, gifts and endowments for the hospital district to be held in trust and administered by the board of directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of hospital district.

#### **Bonds eligible for investments and to secure deposits**

Sec. 16. All bonds issued by the district authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

#### **Suits**

Sec. 17. The hospital district created under the provisions of this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts in this state in the name of such district.

#### **Construction of act**

Sec. 18. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the district shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. If any of the provisions of this Act should be invalid, such fact shall not affect the authorization for the creation of the district or the validity of any other provision of this Act, and the Legislature here declares that it would have created the district and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.



**Publication of notice**

Sec. 19. The Legislature hereby finds affirmatively that thirty (30) days' public notice was duly given in accordance with the provisions of Article IX, Section 9 of the Constitution of the State of Texas, of the intention to apply to this Legislature to enact a law providing for the creation, establishment, maintenance and operation of the Wilbarger County Hospital District. Acts 1965, 59th Leg., p. 9, ch. 6, emerg. eff. Feb. 22, 1965.

**Title of Act:**

An Act providing for the creation of a county-wide hospital district in Wilbarger County; providing for an election in the county to create a county-wide hospital district; providing for the levy of a tax for the district for the purpose of maintaining and operating the district, paying indebtedness assumed by the district and bonds issued by the district; providing for the issuance of bonds by the district for the purpose of the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same for hospital purposes and for any and all such purposes and for refunding bonds and prescribing limitations on such power; providing bonds issued or assumed by the

district shall be lawful investments and collateral for certain funds; providing for the selection of a governing body of such hospital district, their tenure of office and powers and duties in carrying out the provisions of the Act; prescribing a procedure for the adoption of a budget, the selection of a depository and the power of eminent domain, which power is conferred upon the district; prescribing a fiscal year; prohibiting the levy of taxes by the county or a city located therein for hospital purposes and restricting the powers of the county in question where a district is established to levy taxes for the care of indigents under certain circumstances; providing a severance clause; and declaring an emergency. Acts 1965, 59th Leg., p. 9, ch. 6.

**Art. 4494q—23. Swisher Memorial Hospital District****Constitutional authority**

Section 1. Pursuant to authority granted by the provisions of Section 9, Article IX, Constitution of the State of Texas, Swisher Memorial Hospital District is hereby authorized to be created and as created shall have boundaries coextensive with the boundaries of Swisher County, Texas, and possess such rights, powers and duties as are hereinafter prescribed.

**Purposes of District**

Sec. 2. The District herein authorized to be created shall take over and there shall be transferred to it title to all lands, buildings, improvements and equipment in anywise pertaining to the hospital or hospital system owned by Swisher County and any city or town within such County and thereafter the District shall provide for the establishment of a hospital system by the purchase, construction, acquisition, repair or renovations of buildings and equipment and equipping the same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants and shall assume the outstanding indebtedness which shall have been incurred by any city or town or by Swisher County for hospital purposes prior to the creation of said District.

**Creation of District**

Sec. 3. The District shall not be created nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election may be initiated by the Commissioners Court of Swisher County upon its own motion or shall be called by said Commissioners Court upon presentation of a petition therefor signed by at least fifty (50) qualified property taxpaying electors of the District. Such election shall be held not less than thirty (30) nor more than sixty (60) days from the time such election is ordered by the Commissioners Court.

The order calling the election shall specify the time and places of holding same, the form of ballot and the presiding judge for each voting place. Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in Swisher County, Texas, once a week for two consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election. The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose. At said election there shall be submitted to the qualified property taxpaying electors of Swisher County the proposition of whether or not Swisher Memorial Hospital District shall be created with authority to levy annual taxes at a rate not to exceed 75 cents on the one hundred dollar valuation of taxable property within such District for the purpose of meeting the requirements of the District's bonds, indebtedness assumed by it, and its maintenance and operating expenses and a majority of the qualified property taxpaying electors of the District voting at said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

"FOR the Creation of Swisher Memorial Hospital District providing for the levy of a tax not to exceed 75 cents on the one hundred dollar valuation using Swisher County values and Swisher County tax rolls, and providing for the assumption by such District of all outstanding bonds and indebtedness heretofore issued to Swisher County and by any city or town within said County for hospital purposes."

"AGAINST the Creation of Swisher Memorial Hospital District providing for the levy of a tax not to exceed 75 cents on the one hundred dollar valuation using Swisher County values and Swisher County tax rolls, and providing for the assumption by such District of all outstanding bonds and indebtedness heretofore issued to Swisher County and by any city or town within said County for hospital purposes."

#### **District Management**

Sec. 4. Within ten (10) days after such election is held the Commissioners Court of said County shall convene and canvass the returns thereof and in the event such election results favorably to the proposition specified in Section 3 hereof, such District shall be governed by a Board of Directors to consist of five (5) members. Each such Director must at the time of his election or appointment hereunder own property subject to taxation within the district and be more than twenty-one (21) years of age. One Director shall represent the County at large, and each of the four (4) remaining Directors shall represent a Commissioner's precinct of the County, and each Director must reside in the area he represents. Directors shall be entitled to compensation at a rate to be determined by the Board, provided that in no event shall the rate of compensation exceed Ten Dollars (\$10) for each meeting of the Board of Directors. Upon creation of the District as above provided, the Commissioners Court shall appoint five persons as Directors to serve until the first Saturday in April of the year succeeding the year of the District's creation, at which time five (5) Directors shall be elected. The three (3) Directors receiving the highest vote at such election shall serve for two (2) years, and the other two Directors shall serve for one (1) year. Thereafter, all Directors shall serve for a period of two years and until their successors have been duly elected or appointed and qualified. All qualified electors residing in Swisher County, Texas, and in the Swisher Memorial Hospital District shall be eligible to vote for all Directors. Each member of the Board of Directors shall qualify for his office by executing the Constitutional oath of office to be filed in the office of the Dis-

trict. The Board of Directors shall organize by electing one of their number as President, one as Vice President, and one as Secretary. Any three members of the Board shall constitute a quorum and a concurrence of three shall be sufficient in all matters pertaining to the business of the District. The Board shall require the keeping of a true account of all their meetings and proceedings and shall preserve all contracts, records, notices, duplicate vouchers, duplicate receipts and all accounts and records of the District at its principal office where same shall be open to public inspection at all reasonable times. All vacancies in the office of Director shall be filled for the unexpired term by appointment by the remainder of the Board, however in event the number of Directors shall be reduced at any one time to less than three (3) for any reason, the remaining Directors shall immediately call a special election to fill said vacancies and upon failure to do so such vacancies may be filled by appointment of the County Judge of Swisher County. The regular election of Directors shall be held on the first Saturday in April in each year and notice of such election shall be published in a newspaper of general circulation in Swisher County one time at least ten (10) days prior to the date of election. Any person desiring to have his name printed on the ballot as a candidate for director shall file a petition signed by not less than twenty-five (25) qualified voters to such effect, at least twenty-five (25) days prior to the election.

#### **Powers of Directors**

Sec. 5. The Board of Directors shall manage, control and administer the hospitals and hospital system of the District. The District through its Board of Directors shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the District. The Board of Directors shall appoint a qualified person to be known as the Administrator or Manager of the Hospital District and may in its discretion appoint an Assistant to the Administrator or Manager. Such Administrator or Manager, and Assistant Administrator or Assistant Manager, if any, shall serve at the will of the Board and shall receive such compensation as may be fixed by the Board. The Administrator or Manager shall, upon assuming his duties, execute a bond payable to the Hospital District in an amount to be set by the Board of Directors in no event less than Ten Thousand Dollars (\$10,000), conditioned that he shall perform the duties required of him and containing such other conditions as the Board may require. The Administrator or Manager shall supervise all the work and activities of the District and shall have general direction of the affairs of the District subject to such limitations as may be prescribed by the Board. The Board of Directors shall have the authority to employ such doctors, technicians, nurses and other employees of every kind and character as may be deemed necessary for the efficient operation of the District or may provide that the Administrator or Manager shall have the authority to employ such persons. Such Board shall be authorized to contract with any county or incorporated municipality located outside Swisher County for the care and treatment of the sick, diseased or injured persons of any such county or municipality and shall have the authority to contract with the State of Texas and agencies of the federal government, for treatment of sick, diseased or injured persons for whom the State of Texas or the federal government are responsible. The Board of Directors is also authorized to enter into such contracts or agreements with the State of Texas or the federal government as may be required to establish or continue a retirement program for the benefit of the District's employees.

**Fiscal Year—Audit—Accounting**

Sec. 6. The District shall be operated on a fiscal year commencing on October 1 of each year and ending on September 30 of the succeeding year and it shall cause an audit to be made of the financial condition of said District which shall at all times be open to inspection at the principal office of the District. In addition the Administrator or Manager shall prepare an annual budget for approval by the Board of Directors of said District. As soon as practical after the close of each fiscal year the Administrator or Manager shall prepare for the Board a full sworn statement of all moneys belonging to the District and a full account of the disbursements of same.

**Authorization of Bonds and Levy of Tax**

Sec. 7. The Board of Directors of the Hospital District shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such Hospital District for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospitals and the hospital system, as determined by the Board, and for any or all of such purposes. At the time of the issuance of any such bonds a tax shall be levied by the Board sufficient to create an interest and sinking fund and to pay the interest on and principal of said bonds as same mature, providing such tax together with any other taxes levied for said District shall not exceed 75 cents on each one hundred dollar valuation of taxable property in any one year. Such bonds shall be executed in the name of the Hospital District and in its behalf by the President of the Board and attested by the Secretary as provided by Chapter 204, Acts of the 57th Legislature, Regular Session, 1961 (Article 717j-1, Vernon's Texas Civil Statutes), and shall be subject to the same requirements in the matter of the approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. After approval of any such bonds by the Attorney General and registration by the Comptroller, said bonds shall be incontestable. No bond shall be issued by such hospital district except refunding bonds, until authorized by a majority of the qualified electors of the District who own taxable property therein and who have duly rendered the same for taxation, voting at an election called for such purpose. Such election shall be called by the Board of Directors and held in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, and except as therein otherwise provided, shall be conducted in accordance with the general laws of Texas pertaining to elections. The District shall make provisions for defraying the costs of all elections called and held under the provisions of this Act. The bond election order shall specify the date of the election, the amount of bonds to be authorized, the maximum maturity thereof, the maximum rate of interest they are to bear, the place or places where the election shall be held and the presiding officers thereof.

The bonds of the District may be issued for the purpose of refunding and paying off any bonds issued or assumed by such District. Such refunding bonds may be sold and the proceeds thereof applied to the payment of outstanding bonds, or may be exchanged in whole or in part for not less than a like principal amount of such outstanding bonds provided that if refunding bonds are to be exchanged for a like amount of said outstanding bonds, such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total

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amount of interest to be paid on said refunding bonds; and provided further that if such refunding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding bonds or other refundable indebtedness same shall be issued and payments made in the manner specified by Chapter 503, Acts of the 54th Legislature, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes).

#### **Bonds Exempt from Taxation**

Sec. 8. In carrying out the purposes of this Act the District will be performing an essential public function and any bonds issued by it and their transfer and the issuance therefrom, including any profits made in the sale thereof, shall at all times be free from taxation by the State or any municipality or political subdivision thereof.

#### **Purchases and Expenditures**

Sec. 9. The Board of Directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures, by and for such Hospital District, and also shall be authorized to prescribe all accounting and control procedures and to make such rules and regulations as may be required to carry out the provisions of this Act.

#### **District Depository**

Sec. 10. The Board of Directors of the District shall name one or more banks within Swisher County to serve as depository for the funds of the District. All such funds shall, as derived and collected, be immediately deposited with such depository bank or banks except that sufficient funds shall be remitted to the bank or banks for the payment of principal of and interest on the outstanding bonds of the District or other obligations assumed by it and in time that such money may be received by said bank or banks of payment on or prior to the date of maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

#### **Bonds Eligible for Investment and to Secure Deposits**

Sec. 11. All bonds of the District shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

#### **Eminent Domain**

Sec. 12. Swisher Memorial Hospital District created hereunder shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple, or any lesser interest therein, within the boundaries of the District, necessary or convenient to the powers, rights

and privileges conferred by this Act, in the manner provided by General Law with respect to condemnation.

#### **Levy, Assessment and Collection of Taxes**

Sec. 13. District taxes shall be assessed and collected in the same manner as provided by law with relation to county taxes, upon all taxable property within such District subject to hospital district taxation. The Tax Assessor and Collector of Swisher County shall be charged and required to accomplish the assessment and collection of all taxes levied by and on behalf of the District and to promptly pay over the same to the District Depository. For his services the County Tax Assessor-Collector shall be allowed such compensation as may be provided for by contract with the District but not to exceed the amount allowed for assessment and collection of County taxes. The bond of the County Tax Assessor-Collector shall stand as security for the proper performance of his duties as Assessor-Collector of the District, or, if in the judgment of the District Board of Directors, it is necessary that additional bond payable to the District may be required. In all matters pertaining to the assessment, collection and enforcement of taxes for the District, the County Tax Assessor-Collector shall be authorized to act in all respects according to the laws of the State of Texas relating to State and County Taxes.

#### **Patients: Inquiry as to the Ability to Pay: Liability of Relative**

Sec. 14. Whenever a patient residing within the District has been admitted to the facilities thereof, the Administrator or Manager, shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment, in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the Hospital District for the support of such patient a specified sum per week in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The Administrator or Manager shall have power and authority to collect such sums from the estate of the patient or his relatives legally liable for his support in the manner provided by law for the collection of expenses in the last illness of a deceased person. If the Administrator or Manager finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, same shall become a charge upon the Hospital District as to the amount of the inability to pay. Should there be any dispute as to the ability to pay or doubt in the mind of the Administrator or Manager, the Board of Directors shall hear and determine same, after calling witnesses, and shall make such order or orders as may be proper. A party to the dispute who is not satisfied with the order may appeal to the district court on a trial de novo as that term is used in appeals from the justice court to the county court.

#### **Donations**

Sec. 15. The Board of Directors of the Hospital District is authorized on behalf of such District to accept donations, gifts and endowments to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and object of the Hospital District.

#### **Annual Budget**

Sec. 16. The Board of Directors of said Hospital District shall cause to be prepared an annual budget based upon the fiscal year of the Hospital District in accordance with the provisions of Section 6 hereof

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and prior to September 1st of each year shall give notice of the public hearing on the proposed budget. Such notice shall be published in a newspaper of general circulation in the County at least ten (10) days prior to the date set for the hearing.

#### District Alone to Incur Indebtedness for Hospital Purposes

Sec. 17. After creation of Swisher Memorial Hospital District neither Swisher County, Texas, nor any city or town therein shall thereafter issue bonds or other evidences of indebtedness or levy taxes for hospital purposes or for medical care and the said Swisher Memorial Hospital District shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of indigent persons.

#### State Not to be Obligated

Sec. 18. The support and maintenance of the Swisher Memorial Hospital District shall never become a charge against or obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such District.

#### Findings; validation of election and proceedings

Sec. 18a. The Legislature of the State of Texas now finds that an election was ordered by the Commissioners Court of Swisher County, Texas, on the 22nd day of September, 1964, on the proposition specified in Section 3 of this Act; that notice of said election was given for the length of time and in the manner, as required by this Act; that said election was held on the 3rd day of November, 1964, and returns thereof duly and properly made to the Commissioners Court of Swisher County, Texas; that on the 9th day of November, 1964, the Commissioners Court of Swisher County duly adopted an order canvassing the returns of said election and declaring the result in favor of the proposition submitted; that only voters duly qualified under the terms of this Act and Article IX, Section 9, of the Constitution of Texas were permitted to vote; that said election was duly called and held as required by Article IX, Section 9, of the Constitution of Texas; and that all of the proceedings had in connection with the calling, holding, canvassing the returns, and declaring the result of said election by the Commissioners Court of Swisher County, Texas, were as provided by the terms and conditions of this Act. All actions of the Commissioners Court of Swisher County, Texas, in ordering and providing for said election and giving notice thereof, in the canvassing of the returns and declaring the result thereof, and in appointing directors for the District, and such election and proceedings incident thereto are hereby in all things ratified, confirmed and validated, and said Hospital District is hereby declared to be an existing political subdivision of this State with all the rights, privileges, powers, duties and responsibilities imposed by the aforesaid Constitutional provision and this Act.

#### Severability Clause

Sec. 19. If any of the provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

#### Publication of Notice

Sec. 20. Proof of publication of the notice required in the enactment hereof under the provisions of Article IX, Section 9, Consti-

tution of the State of Texas, has been made in the manner and form provided by law pertaining to the enactment of local and special laws and such notice is hereby found and declared proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 41, ch. 16, emerg. eff. March 8, 1965.

**Title of Act:**

An Act providing for the creation of Swisher Memorial Hospital District with boundaries coterminous with those of Swisher County, pursuant to authority granted by Section 9, of Article IX of the Texas Constitution; providing for election on the questions of the creation of such District and the levy of a tax not to exceed 75 cents on the one hundred dollar valuation of taxable property for its maintenance, support and the payment of bonds issued by it and the indebtedness assumed; providing for the transfer of hospital facilities and the assumption of indebtedness and assets; providing the District with power to issue bonds, and methods for authorizing same, for the purpose of the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same for hospital purposes, and

for any and all such purposes, and for the refunding of such bonds; providing that bonds issued by the District shall be lawful investments and security for certain funds; providing a governing body for such District, its powers and duties and the tenure of its members; withdrawing authority for the sale of bonds for hospital purposes by Swisher County or any city located therein; making certain findings in connection with an election heretofore held and validating the election and proceedings incident thereto and all actions in connection with calling, canvassing, declaration of results thereof and the appointment of directors; enacting other provisions incident and germane to the subject and purpose of this Act; providing a severance clause; and declaring an emergency. Acts 1965, 59th Leg., p. 41, ch. 16.

**Art. 4494q—24. Cisco Hospital District**

**Constitutional authority; creation of district; boundaries**

Section 1. In accordance with the provisions of Article IX, Section 9, Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a Hospital District within the State of Texas, to be known as the Cisco Hospital District with boundaries coextensive with Commissioners' Precinct Number 4 of Eastland County, Texas.

**Purpose of district; election; ballots**

Sec. 2. That said District hereby provided for shall assume full responsibility for providing medical and hospital care for the needy residing within the District; provided, however, that such Hospital District shall not be created unless and until an election is duly held in the District for such purpose, which said election shall be initiated by order of the Commissioners Court upon its own motion or upon a petition of fifty (50) resident qualified property taxpaying voters.

The order calling the election shall specify the time and place or places of holding same, the form of ballot and the presiding judge for each voting place. At such election there shall be submitted to the qualified property taxpaying electors the proposition of whether or not Cisco Hospital District shall be created with authority to levy annual taxes at a rate not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting in said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

"FOR the creation of the Cisco Hospital District, and providing for the levy of annual taxes not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such District."



For Annotations and Historical Notes, see V.A.T.S.

“AGAINST the creation of the Cisco Hospital District, and providing for the levy of annual taxes not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such District.”

Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in Cisco Hospital District once a week for two (2) consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election.

The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose.

**Canvass of returns; directors; officers; meetings; quorum**

Sec. 3. Within ten (10) days after such election is held the Commissioners Court shall convene and canvass the returns of the election, and if a majority of the qualified property taxpaying electors voting at said election voted in favor of the proposition, they shall so find and declare the Hospital District established and created and Sutton Crofts, J. B. Haggan, J. Richardson, J. L. Stafford and R. A. Hammett shall be the directors of the District to serve until the first Saturday in April following the creation and establishment of the District at which time five (5) directors shall be elected. The three (3) directors receiving the highest vote at such first election shall serve for two (2) years, the other two (2) directors shall serve for one (1) year. Thereafter, all directors shall serve for a period of two (2) years and until their successors have been duly elected or appointed and qualified. No person shall be appointed or elected as a member of the board of directors of said Hospital District unless he is a resident thereof and owns land subject to taxation therein and unless at the time of such election or appointment he shall be more than twenty-one (21) years of age. Each member of the board of directors shall qualify by executing the constitutional oath of office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to said District conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the District for safekeeping.

The board of directors shall organize by electing one (1) of their number as president and one (1) of their number as secretary. Any three (3) members of the board of directors shall constitute a quorum and a concurrence of three (3) shall be sufficient in all matters pertaining to the business of the District. All vacancies in the office of director shall be filled for the unexpired term by appointment made by the remainder of the board of directors. In the event the number of directors shall be reduced to less than three (3) for any reason, the remaining directors shall immediately call a special election to fill said vacancies, and upon failure to do so a District Court may, upon application of any voter or taxpayer of the District, issue a mandate requiring that such election be ordered by the remaining directors.

A regular election of directors shall be held on the first Saturday in April of each year and notice of such election shall be published in a newspaper of general circulation in the county one (1) time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for director shall file a petition, signed by not less than twenty-five (25) qualified voters asking that such name be printed on the ballot, with the secretary of the board of directors of the District. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election.

**Management and control of district**

Sec. 4. The management and control of the Hospital District created pursuant to the provisions of this Act is hereby vested in the board of directors of the District who shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the entire board of directors.

**Levy and collection of tax**

Sec. 5. The board of directors of such Hospital District shall have the power and authority, and it shall be their duty to levy on all property subject to Hospital District taxation for the benefit of the District a tax of not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within the Hospital District, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds which may be issued by the Hospital District for hospital purposes as herein provided; (2) providing for the operation and maintenance of the Hospital District and hospital system; and (3) for the purpose of making further improvements and additions to the hospital system, and, for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

That part of the county tax rolls pertaining to the taxable property within the District is hereby adopted and shall constitute the tax rolls of the District until tax rolls shall be prepared by or for the District. Prior to the levy of any taxes the board of directors shall appoint a board of equalization composed of five (5) resident property owners of the District and cause taxes to be assessed, valuations to be equalized, and tax rolls to be prepared. The taxes of the District shall be assessed and collected on all property subject to Hospital District taxation by the assessor and collector of taxes for the county. Such taxes shall be assessed, equalized and collected in the same manner and under the same conditions as county taxes, except as herein provided. The assessor and collector of taxes shall charge and deduct from payments to the Hospital District the fees for assessing and collecting the tax at the rate of not exceeding one percent (1%) of the amounts collected as may be determined by the board of directors but in no event in excess of Five Thousand Dollars (\$5,000) for any one (1) fiscal year. Such fees shall be deposited in the county's general fund, and shall be reported as fees of office of the tax assessor and collector. Interest and penalties on taxes paid to the Hospital District shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the District Depository; and such funds shall be withdrawn only as provided herein. All other income of the Hospital District shall be deposited in like manner with the District Depository.

Not later than October 1st of each year, the board of directors shall levy the tax on all taxable property within the District which is subject to taxation and shall immediately certify such tax rate to the tax assessor and collector of the county in which the District is located, provided that the taxes initially assessed, equalized and levied can be assessed, equalized and levied at any time and shall be levied for the entire year in which such taxes are levied.

**Authorization of bonds**

Sec. 6. The board of directors shall have the power and authority to issue and sell as the obligations of such Hospital District, and in the name and upon the faith and credit of such Hospital District, bonds for the purchase, construction, acquisition, repair or renovation of build-

ings and improvements and equipping the same for hospital purposes and for any or all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures providing said tax together with any other taxes levied for said District shall not exceed Seventy-Five Cents (75¢) in any one (1) year. Such bonds shall be executed in the name of the Hospital District and on its behalf by the president of the board of directors, and countersigned by the secretary of the board of directors, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of counties of this state. Upon the approval of such bonds by the Attorney General of Texas and registration by the Comptroller the same shall be incontestable for any cause. No bonds shall be issued by such Hospital District (except refunding bonds) until authorized by a majority vote of the resident qualified electors who own taxable property within the District and have duly rendered the same for taxation, voting at an election called and held for such purpose. Such election may be called by the board of directors on its own motion, and the order calling said election shall specify the date of the election, the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest rate (not to exceed six percent (6%) per annum) and the maximum maturity date of such bonds (not to exceed forty (40) years from their date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such county once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) full days prior to the date set for the election. The cost of such election shall be paid by the Hospital District.

The bonds of the District may be made optional for redemption prior to their maturity date at the discretion of the board of directors.

The District may without an election issue the bonds to refund and pay off any validly issued and outstanding bonds heretofore or hereafter issued by the District, provided any such refunding bonds shall bear interest at the same rate or at a lesser rate than the bonds being refunded unless it be shown mathematically that a savings will result in the total amount of interest to be paid.

#### **Purchases and expenditures; books and records; rules and regulations**

Sec. 7. The board of directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures by and for such Hospital District, and also shall prescribe all accounting and control procedures; the method of purchasing necessary supplies, materials and equipment; and shall have the power to adopt a seal for such District; and may employ a general manager, attorneys, bookkeepers, architects, and any other employees deemed necessary for the efficient operation of the Hospital District.

All books, records, accounts, notices and minutes and all other matters of the District and the operation of its facilities shall, except as herein provided, be maintained at the office of the District and there be open to public inspection at all reasonable hours.

The board of directors is specifically empowered to adopt rules and regulations governing the operation of such District and its facilities which rules and regulations shall supplement but shall not contravene any of the provisions of this Act. Such rules and regulations may, upon

approval of the board of directors, be published in booklet or pamphlet form at the expense of the District and may be made available to any taxpayer upon request.

**Fiscal year; annual budget**

Sec. 8. The fiscal year of the Hospital District authorized to be established by the provisions hereof shall commence on October 1st of each year and end on the 30th day of September of the following year. The District Directors shall cause an annual independent audit to be made of the books and records of the District, such audit to be made covering such fiscal year, and the same shall be filed with the Comptroller of Public Accounts of the State of Texas and at the office of the District not later than December 31st of each year.

The board of directors shall each year cause a budget to be prepared showing the proposed expenditures and disbursements and the estimated receipts and collections for the following fiscal year and shall hold a public hearing on the proposed budget after publication of a notice of hearing in a newspaper of general circulation in the county at least once not less than ten (10) days prior to the date set for the hearing. Any person who is a taxpayer of the District shall have the right to appear at the time and place designated in the notice and be heard with reference to any item shown in the proposed budget. The proposed budget shall also show the amount of taxes required to be levied and collected during such fiscal year and upon final approval of the budget, the board of directors shall levy such tax as may be required and certify the tax rate for such year to the county tax assessor and collector as provided in Section 5 hereof, and it shall be the duty of the said tax assessor and collector to assess and collect such tax.

**Eminent domain**

Sec. 9. The District shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said District, necessary or convenient to the exercise of the rights, power, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said District shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph No. 2 in Article 3268, Vernon's Annotated Civil Statutes, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the said District, the District shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

**District depository**

Sec. 10. Within thirty (30) days after appointment and qualification of the board of directors of the Hospital District, the said directors shall by resolution designate a bank within the county in which the District is located as the District's Depository or treasurer and all funds of the District shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two (2) years until a successor has been named.

**Inspection of district**

Sec. 11. The District established or maintained under provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any state board of charities (or public welfare) that may hereafter be created, and the officers and employees of the District shall admit such representatives into all Hospital District facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the Hospital District.

**District alone to incur indebtedness for hospital purposes**

Sec. 12. Except as herein provided, neither Eastland County, nor any city or town within the Hospital District, shall levy any tax against any property within the Hospital District for hospital purposes; and such Hospital District shall assume full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said Hospital District from the date that taxes are collected for the Hospital District.

**Patients; inquiry as to ability to pay; liability of relatives**

Sec. 13. Whenever a patient residing in the Hospital District has been admitted to the facilities of the Hospital District, the directors shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If they find that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the Hospital District for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The District shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the District to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the Hospital District. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the District's Directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the District Court by either party to the dispute.

**Donations**

Sec. 14. Said board of directors of the Hospital District is authorized on behalf of said Hospital District to accept donations, gifts and endowments for the Hospital District to be held in trust and administered by the board of directors for such purposes and under such direction, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of the Hospital District.

**Bonds eligible for investment and to secure deposits**

Sec. 15. All bonds issued by or assumed by the Districts authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful

and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

#### Suits

Sec. 16. The Hospital District created under the provisions of this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this state in the name of such District.

#### Violation of constitution; alternative procedures

Sec. 17. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the District or the validity of any other provisions of this Act, and the Legislature hereby declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

#### Publication of notice

Sec. 18. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and is hereby found and declared to be proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 81, ch. 30, emerg. eff. March 16, 1965.

#### Title of Act:

An Act relating to the establishment of a Hospital District in accordance with the provisions of Section 9 of Article IX of the Constitution of the State of Texas, to be known as the Cisco Hospital District, with boundaries coextensive with Commissioners' Precinct Number 4 of Eastland County,

Texas; defining its purposes; providing for its administration, operation, financing, taxing powers and liabilities; prescribing procedures; providing for severability; reciting proof of publication of constitutional notice; and declaring an emergency. Acts 1965, 59th Leg., p. 81, ch. 30.

### Art. 4494q—25. Parker County Hospital District

#### Constitutional authority

Section 1. Pursuant to authority granted by the provisions of Section 9 of Article IX of the Constitution of the State of Texas, Parker County Hospital District is hereby authorized to be created and as created shall have boundaries coextensive with the boundaries of Parker County, Texas, and possess such rights, powers and duties as are hereinafter prescribed.

#### Purposes of district

Sec. 2. The District herein authorized to be created shall take over and there shall be transferred to it title to all lands, buildings, improvements and equipment in anywise pertaining to the hospitals or hospital system owned by Parker County and any city or town within such county and thereafter the District shall provide for the establishment of a hospital system by the purchase, construction, acquisition, repair or renovation of buildings and equipment, and equipping same, and the administration thereof for hospital purposes. Such District shall assume full respon-

For Annotations and Historical Notes, see V.A.T.S.

sibility for providing medical and hospital care for its needy inhabitants and shall assume the outstanding indebtedness which shall have been incurred by any city or town or by Parker County for hospital purposes prior to the creation of said District.

**Creation of district; election; petition; ballots**

Sec. 3. The District shall not be created, nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election may be initiated by the Commissioners Court of Parker County upon its own motion, or shall be called by said Commissioners Court upon presentation of a petition therefor signed by at least fifty (50) qualified property taxpaying electors of the District. Such election shall be held not less than thirty (30) nor more than sixty (60) days from the time such election is ordered by the Commissioners Court. The order calling the election shall specify the time and places of holding same, the form of ballot, and the presiding judge for each voting place. Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in the county once a week for two (2) consecutive weeks, the first publication to appear at least thirty (30) days prior to the date established for the election. The failure of such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose.

At said election there shall be submitted to the qualified property taxpaying electors of the District the proposition of whether or not the hospital district shall be created with authority to levy annual taxes at a rate not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollars (\$100) valuation of taxable property within such District for the purpose of meeting the requirements of the District's bonds, indebtedness assumed by it, and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting at said election in favor of the proposition shall be sufficient for its adoption; provided, however, the Commissioners Court may in the election order provide that the tax to be levied by the hospital district, in the event the same is created, shall be less than Seventy-Five Cents (75¢) on the One Hundred Dollars (\$100) valuation, and in such event such lesser rate shall be inserted in the proposition to appear on the ballot, and such rate shall be the maximum tax which may be levied by the District for all of the purposes aforesaid. The Board of Directors of the District, in the event the same is created, shall have the authority to call a subsequent election or elections for the purpose of determining whether the maximum rate of tax shall be increased, but in no event shall the District ever be authorized to levy a tax in excess of Seventy-Five Cents (75¢) on the One Hundred Dollars (\$100) valuation. The election to increase the maximum tax shall be called and notice thereof given in the manner provided in Section 7 of this Act with respect to the issuance of bonds by the District, and only resident qualified property taxpaying electors of the District shall be permitted to vote, a majority of those participating in the election being required to authorize such higher rate of taxation.

The ballots for such creation election shall have printed thereon the following:

"FOR the creation of Parker County Hospital District providing for the levy of a tax not to exceed \_\_\_\_\_¢ on the \$100 valuation using Parker County values and Parker County tax rolls, and providing for the assumption by such District of all outstanding bonds and indebtedness heretofore issued by Parker County and by any city or town within said county for hospital purposes."

“AGAINST the creation of Parker County Hospital District, providing for the levy of a tax not to exceed ———¢ on the \$100 valuation using Parker County values and Parker County tax rolls, and providing for the assumption by such District of all outstanding bonds and indebtedness heretofore issued by Parker County and by any city or town within said county for hospital purposes.”

**Canvass of returns; directors; terms; officers**

Sec. 4. Within ten (10) days after such election is held, the Commissioners Court of said county shall convene and canvass the returns thereof, and in the event such election results favorably to the proposition specified in Section 3 hereof, such District shall be governed by a Board of Directors to consist of seven (7) members. Each such Director must at the time of his appointment hereunder be more than twenty-one (21) years of age. Upon creation of the District as above provided, the Commissioners Court shall appoint seven (7) persons as Directors to serve until the first Saturday in January of the year succeeding the year of the District's creation, at which time four (4) Directors shall be named by the Commissioners Court to serve for two (2) years, and the other three (3) Directors shall be named by the Commissioners Court to serve for one (1) year. Thereafter, all Directors shall serve for a period of two (2) years and until their successors have been duly appointed by the Commissioners Court and qualified. Each member of the Board of Directors shall qualify for his office by executing the Constitutional oath of office to be filed in the office of the District. The Board of Directors shall organize by electing one (1) of their number as President, one (1) as Vice President and one (1) as Secretary. Any four (4) members of the Board shall constitute a quorum and the concurrence of four (4) shall be sufficient in all matters pertaining to the business of the District. The Board shall require the keeping of a true account of all its meetings and proceedings and shall preserve all contracts, records, notices, duplicate vouchers, duplicate receipts, and all accounts and records of the District at its principal office, where same shall be open to public inspection at all reasonable times. All vacancies in the office of Director shall be filled for the unexpired term by appointment by the Commissioners Court of Parker County.

**Powers of directors**

Sec. 5. The Board of Directors shall manage, control and administer the hospitals and hospital system of the District. The District through its Board of Directors shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the District. The Board of Directors shall appoint a qualified person to be known as the Administrator or Manager of the hospital district and may in its discretion appoint an assistant to the Administrator or Manager. Such Administrator or Manager and assistant administrator or assistant manager, if any, shall serve at the will of the Board and shall receive such compensation as may be fixed by the Board. The Administrator or Manager shall, upon assuming his duties, execute a bond payable to the hospital district in an amount to be set by the Board of Directors, in no event less than Five Thousand Dollars (\$5,000), conditioned that he shall perform the duties required of him, and containing such other conditions as the Board may require. The Administrator or Manager shall supervise all the work and activities of the District and shall have general direction of the affairs of the District, subject to such limitations as may be prescribed by the Board. The Board of Directors shall have the authority to employ or appoint to the staff such doctors, technicians, nurses and other employees of every kind and character as may be deemed necessary for the efficient operation of the District. The Board



For Annotations and Historical Notes, see V.A.T.S.

may provide that the Administrator or Manager shall have the authority to employ technicians, nurses and employees of the District. Such Board shall be authorized to contract with any county or incorporated municipality located outside its boundaries for the care and treatment of the sick, diseased or injured persons of any such county or municipality, and shall have the authority to contract with the State of Texas and agencies of the Federal Government for the treatment of sick, diseased or injured persons for whom the State of Texas or the Federal Government are responsible. The Board of Directors is also authorized to enter into such contracts or agreements with the State of Texas or the Federal Government as may be required to establish or continue a retirement program for the benefit of the District's employees.

#### **Fiscal year; audit; accounting**

Sec. 6. The District shall be operated on a fiscal year commencing on October 1 of each year and ending on September 30 of the following year, and it shall cause an audit to be made of the financial condition of said District, which shall at all times be open to inspection at the principal office of the District. In addition, the Administrator or Manager shall prepare an annual budget for approval by the Board of Directors of said District. A public hearing on the annual budget shall be held by the Board of Directors after notice of such hearing has been published one (1) time at least ten (10) days before the date set therefor. No expenditure may be made for any expense not included in the original annual budget or an amendment thereto. The annual budget may be amended from time to time as the circumstances may require, but the annual budget, and all amendments thereto, shall be approved by the Board of Directors. As soon as practicable after the close of each fiscal year the Administrator or Manager shall prepare for the Board a full sworn statement of all moneys belonging to the District and a full account of the disbursements of same.

#### **Bonds**

Sec. 7. The Board of Directors of the hospital district shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such hospital district for the purchase, construction, acquisition, repair or renovation of improvements and equipping the same for hospitals and the hospital system, as determined by the Board, and for any and all of such purposes. At the time of the issuance of any such bonds a tax shall be levied by the Board sufficient to create an interest and sinking fund and to pay the interest on and principal of said bonds as same mature, providing such tax together with any other taxes levied for said District shall not exceed the maximum rate of tax approved by the resident qualified property taxpaying voters or Seventy-Five Cents (75¢) on each One Hundred Dollars (\$100) valuation of taxable property in any one (1) year, whichever amount is lesser. Such bonds shall be executed in the name of the hospital district and in its behalf by the President of the Board and attested by the Secretary, as provided by Article 717j—1, V.C.S., and shall be subject to the same requirements in the matter of approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. No bonds shall be issued by such hospital district except refunding bonds until authorized by a majority of the qualified electors of the District who own taxable property therein and who have duly rendered the same for taxation voting at an election called for such purpose. Except as provided in Section 8, such election shall be called by the Board of Directors and held in accordance with the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, and except as therein otherwise provided, shall be conducted in accordance

with the General Laws of Texas pertaining to elections. The District shall make provisions for defraying the costs of all elections called and held under the provisions of this Act. The bond election order shall specify the date of the election, the amount of bonds to be authorized, the maximum maturity thereof, the maximum rate of interest they are to bear, the place or places where the election shall be held and the presiding officers thereof.

The bonds of the District may be issued for the purpose of refunding and paying off any bonds issued or assumed by such District. Such refunding bonds may be sold and the proceeds thereof applied to the payment of outstanding bonds, or may be exchanged in whole or in part for not less than a like principal amount of such outstanding bonds provided that if refunding bonds are to be exchanged for a like amount of said outstanding bonds, such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid on said refunding bonds, and provided further, that if such refunding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding bonds or other refundable indebtedness, same shall be issued and payments made in the manner specified by Article 717k, Revised Civil Statutes of Texas, as amended.

#### **Proposition as to authority to issue bonds**

Sec. 8. A petition for an election to create the hospital district (as provided in Section 3) presented to the Commissioners Court may incorporate a request that a separate proposition be submitted at such election as to whether or not the Board of Directors of the District (in the event same is created) shall be authorized to issue bonds for the purposes specified in Section 7. Such petition shall specify the maximum amount of bonds to be issued, their maximum maturity and maximum interest rate, and the same shall be included in the proposition submitted at the election.

#### **Buildings**

Sec. 9. The Board of Directors is hereby given complete discretion as to the type of buildings (both as to number and location) required to establish and maintain an adequate hospital system.

#### **Bonds exempt from taxation**

Sec. 10. In carrying out the purposes of this Act, the District will be performing an essential public function and any bonds issued by it and their transfer, and the issuance therefrom, including any profits made in the sale thereof, shall at all times be free from taxation by the state or any municipality or political subdivision thereof.

#### **Purchases and expenditures**

Sec. 11. The Board of Directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures by and for such hospital district, and also shall be authorized to prescribe all accounting and control procedures and to make such rules and regulations as may be required to carry out the provisions of this Act. All purchases involving the expenditure of more than Two Thousand Dollars (\$2,000) may be made only after advertising in the manner provided by Article 2368a, V.A.T.C.S.

#### **District depository**

Sec. 12. The Board of Directors of the District shall name one or more banks within its boundaries to serve as depository for the funds of the District. All such funds shall, as derived and collected, be im-

For Annotations and Historical Notes, see V.A.T.S.

mediately deposited with such depository bank or banks, except that sufficient funds shall be remitted to the bank or banks for the payment of principal of and interest on the outstanding bonds of the District or other obligations assumed by it and in time that such money may be received by said bank or banks for payment on or prior to the date of maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

#### Annual tax levy

Sec. 13. The Board of Directors shall annually levy a tax of not to exceed the amount hereinabove permitted for the purpose of paying (1) the indebtedness assumed or issued by the District, and (2) the maintenance and operating expenses of the District. In setting such tax rate the Board shall take into consideration the income of the District from sources other than taxation. Upon determination of the amount of tax required to be levied, the Board shall make such levy and certify the same to the Tax Assessor-Collector of Parker County, Texas.

#### Bonds eligible for investment and to secure deposits

Sec. 14. All bonds of the District shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

#### Eminent domain

Sec. 15. The District shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple, or any lesser interest therein, within the boundaries of the District necessary or convenient to the powers, rights and privileges conferred by this Act, in the manner provided by the General Law with respect to condemnation by counties.

#### Assessment and collection of taxes

Sec. 16. The District taxes shall be assessed and collected on county tax values in the same manner as provided by law with relation to county taxes upon all taxable property within said District, subject to hospital district taxation. The Tax Assessor-Collector of Parker County shall be charged and required to accomplish the assessment and collection of all taxes levied by and on behalf of the District. The Assessor-Collector of taxes shall charge and deduct from payments to the hospital district the dues for assessing and collecting the taxes at a rate of not to exceed one per cent (1%) for assessing, and one per cent (1%) for collecting, each based upon the amount collected. Such fees shall be deposited in the officers' salary fund of the county and reported as fees of office of the County Assessor-Collector. Interest and penalties on taxes paid to the hospital district shall be the same as in the case of

county taxes. Discounts shall be the same as allowed by the county. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the District's depository. The Board of Directors shall have the authority to levy the aforesaid tax for the entire year in which said District is established as the result of the election herein provided. The bond of the County Tax Assessor-Collector shall stand as security for the proper performance of his duties as Assessor-Collector of the District, or if in the judgment of the District Board of Directors it is necessary, additional bond payable to the District may be required. In all matters pertaining to the assessment, collection and enforcement of taxes for the District, the County Tax Assessor-Collector shall be authorized to act in all respects according to the laws of the State of Texas relating to state and county taxes.

#### **Legal counsel; salaries and expenses**

Sec. 17. It shall be the duty of the County Attorney, District Attorney or Criminal District Attorney, as the case may be, charged with the duty of representing the county in civil matters, to represent the hospital district in all legal matters; provided, however, that the Board of Directors shall be authorized at its discretion to employ additional legal counsel when the Board deems advisable.

The hospital district shall contribute sufficient funds to the General Fund of the county for the account of the budget of the County Attorney, District Attorney or Criminal Attorney, as the case may be, to pay all additional salaries and expenses incurred by such officer in performing the duties required of him by the District.

#### **Patients; inquiry as to ability to pay; liability of relatives**

Sec. 18. Whenever a patient residing within the District has been admitted to the facilities thereof, the Administrator or Manager shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment in whole or in part, an order shall be made directing such patient or said relatives to pay to the hospital district for the support of such patient a specified sum per week in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The Administrator or Manager shall have power and authority to collect such sums from the estate of the patient or his relatives legally liable for his support in the manner provided by law for collection of expenses in the last illness of a deceased person. If the Administrator or Manager finds that such patient or said relatives are not able to pay either in whole or in part for his care and treatment in such hospital, same shall become a charge upon the hospital district as to the amount of the inability to pay. Should there be any dispute as to the ability to pay or doubt in the mind of the Administrator or Manager, the Board of Directors shall hear and determine same after calling witnesses, and shall make such order or orders as may be proper. Appeals from a final order of the Board shall lie to the District Court. The substantial evidence rule shall apply.

#### **Donations**

Sec. 19. The Board of Directors of the hospital district is authorized on behalf of such District to accept donations, gifts and endowments to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations and provisions as may be prescribed in writing by the donor not inconsistent with proper management and object of the hospital district.

**District alone to incur indebtedness for hospital purposes**

Sec. 20. After creation of the hospital district, neither Parker County, Texas, nor any city or town therein shall thereafter issue bonds or other evidences of indebtedness for hospital purposes or for medical treatment of indigent persons within such boundaries, nor shall such political subdivisions levy taxes for either of such purposes. The said hospital district shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of indigent persons within its boundaries.

**State not to be obligated**

Sec. 21. The support and maintenance of the Parker County Hospital District shall never become a charge against or obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such District.

**Severability clause**

Sec. 22. If any of the provisions of this Act, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**Publication of notice**

Sec. 23. Proof of publication of the notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws, and such notice is hereby found and declared proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 93, ch. 35, emerg. eff. March 18, 1965.

**Title of Act:**

An Act authorizing creation of the Parker County Hospital District; providing that the District shall assume the outstanding debt of Parker County incurred for hospital purposes and any outstanding debt incurred by any city or town within said county for such purpose; providing for an election within the area of the proposed hospital district and making certain findings in connection therewith; providing for the levy of a tax for the District for the purpose of maintaining and operating the District, paying any indebtedness assumed or issued by the District; providing for the issuance of bonds by the District for the purpose of the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same for hospital purposes, and for any and all such purposes and for refunding bonds and prescribing limitations on such power; providing bonds issued or assumed by the District shall be

lawful investments and collateral for certain funds; providing for the appointment of a governing body of such hospital district, their tenure of office and powers and duties of such governing body; imposing certain duties upon the County Tax Assessor-Collector, the County and District Attorney or Criminal District Attorney and the Commissioners Court of Parker County; prescribing a procedure for the adoption of a budget, the selection of a depository and the power of eminent domain which power is conferred upon the District; prescribing a fiscal year; withdrawing authority for the sale of bonds for hospital purposes within the District by any city, town or by Parker County and restricting their power of taxation for hospital purposes and restricting the power to levy taxes for the care of indigents under certain circumstances; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 93, ch. 35.

**Art. 4494q—26. Matagorda County Hospital District**

**Constitutional authority**

Section 1. Pursuant to authority granted by the provisions of Section 9, Article IX, Constitution of the State of Texas, Matagorda County Hospital District of Matagorda County, Texas, is hereby authorized to be created and as created shall have boundaries coextensive with the boundaries of Matagorda County, Texas.

**Purposes of district; assumption of indebtedness; conveyance of hospital property; limiting powers of municipalities**

Sec. 2. The District hereby authorized to be created shall provide for the establishment of a hospital or hospital system within its boundaries to furnish medical and hospital care to persons residing in said District by the purchase, construction, acquisition, repair or renovation of buildings and improvements and the equipping of same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants. Any and all lands, buildings, improvements and equipment in said District jointly or separately owned by Matagorda County and all cities or towns in said District which incurred outstanding indebtedness for hospital purposes prior to the creation of said District shall become the property of the District if the proposition set out in Section 3 hereof carries, and title to said lands, buildings, improvements and equipment shall vest in the District. All obligations under contract legally incurred by said County and said cities or towns, or any of them, for the building of, or the support and maintenance of, hospital facilities in said District, prior to the creation of said District but outstanding at the time of the creation of said District, shall be assumed and discharged by it without prejudice to the rights of third parties. Any outstanding bonded indebtedness incurred by said County and said cities or towns, or any of them, in the acquisition of such lands, buildings, improvements and equipment, or in the construction and equipping of such hospital facilities, shall be assumed by the District and become the obligation of the District. Said Matagorda County and said cities or towns, or any of them, which issued such bonds shall be by the District relieved of any further liability for the payment thereof, or for providing interest and sinking fund requirements thereon; provided that nothing herein contained shall limit or affect any of the rights of any of the holders of such bonds against said County or said city or town, as the case may be, in the event of default in the payment of the principal of or interest on any of such bonds in accordance with their respective terms. As soon as practicable after the District is created and authorized at the election provided for in Section 3 hereof and there shall have been appointed and qualified the Board of Hospital Managers hereinafter provided for, the Matagorda County Commissioners Court and the governing body of each of said cities or towns, as the case may be, shall execute and deliver to said District an instrument in writing conveying to said District all the hospital property heretofore mentioned, including said lands, buildings, improvements and equipment. After establishment of such District, no other municipality or political subdivision in Matagorda County shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of the District.

**Election; ballots**

Sec. 3. Such District shall not be created nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election shall be initiated by a petition to the Matagorda County Commissioners Court signed by at least fifty (50) qualified property taxpaying electors residing within the boundaries of the proposed District. Within ten (10) days after the presentation of said petition to the Commissioners Court of Matagorda County, Texas, said Court shall order an election to be held within said District not less than thirty (30) days from the date said election is ordered. The order calling such election shall specify the date and place or places of holding same, the form of ballot and the pre-

For Annotations and Historical Notes, see V.A.T.S.

siding judge for each voting place. At such election there shall be submitted to the qualified property taxpaying electors of said proposed District the proposition of whether or not Matagorda County Hospital District of Matagorda County, Texas, shall be created with authority to levy annual taxes at a rate not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollars (\$100) valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds, the indebtedness assumed by it and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting in said election in favor of the proposition shall be sufficient for its adoption. The ballots of said election shall conform to the requirements of the Texas Election Code, as amended, and shall have printed thereon the following:

"FOR the creation of Matagorda County Hospital District of Matagorda County, Texas; providing for the levy of annual taxes at a rate not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollars (\$100) valuation of all taxable property within such District; and the assumption by said Hospital District of the outstanding indebtedness previously incurred for hospital purposes by Matagorda County and cities and towns in said District;

"AGAINST the creation of Matagorda County Hospital District of Matagorda County, Texas; providing for the levy of annual taxes at a rate not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollars (\$100) valuation of all taxable property within such District; and the assumption by said Hospital District of the outstanding indebtedness previously incurred for hospital purposes by Matagorda County and cities and towns in said District."

Notice of said election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in the area of the proposed District, once a week for two consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date set for the election. The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose.

**Canvass of returns; board of hospital managers; administrator of district**

Sec. 4. After such creation and tax levy election is held, the officials conducting same shall make due returns to the Matagorda County Commissioners Court which shall canvass the returns thereof. If a majority of the qualified property taxpaying electors voting at said election voted in favor of the proposition to create said District and levy said tax, said Court shall so find and declare said District established and created. As soon as possible thereafter, the Commissioners Court of Matagorda County shall appoint a Board of Hospital Managers, consisting of not less than five (5) nor more than seven (7) members, who shall serve for a term of two (2) years, with overlapping terms if desired, and with initial appointment to terms of office arranged accordingly, without pay, and whose duties shall be to manage, control and administer the hospital or hospital system of the District. The board of managers shall have the power and authority to promulgate rules and regulations for the operation of the hospital or hospital system. The board shall appoint a general manager, to be known as the Administrator of the District. The Administrator shall hold office for a term not exceeding two (2) years and shall receive such compensation as may be fixed by the board. The Administrator shall be subject to removal at any time by the board. The Administrator shall, before entering into the discharge of his duties, execute a bond payable to the District, in the amount of not less than Ten Thousand Dollars (\$10,000), conditioned that he shall well and faithfully perform the duties required of him and containing such other condi-

tions as the board may require. The Administrator shall perform all duties which may be required of him by the board, and shall supervise all of the work and activities of the District, and have general direction of the affairs of the District, within such limitations as may be prescribed by the board. The Board of Managers shall have the authority to employ such doctors, technicians, nurses, and other employees of every kind and character as may be deemed advisable for the efficient operation of the hospital or hospital system; provided that no contract or term of employment shall exceed the period of two (2) years. The Board of Managers, with the approval of the Matagorda County Commissioners Court, shall be authorized to contract with any county for care and treatment of such county's sick, diseased and injured persons, and with the state and agencies of the Federal government for the care and treatment of such persons for whom the state and such agencies of Federal government are responsible. Further, under the same conditions, the Board of Managers may enter into such contracts with the state and Federal government as may be necessary to establish or continue a retirement program for the benefit of its employees. A majority of the Board of Hospital Managers will constitute a quorum for the transaction of any business. From among its members, the board shall choose a Chairman, who shall preside, or in his absence a Chairman Pro-Tem shall preside; and the Administrator or any member of the board may be appointed Secretary. The board shall require the Secretary to keep suitable records of all proceedings of each meeting of the board. Such records shall be read and signed after each meeting by the Chairman or the member presiding, and attested by the Secretary. The board shall have a seal, on which shall be engraved the name of the hospital district; and said seal shall be kept by the Secretary and used in authentication of all acts of the board.

#### **Bond election**

Sec. 5. A bond election may also be held on the same day as said creation and tax levy election, and said petition mentioned in Section 3 hereof may also include a proposition on the issuance of bonds of said District. Such bond election may be called by a separate election order, or as a part of the order calling such election provided for in said Section 3. The provisions of Section 10 hereof shall apply to such bond election, except that such election shall be called by said Matagorda County Commissioners Court and the returns canvassed by said Court. If the bonds are authorized at said election, they shall then be issued by the board of managers, assuming that the proposition specified in Section 3 is favored by a majority vote. With the exception of bonds authorized by this Section 5, all bond elections shall be ordered and the returns thereof shall be canvassed by said Board of Managers.

#### **Taxation; purposes**

Sec. 6. Upon the creation of such District, the Board of Managers shall have the power and authority, and it shall be their duty, to levy on all property subject to District taxation for the benefit of the District, a tax at a rate not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollars (\$100) valuation of all taxable property within such District, for the purposes of: (1) meeting the requirements of the District's bonds and the indebtedness assumed by it; (2) providing for the District's maintenance and operating expenses; and (3) making improvements and additions to its hospitals or hospital system, and for the acquisition of the necessary sites therefor, by gift, purchase, lease or condemnation. It is provided specifically that the support and maintenance of the District's hospital system shall never become a charge against or obligation of the State of Texas.



**Levy and collection of taxes; assessor's fees; deposit of funds**

Sec. 7. Not later than October 1 of each year the Board of Managers shall levy the tax on all property within the District which is subject to taxation and shall immediately certify such rate to the tax assessor and collector of Matagorda County. The tax so levied shall be collected, on all property subject to District taxation, by said assessor and collector on said Matagorda County tax values, and in the same manner and under the same conditions as said county taxes. The amount of said annual District tax may be included on the annual county tax statements mailed or sent out by said Matagorda County assessor and collector. Said assessor and collector shall charge and deduct from payments to such District the fees for assessing and collecting the tax at the rate of not exceeding one per cent (1%) of the amounts collected as may be determined by the District's Board of Managers but in no event in excess of Five Thousand Dollars (\$5,000) for any one fiscal year. Interest and penalties on taxes paid such District shall be the same as for said county taxes. The remainder of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the District's depository and may be withdrawn as directed by said District's Board of Managers. All other income of such District shall be deposited in said depository. Said board shall have authority to levy said tax for the entire year in which said District is established to obtain funds to initiate the operation of the District.

**District depository**

Sec. 8. As soon as practicable after the election and qualification of the first Board of Managers of said District, said board shall by resolution designate a bank within the County as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of County funds. Such depository shall serve for a period of two (2) years and until a successor has been selected.

**Eminent domain**

Sec. 9. Said District shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of said District, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act in the manner provided by General Law with respect to condemnation; provided that said District shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph 2 in Article 3268, Revised Civil Statutes of Texas, 1925, as amended, or to make the bond required therein. In condemnation proceedings being prosecuted by said District, said District shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supercedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

**Bonds**

Sec. 10. The Board of Managers shall have the power and authority to issue and sell, as the obligations of such District, and in the name and upon the faith and credit of such District, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any or

all of such purposes. Said bonds shall be sold at such time or times, in such manner, at such price and on such terms as may be determined by said board. A sufficient annual tax shall be levied to create an interest and sinking fund to pay the interest on and principal of said bonds as same mature, providing said tax together with any other taxes levied for said District shall not exceed a rate of Seventy-Five Cents (75¢) on the One Hundred Dollars (\$100) valuation of all taxable property within said District in any one year. Such bonds shall be executed in the name of the District and on its behalf by the Chairman of the Board of Managers, countersigned by the Secretary of said board, and shall be subject to the same requirements in the manner of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of counties of this state. Upon the approval of such bonds by the Attorney General of Texas and registration by the Comptroller, the same shall be incontestable for any cause. Until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit (either or both). No bonds (except refunding bonds) shall be issued by such District until authorized by a majority vote of the duly qualified resident electors of said District who own taxable property within said District and who have duly rendered the same for taxation, voting in an election called and held for such purpose. Such election shall be called (except as provided in Section 5) by the Board of Managers on its own motion, and the order calling said election shall specify the date of same, the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest (not to exceed six per cent (6%) per annum), and the maximum maturity date of such bonds (not to exceed forty (40) years from their date or dates of issuance). Notice of said election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation within the area of such District once a week for two consecutive weeks, the date of the first publication to be at least fourteen (14) days prior to the date set for said election. Said bonds may be made optional for redemption prior to their maturity date at the discretion of the Board of Managers. The District may, without election, issue bonds to refund and/or pay off any validly issued and outstanding District bonds, provided that such refunding bonds shall bear interest at the same rate or at a lesser rate than the bonds being refunded, unless it be shown mathematically that a savings will result in the total amount of interest to be paid.

#### **Inspection of district**

Sec. 11. After the creation and establishment of said District, it shall be subject to inspection by any duly authorized representative of the State Board of Health, the State Department of Public Welfare or other state agency created for a similar purpose that may hereafter be created, and resident officers shall admit such representatives into all District facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to said District.

#### **Bonds eligible for investment and to secure deposits**

Sec. 12. All bonds issued by said District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan association, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts or other political corporations or sub-

*For Annotations and Historical Notes, see V.A.T.S.*

divisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons pertinent thereto.

#### **Suits**

Sec. 13. The hospital district created under this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this state in the name of such District.

#### **Donations**

Sec. 14. Not by way of limitation, the Board of Managers of said District is authorized in its behalf to accept donations, gifts and endowments for the District to be held in trust and administered by the Board of Managers for such purposes and under such direction, limitations and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of the District.

#### **Violation of constitution; alternative procedures**

Sec. 15. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitution, and all things done under this Act shall be in such manner as will conform thereto, whether expressly so provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the District or the validity of any other provisions of this Act, and the Legislature hereby declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

#### **Auditor**

Sec. 16. The Matagorda County Auditor shall be the auditor for said District, and he shall make such reports and perform such accounting services as may be reasonably incident or necessary to the proper conduct of the business of said District. The compensation of said auditor shall be as determined by said District's Board of Hospital Managers, taking into consideration the amount and value of such services performed by said auditor for said District.

#### **Publication of notice**

Sec. 17. Proof of publication of the Constitutional Notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of Local and Special Laws and is hereby found and declared to be proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 106, ch. 41, emerg. eff. March 24, 1965.

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

An Act relating to the creation, administration, powers and duties, and financing of the Matagorda County Hospital District

of Matagorda County, Texas; and declaring an emergency. Acts 1965, 59th Leg., p. 106, ch. 41.

### **Art. 4494q—27. Uvalde County Hospital District**

#### **Constitutional authority**

Section 1. In accordance with the provisions of Article IX, Section 9, Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a Hos-

pital District within the State of Texas, to be known as Uvalde County Hospital District, and the boundaries of said District shall be coextensive with the boundaries of Uvalde County (hereinafter referred to as the "County"), and said District shall have the powers and responsibilities provided by the aforesaid Constitutional provision.

**Purpose of district; election; ballots; notice of election**

Sec. 2. That said District hereby provided for shall admit patients to the hospital who are inhabitants of the District and who are able to pay for medical and hospital care and shall assume full responsibility for providing medical and hospital care for the eligible needy inhabitants of the District who are not able to pay all or a part of the cost of such medical and hospital care; provided, however, that such Hospital District shall not be created unless and until an election is duly held in said County for such purpose, which said election may be initiated by the Commissioners Court upon its own motion or upon a petition of fifty (50) resident legally qualified property taxpaying voters, to be held not less than thirty (30) days from the time said election is ordered by the Commissioners Court. At such election there shall be submitted to the resident legally qualified property taxpaying voters the proposition of whether or not a Hospital District shall be created in the County; and a majority of the resident legally qualified property taxpaying electors participating in said election voting in favor of the proposition shall be necessary. The ballots for said election shall have printed thereon:

"FOR the creation of a Hospital District; providing for the levy of a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation; and providing for the assumption by such District of all outstanding bonds heretofore issued by Uvalde County for hospital purposes"; and

"AGAINST the creation of a Hospital District; providing for the levy of a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation; and providing for the assumption by such District of all outstanding bonds heretofore issued by Uvalde County for hospital purposes."

At said election there may also be submitted the question of the issuance of bonds of the District in an amount that may be prayed for in the aforesaid petition or as determined by the Commissioners Court if said election is ordered on its own motion; and in the event the question of the issuance of bonds is submitted at said election, the ballots shall have printed thereon:

"FOR the issuance of bonds of the District in the amount of \$\_\_\_\_\_ and the levying of the tax in payment thereof; provided, however, that said tax together with the tax for maintenance and operation purposes shall never exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation of taxable property in the District; and

"AGAINST the issuance of bonds of the District in the amount of \$\_\_\_\_\_ and the levying of the tax in payment thereof; provided, however, that said tax together with the tax for maintenance and operation purposes shall never exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation of taxable property in the District."

Notice of such election shall be posted at the County Courthouse door and at a public place in each Commissioner's Precinct in the County at least thirty (30) days prior to the date of the election and shall be published in a newspaper of general circulation published in the County, on the same day in each of three successive weeks, the date of the first publication to be not less than thirty (30) days prior to the date of the election.

The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose.

**Board of hospital managers; administrator**

Sec. 3. As soon as the Hospital District is created and authorized at the election hereinabove provided, the Commissioners Court shall appoint a Board of Hospital Managers, consisting of six (6) members, three of whom shall serve for a term of two (2) years and three of whom shall serve for a term of one (1) year; thereafter, three members shall be appointed each year to serve for a term of two (2) years. Failure of any member of the Board of Hospital Managers to attend three (3) consecutive regular meetings of the Board shall cause a vacancy in his office, unless such absence is excused by formal action of the Board. In the event a vacancy occurs on the Board of Hospital Managers, the remaining members shall appoint a member to fill such vacancy for the remainder of the term of office so vacated. The Board of Hospital Managers shall serve without compensation but may be reimbursed for their actual and necessary traveling and other expenses incurred in the performance of their duties as determined by the Board of Hospital Managers. The duties of the Board of Hospital Managers shall be to manage, control and administer the hospital or hospital system of the Hospital District. The Board of Hospital Managers shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the hospital or hospital system, including the authority to adopt and amend bylaws governing the proceedings of the Board.

The Board shall appoint a general manager, to be known as the Administrator of the Hospital District, and who shall receive such compensation as may be fixed by the Board. The Administrator shall be subject to removal at any time by the Board. The Administrator shall, before entering into the discharge of his duties, execute a bond payable to the District, in the amount of not less than Ten Thousand Dollars (\$10,000.00), conditioned that he shall well and faithfully perform the duties required of him, and containing such other conditions as the Board may require. The Administrator shall perform all duties which may be required of him by the Board, and shall supervise all of the work and activities of the District, and have general direction of the affairs of the District, within such limitations as may be prescribed by the Board. He shall be a person qualified by training and experience for the position of Administrator.

The Board of Hospital Managers shall give the authority to the Administrator to employ such employees of every kind and character as may be deemed advisable for the efficient operation of the hospital or hospital system.

The Board of Hospital Managers shall be authorized to contract with any county for care and treatment of the county's sick, diseased and injured persons, and with the State and agencies of the Federal Government for the care and treatment of such persons for whom the State and such agencies of the Federal Government are responsible. Further, under the same conditions, the Board of Hospital Managers may enter into such contracts with the State and Federal Government as may be necessary to establish or continue a retirement program for the benefit of its employees.

The Board of Hospital Managers may in addition to retirement programs authorized by this Act establish such other retirement program for the benefit of its employees as it deems necessary and advisable.

A majority of the Board of Hospital Managers present shall constitute a quorum for the transaction of any business. From among its members, the Board shall choose a Chairman, who shall preside; or in his absence a Chairman Pro Tem shall preside; and the Administrator or any member of the Board may be appointed Secretary. The Board shall require the Secretary to keep suitable records of all proceedings of each meeting of the

Board. Such records shall be read and signed after each meeting by the Chairman or the member presiding, and attested by the Secretary. The Board shall have a seal, on which shall be engraved the name of the Hospital District; and said seal shall be kept by the Secretary and used in authentication of all acts of the Board.

#### **Purchases and expenditures**

Sec. 4. The Board of Hospital Managers shall have the power to prescribe the method and manner of making purchases and expenditures by and for such Hospital District and also shall be authorized to prescribe all accounting and control procedures. The Board shall cause an annual audit to be made of the books and records of the District as soon as practicable after the close of each fiscal year, such audit to cover such fiscal year, and to be made by an independent public accountant. The Hospital District shall pay all salaries and expenses necessarily incurred by the Board or any of its officers and agents in performing any duties which may be prescribed or required under this Section. It shall be the duty of any officer, employee or agent of the Board to perform and carry out any function or service prescribed by the Board hereunder.

#### **Assistant to administrator**

Sec. 5. In the event of incapacity, absence or inability of the Administrator to discharge any of the duties required of him, the Board may designate an assistant to the Administrator to discharge any duties or functions required of the Administrator. Such assistant or other persons shall give bond and have such limitations upon his authority as may be fixed by the order of the Board.

#### **Annual report and budget**

Sec. 6. Once each year, as soon as practicable after the close of the fiscal year, the Administrator of the Hospital District shall report to the Board of Hospital Managers and the Commissioners Court, a full sworn statement of all moneys and choses in action received by such Administrator and how disbursed or otherwise disposed of. Such report shall show in detail the operations of the District for the year. Under the direction of the Board of Hospital Managers, he shall prepare an annual budget which shall be approved by the Board of Hospital Managers.

#### **Eminent domain**

Sec. 7. The Hospital District organized in pursuance of this Act shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said District, necessary or convenient to the exercise of the rights, powers, privileges, and functions conferred upon it by this Act; in the manner provided by General Law with respect to condemnation; provided that the said District shall not be required to make deposits in the registry of the trial court of the sum required by paragraph numbered 2 in Article 3268, Revised Civil Statutes of Texas, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the said District, the District shall not be required to pay in advance or give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas or to any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

#### **District depository**

Sec. 8. Within thirty (30) days after the appointment of the Board of Hospital Managers of the District and each two years thereafter the

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Board shall select a depository or depositories for such District; such depository or depositories shall secure all funds of the District in the manner now provided for the security of county funds.

#### Inspection of district

Sec. 9. The Hospital District established or maintained under the provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health, and resident officers shall admit such representatives into all Hospital District facilities and give them access on demand to all records, reports, books, papers, and accounts pertaining to the Hospital District.

#### Legal counsel

Sec. 10. The Board of Hospital Managers shall be authorized to employ legal counsel to represent the Hospital District in all legal matters whenever the Board deems such action advisable.

#### District alone to incur indebtedness for hospital purposes

Sec. 11. Neither the County nor any city therein shall, after the Hospital District has been organized in pursuance of this Act, levy any tax for hospital purposes; and such Hospital District shall be deemed to have assumed full responsibility for the furnishing of medical and hospital care for the eligible needy and indigent persons residing in said Hospital District from the date that taxes are collected for the Hospital District.

That portion of delinquent taxes owed the County on levies for present county hospital system shall continue to be paid to the Hospital District by the County as collected and shall be applied by the Hospital District to the purposes for which such taxes originally were levied.

#### Patients; inquiry as to ability to pay; liability of relatives

Sec. 12. Whenever a patient has been admitted to the facilities of the Hospital District from the County, the Administrator shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the Hospital District for the care of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the usual and customary charges for services rendered. The Administrator shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the Administrator finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the Hospital District. Should there be a dispute as to the ability to pay, or doubt in the mind of the Administrator, the County Court shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the District Court by either party to the dispute.

#### Levy and collection of tax; bond of assessor and collector; interest and penalties

Sec. 13. The Board of Hospital Managers shall have the power and authority, and it shall be its duty, to levy on all property subject to Hospital District taxation, a tax of not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation of all taxable property within the Hospital District for the purpose of (1) paying the interest on and creating a sinking fund for bonds which may have been assumed or which may be issued by the Hospital District for hospital purposes as herein

provided; (2) providing for the operation and maintenance of the hospital or hospital system; and (3) making further improvements and additions to the hospital system and acquiring necessary sites therefor, by purchase, lease or condemnation.

The tax so levied shall be collected on all property subject to Hospital District taxation by the Assessor and Collector of Taxes for the County on the county values, and in the same manner, and under the same conditions, as county taxes; provided, however, that the Hospital District may appoint its own Assessor and Collector of Taxes and may assess and collect taxes in the same manner as now provided by General Law for independent school districts. When the County Assessor and Collector of Taxes is serving as Assessor and Collector for the Hospital District, he shall charge and deduct from payments to the Hospital District the fees for assessing and collecting the tax at the rate of one and one-half per cent (1½%) of the amounts collected. Such fees shall be deposited in the County's General Fund, and shall be reported as fees of office of the Tax Assessor and Collector.

The Assessor and Collector of Taxes shall execute a bond payable to the Hospital District in an amount prescribed by the Board of Hospital Managers, which shall be not less than the maximum amount of money which will be held by such Assessor and Collector of Taxes at any one time. A report shall be filed with the Board of Hospital Managers on the first day of each month by the Assessor and Collector of Taxes showing the amount of taxes collected during the previous month and the amount so collected shall be deposited by the Assessor and Collector of Taxes in the District's depository or depositories to the credit of the Hospital District.

Interest and penalties on taxes paid to the Hospital District shall be the same as in the case of county taxes. Discounts shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the District depository or depositories; and such funds shall be withdrawn only as provided herein. All other income of the Hospital District shall be deposited in like manner with the District depository or depositories.

The Board of Hospital Managers shall have the authority to levy the tax aforesaid for the entire year in which the said Hospital District is established for the purpose of securing funds to initiate the operation of the Hospital District, and to pay the principal of and interest on all bonds issued or assumed by the District.

#### **Authorization of bonds**

Sec. 14. The Board of Hospital Managers shall have the power and authority to issue and sell, as the obligations of such Hospital District, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same, for hospital purposes and for any or all of such purposes; provided that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures and that said tax, together with any other taxes levied for said District, shall not exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation of taxable property in any one year. Such bonds shall be executed in the name of the Hospital District and on its behalf by the Chairman of the Board of Hospital Managers, and countersigned by the Secretary of the Board, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of the County; and the approval of such bonds by the Attorney General shall have the same force and effect



as is by law given to his approval of bonds of the County. No bonds shall be issued by such Hospital District (except refunding bonds) until authorized by a majority vote of the legally qualified property taxpaying voters residing in such Hospital District voting at an election called and held in accordance with the provisions of Chapter 1, Title 22, of the Revised Civil Statutes of the State of Texas (1925), as amended, relating to county bonds. Such election shall be called by the Board of Hospital Managers, and such Board shall designate the places for holding said election and shall name the persons who shall conduct said election, in the manner provided by General Law. In the event the initial bonds are voted at an election called by the Commissioners Court at the time of the election for the creation of the District, such initial election shall be governed by the provisions of Section 2 hereof.

In the manner hereinabove provided, the bonds of such Hospital District may, without the necessity of any election therefor, be issued for the purpose of refunding or paying off any bonded indebtedness theretofore assumed by the Hospital District and any bonds theretofore issued by the Hospital District; such refunding bonds may be sold and the proceeds thereof applied to the payment of any such outstanding bonds or may be exchanged in whole or in part for not less than a like amount of said outstanding bonds and interest matured thereon, but unpaid; provided the average interest cost per annum on the refunding bonds, computed in accordance with the recognized standard bond interest cost tables, shall not exceed the average interest cost per annum so computed upon the bonds to be discharged out of the proceeds of the refunding bonds, unless the total interest cost on the refunding bonds, computed to their respective maturity dates, is less than the total interest cost so computed on the bonds to be discharged out of such proceeds. In the foregoing computations, any premium or premiums required to be paid upon the bonds to be refunded as a condition to the payment in advance of their stated maturity dates shall be taken into account as an addition to the net interest cost to the Hospital District of the refunding bonds.

**Transfer of hospital facilities; assumption of indebtedness and assets**

Sec. 15. Any lands, buildings or equipment that may be owned by the County, and by which medical services or hospital care, including geriatric care, are furnished to the indigent or needy persons of the County, shall become the property of the Hospital District; and title thereto shall vest in the Hospital District; and any funds of the County which are the proceeds of any bonds assumed by the Hospital District, as hereby provided, shall become the funds of the Hospital District; and title thereto shall vest in the Hospital District; and there shall vest in the Hospital District and become the funds of the Hospital District the unspent portions of any funds theretofore set up or appropriated by budget or otherwise by the County for the support and maintenance of the hospital facilities for the year within which the Hospital District comes into existence, thereby providing such Hospital District with funds with which to maintain and operate such facilities for the remainder of such year. All obligations under contract legally incurred by the County for the building of, or the support and maintenance of, hospital facilities, prior to the creation of the said District but outstanding at the time of the creation of the District, shall be assumed and discharged by it without prejudice to the rights of third parties, provided that the management and control of the property and affairs of the present hospital system shall continue in the Board of Managers of the present hospital system until appointment and organization of the Board of Hospital Managers of the Hospital District, at which time the Board of Managers of the present hospital system shall turn over all records, property and affairs of said hospital system to the Board of Hospital Managers of the Hospital District.

Any outstanding bonded indebtedness incurred by the County in the acquisition of such lands, buildings and equipment, or in the construction and equipping of such hospital facilities, together with any other outstanding bonds issued by the County for hospital purposes, and the proceeds of which are in whole or in part still unspent, shall be assumed by the Hospital District and become the obligation of the Hospital District; and the County shall be by the Hospital District relieved of any further liability for the payment thereof, or for providing interest and sinking fund requirements thereon; provided that nothing herein contained shall limit or affect any of the rights of any of the holders of such bonds against the payment of the principal or interest on any of such bonds in accordance with their respective terms.

The Commissioners Court, as soon as the Hospital District is created and authorized at the election hereinabove provided, and there have been appointed and qualified the Board of Hospital Managers hereinabove provided for, shall execute and deliver to the Hospital District, to wit: to its said Board of Hospital Managers, an instrument in writing conveying to said Hospital District the hospital property, including lands, buildings and equipment; and shall transfer to said Hospital District the funds hereinabove provided to become vested in the Hospital District, upon being furnished the certificate of the Chairman of the Board to the fact that a depository for the District's funds has been selected and has qualified; which funds shall, in the hands of the Hospital District and of its Board of Hospital Managers, be used for all or any of the same purposes as, and for no other purposes than, the purposes for which the County could lawfully have used the same had they remained the property and funds of such County.

#### **Donations**

Sec. 16. The Board of Hospital Managers of the Hospital District is authorized on behalf of said Hospital District to accept donations, gifts, and endowments for the Hospital District, to be held in trust and administered by the Board of Hospital Managers for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of the Hospital District.

#### **Bonds eligible for investment and to secure deposits**

Sec. 17. All bonds (including refunding bonds) issued by or assumed by the District authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, fiduciaries, building and loan associations, insurance companies, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

#### **Publication of notice**

Sec. 18. The Legislature hereby finds affirmatively that thirty (30) days' public notice was duly given in accordance with the provisions of Article IX, Section 9, of the Constitution of the State of Texas, of the intention to apply to this Legislature to enact a law providing for the creation, establishment, maintenance and operation of the Hospital District herein provided for.

#### **Partial invalidity**

Sec. 19. If any word, phrase, sentence, section, portion or provision of this Act or the application thereof to any person or circumstance shall

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be held to be invalid or unconstitutional, the remainder of this Act, and the application of such word, phrase, sentence, section, portion or provision to other persons or circumstances, shall not be affected thereby. In the event any of the provisions hereof shall be in conflict with any other law of this State, the provisions of this Act shall prevail. Acts 1965, 57th Leg., p. 152, ch. 64, emerg. eff. April 2, 1965.

**Title of Act:**

An Act authorizing the creation of a Hospital District comprising all of Uvalde County, Texas, and the assumption of all outstanding indebtedness of Uvalde County incurred for hospital purposes; providing that such District shall assume full responsibility for medical and hospital care for the eligible needy residing within the District and authorizing the admission to its hospital of persons who are able to pay; providing that such District shall not be created until authorized by a majority vote of the resident legally qualified property taxpaying voters in said District at an election called by the Commissioners Court on its own motion or upon petition, at which election the proposition for the issuance of bonds of the District may also be submitted; prescribing the form of ballot for said election; providing that failure of any proposition at any such election shall not prohibit the calling and holding of subsequent elections for the same purpose; authorizing the levy of a tax by said District not exceeding Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation of taxable property for the purpose of maintaining and operating a hospital or hospitals and making additions and improvements thereto; providing for the appointment of a Board of Hospital Managers and prescribing its powers and duties; authorizing the establishment of a retirement system for employees of the District; granting the power of eminent domain to the District; providing for the selection of a depository or depositories for funds of the District; prescribing the duties of officers and employees of the District and other officers of the County and State with respect to the District; prohibiting the levy of any tax by Uvalde County, or any city therein, for hospital purposes after the creation of the District; providing the method of assessing and collecting taxes; authorizing the issuance of bonds of the District and prescribing the procedure therefor; authorizing the issuance of refunding bonds by the District; authorizing the conveyance of all hospital properties by Uvalde County to the Hospital District; authorizing the Board of Hospital Managers to accept donations, gifts, and endowments for the Hospital District; making bonds of the District eligible for investment of certain funds and as security for certain deposits; making a finding that local notice has been properly given; providing a savings clause; and declaring an emergency. Acts 1965, 59th Leg., p. 152, ch. 64.

**Art. 4494q—28. Palo Pinto County Hospital District**

**Constitutional authority**

Section 1. In accordance with the provisions of Article IX, Section 9, Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a hospital district within the State of Texas, to be known as the Palo Pinto County Hospital District with boundaries coextensive with the boundaries of Palo Pinto County, Texas.

**Purpose of district; election; ballots**

Sec. 2. That said district hereby provided for shall assume full responsibility for providing medical and hospital care for the needy residing within the district; provided, however, that said hospital district shall not be created unless and until an election is duly held in the district for such purpose, which said election shall be initiated by order of the Commissioners Court upon its own motion or upon receipt by it of a petition of fifty (50) resident qualified property taxpaying voters.

The order calling the election shall specify the time and place or places of holding same, the form of ballot and the presiding judge for each voting place. At such election there shall be submitted to the qualified property taxpaying electors the proposition of whether or not Palo Pinto County Hospital District shall be created with authority to levy annual taxes at a rate not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such district for the purpose of meeting the requirements of the district's bonds and its maintenance and operating expenses, and a majority of the

qualified property taxpaying electors of the district voting in said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

“FOR the creation of the Palo Pinto County Hospital District, and providing for the levy of annual taxes not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such District.”

“AGAINST the creation of the Palo Pinto County Hospital District, and providing for the levy of annual taxes not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such District.”

Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in Palo Pinto County Hospital District once a week for two (2) consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election.

The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose by the Commissioners Court upon its own motion or upon receipt by it of a petition of fifty (50) resident qualified property taxpaying voters.

#### Canvass of returns

Sec. 3. Within ten (10) days after such election is held the Commissioners Court shall convene and canvass the returns of the election, and if a majority of the qualified property taxpaying electors voting at said election voted in favor of the proposition, they shall so find and declare the hospital district established and created.

#### Board of directors; chief of staff; terms of office; oath and bond; officers of board; vacancies; expenses

Sec. 4. If so established and created, said District shall be governed, managed and controlled by a Board of Directors composed of seven (7) members, all of whom shall have the same rights and responsibilities with respect to voting and all other matters. The Chief of Staff of the hospital system to be owned and operated by the District shall be elected by the medical staff thereof not less frequently than every two (2) years, and one position on the Board of Directors of said District shall at all times be occupied by the Chief of Staff thus elected, except for the initial occupant of this position, who shall be Edward F. Yeager, M.D. Said initial occupant shall serve as director in this position until such time as said Chief of Staff has been elected, which shall occur no later than two (2) years after the creation of said District, whereupon the person thus elected, and his successors, respectively, shall, ex officio, succeed to this position on the Board of Directors and shall each serve for a term not to exceed two (2) years from the date of their respective selection as Chief of Staff and until their respective successors shall be elected by said medical staff and shall qualify. The remaining initial members of the Board of Directors shall be Samuel Hawes, C. G. Lee, William A. O'Quin, M.D., Perry Horton, Raymond Thomas, and D. B. Baum, who shall serve as such directors of the District until the first Saturday in April following the establishment and creation of the District at which time the first regular election for directors shall be held and six (6) directors shall be elected as hereinafter provided. The six (6) positions thus initially occupied shall be, for the purposes of this Act, known as the “elective positions” on the Board of Directors, and the persons occupying said positions shall be known as “elective directors.” The three (3) elective directors receiving the highest vote at such first election shall serve for two (2) years, and the other three (3) elective directors shall serve for one year. In case of a tie vote, the director or directors who are to serve

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for a one year term and a two (2) year term, respectively, shall be determined by lot. Thereafter, all elective directors shall serve for a period of two (2) years and until their successors have been duly elected or appointed and qualified. No person shall be appointed or elected to the elective positions on the Board of Directors of said Hospital District unless he is a resident thereof and owns land subject to taxation therein and unless at the time of such election or appointment he shall be more than twenty-one (21) years of age.

Each member of the Board of Directors shall qualify by executing the Constitutional Oath of Office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to said District conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the District for safekeeping.

The Board of Directors shall organize by electing one of their number as president and one of their number as secretary. Any four (4) members of the Board of Directors shall constitute a quorum and a concurrence of four (4) members shall be sufficient in all matters pertaining to the business of the District. All vacancies in the elective positions of directors shall be filled for the unexpired term by appointment made by the remainder of the Board of Directors. In the event the number of directors shall be reduced to less than four (4) for any reason, the remaining directors shall immediately call a special election to fill the elective positions which are vacant, and upon failure to do so a district court may, upon application of any voter or taxpayer of the District, issue a mandate requiring that such election be ordered by the remaining directors.

A regular election for the election of directors to the elective positions on the board shall be held on the first Saturday in April of the year following the creation of the District and on the first Saturday in April in each year thereafter. Notice of each such election shall be published in a newspaper of general circulation in the county one time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for elective director shall file a petition, signed by not less than twenty-five (25) qualified voters asking that such name be printed on the ballot, with the secretary of the Board of Directors of the District. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election.

All members of the Board of Directors shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the entire Board of Directors. As amended Acts 1965, 59th Leg., p. 1140, ch. 536, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### **Levy and collection of tax**

Sec. 5. The board of directors of such hospital district shall have the power and authority, and it shall be their duty to levy on all property subject to hospital district taxation for the benefit of the district at the same time taxes are levied for county purposes, using county values and the county tax roll, a tax of not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within the hospital district, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds and other obligations which may be issued or assumed by the hospital district for hospital purposes as herein provided; (2) providing for the operation and maintenance of the hospital district and hospital system; and (3) for the purpose of making further improvements and additions to the hospital system, and, for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

Not later than October 1st of each year, the board of directors shall levy the tax on all taxable property within the district which is subject to taxation and shall immediately certify such tax rate to the tax assessor and collector of Palo Pinto County, provided that the taxes initially levied can be levied at any time and shall be levied for the entire year in which such taxes are levied. The tax so levied shall be collected on all property subject to the hospital district taxation by the assessor and collector of tax for Palo Pinto County on the county tax values, and in the same manner and under the same conditions as county taxes. The assessor and collector of taxes shall charge and deduct from payments to the hospital district the fees for assessing and collecting the tax at the rate of not exceeding one percent (1%) of the amounts collected as may be determined by the board of directors but in no event in excess of Five Thousand Dollars (\$5,000) for any one (1) fiscal year. Such fees shall be deposited in the county's general fund, and shall be reported as fees of office of the tax assessor and collector. Interest and penalties on taxes paid to the hospital district shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the district depository; and such funds shall be withdrawn only as provided herein. All other income of the hospital district shall be deposited in like manner with the district depository.

#### Authorization of bonds

Sec. 6. The board of directors shall have the power and authority to issue and sell as the obligations of such hospital district, and in the name and upon the faith and credit of such hospital district, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any or all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures, providing said tax together with any other taxes levied for said district shall not exceed Seventy-Five Cents (75¢) in any one (1) year. Such bonds shall be executed in the name of the hospital district and on its behalf by the president of the board of directors, and countersigned by the secretary of the board of directors, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of counties of this state. Upon the approval of such bonds by the Attorney General of Texas and registration by the Comptroller the same shall be incontestable for any cause. No bonds shall be issued by such hospital district (except refunding bonds) until authorized by a majority vote of the resident qualified electors who own taxable property within the district and have duly rendered the same for taxation, voting at an election called and held for such purpose. Such election may be called by the board of directors on its own motion, and the order calling said election shall specify the date of the election, the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, the maximum interest rate (not to exceed six percent (6%) per annum) and the maximum maturity date of such bonds (not to exceed forty (40) years from their date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such county once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) full days prior to the date set for the election. The cost of such election shall be paid by the hospital district.

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The bonds of the district may be made optional for redemption prior to their maturity date at the discretion of the board of directors.

The district may without an election issue bonds of the district to refund and pay off any validly issued and outstanding bonds heretofore or hereafter issued by the district, provided any such refunding bonds shall bear interest at the same rate or at a lesser rate than the bonds being refunded unless it be shown mathematically that a savings will result in the total amount of interest to be paid.

#### Purchases and expenditures; books and records

Sec. 7. The board of directors of such district shall have the power to prescribe the method and manner of making purchases and expenditures by and for such hospital district, and also shall prescribe all accounting and control procedures; the method of purchasing necessary supplies, materials and equipment; and shall have the power to adopt a seal for such district; and may employ a general manager, attorneys, bookkeepers, architects, and any other employees deemed necessary for the efficient operation of the hospital district.

All books, records, accounts, notices and minutes and all other matters of the district and the operation of its facilities shall, except as herein provided, be maintained at the office of the district and there be open to public inspection at all reasonable hours.

The board of directors is specifically empowered to adopt rules and regulations governing the operation of such district and its facilities which rules and regulations shall supplement but shall not contravene any of the provisions of this Act. Such rules and regulations may, upon approval of the board of directors, be published in booklet or pamphlet form at the expense of the district and may be made available to any taxpayer upon request.

#### Fiscal year; annual budget

Sec. 8. The fiscal year of the hospital district authorized to be established by the provisions hereof shall commence on October 1st of each year and end on the 30th day of September of the following year. The district directors shall cause an annual independent audit to be made of the books and records of the district, such audit to be made covering such fiscal year, and the same shall be filed with the Comptroller of Public Accounts of the State of Texas and at the office of the district not later than December 31st of each year.

The board of directors shall each year cause a budget to be prepared showing the proposed expenditures and disbursements and the estimated receipts and collections for the following fiscal year and shall hold a public hearing on the proposed budget after publication of a notice of hearing in a newspaper of general circulation in the county at least once not less than ten (10) days prior to the date set for the hearing. Any person who is a taxpayer of the district shall have the right to appear at the time and place designated in the notice and be heard with reference to any item shown in the proposed budget. The proposed budget shall also show the amount of taxes required to be levied and collected during such fiscal year and upon final approval of the budget, the board of directors shall levy such tax as may be required and certify the tax rate for such year to the county tax assessor and collector as provided in Section 5 hereof, and it shall be the duty of the said tax assessor and collector to assess and collect such tax.

#### Eminent domain

Sec. 9. The district shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein,

including outright ownership of such property in fee simple absolute, within the boundaries of the said district, necessary or convenient to the exercise of the rights, power, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said district shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph No. 2 in Article 3268, Vernon's Annotated Civil Statutes, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the said district, the district shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

#### **District depository**

Sec. 10. Within thirty (30) days after appointment and qualification of the board of directors of the hospital district, the said directors shall by resolution designate a bank within the county in which the district is located as the district's depository or treasurer and all funds of the district shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two (2) years until a successor has been named.

#### **Inspection of district**

Sec. 11. The district established or maintained under the provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any state board of charities (or public welfare) that may hereafter be created, and the officers and employees of the district shall admit such representatives into all hospital district facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the hospital district.

#### **District alone to incur indebtedness for hospital purposes**

Sec. 12. Except as herein provided, neither Palo Pinto County, nor any city or town within the hospital district, shall levy any tax against any property within the hospital district for hospital purposes; and such hospital district shall assume full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said hospital district from the date that taxes are collected for the hospital district.

#### **Patients; inquiry as to ability to pay; liability of relatives**

Sec. 13. Whenever a patient residing in the hospital district has been admitted to the facilities of the hospital district, the directors shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If they find that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the hospital district for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The district shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the district to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the hospital



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district. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the district's directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the district court by either party to the dispute.

#### Donations, gifts and endowments

Sec. 14. The board of directors of the hospital district is authorized on behalf of said hospital district to accept donations, gifts and endowments for the hospital district to be held in trust and administered by the board of directors for such purposes and under such direction, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of the hospital district.

#### Bonds eligible for investment and to secure deposits

Sec. 15. All bonds issued by or assumed by the districts authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

#### Suits

Sec. 16. The hospital district created under the provisions of this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this state in the name of such district.

#### Violation of constitution; alternative procedures

Sec. 17. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the district shall have the power by resolution to provide an alternative procedure conformable with such constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the district or the validity of any other provisions of this Act, and the Legislature hereby declares that it would have created the district and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

#### Publication of notice

Sec. 18. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and is hereby found and declared to be proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 201, ch. 84, emerg. eff. April 20, 1965.

#### Title of Act:

An Act relating to the creation, establishment, maintenance and operation of a hospital district in accordance with the provisions of Section 9 of Article IX of the Constitution of the State of Texas; to be known as the Palo Pinto County Hospital District, with boundaries coextensive with

the boundaries of Palo Pinto County, Texas; defining its purposes; providing for its administration, operation, financing, taxing powers and liabilities; prescribing procedures; providing for severability; reciting proof of publication of constitutional notice; and declaring an emergency. Acts 1965, 59th Leg., p. 201, ch. 84.

**Art. 4494q—29. Stamford Hospital District****Constitutional authority; boundaries**

Section 1. Pursuant to authority granted by the provisions of Section 9 of Article IX of the Constitution of the State of Texas, Stamford Hospital District is hereby authorized to be created and as created shall have boundaries coterminous with the boundaries of the Stamford County Line Independent School District of Jones and Haskell Counties, Texas, as fixed on the effective date of this Act, and possess such rights, powers, and duties as are hereinafter prescribed.

**Purpose of district**

Sec. 2. The District herein authorized to be created shall provide for the establishment of hospital or hospital system within its boundaries by the purchase, construction, acquisition, repair or renovation of buildings and improvements and the equipping of same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants. There being no hospital, hospital system, or hospital facilities of any nature presently owned by Jones and Haskell Counties or any city or town in the boundaries hereinabove set forth, no provisions are made herein for the transfer of properties or equipment or the assumption of outstanding indebtedness heretofore incurred for hospital purposes.

**Election; notice and ballots**

Sec. 3. The District shall not be created nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election shall be called by a majority of the temporary or provisional directors of the District and shall be held not less than twenty (20) nor more than thirty-five (35) days from the time such election is ordered. The order calling the election shall specify the time and places of holding same, the form of ballot and the presiding judge for each voting place. Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in the area of the proposed District, once a week for two consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date set for the election. The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose. At said election there shall be submitted to the qualified property taxpaying electors of said proposed District the proposition of whether or not Stamford Hospital District shall be created with authority to levy annual taxes at a rate not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds, and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting at said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

“FOR the creation of Stamford Hospital District, the levy of a tax not to exceed seventy-five cents (75¢) on the one hundred dollar valuation”; and

“AGAINST the creation of Stamford Hospital District, the levy of a tax not to exceed seventy-five cents (75¢) on the one hundred dollar valuation.”

**Board of directors; terms and compensation; officers**

Sec. 4. Upon the effective date of this Act, the following named persons shall be and constitute the temporary or provisional directors

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of said District: J. F. West, F. E. Upshaw, A. M. G. Swenson, W. T. Stovall, A. C. Humphrey, Sam Baize and Jack Mills; and each of said directors shall subscribe to the Constitutional Oath of Office within sixty (60) days of the effective date of this Act. Should any of the named directors refuse to act or for any reason fail to qualify as herein required, the remaining Board members herein appointed, who have qualified, shall fill such vacancy. However, if less than four (4) of the Board members appointed fail to qualify as herein required, the City Council of the City of Stamford, Texas, shall fill such vacancies. The terms of office of the first four (4) named directors shall expire on the first Tuesday in April 1967, and the terms of the last three (3) named directors shall expire on the first Tuesday in April 1966. A regular election for directors shall be held on the first Tuesday in April in each year beginning 1966, and directors shall be elected at that time and in each succeeding year. The regular election for directors shall be ordered by the Board and such order shall state the time, place, and purpose of the election; and the Board shall appoint the presiding judge who shall appoint an assistant judge and such clerks as may be required; and such election shall be ordered at least fifteen (15) days prior to the date on which the election is to be held. Any person desiring his name to be printed on the ballot as a candidate for director shall file a petition, signed by not less than ten (10) qualified voters asking that such name be printed on the ballot, with the secretary of the Board of Directors of the District. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election. Notice of such election shall be published one (1) time in a newspaper of general circulation in the area of the District at least five (5) days before the election. All vacancies in office (other than for the failure of four (4) or more of the original directors herein appointed to qualify) shall be filled by a majority vote of the remaining directors and such appointees shall hold office for the unexpired term for which they were appointed.

No director shall be entitled to compensation, but shall be entitled to receive his actual expenses incurred in attending to the District's business, provided such expenses are approved by the remainder of the Board. Any person who is a resident property-owning taxpaying voter of the District shall be eligible to hold office as director of the District. The Board of Directors shall elect from its number a president, vice president, secretary, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and shall have the same right to vote as any other director. The vice president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails and declines to act.

The directors named herein and their successors in office shall hold office as provisional or temporary directors until such time as the creation of the District has been approved at an election as herein provided. At such time as the creation of the District is so approved and the returns of the election officially canvassed, the persons acting as provisional or temporary directors shall become permanent directors whose terms shall expire as hereinabove provided. Each permanent director, and their successors in office, shall qualify by executing the Constitutional Oath of Office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to said District, conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the District for safekeeping.

**Management and control of district; administrator or manager**

Sec. 5. The Board of Directors shall manage, control and administer the hospitals and hospital system of the District. The District through

its Board of Directors shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the District. The Board of Directors shall appoint a qualified person to be known as the administrator or manager of the Hospital District and may in its discretion appoint an assistant to the administrator or manager. Such administrator or manager, and assistant administrator or assistant manager, if any, shall serve at the will of the Board and shall receive such compensation as may be fixed by the Board. The administrator or manager shall, upon assuming his duties, execute a bond payable to the Hospital District in an amount to be set by the Board of Directors, in no event less than Ten Thousand Dollars (\$10,000), conditioned that he shall perform the duties required of him and containing such other conditions as the Board may require. The administrator or manager shall supervise all the work and activities of the District and shall have general direction of the affairs of the District subject to such limitations as may be prescribed by the Board. The Board of Directors shall have the authority to employ such doctors, technicians, nurses and other employees of every kind and character as may be deemed necessary for the efficient operation of the District or may provide that the administrator or manager shall have the authority to employ such persons. Such Board shall be authorized to contract with any county or incorporated municipality located outside the District for the care and treatment of the sick, diseased or injured persons of any such county or municipality and shall have the authority to contract with the State of Texas and agencies of the federal government, for treatment of sick, diseased or injured persons for whom the State of Texas or the federal government are responsible. The Board of Directors is also authorized to enter into such contracts or agreements with the State of Texas or the federal government as may be required to establish or continue a retirement program for the benefit of the District's employees.

#### Fiscal year; audit

Sec. 6. The District shall be operated on a fiscal year commencing on October 1 of each year and ending on September 30 of the succeeding year and it shall cause an audit to be made of the financial condition of said District which shall at all times be open to inspection at the principal office of the District. In addition the administrator or manager shall prepare an annual budget for approval by the Board of Directors of said District. As soon as practical after the close of each fiscal year the administrator or manager shall prepare for the Board a full sworn statement of all moneys belonging to the District and a full account of the disbursements of same.

#### Bonds; levy of tax; bond election

Sec. 7. The Board of Directors of the Hospital District shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such Hospital District for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospitals and the hospital system, as determined by the Board, and for any or all of such purposes. At the time of the issuance of any such bonds a tax shall be levied by the Board sufficient to create an interest and sinking fund and to pay the interest on and principal of said bonds as same mature, providing such tax together with any other taxes levied for said District shall not exceed seventy-five cents (75¢) on each one hundred dollar valuation of taxable property in any one year. Such bonds shall be issued under the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, but shall be executed in the name of the Hospital District and in its behalf by the president of the Board and attested by the secretary, as provided by Article 717j-1, Vernon's Annotated Texas Civil Statutes, and

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shall be subject to the same requirements in the matter of the approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. After approval of any such bonds by the Attorney General and registration by the Comptroller, said bonds shall be incontestable. No bonds shall be issued by such Hospital District except refunding bonds, until authorized by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election shall be called by the Board of Directors and held in accordance with the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, and shall be conducted in accordance with the General Laws of Texas pertaining to elections. The District shall make provisions for defraying the costs of all elections called and held under the provisions of this Act. The Election Order shall specify the date of the election, the amount of bonds to be authorized, the maximum maturity thereof, the maximum rate of interest they are to bear, the place or places where the election shall be held and the presiding officers thereof. A proposition as to whether or not the Board of Directors of the District (in the event same is created) shall be authorized to issue bonds for the purposes specified herein may be submitted at the same election and on the same ballot as the proposition (provided in Section 3) for the creation of the District and the levy of a tax. The bond proposition to appear on the ballot shall read:

“FOR the issuance of bonds”;  
and

“AGAINST the issuance of bonds.”

The bonds of the District may be issued for the purpose of refunding and paying off any bond or other refundable indebtedness issued by the District. Such refunding bonds may be sold and the proceeds thereof applied to the payment of any outstanding bonds or other refundable indebtedness, or may be exchanged in whole or in part for not less than a like principal amount of such outstanding bonds or refundable indebtedness; provided that if such refunding bonds are to be exchanged for a like amount of said outstanding bonds or other refundable indebtedness the interest thereon, computed in accordance with recognized standard bond interest cost tables, shall not exceed the average interest cost per annum so computed upon the bonds or other indebtedness to be refunded; and provided further that if such refunding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding bonds or other refundable indebtedness same shall be issued and payments made in the manner specified by Article 717k, Revised Civil Statutes of Texas, as amended.

#### **Bonds and profits; freedom from taxation**

Sec. 8. In carrying out the purposes of this Act the District will be performing an essential public function and any bonds issued by it and their transfer and the issuance therefrom, including any profits made in the sale thereof, shall at all times be free from taxation by the State or any municipality or political subdivision thereof.

#### **Purchases and expenditures**

Sec. 9. The Board of Directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures, by and for such Hospital District, and also shall be authorized to prescribe all accounting and control procedures and to make such rules and regulations as may be required to carry out the provisions of this Act.

**District depository**

Sec. 10. The Board of Directors of the District shall name one or more banks within the District to serve as depository for the funds of the District. All such funds shall, as derived and collected, be immediately deposited with such depository bank or banks except that sufficient funds shall be remitted to the bank or banks for the payment of principal of and interest on the outstanding bonds of the District in time that such money may be received by said bank or banks of payment on or prior to the date of maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

**Bonds eligible for investment and to secure deposits**

Sec. 11. All bonds of the District shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

**Eminent domain**

Sec. 12. The District created hereunder shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple, or any lesser interest therein, within the boundaries of the District, necessary or convenient to the powers, rights, and privileges conferred by this Act, in the manner provided by General Law with respect to condemnation.

**Assessment and collection of taxes**

Sec. 13. The District shall use Stamford County Line Independent School District tax values and Stamford County Line Independent School District tax rolls. The District's taxes shall be assessed and collected in the same manner as provided by law with relation to Independent School District taxes. The tax assessor and/or collector of the Stamford County Line Independent School District of Jones and Haskell Counties, Texas, shall be charged and required to accomplish the assessment and collection of all taxes levied by and on behalf of the District and to promptly pay over the same to the District depository. For his services the tax assessor-collector of the Stamford County Line Independent School District shall be allowed such compensation as may be provided for by contract with the District but not to exceed the amount allowed for assessment and collection of school district taxes. The bond of the tax assessor-collector of the Stamford County Line Independent School District shall stand as security for the proper performance of his duties as assessor-collector of the District, or, if in the judgment of the District Board of Directors, it is necessary that additional bond payable to the District may be required. In all matters pertaining to the assessment, collection, and enforcement of taxes for the District, the tax assessor-collector of the Stamford County Line Independent School District

shall be authorized to act in all respects according to the laws of the State of Texas relating to state and county taxes.

**Patients; inquiry as to ability to pay; liability of relatives**

Sec. 14. The Board of Directors shall prescribe rates and charges for services, supplies, and for the use of its hospital facilities. Whenever an indigent or needy patient residing within the District has been admitted to the facilities thereof, the administrator or manager shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment, in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the Hospital District for the support of such patient a specified sum per week in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The administrator or manager shall have power and authority to collect such sums from the estate of the patient or his relatives legally liable for his support in the manner provided by law for the collection of expenses in the last illness of a deceased person. If the administrator or manager finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, same shall become a charge upon the Hospital District as to the amount of the inability to pay. Should there be any dispute as to the ability to pay or doubt in the mind of the administrator or manager, the Board of Directors shall hear and determine same, after calling witnesses, and shall make such order or orders as may be proper.

**Donations**

Sec. 15. The Board of Directors of the Hospital District is authorized on behalf of such District to accept donations, gifts, and endowments to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and object of the Hospital District.

**Annual budget; notice**

Sec. 16. The Board of Directors of said Hospital District shall cause to be prepared an annual budget based upon the fiscal year of the Hospital District in accordance with the provisions of Section 5 hereof and prior to September 1 of each year shall give notice of the public hearing on the proposed budget. Such notice shall be published in a newspaper of general circulation in the District one time at least ten (10) days prior to the date set for the hearing.

**District alone to incur indebtedness for hospital purposes**

Sec. 17. After creation of Stamford Hospital District, as herein provided, no other municipality or political subdivision therein shall thereafter issue bonds or other evidences of indebtedness or levy taxes for hospital purposes or for medical treatment of indigent persons within its boundaries, and the said Stamford Hospital District shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of indigent persons within its boundaries.

**State not to be obligated**

Sec. 18. The support and maintenance of the Stamford Hospital District shall never become a charge against or obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such District.

**Severability clause**

Sec. 19. If any of the provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**Publication of notice**

Sec. 20. Proof of Publication of the notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and such notice is hereby found and declared proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 255, ch. 108, emerg. eff. May 5, 1965.

**Title of Act:**

An Act authorizing the creation of a hospital district with boundaries coterminous with the boundaries of the Stamford County Line Independent School District of Jones and Haskell Counties, Texas, as fixed on the effective date of this Act; providing for elections on the creation of such District and the levy of a tax not exceeding seventy-five cents (75¢) on the one hundred dollar valuation for its maintenance, support, and the payment of bonds issued by it; providing the District with power to issue bonds, and methods for authorizing same, for the purpose of the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same for hospital purposes,

and for any and all such purposes, and for the refunding of such bonds; providing that bonds issued by the District shall be lawful investments and security for certain funds; providing a governing body for such District, its powers and duties and the tenure of its members; providing for an assessor-collector and for the adoption of a tax roll; providing that no other municipality or political subdivision shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of said District; enacting other provisions incident and germane to the subject and purpose of this Act; providing a severance clause; and declaring an emergency. Acts 1965, 59th Leg., p. 255, ch. 108.

**Art. 4494q—30. Maverick County Hospital District**

**Authorization**

Section 1. By authority of Section 9, Article IX, Constitution of the State of Texas, this Act authorizes the creation of the Hospital District of Maverick County, Texas.

**Boundary**

Sec. 2. The boundaries of this District are coterminous with the boundaries of Maverick County.

**Purpose of district**

Sec. 3. The District authorized to be created by this Act is charged with the responsibility of establishing a hospital or a hospital system within its boundaries to furnish hospital and medical care to the residents of the District. After this District is created as provided in Section 4 of this Act, no other municipality or political subdivision of this state may levy taxes or issue bonds or other obligations of indebtedness for the purpose of providing hospital service or medical care within the District. This District shall provide all necessary hospital and medical care for the needy inhabitants of the District.

**Creation of district; election**

Sec. 4. (a) The District authorized to be created by this Act is created upon approval of a majority of the qualified electors who own taxable property within the District and who have duly rendered that property for taxation and who vote at an election called for this purpose.



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(b) Upon receiving the petition of 100 people who are qualified to vote in this election, or by its own order, recorded in the minutes, the commissioners court of the county in which this District is located shall order an election for the purpose of creating this District, not less than 20 days nor more than 30 days after the date of the order.

(c) The order calling the election must contain the time and place, or places, of holding the election, the form of the ballot, and the presiding judge for each voting place.

(d) The commissioners court shall publish a substantial copy of the election order in a newspaper of general circulation within the District once a week for two consecutive weeks prior to the date of the election. The first notice must be published at least 14 days before the date of the election.

(e) The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the commissioners court within 10 days after the election. A copy of the results are to be filed with the County Clerk and become of public record. If a majority of the persons voting in the election vote for the creation of the District, the commissioners court shall, within 10 days after the results are filed, declare the results and order the District created. A copy of this order shall be placed in the minutes of the court.

(f) If a majority of the persons voting at the election vote against the creation of the District, this does not prevent the holding of other elections for the same purpose.

(g) The ballot for this election must be substantially as follows:

“FOR the creation of the Hospital District of Maverick County, Texas.  
“AGAINST the creation of the Hospital District of Maverick County, Texas.”

#### Board of directors, creation

Sec. 5. (a) The management and control of the District is vested in a Board of Directors which consists of five (5) members, to be elected by the qualified electors who own taxable property within the District and who have duly rendered that property for taxation.

(b) To qualify for election to the Board, a person must:

(1) be at least 21 years of age;

(2) have been a resident of the District for at least two years;

(3) be a qualified voter;

(4) own taxable property within the District and have duly rendered that property for taxation.

(c) Following the creation of the District, as provided in Section 4 of this Act, the commissioners court shall appoint the first Board of Directors. The three (3) directors first appointed and named shall serve for two years and the remaining two (2) directors appointed and named shall serve for one year.

(d) Thereafter, each year on the first Tuesday of September an election is to be held for the purpose of electing the appropriate number of directors to the Board. At the first election held under this provision there shall be elected two (2) directors to serve in the place of the two (2) appointed by the commissioners court for terms of one year. Their election shall be for terms of two years. At the second election held under this provision there shall be elected three (3) directors to serve in the place of the three (3) appointed by the commissioners court for terms of two years. Their election shall be for terms of two years.

(e) All elected directors shall serve for a two year term. In every case the directors shall serve until their successor has been elected and qualified for the office and in every case a director shall be eligible for re-election.

**Board of directors, organization**

Sec. 6. (a) When a person is elected to the Board of Directors he shall qualify for office by executing the constitutional oath of office and a good and sufficient commercial bond for \$1,000 payable to the District, conditioned upon the faithful performance of his duties. The oath and bond are to be deposited with the District depository for safekeeping. The cost of the bond is an expense of the District.

(b) The directors shall, at the first meeting after the election, elect a president, a secretary, and a treasurer from their number.

(c) A member of the Board of Directors is not entitled to compensation for his services. However, each member is entitled to reimbursement for any necessary expense incurred by him in the performance of the duties of his office.

**Taxes, election**

Sec. 7. (a) At the time of the election to create the District and to elect directors, the commissioners court may order an election to determine whether the District may levy taxes within the District. This tax may not exceed 50 cents on the \$100 valuation of all taxable property within the District. If the commissioners court does not include this election in the order for the election to create the District, the Board of Directors may order this election at any time.

(b) Prior to this election, notice must be given by the appropriate governmental unit, either the commissioners court or the Board of Directors in the same manner provided in Section 4 of this Act. The presiding judge of each voting place shall certify the results to the appropriate governmental unit which shall declare the results. The results are to be of public record.

(c) The ballot for this election must contain substantially the following:

"FOR the levy of a tax not to exceed 50 cents on the \$100 valuation on all property subject to taxation within the District.

"AGAINST the levy of a tax not to exceed 50 cents on the \$100 valuation on all property subject to taxation within the District."

(d) The Board of Directors shall not levy any tax within the District until a majority of the qualified electors who own taxable property within the District and who have duly rendered that property for taxation voting in an election for this purpose vote for the levy of this tax.

**Taxes, levy, assessment, and collection**

Sec. 8. (a) After a majority of those persons voting at the election vote for the levy of a tax, the Board of Directors shall levy a tax not to exceed 50 cents on the \$100 valuation on all property subject to taxation within the District.

(b) The Board shall use the same valuation used by the commissioners court in taxing the property for county purposes which appears on the county tax rolls.

(c) The Board may use the proceeds of this tax for the following purposes, only:

(1) paying the interest on and creating a sinking fund for bonds issued under the provisions of this Act;

(2) providing for the operation and maintenance of the hospital district and the hospital system;

(3) making improvements and additions to the hospital system;

(4) acquiring sites for the additions to the hospital system.

For Annotations and Historical Notes, see V.A.T.S.

(d) On or before October 1 of each year, the Board shall levy the tax and immediately certify the tax rate to the tax assessor and collector of the county in which the District is located. The tax assessor and collector of that county shall collect the taxes for the District. The taxes of the District are subject to the same conditions as the taxes of the county.

(e) The assessor and collector of taxes is entitled to a fee as compensation for his services of not more than one per cent of the total tax collected, but not to exceed \$5,000 in any one fiscal year. The Board shall fix the exact amount of compensation. The tax assessor and collector shall deduct this fee from the payments made to the District of the taxes collected, and deposit that amount in the general fund of the county as a fee of office of the tax assessor and collector.

(f) The Board may levy this tax for the entire year in which the District is established to secure funds necessary to initiate the operation of the hospital district.

#### Bonds, election

Sec. 9. (a) At the time of the election to create the District the commissioners court may order an election to determine whether the District may issue bonds for the purchase, construction, acquisition, repair, or renovation of buildings and improvements, and for equipping the buildings for hospital purposes. If the commissioners court does not include this election in the order for the election to create the District, the Board of Directors may order this election at any time.

(b) The order and notice of election and the certification declaration of the results to the County Clerk are governed by Section 4 of this Act. In addition to the provisions of that section, the order of this election must include:

- (1) the purpose for which the bonds are to be issued;
- (2) the amount of the proposed bond issue;
- (3) the maximum interest rate;
- (4) the maximum maturity date of the bonds.

(c) The Board shall not issue any bond unless the interest rate is six per cent per annum or less. The Board of Directors shall not issue any bond which matures more than 40 years from the date of issuance.

(d) The Board of Directors shall not issue any bonds until a majority of the qualified electors who own taxable property within the District and who have duly rendered that property for taxation voting in an election for this purpose vote for the issuance of these bonds.

#### Bonds, issuance, redemption, and refund

Sec. 10. (a) After a majority of those persons voting at the election vote for the levy of a tax, the Board may issue bonds, the total of the face value not to exceed the amount specified in the order of the election.

(b) The president of the Board shall execute the bonds in the name of and on behalf of the hospital district. The secretary of the Board of Directors shall countersign the bonds. The Attorney General of the State of Texas shall approve the bonds if they meet the same requirements as provided by law for bonds issued by a county. The bonds are to be registered by the Comptroller of Public Accounts of the State of Texas in the same manner as provided by law for the registration of bonds issued by a county. After approval and registration the bonds are incontestable for any reason.

(c) The Board may not issue any bonds unless a sufficient tax is levied to create an interest and sinking fund to pay the interest and principal as it matures.

(d) All bonds issued by the District may be made optional for redemption prior to their maturity date in the discretion of the Board.

(e) The Board may elect to refund and pay off any validly issued and outstanding bonds issued by the District. However, the refund bonds issued must bear interest at the same or a lower rate than the bonds being refunded unless it is shown mathematically that a savings will result in the total interest to be paid.

#### **Powers and duties of the board of directors**

Sec. 11. (a) The Board of Directors has full power to manage and control the District. Any provision of this Act which provides a specific power or duty does not limit the general authority of the District to carry out the purposes of this Act.

(b) The Board shall keep all books, records, accounts, notices, minutes, and other matters of the District and its operation at the office of the District. The Board shall make these items available for public inspection at reasonable times.

(c) The Board shall adopt rules for the efficient operation of the District and its facilities which are not inconsistent with this Act. The Board shall publish these rules and regulations in book form and furnish copies to interested persons upon request and at the expense of the District.

(d) The Board shall require an annual independent audit of the books and records of the District and shall file a copy of the audit with the Comptroller of Public Accounts and a copy with the District not later than December 1 of each year.

(e) The Board may

(1) prescribe the method of making purchases and expenditures and the manner of accounting and control used by the District;

(2) employ an attorney, general manager, bookkeeper, architect, and other employees necessary for the efficient operation of the District;

(3) employ an administrator to manage the operations of the hospital system, who may hire necessary personnel to perform the services provided by the system.

(f) The Board may accept donations, gifts, and endowments for the District. The Board shall hold all donations, gifts, and endowments in trust and shall administer them under any direction, limitation, or provisions as may be prescribed in writing by the donor, as long as it is not inconsistent with the proper management of the District.

(g) The Board may enter into any contract with a municipality or other political subdivision to provide hospital and medical care for needy persons who reside outside the District.

#### **Budget**

Sec. 12. (a) The fiscal year of the hospital district is from October 1 of each year to September 30 of the following year.

(b) The Board shall prepare a budget showing

(1) the proposed expenditures and disbursements;

(2) the estimated receipts and collections for the next fiscal year;

(3) the amount of taxes required to be levied and collected during the next fiscal year to meet the proposed budget.

(c) The Board shall hold a public hearing on the proposed budget after publication of notice in a newspaper of general circulation in the District. The notice must be given at least once not less than 10 days prior to the hearing.

(d) Any person who owns taxable property within the District and has duly rendered that property for taxation is entitled to appear at the hearing and be heard with reference to any item in the proposed budget.

#### Inquiry into ability to pay

Sec. 13. (a) A person who resides within the District is entitled to receive necessary medical and hospital care whether he has the ability to pay for the care or not. A person who resides within the District may make application to receive this care without cost.

(b) The Board or the administrator shall employ a person to investigate the ability of the patient and the ability of any relative who is liable for the support of the patient to pay for the medical and hospital care which the patient receives.

(c) If the patient or a relative of the patient who is legally liable for his support is able to pay for this care in whole or in part, the Board shall order the patient or his relatives to pay to the treasurer each week an amount specified in the order. The amount must be in proportion to the ability to pay.

(d) The District may collect this amount from the estate of the patient, or from his relatives who are liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person.

(e) If the investigator finds that neither the patient, nor a relative who is legally liable for his support, is able to pay in whole or in part for this care the expense of this care becomes a charge on the District.

(f) If there is a dispute as to the ability to pay, or a doubt in the mind of the investigator, the Board shall hear and determine the question, after calling witnesses, and make the proper order based on its findings.

(g) A party to the hearing who is not satisfied with the result of the order, may appeal to the district court. The appeal is de novo as that term is used in appeals from the justice courts to the county court.

#### Eminent domain

Sec. 14. (a) The District has the power of eminent domain for the purpose of acquiring by condemnation any interest, including fee simple absolute, in any real, personal, or mixed property within the boundaries of the District that is necessary or convenient to the exercise of the powers and duties conferred upon it by this Act.

(b) The Board shall exercise this power of eminent domain in the same manner as provided by general law. However, the District is not required to make deposits in the registry of the trial court or to post bond as required by Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as amended.

(c) The District is not required to pay in advance or to give any bond or other security for costs in the trial court otherwise required for the issuance relating to a condemnation proceeding, nor is it required to give a bond for costs or for supersedeas on an appeal or writ of error proceeding to a Court of Civil Appeals or to the Supreme Court.

#### Depository

Sec. 15. Within 30 days after the qualification of the Board of Directors, the Board shall by resolution designate a bank within the county in which the District is located to be the depository of the District. All funds of the District shall be deposited in the depository and shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two years and until a successor has been named in accordance with this section.

**Inspection of the district**

Sec. 16. (a) The District is subject to inspection at any time by an authorized representative of the State Board of Health, the State Board of Public Welfare, or any other state agency created for a similar purpose.

(b) The administrator of the hospital shall admit a representative into the facilities of the District and make accessible on demand all District records, reports, books, papers, and accounts.

**State support**

Sec. 17. The support and maintenance of the hospital system of the District and any indebtedness incurred by the District under this Act shall never become a charge against nor an obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature of the State of Texas for the construction, maintenance or improvement of any of the facilities of the District.

**Notice**

Sec. 18. The Legislature has found that proper notice has been given in the District affected by this Act in accordance with the requirement of Section 9, Article IX, Constitution of the State of Texas. Acts 1965, 59th Leg., p. 360, ch. 172, emerg. eff. May 17, 1965.

<p>Title of Act: An Act relating to the creation of the Hospital District of Maverick County, Texas, by authority of Section 9, Article</p>	<p>IX, Constitution of the State of Texas; and declaring an emergency. Acts 1965, 59th Leg., p. 360, ch. 172.</p>
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**Art. 4494q—31. Cuero Hospital District of DeWitt County**

**Constitutional authority; creation of district; boundaries**

Section 1. Pursuant to authority granted by the provisions of Section 9 of Article IX of the Constitution of the State of Texas, Cuero Hospital District of DeWitt County, Texas, is hereby authorized to be created in DeWitt County, Texas, and as created shall have the following boundaries:

**BEGINNING** at the most southerly corner of DeWitt County, Texas, on the north bank of the Fifteen Mile Colletto Creek;

**THENCE**, in a generally northwesterly direction up said north bank of said creek and its meanders to another corner of DeWitt County on the south line of the P. C. Ragsdale Survey, A-414;

**THENCE**, in an easterly direction in a straight line to the west corner of the James Kelly Survey, A-285, same being the south corner of the David Oaks Survey, A-374;

**THENCE**, in a northwesterly direction with the southwest line of said Oaks Survey to its southwest corner, same also being an interior corner of the John T. Tinsley League, A-455;

**THENCE**, in a northeasterly direction along the southeast line of said Tinsley League to its intersection with the centerline of the Twelve Mile Colletto Creek;

**THENCE**, in a generally northwesterly direction up the centerline of said creek with its meanders to its intersection with the northeast line of the G. H. Woods Survey, A-482;

**THENCE**, in a southeasterly direction along said northeast line of said Woods Survey to its northeast corner, same being on the south line of the W. H. Stubblefield Survey, A-425;

**THENCE**, continuing in a southeasterly direction along said south line of said Stubblefield Survey to its southeast corner;

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THENCE, in a northerly direction along the east line of said Stubblefield Survey and continuing in the same direction along an east boundary line of the James Foster Survey, A-176, to an interior corner of said Foster Survey;

THENCE, in an easterly direction along a south line of said Foster Survey, same being a north line of the Otto Von Roeder Survey, to an east corner of said Foster Survey and an interior corner of said Von Roeder Survey;

THENCE, in a northerly direction along an east line of said Foster Survey to an interior corner of said Foster Survey;

THENCE, in an easterly direction along a south line of said Foster Survey to an interior corner of the James Kelly Survey, A-282;

THENCE, in a northerly direction along an east line of said Foster Survey, same being a west line of said Kelly Survey, to the most northerly west corner of said Kelly Survey on the south line of the Campbell Taylor Survey, A-459;

THENCE, in a westerly direction along said south line of said Taylor Survey to its southwest corner;

THENCE, in a northerly direction along the west line of said Taylor Survey to the most northerly east corner of said Foster Survey;

THENCE, in a northwesterly direction along the most northerly north line of said Foster Survey to its most northerly corner;

THENCE, in a northerly direction along the east line of the Indianola Railroad Company Survey Section No. 5, A-248, to its northeast corner;

THENCE, in a westerly direction along the most northerly north line of said Indianola Railroad Survey Section No. 5 to its most northerly northwest corner on the east line of the James C. Davis Survey, A-148;

THENCE, in a northerly direction along said east line of said Davis Survey to its northeast corner;

THENCE, in a westerly direction along the north line of said Davis Survey to the southeast corner of the Wiley W. Hunter Survey, A-216;

THENCE, in a northerly direction along the east line of said Hunter Survey to its northeast corner on the south line of the John S. Stump Survey, A-430;

THENCE, in a westerly direction along said south line of said Stump Survey to its southwest corner, same being the most southerly east corner of the W. S. Lyell Survey, A-311;

THENCE, in a westerly direction along the most southerly south line of said Lyell Survey to its most southerly southwest corner;

THENCE, in a northerly direction along the most westerly west line of said Lyell Survey to the most southerly east corner of the W. W. Hunter Survey;

THENCE, in a westerly direction along the most southerly south line of said W. W. Hunter Survey to its most westerly southwest corner, same being on the southeast line of the William Eastland Survey, A-174;

THENCE, in a northeasterly direction along said southeast line of said Eastland Survey to its northeast corner;

THENCE, in a northwesterly direction along said northeast line of said Eastland Survey and the northeast line of the N. Whitehead Survey, A-489, to the north corner of said Whitehead Survey;

THENCE, in a southwesterly direction along the northwest line of said Whitehead Survey to the south corner of the J. D. Morris Survey, same being a northeast corner of the John E. Ross Survey, A-403;

THENCE, in a northwesterly direction along the southwest lines of said Morris Survey, the Daniel E. Benton Survey, A-67, and the Wil-

liam Robertson Survey, A-401, and the northeast lines of said Ross Survey and the Isaac Baker Survey, A-89, to an intersection with the DeWitt-Gonzales County Line;

THENCE, in a northeasterly direction along said DeWitt-Gonzales County Line to its intersection with the east line of the Daniel Davis Survey, A-12 and the west line of the Simeon Bateman Survey, A-4;

THENCE, in a southeasterly direction along the east line of the said Davis Survey to its intersection with the centerline of the Guadalupe River;

THENCE, in a generally southerly direction downstream with said centerline of said Guadalupe River and its meanders to its intersection with the westerly projection of the northeast line of the John McCoy League, A-30;

THENCE, in an easterly direction with said projection of said northeast line of the McCoy League to the northwest corner of the said McCoy League;

THENCE, in an easterly direction along the north line of said McCoy League to its northeast corner, same being an interior corner of the J. D. Clements League, A-10;

THENCE, southerly along the east line of the said McCoy League and along a west line of the said Clements League to the northwest corner of the Mrs. O. S. Brown 150 acres tract;

THENCE, in an easterly direction parallel to the south line of the said Clements League and along the northerly line of the Mrs. O. S. Brown, Walter Voegel and G. S. Baylor tracts to the east line of the said Clements League and the west line of the James Swindle Survey, A-416;

THENCE, southerly along said west line of the Swindle Survey to its southwest corner;

THENCE, in an easterly direction along the south line of the said Swindle Survey to the northeast corner of the W. W. McCormick 185 acres tract;

THENCE, southerly along the east line of the said McCormick tract; to the southeast corner of said McCormick tract;

THENCE, westerly along the south line of the said McCormick tract to the northeast corner of a 100 acres tract (C. G. Huatt 100 acres tract) formerly owned by Dick Frels;

THENCE, southerly along the east line of said 100 acres tract to its southeast corner on the north line of the Joseph Edgar Survey, A-168;

THENCE, westerly along said north line of the Edgar Survey to the northeast corner of the J. B. Milligan 160 acres tract;

THENCE, in a southerly direction along the most easterly east line of said Milligan tract to the most northerly southeast corner of said tract;

THENCE, in a southwesterly direction along an east or southeast line of said Milligan tract to the most southerly southeast corner of said tract;

THENCE, in a westerly direction along the south line of said Milligan tract to its southwest corner on the west line of said Edgar Survey;

THENCE, southerly along said west line of the Edgar Survey to its southwest corner on the east line of the K. W. Barton Survey, A-3, and at the most northerly northwest corner of the Isham G. Belcher Survey, A-68;

THENCE, easterly along the north line of said Belcher Survey to its east or northeast corner in the south line of the S. R. Roberts Survey, A-400;



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THENCE, southerly along the east line of said Belcher Survey to its southeast corner at a corner of the W. S. Townsend Survey, A-453;

THENCE, westerly along the south line of said Belcher Survey to the northeast corner of the Nicholas McNutt Survey, A-327;

THENCE, southerly along the east line of the said McNutt Survey and along the west line of the Benjamin Payne Survey, A-378, to the southwest corner of said Payne Survey at an interior corner of the S. A. and M. G. Railroad Survey No. 11, A-449;

THENCE, easterly along the south line of said Payne Survey and the north line of said S. A. and M. G. Railroad Survey to the most easterly northeast corner of said S. A. and M. G. Railroad Survey at an interior corner of the C. D. Mixon Survey, A-354;

THENCE, southerly or southwesterly along a west line of said Mixon Survey and along an east line of the said S. A. and M. G. Railroad Survey to the west corner of the said Mixon Survey and the north corner of the William Norvall Survey, A-371;

THENCE, easterly or southeasterly along the north line of said Norvall Survey, the south line of the said Mixon Survey, and the south line of the S. A. Rogers Survey, A-412 to the south corner of said Rogers Survey at an interior corner of the William S. Townsend Survey, A-457;

THENCE, northerly or northeasterly along the southeast line of said Rogers Survey to the north corner of said Townsend Survey;

THENCE, southeasterly along an east line of said Townsend Survey to the south corner of the Abednego Bidy Survey, A-63;

THENCE, easterly or northeasterly along the south line of said Bidy Survey to the west corner of the John Graham Survey, A-193;

THENCE, southeasterly along the west line of said Graham Survey to its south corner and an interior corner of said Townsend Survey;

THENCE, easterly or northeasterly along the southeast line of said Graham Survey to its east corner and the most easterly northeast corner of said Townsend Survey;

THENCE, southeasterly along the most easterly east line of said Townsend Survey to its most easterly corner and the south or southwest corner of the J. G. Swisher Survey, A-421;

THENCE, southwesterly along a south line of said Townsend Survey to the west corner of the Berry Doolittle Survey, A-154;

THENCE, southeasterly along the west line of said Doolittle Survey to its southwest corner on the north line of the T. & N. O. Railroad Survey No. 1, A-550;

THENCE, northeasterly along said north line of the T. & N. O. Railroad Survey No. 1 to the most northerly corner of said Survey No. 1;

THENCE, southeasterly along an east line of said Survey No. 1 and the west line of the M. H. Granberry Survey, A-208, to south corner of said Granberry Survey;

THENCE, northeasterly along the south line of said Granberry Survey to the west or northwest corner of the T. C. Fort Survey, A-185;

THENCE, southeasterly along the west line of said Fort Survey to its south or southwest corner on the north line of the J. W. Boothe Survey;

THENCE, southwesterly along the north line of said Boothe Survey to its west corner;

THENCE, southeasterly along the west line of said Boothe Survey and along the west line of the Jesse E. Nash Survey, A-368, to its south or southwest corner;

THENCE, easterly or northeasterly along the south line of said Nash Survey to the west or northwest corner of the Manuel Manchaca Survey, A-334;

THENCE, southeasterly along the west line of said Manchaca Survey and along the east line of the E. Escamea Survey, A-690, to the southeast corner of said Escamea Survey;

THENCE, easterly along the northeast line of the W. H. Crain Survey, A-637 (T. & N. O. R. R. Survey #10) to the most northerly east corner of said Crain Survey on the north line of the T. J. Thigpen Survey, A-614;

THENCE, southwesterly along said north line of the Thigpen Survey to its west or northwest corner;

THENCE, southeasterly along the west line of said Thigpen Survey to an intermediate east corner of said W. H. Crain Survey;

THENCE, southerly along the east line of said Crain Survey to its southeast corner;

THENCE, westerly along the south line of said Crain Survey to the northeast corner of the T. & N. O. Railroad Survey No. 11;

THENCE, southerly along the east line of said T. & N. O. Survey No. 11 to its intersection with the DeWitt-Victoria County line;

THENCE, in a westerly or southwesterly direction along the said DeWitt-Victoria County line to the most southerly corner of DeWitt County on the north bank of the Fifteen Mile Colletto Creek, the PLACE OF BEGINNING.

The Legislature hereby finds that the foregoing boundaries and field notes of said District form a closure, and, if any mistake is made in copying the field notes in the legislative process, such mistake shall not affect the organization, existence or validity of the District or its right to issue bonds or refunding bonds, and the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District.

#### Purpose of district

Sec. 2. The District hereby authorized to be created shall provide for the establishment of a hospital or hospital system within its boundaries to furnish medical and hospital care to persons residing in said District by the purchase, construction, acquisition, repair or renovation of buildings and improvements and the equipping of same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants. Since there is no hospital, hospital system or hospital facilities of any nature presently owned by DeWitt County or any city or town within the boundaries of said District, no provisions are made herein for the transfer of properties or equipment or the assumption of outstanding indebtedness heretofore incurred for hospital purposes. After establishment of such District, no other municipality or political subdivision in DeWitt County shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of the District.

#### Election; ballots

Sec. 3. Such District shall not be created nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election shall be initiated by a petition to the DeWitt County Commissioners Court signed by at least fifty (50) qualified property taxpaying electors residing within the boundaries of the proposed District. Within ten (10) days after the presentation of said petition to the Commissioners Court of DeWitt County, Texas, said Court shall order an election to be held within said District

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not less than thirty (30) days from the date said election is ordered. The order calling such election shall specify the date and place or places of holding same, the form of ballot and the presiding judge for each voting place. At such election there shall be submitted to the qualified property taxpaying electors of said proposed District the proposition of whether or not Cuero Hospital District of DeWitt County, Texas, shall be created with authority to levy annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting in said election in favor of the proposition shall be sufficient for its adoption. The ballots of said election shall conform to the requirements of the Texas Election Code, as amended, and shall have printed thereon the following:

"FOR the creation of Cuero Hospital District of DeWitt County, Texas; providing for the levy of annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such District"; and

"AGAINST the creation of Cuero Hospital District of DeWitt County, Texas; providing for the levy of annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such District."

Notice of said election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in the area of the proposed District, once a week for two consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date set for the election. The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose.

#### **Board of directors; election; qualifications; terms**

Sec. 4. At said election there shall also be submitted to the resident qualified electors of said proposed District a separate ballot containing the names of all qualified persons who shall file applications, not later than twenty (20) days prior to the date set for said election, to have their names placed on said ballot for election to the Board of Directors. To be qualified to serve as a director of such District a person must be a resident of such District, at least twenty-one years of age and own land subject to taxation within said District. Each voter shall vote for five persons and the five persons receiving the highest number of votes shall constitute the first Board of Directors. Said persons shall serve until the second Tuesday in January, 1967. At that time a general election shall be held at which five directors shall be elected. The three persons receiving the highest number of votes shall serve for two years. The other two persons shall serve for one year. At the second annual election two directors shall be elected to serve two years, and thereafter there shall be an annual election of three directors in one year and two directors in the next year in continuing sequence.

#### **Canvass of returns; oath and bond of directors**

Sec. 5. After such creation, tax levy, and first directors' election is held, the officials conducting same shall make due returns to the DeWitt County Commissioners Court which shall canvass the returns thereof. If a majority of the qualified property taxpaying electors voting at said election voted in favor of the proposition to create said District and levy said tax, said Court shall so find and declare said District established and created. Such Court shall also determine the five persons receiving the highest number of votes for directors and shall declare those persons elected. Each member of the Board of Directors shall qualify by executing the constitutional oath of office and by making a good and sufficient

bond, to be approved by said Commissioners Court, for \$5,000 payable to said District and conditioned upon the faithful performance of his duties as such director, and such oaths and bonds shall be kept in the permanent records of said District. Except for said first Board of Directors, the bonds of said directors shall be approved by the District Board of Directors.

**Bond election; canvass of returns**

Sec. 6. A bond election may also be held on the same day as said creation, tax levy and directors' election, and said petition mentioned in Section 3 hereof may also include a proposition on the issuance of bonds of said District. Such bond election may be called by a separate election order, or as a part of the order calling such election provided for in said Section 3. The provisions of Section 12 hereof shall apply to such bond election, except that such election shall be called by said DeWitt County Commissioners Court and the returns canvassed by said Court. If the bonds are authorized at said election, they shall then be issued by the Board of Directors, assuming that the proposition specified in Section 3 is favored by a majority vote. With the exception of bonds authorized by this Section 6, all bond elections shall be ordered and the returns thereof shall be canvassed by said Board of Directors.

**Meetings of board; quorum; powers; compensation; vacancies**

Sec. 7. The Board of Directors of said District shall elect a president and secretary from their number to serve until the next succeeding directors' election. Any three (3) of said directors shall constitute a quorum, and a concurrence of three (3) shall be sufficient in all matters pertaining to the business of the District. Not by way of limitation, the Board shall have the complete management and control of all the business of the District, including but not limited to the power and authority to negotiate and contract with any person or body, public or private, to purchase or lease land, to construct and equip a hospital system, and to operate and maintain a hospital or hospitals, and to negotiate and contract with other political subdivisions of the State or private individuals, associations or corporations for such purposes, all as may be determined to be necessary or desirable for said District by said Board; and said Board shall have all powers necessary, convenient or incidental to carry out the purposes for which said District is created. The Board of Directors of said District shall serve without compensation but may be reimbursed for actual expenses incurred by them in the performance of their official duties upon the approval of such expenses by the Board of Directors thereof. All vacancies in the office of director shall be filled for the unexpired term by appointment of the remainder of the Board. If the number of directors is reduced to less than three (3), the remaining directors shall immediately call a special election to fill said vacancies. Upon failure to do so, a District Court may, upon application of any voter or taxpayer of the District, issue a mandate requiring such directors to call and hold such election.

**Tax levy**

Sec. 8. Upon the creation of such District, the Board of Directors shall have the power and authority, and it shall be their duty, to levy on all property subject to District taxation for the benefit of the District, a tax at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such District, for the purposes of: (1) meeting the requirements of the District's bonds; (2) providing for the District's maintenance and operating expenses; and (3) making improvements and additions to its hospitals or hospital system, and for the acquisition of the necessary sites therefor, by gift, purchase, lease or condemnation. It is provided specifically that the

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support and maintenance of the District's hospital system shall never become a charge against or obligation of the State of Texas.

**Assessment and collection of tax; fees; interest and penalties;  
deposit of funds**

Sec. 9. Not later than October 1 of each year the Board of Directors shall levy the tax on all property within the District which is subject to taxation and shall immediately certify such rate to the County tax assessor and collector of DeWitt County. The tax so levied shall be collected, on all property subject to District taxation, by said assessor and collector on said County tax values, and in the same manner and under the same conditions as said County taxes. The amount of said annual District tax may be included on the annual County tax statements mailed or sent out by said County assessor and collector. Said assessor and collector shall charge and deduct from payments to such District the fees for assessing and collecting the tax at the rate of not exceeding one per cent (1%) of the amounts collected as may be determined by the District's Board of Directors but in no event in excess of Five Thousand Dollars (\$5,000) for any one fiscal year. Interest and penalties on taxes paid such District shall be the same as for said County taxes. The remainder of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the District's depository and may be withdrawn as directed by said District's Board of Directors. All other income of such District shall be deposited in said depository. Said Board shall have authority to levy said tax for the entire year in which said District is established to obtain funds to initiate the operation of the District.

**Depository**

Sec. 10. As soon as practicable after the election and qualification of the first Board of Directors of said District, said Board shall by resolution designate a bank within the County as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of County funds. Such depository shall serve for a period of two (2) years and until a successor has been selected.

**Eminent domain**

Sec. 11. Said District shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of said District, necessary to the exercise of the rights, powers, privileges and functions conferred upon it by this Act in the manner provided by General Law with respect to condemnation; provided that said District shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as amended, or to make the bond required therein. In condemnation proceedings being prosecuted by said District, said District shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

**Issuance of bonds; interest and sinking fund; approval  
of bonds; registration**

Sec. 12. The Board of Directors shall have the power and authority to issue and sell, as the obligations of such District, and in the name

and upon the faith and credit of such District, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any or all of such purposes. Said bonds shall be sold at such time or times, in such manner, at such price and on such terms as may be determined by said Board. A sufficient annual tax shall be levied to create an interest and sinking fund to pay the interest on and principal of said bonds as same mature, providing said tax together with any other taxes levied for said District shall not exceed a rate of seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within said District in any one year. Such bonds shall be executed in the name of the District and on its behalf by the president of the Board of Directors, countersigned by the secretary of said Board, and shall be subject to the same requirements in the manner of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of counties of this State. Upon the approval of such bonds by the Attorney General of Texas and registration by the Comptroller, the same shall be incontestable for any cause. Until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, or both. No bonds, except refunding bonds, shall be issued by such District until authorized by a majority vote of the duly qualified resident electors of said District who own taxable property within said District and who have duly rendered the same for taxation, voting in an election called and held for such purpose. Such election shall be called, except as provided in Section 6, by the Board of Directors on its own motion, and the order calling said election shall specify the date of same, the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest (not to exceed six per cent (6%) per annum), and the maximum maturity date of such bonds (not to exceed forty (40) years from their date or dates of issuance). Notice of said election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation within the area of such District once a week for two consecutive weeks, the date of the first publication to be at least fourteen (14) days prior to the date set for said election. Said bonds may be made optional for redemption prior to their maturity date at the discretion of the Board of Directors. The District may, without election, issue bonds to refund or pay off any validly issued and outstanding District bonds, or both, provided that such refunding bonds shall bear interest at the same rate or at a lesser rate than the bonds being refunded, unless it be shown mathematically that a savings will result in the total amount of interest to be paid.

#### **Inspection of district**

Sec. 13. After the creation and establishment of said District, it shall be subject to inspection by any duly authorized representative of the State Board of Health, the State Board of Public Welfare, or any other State agency created for a similar purpose, and the resident officers shall admit such representatives into all District facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to said District.

#### **Bonds eligible for investment and to secure deposits**

Sec. 14. All bonds issued by said District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies,

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fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons pertinent thereto.

#### Suits

Sec. 15. The hospital district created under this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this State in the name of such District.

#### Donations

Sec. 16. Not by way of limitation, the Board of Directors of said District is authorized in its behalf to accept donations, gifts and endowments for the District to be held in trust and administered by the Board of Directors for such purposes and under such direction, limitations and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of the District.

#### Violation of constitution; alternative procedures

Sec. 17. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitution, and all things done under this Act shall be in such manner as will conform thereto, whether expressly so provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the District or the validity of any other provisions of this Act, and the Legislature hereby declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

#### Publication of notice

Sec. 18. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Section 9, Article IX, Constitution of the State of Texas, has been made in the manner and form provided by law pertaining to the enactment of Local and Special Laws and is hereby found and declared to be proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 625, ch. 310, emerg. eff. June 1, 1965.

#### Title of Act:

An Act relating to the creation, administration, powers and duties, and financing

of the Cuero Hospital District of DeWitt County; and declaring an emergency. Acts 1965, 59th Leg., p. 625, ch. 310.

### Art. 4494q—32. Yoakum Hospital District

#### Constitutional authority: boundaries

Section 1. Pursuant to the provisions of Section 9 of Article IX of the Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a Hospital District within the State of Texas, to be known as Yoakum Hospital District, situated in the Counties of DeWitt, Lavaca and Gonzales, Texas, and the boundaries of said District shall be coextensive with the boundaries of the three school districts, hereinafter named as constituted on January 1, 1965, lying adjacent and forming one body of land, situated partly in the Counties of DeWitt, Lavaca and Gonzales, Texas, to wit:

HOPE COMMON SCHOOL DISTRICT No. 58, lying wholly in Lavaca County, Texas, SWEET HOME COMMON SCHOOL DISTRICT No. 41, lying wholly in Lavaca County, Texas, and YOAKUM INDEPENDENT SCHOOL DISTRICT, lying partly within the Counties of DeWitt, Lavaca and Gonzales, Texas, except as that certain area excluded therefrom situated in said Yoakum Independent School District, in DeWitt County, Texas, lying near the City of Cuero and adjacent to the present Cuero Independent School District, and better described as being all of the William Norwall (W. L. Norwall) Survey A-371; all of the S. B. Mixon Survey A-341; all of the Joshua Threadgill Survey A-454; and all of the William S. Townsend Survey A-457.

The District shall have the powers and responsibilities provided by the aforesaid Constitutional provision and as hereinafter prescribed.

#### **Purposes of district**

Sec. 2. The District herein authorized to be created shall take over and there shall be transferred to it the title to all lands, buildings, improvements and equipment in anywise pertaining to hospitals owned by any city or town thereof and thereafter it shall provide for the establishment of a hospital system by the purchase, construction, acquisition, repair or renovation of buildings and equipment and the equipping of same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants and shall assume the outstanding indebtedness which shall have been incurred by any city or town therein for hospital purposes prior to the creation of the District.

#### **Creation of district**

Sec. 3. The District shall not be created nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property tax paying electors of the District voting at an election called for such purpose. Such election shall be initiated by the presentation of a petition therefor signed by at least two hundred (200) qualified property taxpaying electors of the District filed with the person who is then the Chairman of the Board of Commissioners of the City of Yoakum, Texas, and accompanied by Two Hundred Dollars (\$200) in cash, which shall be used in defraying the costs of said election and any portion thereof not so used shall be refunded to petitioners. Within five (5) days after the filing thereof and receipt of such deposit, such person shall appoint two other persons, who are qualified electors of the District, as the Organizational Officers, who shall immediately convene to examine such petition and finding the same to bear the signature of at least two hundred (200) qualified property tax paying electors of the District whose names appear on the most recent respective County Tax Rolls, shall, within ten (10) days after the filing of such petition and receipt of such deposit, order an election to be held within the District to approve the creation of the proposed District, authority to levy a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation based upon the county valuations of the Counties of DeWitt, Lavaca and Gonzales, Texas, as same pertain to the properties within the boundaries of the District lying within each such respective county, and the assumption by such District of all outstanding bonds and indebtedness theretofore issued and incurred by any city or town in said District for hospital purposes. Such order shall specify the time and places of holding same, to be held not less than twenty (20) nor more than thirty-five (35) days from the date of ordering such election, shall specify the form of ballot and the presiding judge for each voting place, provided that one box may be established for all electors of the District in the most populous city or town in the District. Notice of election shall be given by publishing a substan-



tial copy of the election order in a newspaper of general circulation in said District and in each of the Counties of DeWitt, Lavaca and Gonzales, Texas, once a week for two (2) consecutive weeks, the first publication election. The failure of any such election shall not operate to prohibit to appear at least fourteen (14) days prior to the date established for the the calling and holding of subsequent elections for the same purpose, provided that another petition shall be filed and deposit made, as in the first instance, for each subsequent election.

At said election there shall be submitted to the legally qualified property taxpaying electors of the District who have duly rendered their property for taxation upon the tax rolls of the respective county in which they reside, the proposition of whether or not Yoakum Hospital District shall be created with authority to levy annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such District based upon the county valuations of the Counties of DeWitt, Lavaca and Gonzales, Texas, as same pertain to the properties within the boundaries of the District lying within each such respective county and the assumption by such District of all outstanding bonds and indebtedness theretofore issued and incurred by any city or town in said District for hospital purposes for the purpose of meeting the requirements of the District bonds, such indebtedness assumed by it and its maintenance and operating expenses, and a majority of the legally qualified property taxpaying electors of the District, who have duly rendered their property for taxation upon the tax rolls of the respective county in which they reside, as required by law, voting in said election in favor of the proposition shall be sufficient for its adoption.

The ballots shall have printed thereon the following:

“FOR the creation of Yoakum Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such District based upon the county valuations of the Counties of DeWitt, Lavaca and Gonzales, Texas, as same pertain to the properties within the boundaries of the District lying within each such respective county; and providing for the assumption by such District of all outstanding bonds and indebtedness heretofore issued and incurred by any city or town in said District for hospital purposes.

“AGAINST the creation of Yoakum Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such District based upon the county valuations of the Counties of DeWitt, Lavaca and Gonzales, Texas, as same pertain to the properties within the boundaries of the District lying within each such respective county; and providing for the assumption by such District of all outstanding bonds and indebtedness heretofore issued and incurred by any city or town in said District for hospital purposes.”

Each election judge shall immediately after closing the polls and counting the ballots deposit the sealed stub box with the District Clerk of DeWitt County, Texas, and a copy of the election returns with the County Clerk of DeWitt County, Texas, and a copy of the election returns and the locked ballot box, all the keys to which shall be delivered to any constable having jurisdiction within the City of Yoakum, Texas, to the chairman of the Organizational Officers, and such Organizational Officers shall within five (5) days after such election canvass the returns and certify the result. Such returns, stubs and ballots shall be preserved safely until sixty (60) days after such election or final legal action concerning the same after which the same shall be burned by such constable or his successor.

**Board of directors: election and terms of office; bond; officers**

Sec. 4. Within ten (10) days after the certification of a majority of such electors in favor of the proposition, the Organizational Officers shall convene and appoint seven (7) qualified persons to serve as Directors of the District until the first Saturday in April following the creation of the District at which time seven (7) Directors shall be elected. No person shall be appointed or elected as a member of the Board of Directors of the District unless he is a resident thereof and owns property subject to taxation therein and unless at the time of such election or appointment he shall be more than 21 years of age. Each member of the Board of Directors shall qualify by executing the constitutional oath of office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to the District conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the District for safekeeping.

The Board of Directors shall organize annually by electing one (1) of their number as president, one (1) as vice president and one (1) as secretary. Any four (4) members of the Board of Directors shall constitute a quorum and a concurrence of four (4) shall be sufficient in all matters pertaining to the business of the District. All vacancies in the office of director shall be filled for the unexpired term by appointment of the remainder of the Board of Directors.

A regular election of Directors shall be held on the first Saturday in April of each year, following the creation of the District, and notice of such election shall be published in a newspaper of general circulation in the District one (1) time at least ten (10) days prior to the date of election. The three (3) Directors receiving the highest vote at such first election after the creation of the District shall serve for a term of three (3) years; the two (2) Directors receiving the next highest vote shall serve for a term of two (2) years; the two (2) Directors receiving the next highest vote shall serve for a term of one (1) year. Thereafter all Directors shall serve for a term of three years and until their successor has been duly elected or appointed and qualified. The Directors shall order all elections, appoint proper election officials, furnish all necessary election supplies, canvass the returns, certify the result, provide for absentee balloting, maintain and preserve the purity of the elections, all in accordance with the Texas Election Code as applicable and disposition of the returns, stub box, ballot box, as hereinbefore set forth in Section 3 of this Act as applicable to the creation election. Any person desiring his name to be printed on the ballot as a candidate for Director shall file his application therefor, duly signed, with his executed oath provided in the Texas Election Code, with the secretary of the Board of Directors not less than thirty (30) days prior to the date of such election. The notice and order for such election shall specify the last day for filing.

**Management and control of district: powers of board of directors**

Sec. 5. The management and control of the Hospital District created pursuant to the provisions of this Act is hereby vested in the Board of Directors. Such Directors shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the entire Board of Directors. The District through its Board of Directors shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the District.

The District, through its Board of Directors shall assume every power, right, and privilege incident to the ownership of land, buildings, personal

property and the complete operation, management and maintenance of a hospital, hospitals, or hospital system, and is hereby expressly vested with the power and authority, including but not limited to, to negotiate and contract with any person or body, public or private, to purchase or lease land or hospitals, to construct and equip hospitals or a hospital system, to acquire and own land and hospitals and lease the same with all hospital equipment and facilities to any person or body, public or private for the purpose of conducting the complete operation, management and maintenance of a hospital or hospital system in consideration of a fair and reasonable annual payment to defray any part or all of the District's annual capital outlay or debt service requirements, and to negotiate and contract with other political subdivisions of the State or private individuals, associations or corporations for such purpose or purposes. Any such contract or lease shall assure the provision of medical and hospital care for the needy inhabitants of the District.

The Board of Directors shall have the authority to employ employees of every kind and character, including, but not limited to, doctors, technicians, nurses, bookkeepers, financial advisors, architects, lawyers, clerks, as may be deemed necessary or convenient for the efficient operation of the District, its hospital, hospitals or hospital system, or to discharge the duties, obligations and responsibility of the District in the provision of medical and hospital care, who shall serve at the will of the Board and shall receive such compensation as may be fixed by the Board. The Board of Directors may appoint a qualified person to be known as the administrator or manager of the District who shall supervise all the work and activities of the District and shall have general direction of the affairs of the District, subject to the direct control and responsibility of the Board and such limitations as may be prescribed by the Board. Confirmation by the Board of Directors shall be required for the appointment of all personnel employed by such administrator or manager. Such administrator or manager shall serve at the will of the Board and shall receive such compensation as may be fixed by the Board, but the tenure of his contract shall never exceed two years, and upon assuming his duties he shall execute a bond payable to the District in an amount to be set by the Board, in no event less than Ten Thousand Dollars (\$10,000), conditioned that he shall perform the duties required of him and containing such other conditions as the Board may require.

The Board of Directors shall be authorized to contract with any county or incorporated municipality located outside the District for the care and treatment of the sick, diseased or injured persons of any such county or municipality and shall have the authority to contract with the State of Texas and agencies of the Federal Government, for treatment of sick, diseased, disabled or injured persons for whom the State of Texas or the Federal Government are responsible. The Board of Directors is also authorized to enter into such contracts as may be required to establish or continue a retirement program, insurance or medical protection program, for the benefit of the District's employees.

The Board of Directors shall be authorized to prescribe the method and manner of making purchases and expenditures by and for such District, and all accounting and control procedures, effect a fiscal year and prepare an annual budget with the assistance of the administrator or manager. The Board shall cause an annual audit to be made of the books and records of the District promptly after the close of each fiscal year by an independent public accountant. After the close of each fiscal year the administrator or manager shall prepare for the Board a full sworn statement of all moneys belonging to the District and a full account of all disbursements of same. The financial books and records of the District, the annual audit reports, the administrator or manager's statement and

the annual budget shall be open to reasonable inspection at the principal office of the District.

The Board of Directors shall appoint a Medical Director, who is a Doctor of Medicine, actively practicing in the District, who shall be in charge of all matters of a medical nature in said District subject to such rules and regulations as the Board of Directors may adopt, and shall be entitled to attend all meetings of said Board and take part in all discussions of said Board, but he shall have no vote.

**Transfer of hospital facilities and assumption of indebtedness and assets**

Sec. 6. All lands, buildings, personal property, leaseholds and equipment that at the time of the creation of the District are owned by any city or town therein and which were acquired for the purpose of or used in providing hospital service or care for patients of such city or town shall become the property of Yoakum Hospital District and the governing body of any such city or town shall provide by order that all property so owned shall be conveyed to the Yoakum Hospital District in consideration of the District assuming all debts and obligations arising from the acquisition, construction and operation of such city or town hospital facilities, subject however, to such incumbrances, leases, or contractual rights and obligations pertaining thereto as may be outstanding at such time and made, incurred, undertaken or assumed by such city or town, and such District shall recognize, respect and fulfill any such incumbrance, lease or contractual rights and obligations so outstanding in the same manner and extent as such city or town may have been legally obligated, without prejudice to the rights of third parties. The District through its Board of Directors shall by resolution, accept said properties and shall assume all such debts, obligations, incumbrances, leases, or contractual rights.

Any funds remaining in the hands of any city or town therein as the proceeds of bonds assumed by the District, as herein provided, or sinking funds established to discharge such bonds, shall forthwith be transferred to and become the funds of the District and title thereto shall vest in such District. There shall also vest in said District and become the funds thereof the unspent portion of any other funds theretofore set up or appropriated by budget or otherwise by any city or town thereof for the support and maintenance of hospital facilities for the year within which the District is created, thereby providing such District with funds with which to maintain and operate such facilities for the remainder of such year. Any uncollected or delinquent taxes levied for hospital purposes by any city or town thereof, as collected, shall be paid to the District and applied by it to the purposes for which such taxes originally were levied. Any and all obligations under contracts legally incurred by any city or town therein for the building or the support and maintenance of hospital facilities prior to the creation of said District but outstanding at the time of its creation shall be assumed and discharged by such District without prejudice to the rights of third parties. It is provided that the management and control of the property and affairs of any hospital system or systems owned and operated by any city or town thereof shall continue in the existing governing body until appointment and organization of the Board of Directors of the District, at which time the governing body shall turn over all records, property and affairs of said hospital system or hospital systems to the Board of Directors of the District and shall cease to function as the governing body of such hospital system or hospital systems. Any outstanding bonded indebtedness incurred by such city or town in the acquisition of such lands, buildings and facilities or in the construction and equipping of such hospital facilities, together with any other outstanding bonds issued for hospital purposes, shall be assumed by the District; and such city or town that issued such bonds, shall be, by the District, released

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of any further liability for the payment therefor or providing interest and sinking fund requirements thereon; provided that nothing herein contained shall limit or affect any of the rights of any of the holders of such bonds against such city or town, in the event of default in the payment of the principal or interest on any such bonds in accordance with their respective terms. Any such funds, in the hands of the District, shall be used for all or any of the same purposes and for no other purposes than, the purposes for which the city or town transferring such funds could lawfully have used the same had they remained the property and funds of such city or town.

#### Authorization of bonds and levy of tax

Sec. 7. The Board of Directors of the District shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such District for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospitals and the hospital system, as determined by the Board of Directors, and for any or all of such purposes. At the time of the issuance of any such bonds, a tax shall be levied by the Board sufficient to create an interest and sinking fund and to pay the interest on and principal of said bonds as same mature, providing such tax together with any other taxes levied for said District shall not exceed seventy-five cents (75¢) on each One Hundred Dollar valuation of taxable property in any one year. Such bonds shall be issued under the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, but shall be executed in the name of the District and in its behalf by the President of the Board and attested by the Secretary as provided by Chapter 204, Acts of the 57th Legislature, Regular Session, 1961 (Article 717j—1, Vernon's Texas Civil Statutes), and shall be subject to the same requirements in the matter of the approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. After approval of any such bonds by the Attorney General and registration by the Comptroller, said bonds shall be incontestable. No bond shall be issued by such District except refunding bonds until authorized by a majority of the qualified property tax paying electors of the District voting at an election called for such purpose. Such election shall be called by the Board of Directors and held in accordance with the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, and except as therein otherwise provided, shall be conducted in accordance with the General Laws of Texas pertaining to elections. The District shall make provisions for defraying the costs of all elections called and held under the provisions of this Act. The election order shall specify the date of the election, the amount of bonds to be authorized, the maximum maturity thereof, the maximum rate of interest they are to bear, the place or places where the election shall be held and the presiding officers thereof. Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such District once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least twenty (20) days prior to the date set for the election.

The bonds of the District may be issued for the purpose of refunding and paying off any bond or other refundable indebtedness issued or assumed by the District and any bond issued by such District. Such refunding bonds may be sold and the proceeds thereof applied to the payment of any outstanding bonds or other refundable indebtedness, or may be exchanged in whole or in part for not less than a like principal amount of such outstanding bonds or refundable indebtedness; provided that if such refunding bonds are to be exchanged for a like amount of said outstanding bonds or other refundable indebtedness the interest thereon computed in accordance with recognized standard bond interest cost tables, shall not

exceed the average interest cost per annum so computed upon the bonds or other indebtedness to be refunded; and provided further that if such refunding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding bonds or other refundable indebtedness same shall be issued and payments made in the manner specified by Chapter 503, Acts of the 54th Legislature, 1955 (Article 717k, Vernon's Texas Civil Statutes). In accordance therewith, the District may issue such refunding bonds without an election above provided. The bonds of the District may be made optional for redemption prior to their maturity at the discretion of the Board of Directors.

#### **Bonds exempt from taxation**

Sec. 8. In carrying out the purposes of this Act the Hospital District will be performing an essential public function and any bonds issued by it and their transfer and the issuance therefrom, including any profits made in the sale thereof, shall at all times be free from taxation by the State, any municipality or political subdivision thereof.

#### **Bonds eligible for investment and to secure deposits**

Sec. 9. All bonds of the District shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

#### **Levy, assessment and collection of taxes**

Sec. 10. Hospital District taxes shall be assessed and collected in the same manner as provided by law with relation to county taxes. The tax assessor and/or collector of DeWitt County, as to all taxable property within the boundaries of the District lying within DeWitt County, Texas; the tax assessor and/or collector of Lavaca County, as to all taxable property within the boundaries of the District lying within Lavaca County, Texas; the tax assessor and/or collector of Gonzales County, as to all taxable property within the boundaries of the District lying within Gonzales County, Texas, shall be charged and required to accomplish the assessment and collection of all taxes levied by and on behalf of the District and to promptly pay over the same to the District depository. For his services, such county tax assessor-collector shall be allowed such compensation as may be provided for by contract with the District but not to exceed the amount allowed for assessment and collection of county taxes. The bond of such county tax assessor-collector shall stand as security for the proper performance of his duties as assessor-collector of the District, or, if in the judgment of the District Board of Directors, it is necessary, additional bond payable to the District may be required. In all matters pertaining to the assessment, collection and enforcement of taxes for the District, such county tax assessor-collector shall be authorized to act in all respects according to the laws of the State of Texas relating to State and County taxes, and where applicable the orders of the respective Commissioners Court with reference to the assessment, collection and enforcement of county taxes so as to provide uniformity.

Upon the creation of such District, the Board of Directors shall have the power and authority and it shall be their duty to levy on all property

For Annotations and Historical Notes, see V.A.T.S.

subject to hospital district taxation for the benefit of such District at the same time taxes are levied for county purposes, using the county valuations of the Counties of DeWitt, Lavaca and Gonzales, Texas, as same pertain to the properties within the boundaries of the District lying within each such respective county and the County Tax Rolls thereof, a tax of not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within the District, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds which may be issued or assumed by the District for hospital purposes as herein provided; (2) providing for the operation and maintenance of the District and hospital system; and (3) for the purpose of making further improvements and additions to the hospitals or hospital system, and for the acquisition of necessary land and sites therefor, by purchase, lease or condemnation.

#### District depository

Sec. 11. The Board of Directors of the District shall name one or more banks within the District to serve as depository or treasurer for the funds of the District. All such funds shall, as derived and collected, be immediately deposited with such depository bank or banks except that sufficient funds shall be remitted to the bank or banks for the payment of principal of and interest on the outstanding bonds of the District in time that such money may be received by said bank or banks of payment on or prior to the date of maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

#### Eminent domain

Sec. 12. The District created hereunder shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple, or any lesser interest therein, within the boundaries of the District, necessary to the powers, rights, and privileges conferred by this Act, in the manner provided by General Law with respect to condemnation; provided that the said District shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph No. 2 in Article 3268, Revised Civil Statutes of Texas, 1925, as amended, or to make the bond required therein. In condemnation proceedings being prosecuted by the said District, the District shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction, relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal of writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

#### Inspection of district

Sec. 13. The District established or maintained under the provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any State Board of Charities (or Public Welfare) that may hereafter be created, and resident officers shall admit such representatives into all Hospital District facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the Hospital District.

#### Annexation of additional territory to hospital district

Sec. 14. The Board of Directors of the District may by order duly adopted annex any adjacent properties to said District, provided that an

election is called by the Board of Directors, such election to be confined to the area to be annexed to the District, and upon the approval of a majority of the qualified property taxpaying electors of said area proposed to be annexed the said property shall become a part and portion of the said District and shall be liable for its pro rata share of the indebtedness of said District and to the levying of taxes upon the properties in said District for the payment of said obligations and debts of said District.

**District alone to incur indebtedness for hospital purposes**

Sec. 15. No county or part thereof that has been constituted a part of this District, and no city or town therein after the creation of this District by the election provided in this Act, shall issue bonds or other evidences of indebtedness or levy taxes on property within this District, for hospital purposes for medical treatment of needy or indigent persons of this District and the said Yoakum Hospital District shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of needy or indigent persons within its boundaries.

**State not to be obligated**

Sec. 16. The support and maintenance of the Yoakum Hospital District shall never become a charge against or obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such District.

**Patients: inquiry as to the ability to pay: liability of relative**

Sec. 17. Whenever a patient residing in the District has been admitted to the facilities of the Hospital District, the Board of Directors shall cause inquiry to be made as to his circumstances and of the relatives of such patient legally liable for his support. If it finds that such patient or said relatives are liable to pay for his care and treatment in whole or in part, any order shall be made directing such patient, or said relatives, to pay to the treasurer of the District for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The District shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the District to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the District. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the Board of Directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the district court by either party to the dispute

**Donations**

Sec. 18. The Board of Directors of the District is authorized on behalf of such Hospital District to accept donations, gifts and endowments to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and object of the Hospital District.



**Annual budget**

Sec. 19. The Board of Directors of the District shall cause to be prepared an annual budget based upon the fiscal year of the Hospital District in accordance with the provisions of Section 5 hereof and shall call a public hearing on the same prior to its adoption. Notice of such hearing shall be published in a newspaper of general circulation in the District at least ten (10) days prior to the date set for the hearing. After its adoption, a brief form of such budget by general heading along with a similar form of the preceding annual budget and the actual expenditures thereunder, showing fiscal year account balances shall be published one time in a newspaper of general circulation in the District.

**Violation of constitution: alternate procedures**

Sec. 20. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitution, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitution, the District shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the Hospital District or the validity of any other provision of this Act, and the Legislature here declares that it would have created the Hospital District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions thereof.

**Publication of notice**

Sec. 21. Proof of publication of the notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and such notice is hereby found and declared proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 651, ch. 317, emerg. eff. June 1, 1965.

**Title of Act:**

An Act relating to the creation, administration, powers and duties, and financing of the Yoakum Hospital District in DeWitt, Lavaca, and Gonzales Counties; and declaring an emergency. Acts 1965, 59th Leg., p. 651, ch. 317.

**Art. 4494q—33. Hunt County Hospital District**

**Constitutional authority**

Section 1. In accordance with the provisions of Article IX, Section 9, Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a hospital district within the State of Texas, to be known as the Hunt County Hospital District with boundaries coextensive with the boundaries of Hunt County, Texas.

**Purpose of district; election; ballots**

Sec. 2. The said district hereby provided for shall assume full responsibility for providing medical and hospital care for the needy residing within the district; provided, however, that said hospital district shall not be created unless and until an election is duly held in the district for such purpose, which said election shall be initiated by order of the Commissioners Court upon its own motion or upon receipt by it of a petition of fifty (50) resident qualified property taxpaying electors. Said petition may contain an additional request that the Commissioners Court at the same election held for the creation of said district submit an additional

proposition authorizing the district to issue bonds for any of the purposes set forth in Section 6 of this Act in the maximum amount, and with the maximum rate of interest (not to exceed 6%) and the maximum maturity date (not to exceed 40 years from their date of issuance) stated in the petition. If such request is made, the Commissioners Court shall submit such bond proposition. It is provided, however, that neither the submission, passage nor defeat of any such bond proposition shall affect the authority of the Board of Directors of such district to exercise the power to call bond elections or issue bonds as provided in Section 6 of this Act.

The order calling the election shall specify the time and place or places of holding the same, the form of ballot and the presiding judge for each voting place. At such election there shall be submitted to the qualified property taxpaying electors, in addition to the bond proposition, if any, requested in any petition submitted pursuant hereto, as permitted above, the proposition of whether or not Hunt County Hospital District shall be created with authority to levy annual taxes at a rate not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within said district for the purpose of meeting the requirements of the district's bonds and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the district voting in said election in favor of the proposition shall be sufficient for its adoption. The ballots, in addition to any such bond proposition, shall have printed thereon the following:

“FOR the creation of the Hunt County Hospital District, and providing for the levy of annual taxes not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such District.”

“AGAINST the creation of the Hunt County Hospital District, and providing for the levy of annual taxes not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such District.”

Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in Hunt County Hospital District once a week for two (2) consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election.

The failure at any such election of the proposition to create said district shall not operate to prohibit the calling and holding of subsequent elections for the same purpose by the Commissioners Court upon its own motion or upon receipt by it of a petition of fifty (50) resident qualified property taxpaying voters, which petition may again or for the first time contain a request to submit a proposition for the issuance of bonds as hereinabove authorized.

#### Canvass of returns

Sec. 3. Within ten (10) days after such election is held the Commissioners Court shall convene and canvass the returns of the election, and if a majority of the qualified property taxpaying electors voting at said election voted in favor of the proposition, they shall so find and declare the hospital district established and created, and if a bond proposition was submitted and likewise favorably voted by a majority of the property taxpaying electors voting at said election, the Commissioners Court shall so declare and said bonds may be issued by the board of directors the same as if voted pursuant to an election called by it under Section 6 of this Act.

#### Board of directors; election; qualifications; officers; compensation

Sec. 4. If so established and created, said district shall be governed, managed and controlled by a board of directors composed of seven (7)

members, all of whom shall have identical rights, privileges and duties with respect to all matters concerning the business of the board. The initial members of the board of directors shall be Edwin D. Barlow, H. W. English, Fletcher Warren, Ford Molen, J. P. McNatt, J. L. Huffines, Jr., and D. L. Hearne. Said initial members shall serve as such directors of the district until the first Saturday in April following the establishment and creation of the district. The board of directors shall be divided into seven (7) positions, which positions shall be numbered one (1) through seven (7). Board positions numbered one (1) through four (4) shall for the purposes of this Act be referred to as "appointive positions" on the board of directors, and the persons occupying appointive positions shall be referred to as "appointive directors." Board positions numbered five (5) through seven (7) shall for the purposes of this Act be referred to as the "elective positions" on the board of directors, and the persons occupying elective positions shall be referred to as "elective directors."

On or prior to the first Saturday in April following the establishment and creation of the district, the Commissioners Court shall appoint one person from each of the four (4) Commissioners Court Precincts of Hunt County, as the same are defined and described on the effective date of this Act, to the board of directors of the district. The four (4) persons thus appointed shall occupy the appointive positions on the board and said persons shall by lot determine the numbered appointive positions respectively to be occupied by said persons. The initial appointive directors occupying appointive positions numbered one (1) and two (2) shall serve for a period of two (2) years, and the initial appointive directors occupying appointive positions numbered three (3) and four (4) shall serve for a period of one (1) year. The Commissioners Court for Hunt County on or prior to the first Saturday in April in each year thereafter shall appoint successor appointive directors to the appointive positions becoming vacant in each year and the succeeding appointive directors shall each serve for a term of two (2) years. No person shall be appointed as a successor appointive director unless at the time of appointment he is a resident of the Commissioners Court Precinct of Hunt County in which his predecessor resided at the time of said prior member's appointment, so that on each appointment date each Commissioners Court Precinct of Hunt County, as defined on the effective date of this Act, shall have a representative on the board of directors of said district.

On the first Saturday in April following the establishment and creation of the district, the board of directors of the district shall call and hold the first regular election for the purpose of electing three (3) persons to occupy the elective positions on the board of directors. The persons thus elected as elective directors shall determine by lot the numbered elective positions to be occupied by said persons. The initial elective directors thus determined to occupy elective positions numbered five (5) and six (6) shall serve for a period of two (2) years, and the elective director thus determined to occupy elective position number seven (7) shall serve for a period of one (1) year. On the first Saturday in each year thereafter a regular election for the election of persons to fill the elective positions becoming vacant in each year shall be held and the succeeding elective directors thus elected shall each be elected to serve for a term of two (2) years.

Notice of each election to fill elective positions on the board shall be published in a newspaper of general circulation in the county one (1) time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for elective director shall file a petition with the Secretary of the district asking that such name be printed on the ballot and signed by not less than twenty-five (25) qualified voters of the district. Such petition shall be filed with the Secretary at least twenty-five (25) days prior to the date of election.

No person shall be qualified for appointment by the Commissioners Court to the appointive positions on the board of directors unless he is a resident of the proper Commissioners Court Precinct, as aforesaid, and unless he owns land subject to taxation by the district and at the time of his appointment he is over twenty-one (21) years of age; and no person shall be qualified for election or appointment to the elective positions on the board of directors unless he is a resident of the district and unless he owns land subject to taxation therein and at the time of such election or appointment he is over twenty-one (21) years of age. All members of the board of directors of the district, whether initially named herein or subsequently elected or appointed, shall serve as directors until their respective successors shall be elected or appointed, as required by this Act, and shall qualify.

Each member of the board of directors shall qualify by executing the constitutional oath of office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to said district conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the district for safekeeping.

The board of directors shall organize by electing one (1) of their number as president and one (1) of their number as Secretary. Any four (4) members of the board of directors shall constitute a quorum and a concurrence of four (4) members shall be sufficient in all matters pertaining to the business of the district. All vacancies in the elective positions on the board of directors shall be filled for the unexpired term by appointment made by the remainder of the board of directors. All vacancies in the appointive positions on the board of directors shall be filled for the unexpired term by the Commissioners Court of Hunt County.

All members of the board of directors shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the board of directors.

#### Levy of tax

Sec. 5. The board of directors of said hospital district shall have the power and authority and it shall be their duty to levy on all property subject to hospital district taxation for the benefit of the district a tax of not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within the hospital district, for the purpose of (1) paying the interest on and creating a sinking fund for bonds and other obligations which may be issued or assumed by the hospital district for hospital purposes as herein provided; (2) providing for the operation and maintenance of the hospital district and hospital system; and (3) for the purpose of making further improvements and additions to the hospital system and for the acquisition of necessary sites therefor by purchase, lease or condemnation.

The Hunt County tax rolls shall constitute the tax rolls of the district until tax rolls shall be prepared by or for the district. Prior to the levy of any taxes, the board of directors shall appoint a board of equalization composed of five resident property owners of the district and cause taxes to be assessed, valuations to be equalized, and tax rolls to be prepared. The taxes of the district shall be assessed and collected, on all property subject to taxation, by the assessor and collector of taxes for the county. Such taxes shall be assessed, equalized and collected in the same manner and under the same conditions as county taxes, except as herein provided. The assessor and collector of taxes shall charge and deduct from payments to the hospital district the fees for assessing and collecting the tax at the rate of not exceeding one percent (1%) of the amounts collected as may be determined by the board of directors but in no event in excess of Five

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Thousand Dollars (\$5,000) for any one (1) fiscal year. Such fees shall be deposited in the county's general fund, and shall be reported as fees of office of the tax assessor and collector. Interest and penalties on taxes paid to the hospital district shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the district depository; and such funds shall be withdrawn only as provided herein. All other income of the hospital district shall be deposited in like manner with the district depository.

Not later than October 1st of each year, the board of directors shall levy the tax on all taxable property within the district which is subject to taxation and shall immediately certify such tax rate to the tax assessor and collector of Hunt County, provided that the taxes initially assessed, equalized and levied may be assessed, equalized and levied at any time and shall be levied for the entire year in which such taxes are levied.

#### Bonds

Sec. 6. The board of directors, in addition to any bonds initially authorized at the election authorizing the creation of said district, shall have the power and authority to issue and sell, from time to time, as the obligations of such hospital district, and in the name and upon the faith and credit of such hospital district, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes, including, but not limited to, purchasing, and from time to time improving, repairing, renovating and equipping, the hospital facilities contemplated under Section 8 of this Act, and for any or all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures, providing said tax together with any other taxes levied for said district shall not exceed Seventy-Five Cents (75¢) on the One Hundred Dollars (\$100) valuation in any one (1) year. Such bonds shall be executed in the name of the hospital district and on its behalf by the president of the board of directors and countersigned by the Secretary of the board of directors, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of counties of this state. Upon the approval of such bonds by the Attorney General of Texas and registration by the Comptroller the same shall be incontestable for any cause. It is provided, however, that no bonds of said hospital district shall be delivered so long as a County Hospital Authority, if any, organized for Hunt County under Article 4494r, Vernon's Texas Civil Statutes, or a City Hospital Authority organized under Article 4437e, Vernon's Texas Civil Statutes, and operating within Hunt County, has outstanding any bonds which are payable from the revenues of any such Authority, and which were issued and delivered prior to the establishment and creation of said hospital district. In addition no bonds shall be issued by such hospital district (except refunding bonds) until authorized by a majority vote of the resident qualified electors who own taxable property within the district and have duly rendered the same for taxation, voting at an election called and held for such purpose. Such election, except for any bonds to be voted at the election held creating the district, may be called by the board of directors on its own motion, and the order calling said election shall specify the date of the election, the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, the maximum interest rate (not to exceed six percent (6%) per annum) and the maximum maturity date of such bonds (not to exceed forty (40) years from their date of issuance). Notice of election

shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in Hunt County once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) full days prior to the date set for the election. The cost of such election, other than the election creating the district, shall be paid by the hospital district.

The bonds of the district may be made optional for redemption prior to their maturity date at the discretion of the board of directors.

The district may without an election issue bonds of the district to refund and pay off any validly issued and outstanding bonds heretofore or hereafter issued by the district, and any bonds or other obligations assumed by it hereunder, provided any such refunding bonds shall bear interest at the same rate or at a lesser rate than the bonds being refunded unless it be shown mathematically that a savings will result in the total amount of interest to be paid.

**Title to lands, buildings or equipment; assumption of  
indebtedness and assets**

Sec. 7. Any lands, buildings or equipment that may be jointly or separately owned by Hunt County and any city within the boundaries of the district and by which medical services or hospital care, including geriatric care, are furnished to needy persons of the city and county, shall become the property of the hospital district; and title thereto shall vest in the hospital; and any funds of any such city and said county, or either, which are the proceeds of any bonds assumed by the hospital district, as hereinafter provided, shall become the funds of the hospital district; and title thereto shall vest in the hospital district; and there shall vest in the hospital district and become the funds of the hospital district the unspent portions of any funds theretofore set up or appropriated by budget or otherwise by such city or said county, or either of them, for the support and maintenance of the hospital facilities, for the year within which the hospital district comes into existence, thereby providing such hospital district with funds with which to maintain and operate such facilities for the remainder of such year. All obligations under contract legally incurred by any such city or said county, or either of them, for the building of, or the support and maintenance of, hospital facilities, prior to the creation of the said district but outstanding at the time of the creation of the district, shall be assumed and discharged by the hospital district without prejudice to the rights of third parties, provided that the management and control of the property and affairs of the present hospital system shall continue in the board of managers of such system until the organization of the board of directors of the hospital district, at which time the board of managers of the present hospital system or systems shall turn over all records, property and affairs of said hospital system to the board of directors of the hospital district and shall cease to exist.

Any outstanding bonded indebtedness incurred by any such city or said county, either or both of them, in the acquisition of such lands, buildings and equipment, or in the construction and equipping of such hospital facilities, together with any other outstanding bonds issued by either of them for hospital purposes, and the proceeds of which are in whole or in part, still unspent, shall be assumed by the hospital district and become the obligation of the hospital district; and such city or said county, either or both of them, that issued such bonds, shall be by the hospital district relieved of any further liability for the payment thereof, or for providing interest and sinking fund requirements thereon; provided that nothing herein contained shall limit or affect any of the rights of any of the holders of such bonds against such city

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or said county, as the case may be, in the event of default in the payment of the principal or interest on any of such bonds in accordance with their respective terms.

The Commissioners Court and any city, where a hospital or hospital system is jointly operated, or the Commissioners Court, where the county owns the hospital or hospital system, as the case may be, as soon as the hospital district is created and authorized at the election hereinabove provided, and there have been qualified the board of directors as hereinbefore provided, shall execute and deliver to the hospital district, to-wit: to its said board of directors, an instrument in writing conveying to said hospital district the hospital property, including lands, buildings and equipment; and shall transfer to said hospital district the funds hereinabove provided to become vested in the hospital district, upon being furnished the certificate of the chairman of the board to the fact that a depository for the district's funds has been selected and has qualified; which funds shall, in the hands of the hospital district and of its board of directors be used for all or any of the same purposes as, and for no other purposes than, the purposes for which said county or the city transferring such funds could lawfully have used the same had they remained the property and funds of said county or such city.

#### **Purchase of hospital facilities**

Sec. 8. The hospital district permitted to be created by this Act is authorized to purchase from any County Hospital Authority created for Hunt County and all City Hospital Authorities operating within Hunt County, and each said Authority is authorized to sell to said hospital district, any and all hospital facilities, including all lands, buildings, equipment and properties owned by them upon such terms and for such price or prices as they may mutually agree.

#### **Purchases and expenditures; books, records and accounts; rules and regulations**

Sec. 9. The board of directors of such district shall have the power to prescribe the method and manner of making purchases and expenditures by and for such hospital district, and also shall prescribe all accounting and control procedures, and the method of purchasing necessary supplies, materials and equipment; and shall have the power to adopt a seal for such district; and may employ a general manager, attorneys, bookkeepers, architects, and any other employees deemed necessary for the efficient operation of the hospital district.

All books, records, accounts, notices and minutes and all other matters of the district and the operation of its facilities shall, except as herein provided, be maintained at the office of the district and there be open to public inspection at all reasonable hours.

The board of directors is specifically empowered to adopt rules and regulations governing the operation of such district and its facilities which rules and regulations shall supplement but shall not contravene any of the provisions of this Act. Such rules and regulations may, upon approval of the board of directors, be published in booklet or pamphlet form at the expense of the district and may be made available to any taxpayer upon request.

#### **Fiscal year; audit; budget**

Sec. 10. The fiscal year of the hospital district authorized to be established by the provisions hereof shall commence on October 1st of each year and end on the 30th day of September of the following year. The district directors shall cause an annual independent audit to be made of the books and records of the district, such audit to be made covering

such fiscal year, and the same shall be filed with the Comptroller of Public Accounts of the State of Texas and at the office of the district not later than December 31st of each year.

The board of directors shall each year cause a budget to be prepared showing the proposed expenditures and disbursements and the estimated receipts and collections for the following fiscal year and shall hold a public hearing on the proposed budget after publication of a notice of hearing in a newspaper of general circulation in the county at least once not less than ten (10) days prior to the date set for the hearing. Any person who is a taxpayer of the district shall have the right to appear at the time and place designated in the notice and be heard with reference to any item shown in the proposed budget. The proposed budget shall also show the amount of taxes required to be levied and collected during such fiscal year, and upon final approval of the budget the board of directors shall levy such tax as may be required and certify the tax rate for such year to the county tax assessor and collector as provided in Section 5 hereof, and it shall be the duty of the said tax assessor and collector to assess and collect such tax.

#### **Eminent domain**

Sec. 11. The district shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said district, necessary or convenient to the exercise of the rights, power, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said district shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph No. 2 in Article 3268, Vernon's Texas Civil Statutes, nor to make the bond required therein. In condemnation proceedings being prosecuted by the said district, the district shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

#### **Depository**

Sec. 12. Within thirty (30) days after organization and qualification of the board of directors of the hospital district, the said directors shall by resolution designate a bank within the county in which the district is located as the district's depository or treasurer and all funds of the district shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two (2) years until a successor has been named.

#### **Inspection of district**

Sec. 13. The district established and maintained under the provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any state board of charities (or public welfare) that may hereafter be created, and the officers and employees of the district shall admit such representatives into all hospital district facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the hospital district.

#### **District alone to incur indebtedness for hospital purposes**

Sec. 14. Except as herein provided, neither Hunt County, nor any city or town within Hunt County, shall levy any tax against any property



within the hospital district for hospital purposes; and such hospital district shall assume full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said hospital district from the date that taxes are collected for the hospital district.

**Patients; inquiry as to ability to pay; liability of relatives**

Sec. 15. Whenever a patient residing in the hospital district has been admitted to the facilities of the hospital district, the directors shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If they find that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the hospital district for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The district shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the district to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the hospital district. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the district's directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the district court by either party to the dispute.

**Donations**

Sec. 16. The board of directors of the hospital district is authorized on behalf of said hospital district to accept donations, gifts and endowments for the hospital district to be held in trust and administered by the board of directors for such purposes and under such direction, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of the hospital district.

**Bonds eligible for investment and to secure deposits**

Sec. 17. All bonds issued by or assumed by the districts authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

**Suits**

Sec. 18. The hospital district authorized to be created under the provisions of this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this state in the name of such district. In addition, all property owned by said district shall be held for public purposes and shall be exempt from taxation of every character.

**Violation of constitution; alternative procedures**

Sec. 19. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under

this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the district shall have the power by resolution to provide an alternative procedure conformable with such constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the district or the validity of any other provisions of this Act, and the Legislature hereby declares that it would have created the district and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

#### Publication of notice

Sec. 20. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Section 9 of Article IX and all other applicable provisions of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and is hereby found and declared to be proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 730, ch. 344.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act relating to the creation, establishment, maintenance and operation of a hospital district in accordance with the provisions of Section 9 of Article IX of the Constitution of the State of Texas, to be known as the Hunt County Hospital District, with boundaries coextensive with the boundaries of Hunt County, Texas; defining its purposes; providing for its administration, operation, financing, taxing powers and liabilities; providing said dis-

trict with the authority to purchase and otherwise acquire existing privately and publicly owned hospital facilities and providing the requirements and the authority on the part of cities, counties and hospital authorities owning and operating hospital facilities to transfer or where appropriate to sell the same to said district; prescribing procedures; providing tax exemptions; providing for severability; reciting proof of publication of constitutional notice; and declaring an emergency. Acts 1965, 59th Leg., p. 730, ch. 344.

### Art. 4494q—34. Gray County Hospital District

#### Constitutional authority

Section 1. In accordance with the provisions of Article IX, Section 9, Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a hospital district within the State of Texas, to be known as the Gray County Hospital District with boundaries coextensive with the boundaries of Gray County, Texas.

#### Purposes of district; election; ballots

Sec. 2. That said district hereby provided for shall assume full responsibility for providing medical and hospital care for the needy residing within the district; provided, however, that said hospital district shall not be created unless and until an election is duly held in the district for such purpose, which said election shall be initiated by order of the Commissioners Court upon its own motion or upon receipt by it of a petition of fifty (50) resident qualified property taxpaying voters.

The order calling the election shall specify the time and place or places of holding same, the form of ballot and the presiding judge for each voting place. At such election there shall be submitted to the qualified property taxpaying electors the proposition of whether or not Gray County Hospital District shall be created with authority to levy annual taxes at a rate not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such district for the purpose of meeting the requirements of the district's bonds and its maintenance and operating expenses, and a majority of the qualified property taxpaying

For Annotations and Historical Notes, see V.A.T.S.

electors of the district voting in said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

“FOR the creation of the Gray County Hospital District, and providing for the levy of annual taxes not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such District.”

“AGAINST the creation of the Gray County Hospital District, and providing for the levy of annual taxes not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such District.”

Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in Gray County Hospital District once a week for two (2) consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election.

The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose by the Commissioners Court upon its own motion or upon receipt by it of a petition of fifty (50) resident qualified property taxpaying voters.

#### Canvass of returns

Sec. 3. Within ten (10) days after such election is held the Commissioners Court shall convene and canvass the returns of the election, and if a majority of the qualified property taxpaying electors voting at said election voted in favor of the proposition, they shall so find and declare the hospital district established and created.

#### Board of directors; qualifications and bond; officers; vacancies; compensation

Sec. 4. If so established and created, said district shall be governed, managed and controlled by a board of directors composed of six (6) members, all of whom shall have the same rights and responsibilities with respect to voting and all other matters. Members of the existing Board of Managers of Highland General Hospital shall serve as such directors of the district until the first Saturday in April following the establishment and creation of the district at which time the first regular election for directors shall be held and six (6) directors shall be elected as hereinafter provided. The three (3) directors receiving the highest vote at such first election shall serve for four (4) years, the other three (3) directors shall serve for two (2) years. Thereafter, all directors shall serve for a period of four (4) years and until their successors have been duly elected or appointed and qualified. No person shall be appointed or elected to the elective positions on the board of directors of said hospital district unless he is a resident thereof and owns land subject to taxation therein and unless at the time of such election or appointment he shall be more than twenty-one (21) years of age.

Each member of the board of directors shall qualify by executing the constitutional oath of office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to said district conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the district for safekeeping.

The board of directors shall organize by electing one (1) of their number as president and one (1) of their number as secretary. Any four (4) members of the board of directors shall constitute a quorum and a concurrence of four (4) members shall be sufficient in all matters pertain-

ing to the business of the district. All vacancies in the elective positions of directors shall be filled for the unexpired term by appointment made by the remainder of the board of directors. In the event the number of directors shall be reduced to less than four (4) for any reason, the remaining directors shall immediately call a special election to fill the elective positions which are vacant, and upon failure to do so a district court may, upon application of any voter or taxpayer of the district, issue a mandate requiring that such election be ordered by the remaining directors.

A regular election for the election of directors to the elective positions on the board shall be held on the first Saturday in April of the year following the creation of the district and on the first Saturday in April in each year in which vacancies occur under this Act in the elective positions on the board of directors. Notice of each such election shall be published in a newspaper of general circulation in the county one (1) time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for elective director shall file a petition, signed by not less than twenty-five (25) qualified voters asking that such name be printed on the ballot, with the secretary of the board of directors of the district. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election. All members of the board of directors shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the entire board of directors.

#### Levy and collection of tax

Sec. 5. The board of directors of such hospital district shall have the power and authority, and it shall be their duty to levy on all property subject to hospital district taxation for the benefit of the district at the same time taxes are levied for county purposes, using county values and the county tax roll, a tax of not to exceed Seventy-Five Cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within the hospital district, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds and other obligations which may be issued or assumed by the hospital district for hospital purposes as herein provided; (2) providing for the operation and maintenance of the hospital district and hospital system; and (3) for the purpose of making further improvements and additions to the hospital system, and, for the acquisition of necessary sites therefor, by purchase, lease or condemnation. Not later than October 1st of each year, the board of directors shall levy the tax on all taxable property within the district which is subject to taxation and shall immediately certify such tax rate to the tax assessor and collector of Gray County, provided that the taxes initially levied can be levied at any time and shall be levied for the entire year in which such taxes are levied. The tax so levied shall be collected on all property subject to the hospital district taxation by the assessor and collector of tax for Gray County on the county tax values, and in the same manner and under the same conditions as county taxes. The assessor and collector of taxes shall charge and deduct from payments to the hospital district the fees for assessing and collecting the tax at the rate of not exceeding one percent (1%) of the amounts collected as may be determined by the board of directors but in no event in excess of Five Thousand Dollars (\$5,000) for any one (1) fiscal year. Such fees shall be deposited in the county's general fund, and shall be reported as fees of office of the tax assessor and collector. Interest and penalties on taxes paid to the hospital district shall be the same as for county taxes.

The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the district depository; and

such funds shall be withdrawn only as provided herein. All other income of the hospital district shall be deposited in like manner with the district depository.

#### Bonds

Sec. 6. The board of directors shall have the power and authority to issue and sell as the obligations of such hospital district, and in the name and upon the faith and credit of such hospital district, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any or all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures, providing said tax together with any other taxes levied for said district shall not exceed Seventy-Five Cents (75¢) in any one (1) year. Such bonds shall be executed in the name of the hospital district and on its behalf by the president of the board of directors, and countersigned by the secretary of the board of directors, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of counties of this state. Upon the approval of such bonds by the Attorney General of Texas and registration by the Comptroller the same shall be incontestable for any cause. No bonds shall be issued by such hospital district (except refunding bonds) until authorized by a majority vote of the resident qualified electors who own taxable property within the district and have duly rendered the same for taxation, voting at an election called and held for such purpose. Such election may be called by the board of directors on its own motion, and the order calling said election shall specify the date of the election, the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, the maximum interest rate (not to exceed six percent (6%) per annum) and the maximum maturity date of such bonds (not to exceed forty (40) years from their date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such county once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) full days prior to the date set for the election. The cost of such election shall be paid by the hospital district.

The bonds of the district may be made optional for redemption prior to their maturity date at the discretion of the board of directors.

The district may without an election issue bonds of the district to refund and pay off any validly issued and outstanding bonds heretofore or hereafter issued by the district, provided any such refunding bonds shall bear interest at the same rate or at a lesser rate than the bonds being refunded unless it be shown mathematically that a savings will result in the total amount of interest to be paid.

#### Purchases and expenditures; books and records; rules and regulations

Sec. 7. The board of directors of such district shall have the power to prescribe the method and manner of making purchases and expenditures by and for such hospital district, and also shall prescribe all accounting and control procedures; the method of purchasing necessary supplies, materials and equipment; and shall have the power to adopt a seal for such district; and may employ a general manager, attorneys, bookkeepers, architects, and any other employees deemed necessary for the efficient operation of the hospital district.

All books, records, accounts, notices and minutes and all other matters of the district and the operation of its facilities shall, except as herein provided, be maintained at the office of the district and there be open to public inspection at all reasonable hours.

The board of directors is specifically empowered to adopt rules and regulations governing the operation of such district and its facilities which rules and regulations shall supplement but shall not contravene any of the provisions of this Act. Such rules and regulations may, upon approval of the board of directors, be published in booklet or pamphlet form at the expense of the district and may be made available to any taxpayer upon request.

#### **Fiscal year; annual audit; budget**

Sec. 8. The fiscal year of the hospital district authorized to be established by the provisions hereof shall commence on October 1st of each year and end on the 30th day of September of the following year. The district directors shall cause an annual independent audit to be made of the books and records of the district, such audit to be made covering such fiscal year, and the same shall be filed at the office of the district not later than December 31st of each year.

The board of directors shall each year cause a budget to be prepared showing the proposed expenditures and disbursements and the estimated receipts and collections for the following fiscal year and shall hold a public hearing on the proposed budget after publication of a notice of hearing in a newspaper of general circulation in the county at least once not less than ten (10) days prior to the date set for the hearing. Any person who is a taxpayer of the district shall have the right to appear at the time and place designated in the notice and be heard with reference to any item shown in the proposed budget. The proposed budget shall also show the amount of taxes required to be levied and collected during such fiscal year and upon final approval of the budget, the board of directors shall levy such tax as may be required and certify the tax rate for such year to the county tax assessor and collector as provided in Section 5 hereof, and it shall be the duty of the said tax assessor and collector to assess and collect such tax.

#### **Eminent domain**

Sec. 9. The district shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said district, necessary or convenient to the exercise of the rights, power, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said district shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph No. 2 in Article 3268, Vernon's Annotated Civil Statutes, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the said district, the district shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

#### **Depository**

Sec. 10. Within thirty (30) days after the appointment of the board of directors of the hospital district created under this Act, the said board shall select a depository for such district in the manner provided by law

for the selection of county depositories; and such depository shall be the depository of such district for a period of two (2) years thereafter until its successor is selected and qualified.

#### Inspection of district

Sec. 11. The district established or maintained under the provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any state board of charities (or public welfare) that may hereafter be created, and the officers and employees of the district shall admit such representatives into all hospital district facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the hospital district.

#### Transfer of hospital facilities and assumption of indebtedness and assets

Sec. 12. Any lands, buildings or equipment that may be owned by the county, and by which medical services or hospital care, including geriatric care, are furnished to the indigent or needy persons of the county, shall become the property of the hospital district; and title thereto shall vest in the hospital district; and any funds of the county which are the proceeds of any bonds assumed by the hospital district, as hereby provided, shall become the funds of the hospital district; and title thereto shall vest in the hospital district; and there shall vest in the hospital district and become the funds of the hospital district the unspent portions of any funds theretofore set up or appropriated by budget or otherwise by the county for the support and maintenance of the hospital facilities for the year within which the hospital district comes into existence, thereby providing such hospital district with funds with which to maintain and operate such facilities for the remainder of such year. All obligations under contract legally incurred by the county for the building of, or the support and maintenance of, hospital facilities, prior to the creation of the said district but outstanding at the time of the creation of the district, shall be assumed and discharged by it without prejudice to the rights of third parties, provided that the management and control of the property and affairs of the present hospital system shall continue in the board of managers of the present hospital system until appointment and organization of the board of hospital directors of the hospital district, at which time the board of managers of the present hospital system shall turn over all records, property and affairs of said hospital system to the board of hospital directors of the hospital district.

Any outstanding bonded indebtedness incurred by the county in the acquisition of such lands, buildings and equipment, or in the construction and equipping of such hospital facilities, together with any other outstanding bonds issued by the county for hospital purposes, and the proceeds of which are in whole or in part still unspent, shall be assumed by the hospital district and become the obligation of the hospital district; and the county shall be by the hospital district relieved of any further liability for the payment thereof, or for providing interest and sinking fund requirements thereon; provided that nothing herein contained shall limit or affect any of the rights of any of the holders of such bonds against the payment of the principal or interest on any of such bonds in accordance with their respective terms.

The Commissioners Court, as soon as the hospital district is created and authorized at the election hereinabove provided, and there have been appointed and qualified the board of hospital directors hereinafter provided for, shall execute and deliver to the hospital district, to-wit: to its said board of hospital directors, an instrument in writing conveying to said hospital district the hospital property, including lands, buildings and equipment; and shall transfer to said hospital district the funds hereinabove

provided to become vested in the hospital district, upon being furnished the certificate of the chairman of the board to the fact that a depository for the district's funds has been selected and has qualified; which funds shall, in the hands of the hospital district and of its board of hospital directors, be used for all or any of the same purposes as, and for no other purposes than, the purposes for which the county could lawfully have used the same had they remained the property and funds of such county.

**District alone to incur indebtedness for hospital purposes**

Sec. 13. Except as herein provided, neither Gray County, nor any city or town within the hospital district, shall levy any tax against any property within the hospital district for hospital purposes; and such hospital district shall assume full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said hospital district from the date that taxes are collected for the hospital district.

**Patients; inquiry as to ability to pay; liability of relatives**

Sec. 14. Whenever a patient residing in the hospital district has been admitted to the facilities of the hospital district, the directors shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If they find that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the hospital district for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The district shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the district to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the hospital district. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the district's directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the district court by either party to the dispute.

**Donations**

Sec. 15. The board of directors of the hospital district is authorized on behalf of said hospital district to accept donations, gifts and endowments for the hospital district to be held in trust and administered by the board of directors for such purposes and under such direction, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of the hospital district.

**Bonds eligible for investment and to secure deposits**

Sec. 16. All bonds issued by or assumed by the districts authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.



**Suits**

Sec. 17. The hospital district created under the provisions of this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this state in the name of such district.

**Violation of constitution; alternative procedures**

Sec. 18. Nothing in this Act shall be construed to violate any provision of the federal or state constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the district shall have the power by resolution to provide an alternative procedure conformable with such constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the district or the validity of any other provisions of this Act, and the Legislature hereby declares that it would have created the district and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

**Publication of notice**

Sec. 19. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and is hereby found and declared to be proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 919, ch. 454, emerg. eff. June 16, 1965.

**Title of Act:**

An Act relating to the creation, establishment, maintenance and operation of a hospital district in accordance with the provisions of Section 9 of Article IX of the Constitution of the State of Texas, to be known as the Gray County Hospital District with boundaries coextensive with the boundaries

of Gray County, Texas; defining its purposes; providing for its administration, operation, financing, taxing powers and liabilities; prescribing procedures; providing for severability; reciting proof of publication of constitutional notice; and declaring an emergency. Acts 1965, 59th Leg., p. 919, ch. 454.

**Art. 4494q—35. Mathis Hospital District****Constitutional authority; creation of district; boundaries**

Section 1. Pursuant to the authority granted by the provisions of Section 9, Article IX, Constitution of the State of Texas, Mathis Hospital District of San Patricio County, Texas, is hereby authorized to be created and as created shall have boundaries coextensive with the boundaries of Commissioners Precinct No. 3 of San Patricio County, Texas, said boundaries being more particularly described as follows, to wit:

BEGINNING at the Southeast corner of the Day Land and Cattle Company Survey, Abstract No. 389 on the northerly or easterly bank of the Nueces River (formerly considered the Southeast corner of the Toribio Molina League);

THENCE, North 9 degrees East with the West line of Sacarias Villareal Survey and continuing on the same course to the Bee County line at or near the Northwest corner of the John Bowen League;

THENCE, westerly along the County line of San Patricio and Bee Counties to the common corner of Live Oak, Bee and San Patricio Counties;

THENCE, southwesterly with the County line of Live Oak and San Patricio Counties to the northerly or easterly bank of the Nueces River;

THENCE, in a generally southeasterly, southerly and easterly direction with said northerly or easterly bank of said Nueces River and its

meanders to the southeast corner of said Day Land and Cattle Company Survey, Abstract No. 389, the PLACE OF BEGINNING. The Legislature hereby finds that the foregoing boundaries and field notes of said District form a closure, and, if any mistake is made in copying the field notes in the legislative process, such mistake shall not affect the organization, existence or validity of the District or its right to issue bonds or refunding bonds, and the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District.

#### **Purpose of district**

Sec. 2. The District hereby authorized to be created shall provide for the establishment of a hospital or hospital system within its boundaries to furnish medical and hospital care to persons residing in said District by the purchase, construction, acquisition, repair or renovation of buildings and improvements and the equipping of same and the administration thereof for hospital purposes. The District shall assume full responsibility for providing medical and hospital care for its needy inhabitants. Since there is no hospital, hospital system, or hospital facilities of any nature presently owned by San Patricio County or any city or town within the boundaries of the District, no provisions are made herein for the transfer of properties or equipment or the assumption of outstanding indebtedness heretofore incurred for hospital purposes. After establishment of the District, no other municipality or political subdivision in San Patricio County shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of the District.

#### **Election; ballots**

Sec. 3. The District shall not be created nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election shall be initiated by a petition to the San Patricio County Commissioners Court signed by at least fifty (50) qualified property taxpaying electors residing within the boundaries of the proposed District. Within ten (10) days after the presentation of said petition to the Commissioners Court of San Patricio County, Texas, said Court shall order an election to be held within said District not less than thirty (30) days from the date said election is ordered. The order calling such election shall specify the date and place or places of holding same, the form of ballot and the presiding judge for each voting place. At such election there shall be submitted to the qualified property taxpaying electors of said proposed District the proposition of whether or not Mathis Hospital District of San Patricio County, Texas, shall be created with authority to levy annual taxes at a rate not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting in said election in favor of the proposition shall be sufficient for its adoption. The ballots of said election shall conform to the requirements of the Texas Election Code, as amended, and shall have printed thereon the following:

“FOR the creation of Mathis Hospital District of San Patricio County, Texas; providing for the levy of annual taxes at a rate not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of all taxable property within such District.

“AGAINST the creation of Mathis Hospital District of San Patricio County, Texas; providing for the levy of annual taxes at a rate not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of all

**For Annotations and Historical Notes, see V.A.T.S.**

taxable property within such District." Notice of said election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in the area of the proposed District, once a week for two consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date set for the election. The failure of any election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose.

**Board of directors; terms**

Sec. 4. At the election there shall also be submitted to the resident qualified electors of said proposed District a separate ballot containing the names of all qualified persons who shall file applications, not later than twenty (20) days prior to the date set for said election, to have their names placed on the ballot for election to the board of directors. To be qualified to serve as a director of the District a person must be a resident of the District, at least twenty-one years of age and own land subject to taxation within said District. Each voter shall vote for five persons and the five persons receiving the highest number of votes shall constitute the first board of directors. Said persons shall serve until the second Tuesday in January, 1967.

At that time a general election shall be held at which five directors shall be elected. The three persons receiving the highest number of votes shall serve for two years. The other two persons shall serve for one year. At the second annual election two directors shall be elected to serve two years, and thereafter there shall be an annual election of three directors in one year and two directors in the next year in continuing sequence.

**Canvass of returns; bonds of directors**

Sec. 5. After such creation, tax levy and first director's election is held, the officials conducting same shall make due return to the San Patricio County Commissioners Court which shall canvass the returns thereof. If a majority of the qualified property taxpaying electors voting at the election voted in favor of the proposition to create the District and levy the tax, the Court shall so find and declare the District established and created. That Court shall also determine the five persons receiving the highest number of votes for directors and shall declare those persons elected. Each member of the board of directors shall qualify by executing the constitutional oath of office and by making a good and sufficient bond, to be approved by said Commissioners Court, for Five Thousand Dollars (\$5,000) payable to said District and conditioned upon the faithful performance of his duties as director, and the oaths and bonds shall be kept in the permanent records of the District. Except for the first board of directors, the bonds of the directors shall be approved by the District board of directors.

**Officers; management and control of district; meetings;  
books and reports; vacancies**

Sec. 6. (a) The board of directors of the District shall elect a president and secretary from their number to serve until the next succeeding directors' election. Any four (4) of the directors shall constitute a quorum, and a concurrence of four (4) shall be sufficient in all matters pertaining to the business of the District.

(b) Not by way of limitation, the board shall have the complete management and control of all the business of the District, including but not limited to the power and authority to negotiate and equip a hospital system, and to operate and maintain a hospital or hospitals, and to negotiate and contract with other political subdivisions of the State or private individuals, associations or corporations for such purposes, all as may be determined to be necessary or desirable for the District by the board; and the board shall have all powers necessary, convenient or incidental to carry out the purposes for which said District is created.

(c) The board of directors shall keep a true account of all their meetings and proceedings and shall preserve all contracts, records of notices, duplicate vouchers, duplicate receipts and all accounts and records of whatever kind in a safe place and shall be delivered to their successors in office.

(d) The board of directors shall have kept a complete book of accounts for the District, and shall on June 1st of each year select a competent auditor who shall examine the accounts, books and reports of the depository, the assessor and collector and the board of directors, and make full report thereon, a copy of which shall be filed with the depository, and a copy with the board of directors, and one with the county clerk. The reports shall state for what purposes the money from each fund has been expended.

(e) The board of directors of the District shall serve without compensation but may be reimbursed for actual expenses incurred by them in the performance of their official duties upon the approval of such expenses by the board of directors thereof.

(f) All vacancies in the office of director shall be filled for the unexpired term by appointment of the remainder of the board. If the number of directors is reduced to less than four (4), the remaining directors shall immediately call a special election to fill said vacancies. Upon failure to do so, a District Court may, upon application of any voter or taxpayer of the District, issue a mandate requiring such directors to call and hold such election.

#### Levy of tax

Sec. 7. Upon the creation of such District, the board of directors shall have the power and authority, and it shall be their duty, to levy on all property subject to District taxation for the benefit of the District, a tax at a rate not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of all taxable property within such District, for the purpose of:

- (1) meeting the requirements of the District's bonds;
- (2) providing for the District's maintenance and operating expenses; and
- (3) for the purpose of making improvements and additions to its hospitals or hospital system, and for the acquisition of the necessary sites therefor, by gift, purchase, lease or condemnation. It is provided specifically that the support and maintenance of the District's hospital system shall never become a charge against or obligation of the State of Texas.

#### Tax assessor; powers and duties

Sec. 8. The office of tax assessor and collector of said District shall be filled by one person who shall be appointed by the District's board of directors. He shall give good and sufficient bond, to be approved by said directors, in the sum of Five Thousand Dollars (\$5,000), conditioned upon the faithful performance of his duties as tax assessor and collector and for paying over to the District's depository all funds or other things of value coming into his hands as such officer. Not later than October 1 of each year the board of directors shall levy the tax on all property within the District which is subject to taxation and shall immediately certify the rate to said assessor and collector. The board shall have authority to levy the tax for the entire year in which the District is established to obtain funds to initiate the operation of the District. The compensation to be paid to the tax assessor and collector shall be fixed by the board of directors. The tax assessor and collector shall make an assessment of all taxable property in the District; and property subject to taxation in the District shall be determined by and governed by the

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laws of this State providing for taxation for State and County purposes. The tax assessor and collector shall compile a record of all taxpayers and those subject to the payment of taxes in the District, and of all taxable property and the name and address of the owner thereof. It shall be the duty of the owner of any and all property subject to taxation in the District to file in the office of the tax assessor and collector a full, accurate and complete statement made under oath of all property owned by him, her, or either of them, subject to taxation therein. Said statement or rendition shall be filed on or before the last day of April of each year and shall state the true value of all property listed and owned by the party rendering same subject to taxation in the District. The tax assessor and collector shall have authority to administer oaths to carry out his duties in the assessment of property for taxation, and all laws and penal statutes of this State providing for the rendition of property for State and County purposes and providing penalties for making oaths and providing penalties for failure to render such property shall apply to the rendition of the property for taxation in the District except as may herein be otherwise provided. If, after the establishment and creation of the District, it shall become necessary to have the property therein rendered for taxation at a later date in the year than herein provided for the regular assessment thereof, then the directors of the District shall fix and determine the time the renditions shall be made and the time within which the other necessary things herein provided to be done in connection therewith shall be done. After the first year, however, the assessments and other things shall be made as herein provided.

#### Board of equalization

Sec. 9. After election and qualification, the directors of the District shall, as soon as practicable, and annually thereafter, appoint three (3) commissioners, each being a qualified voter and resident landowner of the District, who shall be styled the "Board of Equalization." At the same meeting the directors shall fix the time for the meeting of the board of equalization for the first year, and the board of equalization shall convene at the time fixed by the directors to receive all assessment lists or books of the assessor and collector for the District for examination, correction, equalization, appraisement and approval. At all meetings of the board of equalization, the secretary of the board of directors shall act as secretary thereof and keep a permanent record of all the proceedings of said board of equalization. Before entering upon the duties of such board of equalization, each of the members thereof shall take and subscribe the following oath: "I, \_\_\_\_\_, do solemnly swear (or affirm) that I will to the best of my ability, make a full and complete examination, correction, equalization, and appraisement of all property contained within the District as shown by the assessment lists or books of the assessor and collector for the District." The board of equalization, after the first year, shall convene on the first Monday of June of each year and shall complete their work by the first day of September, or as soon thereafter as possible. The board of equalization shall cause the assessor and collector to bring before it all his assessment lists or books for its examination; and this board shall have power to send for persons and papers, to administer oaths to persons who testify before this board, to ascertain the value of all property subject to taxation. They may lower the valuation of property rendered or raise the valuation thereof. The board of equalization shall have power to correct any and all errors of assessment and renditions and to cause all property not rendered to be placed on the District's tax rolls. The board of equalization shall equalize as near as possible the value of all property rendered for taxation and fix the value thereof for taxation. When the board of equalization shall have passed upon such renditions or upon rendition of taxable property to such District, it shall fix a date for hearing protests from those whose renditions have been raised. Notice

in writing shall be given to all those whose assessments have been raised of the date, time and place of the hearing. Failure to give notice shall not relieve the owner of any such property of his duty to take notice of the meeting of the board of equalization and to appear at the meeting. The board of equalization at such meeting shall hear and consider all complaints and protests and reconsider the valuation of all property, the valuation of which has theretofore been raised by it and finally fix the valuation of all property. When the tax assessor and collector has made out his tax rolls, the board of equalization shall meet and consider same and make all necessary corrections therein and endorse its approval thereon. The action of the board of equalization at the last meeting finally approving the rolls shall be final and shall not be subject to revision by the board or in any other tribunal thereafter. The compensation of the members of the board shall be fixed by the directors of the District.

**Due date and lien for taxes; suits for taxes; penalties and interest**

Sec. 10. All District taxes shall become due and payable on the first day of October of each year and shall be paid on or before the 31st day of January thereafter. All taxes which have not been paid on the last day of January shall become delinquent on the first day of February each year and shall be and remain a lien upon the property on which they were assessed even if the owner be unknown, the property be listed in the name of a person not the actual owner thereof, or the ownership be changed. All property upon which there is a lien may be sold under a judgment of a court for all taxes, interest, penalties, and costs assessed against same at any time after the taxes become delinquent. The District shall have authority to file suits for the collection of taxes against any and all property assessed for taxes and if the owner be unknown such suit may be filed against an unknown owner and the property sold under the judgment of the court. District taxes shall not be barred by any law of limitation, and no law providing for a period of limitation as to debts or actions shall apply to such taxes. All taxes becoming delinquent shall have added thereto a penalty of 10% of the amount thereof, which charges shall accrue at the time same became delinquent. All such delinquent taxes shall bear interest at the rate of 6% per annum from the date upon which they became delinquent.

**Eminent domain**

Sec. 11. The District shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of the property in fee simple absolute, within the boundaries of the District, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act in the manner provided by General Law with respect to condemnation; provided that said District shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as amended, or to make the bond required therein. In condemnation proceedings being prosecuted by the District, the District shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

**Bonds**

Sec. 12. The board of directors shall have the power and authority to issue and sell, as the obligations of the District, and in the name and upon the faith and credit of the District, bonds for the purchase, con-

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struction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any or all of such purposes, provided however, that the total amount expended by the District for the purchase, construction, acquisition, repair, renovation and maintenance of buildings shall not exceed \$350,000. A sufficient annual tax shall be levied to create an interest and sinking fund to pay the interest on and principal of the bonds as they mature, providing this tax together with any other taxes levied for the District shall not exceed a rate of seventy-five cents (75¢) on the one hundred dollar valuation of all taxable property within the District in any one year. The bonds shall be executed in the name of the District and on its behalf by the president of the board of directors, countersigned by the secretary of the board, and shall be subject to the same requirements in the manner of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of counties of this State. Upon the approval of the bonds by the Attorney General of Texas and registration by the Comptroller, they shall be incontestable for any cause. Until such time as the bond proceeds are needed to carry out the bond purpose, the proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, or both. No bonds (except refunding bonds) shall be issued by the District until authorized by a majority vote of the duly qualified resident electors of said District who own taxable property within said District and who have duly rendered the same for taxation, voting in an election called and held for that purpose. This election shall be called by the board of directors on its own motion, and the order calling the election shall specify the date of same, the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest (not to exceed six per cent (6%) per annum), and the maximum maturity date of the bonds (not to exceed forty (40) years from their date or dates of issuance). Notice of the election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation within the area of the District once a week for two consecutive weeks, the date of the first publication to be at least fourteen (14) days prior to the date set for the election. The bonds may be made optional for redemption prior to their maturity date at the discretion of the board of directors. The District may, without election, issue bonds to refund or pay off any validly issued and outstanding District bonds, or both, provided that such refunding bonds shall bear interest at the same rate or at a lesser rate than the bonds being refunded, unless it be shown mathematically that a savings will result in the total amount of interest to be paid.

#### **Inspection of district**

Sec. 13. After the creation and establishment of the District, it shall be subject to inspection by any duly authorized representative of the State Board of Health, the State Board of Public Welfare, or any other agency of the state created for a similar purpose, and the resident officers shall admit these representatives into all District facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the District.

#### **Bonds eligible for investment and to secure deposits**

Sec. 14. All bonds issued by the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and suffi-

cient security for deposits to the extent of their face value when accompanied by all unmatured coupons pertinent thereto.

#### **District depository**

Sec. 15. As soon as practicable after the election and qualification of the first board of directors of the District, the board shall by resolution designate a bank within the County as the District's depository, and all funds of the District shall be secured in the manner now provided for the security of County funds. The depository shall serve for a period of two (2) years and until a successor has been selected.

#### **Suits**

Sec. 16. The hospital district created under this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this State in the name of such District.

#### **Dissolution of district**

Sec. 17. (a) The District may be dissolved after it is created by following the procedure set forth in this Section if, at the time for dissolution, there are no bonds outstanding and all contractual obligations and liabilities incurred by the District do not exceed the total of the funds on hand, the funds to be derived from all taxes levied prior to dissolution, and the market value of the assets of the District.

(b) Within 10 days after the receipt of a petition signed by at least the same number of qualified electors who own taxable property within the District and have rendered that property for taxation as would be required to authorize the creation of the District at the time of filing this petition, the Commissioners Court shall set a time and place for a public hearing on the petition. The hearing must be held within 45 days after the receipt of the petition but only after 20 days notice to the residents of the District.

(c) The public hearing is for the purpose of presenting evidence on whether the District is capable of being dissolved and arguments for and against the proposed dissolution.

(d) If the Commissioners Court finds that the District is qualified for dissolution under Subsection (a) of this Section, the court shall order an election to determine whether the District is to be dissolved. This election shall be held in the same manner as is required to create the District. The results shall be recorded in the minutes of the Commissioners Court. If a majority of the qualified electors who own taxable property within the District and have rendered that property for taxation and who vote in the election vote for dissolution of the District, the Commissioners Court shall order the dissolution of the District and place a copy of the order in its minutes.

(e) The ballot for the election must be substantially as follows:

"FOR the dissolution of Mathis Hospital District in San Patricio County, Texas.

"AGAINST the dissolution of Mathis Hospital District in San Patricio County, Texas."

(f) Immediately after the order to dissolve the District is made, the board of directors shall transfer all records, funds, and assets over to the Commissioners Court. The Court shall wind up the operation and affairs of the District and shall determine the validity of all claims against the District and satisfy totally all valid claims.

(g) When all claims have been settled the Commissioners Court shall by written order, entered upon the minutes of the Court, declare the District dissolved. The Court shall file a copy of this final order with the county clerk. The District ceases to exist upon the filing of the order with the clerk.



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(h) After payment of all claims against the District, any asset of the District remaining shall be liquidated and the proceeds shall be returned to the taxpayers of the District in the same proportion to the tax paid by the taxpayer for the current year as the excess of the assets bears to the total taxes levied for the current year.

(i) The District shall not levy any tax nor conduct any transactions except those absolutely essential to the operation of any hospital facility after the petition is filed. If the Commissioners Court finds that the District is not qualified to be dissolved or the majority of the qualified electors voting in the election vote against the dissolution of the District, the District shall resume its functions as if the petition had not been filed.

(j) If the Commissioners Court finds that the District is not qualified to be dissolved or the majority of the qualified electors voting in the election vote against the dissolution of the District, the Commissioners Court shall not accept another petition within one year from the date of the filing of the next previous petition.

(k) If the District is dissolved, all power and authority to provide hospital services and medical care shall revert to the county, municipality, or other political subdivision which had that power and authority before the District was created.

(l) This Act expires on January 1, 1967, if the District has not been created by a majority of those persons voting at an election for that purpose before that date.

#### Donations

Sec. 18. Not by way of limitation, the board of directors of said District is authorized in its behalf to accept donations, gifts and endowments for the District to be held in trust and administered by the board of directors for such purposes and under such direction, limitations and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of the District.

#### Violation of constitution; alternative procedures

Sec. 19. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitution, and all things done under this Act shall be in a manner as will conform thereto, whether expressly so provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the District or the validity of any other provisions of this Act, and the Legislature hereby declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

#### Publication of notice

Sec. 20. Proof of publication of the Constitutional Notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of Local and Special Laws and is hereby found and declared to be proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 945, ch. 460, emerg. eff. June 16, 1965.

#### Title of Act:

An Act relating to the creation of the Mathis Hospital District in San Patricio County; providing for the administration

and financing of the District; and declaring an emergency. Acts 1965, 59th Leg., p. 945, ch. 460.

**Art. 4494q—36. Sinton—Odem Hospital District****Constitutional authority; creation and powers of district**

Section 1. Pursuant to the provisions of this Act and Section 9, Article IX, Constitution of the State of Texas, there may be created a hospital district, the boundaries of which District shall be coextensive with the combined boundaries describing the Sinton Independent School District and the Odem Independent School District in San Patricio County, Texas, as these Districts now exist, except that portion of such Districts within the boundaries of Commissioners Precinct Number Three (3) of San Patricio County, Texas. The hospital district shall be known as the Sinton-Odem Hospital District, and shall hereinafter be referred to as "District." The District shall have the power to issue bonds for the purpose of purchasing a site for and the construction and initial equipping of a hospital system, and the operation and maintenance thereof, or for purchasing, leasing, or acquiring, equipping, maintaining, and operating a hospital system, and further the power to levy a tax of not to exceed seventy-five cents (75¢) on the one hundred dollar property valuation therein for the purpose of paying the principal and interest on such bonds and for maintaining and operating a hospital or hospital system.

**Election; ballots; board of directors**

Sec. 2. (a) Upon the petitions of twenty-five (25) resident qualified taxpaying voters of the included portions of Sinton Independent School District and Odem Independent School District, a total of fifty (50) qualified taxpaying voters of the proposed District, the commissioners court of San Patricio County shall order an election to be held within the proposed District to approve the creation of the District and to elect the first Board of Directors thereof. The commissioners court shall order such election within ten (10) days of the receipt of petitions and the election shall be held within the proposed District within thirty (30) days after it is ordered.

(b) Upon and after the ordering of the election aforesaid any resident of the District twenty-one (21) years of age or over and who owns land in the District subject to taxation, and is otherwise qualified, may file application with the commissioners court of San Patricio County, Texas, to have his or her name placed on the ballot for election to the Board of Directors of said District. The applications shall be received by said court up to ten (10) days preceding the date of the election.

(c) At the election there shall be submitted to the resident qualified property taxpaying voters within the boundaries of the proposed District who have duly rendered their property for taxation, the proposition of whether or not the District shall be created within the boundaries; and a majority of the resident qualified property taxpaying voters voting at the election who have duly rendered their property for taxation voting in favor of the proposition shall be necessary to create the District.

The ballots shall have printed thereon:

"FOR the creation of a Hospital District and the levy of a tax not to exceed seventy-five cents (75¢) on the one hundred dollar valuation.

"AGAINST the creation of a Hospital District and the levy of a tax not to exceed seventy-five cents (75¢) on the one hundred dollar valuation."

There shall also be submitted to the resident qualified property taxpaying voters at such election a separate ballot containing the names of all of the qualified persons who filed applications to have their names placed on the ballot for election to the Board of Directors. Each voter shall vote for nine (9) persons. The nine (9) persons receiving the highest number of votes shall constitute the first Board of Directors of the District, provided, however, that the Board of Directors shall in-

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clude at least three (3) members who reside within the boundaries of the Sinton Independent School District and at least three (3) members who reside within the boundaries of the Odem Independent School District and no more than six (6) persons residing in either of such school districts shall be members of the Board of Directors. Subject to the above provisions, the three (3) receiving the highest number of votes shall serve for terms of six (6) years, the three (3) receiving the next highest number of votes shall serve for terms of four (4) years, and the three (3) receiving the next highest number of votes shall serve for terms of two (2) years. In each instance Directors shall serve until their successors are elected and qualified.

Notice of the election stating the time of election, and the polling place and proposition and matters to be voted on shall be posted in a newspaper in general circulation in the proposed District once a week for two (2) consecutive weeks, the first notice not being more than twenty (20) days prior to the date of election.

(d) The results of the election shall be filed in the county clerk's office of San Patricio County, Texas, within ten (10) days thereafter. If the majority of the resident property taxpaying voters at the election vote for the creation of the District, then within ten (10) days of the filing of the results the commissioners court shall order the District created and shall at that time declare those persons elected as Directors to be the Board of Directors of the District.

#### Officers; management and control of district

Sec. 3. The Board of Directors of the District shall elect a president and secretary from the members to serve until the next succeeding Directors' election; the Board of Directors shall have the full management and control of all business of the District, including but not limited to the power and authority to negotiate and contract with any person or body, public or private, to purchase or lease land, to construct and equip a hospital system, and to operate and maintain the hospital, and to negotiate and contract with other political subdivisions of the State or private individuals, associations or corporations for such purposes.

#### Bond election; issuance of bonds

Sec. 4. (a) After the District has been created and the Directors have been qualified, the Board shall order an election to be held within the District not less than twenty (20) days nor more than thirty (30) days from the date of the order for the election at which time the qualified resident property taxpaying voters who have duly rendered their property for taxation shall vote to determine if bonds of the District shall be sold to purchase, construct, acquire, repair, or renovate buildings and to improve and equip the buildings for hospital purposes and to authorize the levy of a tax of not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of property within the District for the purpose of paying the principal and interest on the bonds and for maintaining and operating the system. At the election the proposition to be voted on shall set forth the purpose of the bonds, the amount of bonds to be issued and the voters shall vote for the issuance of bonds for that purpose and levy of taxes in payment thereof, or against the issuance of bonds for that purpose and levy of taxes in payment thereof.

(b) Notice of the election, stating the time of the election, the polling place, the amount of bonds as determined by the Board to be necessary to be issued, the proposition to be voted on, and the estimated cost shall be published in a newspaper of general circulation in the Hospital District once a week for two (2) consecutive weeks, the first notice not being more than twenty (20) days prior to the date of the election.

(c) The Board of Directors shall name the polling places in the District and shall appoint two (2) judges, one of whom shall be presiding judge, and two (2) clerks for each voting place designated by them. The Board of Directors shall provide the necessary ballots for said election, which shall be printed.

(d) Immediately after the election the presiding judges shall make return of the result in the same manner as provided for in general elections for State and County officials. The return shall be made to the Board of Directors who shall at a regular or special session canvass the vote, and if a majority of the votes favor the issuance of bonds and levy of taxes, the Board of Directors shall so declare and enter the results in their minutes.

(e) After declaring the result of the election, the Board of Directors shall make and enter an order in their minutes directing the issuance of bonds for the District sufficient in amount to pay for the proposed project with all necessary, actual, and incidental expenses connected therewith not to exceed the amount specified in the order and voted at the election. All bonds issued by the District shall be signed and executed by the president of the Board and the secretary.

(f) Before such bonds are offered for sale, there shall be forwarded to the Attorney General a certified copy of all proceedings had in the organization of the District, and with reference to issuance of the bonds in connection with the bonds themselves, and such other information respecting same as he may require. The Attorney General shall carefully examine the bonds in connection with the record and Constitution and laws of the State governing the issuance of such bonds; and if the examination shows that such bonds are issued in conformity thereto, and that they are valid and binding obligations upon the District, he shall so officially certify.

(g) When the bonds are approved, they shall be registered by the Comptroller in a book kept for that purpose and the certificate of the Attorney General as to their validity shall be preserved of record; whereupon such bonds shall be held prima facie valid in every action, suit or proceeding in which their validity may be brought into question. In every suit to enforce collection of such bonds and interest thereon, the only available defense against the validity of such bonds shall be forgery or fraud.

#### Sale of bonds; interest coupons; refunding bonds

Sec. 5. (a) After the bonds have been registered, the Directors shall sell them on the best terms and for the best price possible, not less than their face value and accrued interest; and shall promptly pay over to the District depository the proceeds of the sale to be placed to the credit of the District.

(b) At the time of the payment of interest or for redemption of District bonds, the depository shall receive and cancel any interest coupons so paid or any bonds so discharged and when such interest coupon or bond shall be turned over to the Board of Directors the account of the depository shall be credited with the amount thereof, and such bond or coupon shall be cancelled and destroyed.

(c) When bonds have been issued, the Board of Directors shall procure and deliver to the county treasurer a well-bound book in which a list shall be kept of all bonds with their manner of payment, amount, rate of interest, date of issuance, when due, where payable, amount received for same, and the tax levy to pay interest on and redeem such bonds; and such books shall at all times be open to the inspection of the parties interested, either as taxpayers or bond holders. Upon the payment of any bond, the treasurer shall make an entry thereof in the

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book; and he shall receive for such services the same fees allowed by law to the county clerk for recording deeds.

(d) The District when it has issued bonds, may, by consent of the holders thereof, refund any bonds heretofore issued by issuing new coupon bonds for that purpose. Refunding bonds shall not bear a greater rate of interest than the bonds in lieu of which they are issued. Interest shall be evidenced by coupons attached to the bonds, and may be payable annually or semiannually, within the discretion of its Board of Directors; refunding bonds shall be payable serially, or otherwise, not exceeding forty (40) years from the date thereof, and shall be issued in denomination of One Hundred Dollars (\$100), or some multiple thereof; and a sufficient tax levy to meet the payment of the principal and interest of said refunding bonds shall be made before the delivery thereof, providing the refunding of any bonds shall not affect any taxes already due.

The refunding bonds hereby authorized shall be issued in the manner provided by law for the issuance of refunding bonds by counties and cities. Any sum to the credit of any sinking fund account on hand shall first be deducted in ascertaining the amount of refunding bonds to be issued, and such money shall in every case be applied to the payment of the outstanding bonds. No refunding bonds shall be issued and delivered until approved by the Attorney General, and registered by the State Comptroller, provided, however, that the Comptroller shall not register such refunding bonds until the old bonds in lieu of which such refunding bonds are issued are presented to him for cancellation; and after the registration of the new bonds the Comptroller shall cancel the old bonds and interest coupons and deliver such new bonds to the proper party or parties; provided, further, that the old bonds may be presented for cancellation, in installments, and a like amount of the new bonds registered and delivered as is herein provided.

#### **Contracts; bids; performance bonds**

Sec. 6. (a) Contracts for the making and construction of all improvements contemplated in this Act, and all necessary work in connection therewith, when the cost price exceeds Ten Thousand Dollars (\$10,000), shall be let to the lowest responsible bidder furnishing satisfactory evidence of possessing equipment and facilities essential to the proper performance of such contract, after giving notice by advertising the same in one (1) or more newspapers of general circulation in this State once a week for four (4) weeks, and by posting a notice for at least ten (10) days at the courthouse door of San Patricio County. Such contract shall be in writing and signed by the contractors and Directors, and a copy so executed filed with the depository subject to inspection of all interested parties.

(b) The person, firm, corporation, or association to which such contract is let shall give bond to the District in such amount as the Directors may determine, not to exceed the contract price, conditioned upon the faithful performance of the obligations, agreements and covenants of such contract, and for the payment to the District of all damages sustained in default thereof. The bond shall be approved by the Board of Directors and shall be deposited with the depository, a true copy thereof being retained in the office of the district secretary.

(c) All contracts shall be fulfilled in accordance with the specifications and under the supervision of the Board of Directors and district agents.

#### **Election expenses**

Sec. 7. If said bonds and levying of taxes are approved by the voters, all expenses incident to calling and holding all elections shall be paid out of any District funds except interest and sinking funds for bonds.

**Eminent domain**

Sec. 8. The District shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed or any interest therein; including outright ownership of the property in fee simple absolute, within the boundaries of the District necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided, that the District shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as amended, or to make the bond required therein. In condemnation proceedings being prosecuted by the District, the District shall not be required to pay in advance or to give bond or other security for costs in trial court nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas bond on any appeal or writ of error proceeding to any Court of Civil Appeals or the Supreme Court.

**District depository**

Sec. 9. Within thirty (30) days after the election of the Board of Directors of the District created under this Act, the Board shall select a depository for the District in the manner provided by law for the selection of county depositories; and such depository shall be the depository of such District for a period of two (2) years thereafter until its successor is selected and qualified.

**Inspection of district**

Sec. 10. The District established or maintained under provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health, the State Board of Public Welfare, any other State agency created for a similar purpose, and the commissioners court of the county, and resident officers shall admit these representatives into all District facilities and give them access on demand to all records, reports, books, papers, and accounts pertaining to the District.

**Donations**

Sec. 11. The Board of Directors may on behalf of the District accept donations, gifts, and endowments for the District, to be held in trust by the Board of Directors for such purpose and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and objects of the District.

**Qualification of voters**

Sec. 12. To be eligible to vote in any election to be held by this District to issue bonds or levy taxes a person must be a qualified voter under the general election laws of this State and a resident property taxpayer in the District owning property in the District who has duly rendered his property for taxation upon the tax rolls of San Patricio County, Texas. Every person who offers to vote in any election held under the provisions of this Act shall take the following oath before the presiding judge of the polling place where he offers to vote, and such judge is authorized to administer same:

"I do solemnly swear that I am a qualified voter of San Patricio County and that I am a resident property taxpayer of the District who has duly rendered my property for taxation upon the tax rolls of San Patricio County, Texas."

Qualification of directors; terms and vacancies; meetings and proceedings;  
books and reports; employees; expenses

Sec. 13. (a) No person shall be appointed or elected as a member of the Board of Directors of the District unless he is a resident thereof and owns land subject to taxation therein and unless at the time of such election he shall be more than twenty-one (21) years of age.

(b) There shall be held a general election in the District on the first Saturday in April, 1967, and thereafter on the first Saturday in April of each odd-numbered year at which three (3) Directors shall be elected to serve for terms of six (6) years.

(c) All vacancies in the office of Director and other offices shall be filled by appointment by the Board of Directors for the unexpired term. In the event the number of Directors shall be reduced to less than six (6) then the remaining Director or Directors shall call a special election to fill said vacancies, and if they shall fail to do so within fifteen (15) days after the vacancies occur the county judge of San Patricio County, Texas, upon petition of any voter or creditor thereof shall order the holding of such election, fixing the date thereof, and order the publication of notice thereof by the county sheriff and name the officers to hold such election. In any election held by order of the county judge the returns of the election shall be filed in the office of the clerk of the court and he shall declare the result thereof. The officers elected shall furnish bond and qualify in the manner provided herein with reference to Directors first elected for the District upon its organization.

(d) The Board of Directors shall organize following each election of Directors by electing one of their number as president and one of their number as secretary. Any five (5) members of the Board of Directors shall constitute a quorum and a concurrence of five (5) shall be sufficient in all matters pertaining to the business of the District.

(e) The Board of Directors shall meet at least monthly and shall hold special meetings as they deem necessary and any taxpayer or resident or interested party may attend the meetings, but shall not participate in same without consent of the Board of Directors and may present in an orderly manner to said Board of Directors any matters as they desire.

(f) The Board of Directors shall keep a true account of all of their meetings and proceedings and shall preserve all contracts, records of notices, duplicate vouchers, duplicate receipts and all accounts and records of whatever kind in a safe place and shall be delivered to their successors in office.

(g) All vouchers for the payment of any funds of the District shall be signed by at least two (2) members of the Board of Directors.

(h) The Board of Directors shall have kept a complete book of accounts for the District, and shall on June 1st of each year select a competent auditor who shall examine the accounts, books and reports of the depository, the assessor and collector and the Board of Directors, and make full report thereon, a copy of which shall be filed with the depository, and a copy with the Board of Directors, and one with the county clerk. The reports shall state for what purposes the money from each fund has been expended.

(i) The Board of Directors shall employ all necessary employees for the proper handling and operation of the District and especially may employ a general manager, or administrator, attorney, bookkeeper and architect.

(j) The Board of Directors may purchase all necessary supplies, materials and office equipment to meet the needs of the District.

(k) Before entering upon his duties each member of the Board of Directors shall take and subscribe an oath faithfully to discharge the duties of his office without favor or partiality. The oath of the members of the Board of Directors originally elected shall be filed with the county clerk of San Patricio County, Texas. All members of the Board of Directors subsequently elected shall, prior to entering upon their duties, file the oath with the secretary of the District.

(l) Each member of the Board of Directors shall give a good and sufficient bond for One Thousand Dollars (\$1,000) payable to the District conditioned upon the faithful performance of his duties, the expense of which bond shall be paid by the District.

(m) Members of the Board of Directors may be removed from office in the same manner and for the same causes as the laws of the State of Texas provide for the removal of county officials.

(n) At the option of the Board, the members of the Board of Directors may be paid not to exceed Ten Dollars (\$10) per meeting, not to exceed two (2) meetings each month and shall be reimbursed for actual expenses incurred in the performance of their duties hereunder.

#### **Suits; purchase of land**

Sec. 14. (a) The District when created shall be a governmental agency, body politic and corporate and through its Board of Directors, sue and be sued in any and all courts of this State in the name of the District and all courts of the State shall take judicial notice of the establishment of the District and said District shall contract and be contracted with in the name of the District.

(b) The District shall have full right and authority to contract for the purchase of land for the hospital system, the construction of said hospital and the initial equipping of the hospital system and shall have such powers of government and with authority to exercise such rights, privileges and functions concerning the purposes for which it was created, as may be conferred by this Act or any other law in this State to the benefit of which it may be entitled. No enumeration of specific powers herein shall be held a limitation upon the general powers conferred by this Act, unless distinctly so expressed.

#### **Tax assessor and collector; powers and duties**

Sec. 15. (a) The County of San Patricio by its county tax assessor and collector shall assess and collect all taxes of the District in the manner in which it assesses and collects the taxes of San Patricio County and turn over the taxes to the San Patricio county treasurer who shall deposit them to the credit of the District at its designated depository.

(b) The county tax assessor and collector shall receive one per cent (1%) of the total taxes shown on the completed roll for assessing such taxes and one per cent (1%) for collecting same; provided, however, that the compensation for the collection of delinquent taxes shall be five per cent (5%) of the amount collected.

(c) All taxes which have not been paid on the last day of January shall become delinquent on the first day of February each year and shall be and remain a lien upon the property for which same were assessed, even if the owner be unknown, the property be listed in the name of a person not the actual owner thereof, or the ownership be changed. All such property may be sold under a judgment of a court for all taxes, interest, penalty and costs assessed against same at any time after such taxes become delinquent. The District shall have authority to file suits for the collection of taxes against any and all property assessed for taxes and if the owner be unknown such suit may be filed against an unknown owner and the property sold under the judgment of the court. Taxes are not



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barred by any law of limitation and no law providing for a period of limitation as to debts or actions shall apply to such taxes.

#### Dissolution of district

Sec. 16. (a) The District may be dissolved after it is created by following the procedure set forth in this Section if, at the time for dissolution, there are no bonds outstanding and all contractual obligations and liabilities incurred by the District do not exceed the total of the funds on hand, the funds to be derived from all taxes levied prior to dissolution, and the market value of the assets of the District.

(b) Within ten (10) days after the receipt of a petition signed by at least the same number of qualified electors who own taxable property within the District and have rendered that property for taxation as would be required to authorize the creation of the District at the time of filing this petition, the Commissioners Court shall set a time and place for a public hearing on the petition. The hearing must be held within forty-five (45) days after the receipt of the petition but only after twenty (20) days notice to the residents of the District.

(c) The public hearing is for the purpose of presenting evidence on whether the District is capable of being dissolved and arguments for and against the proposed dissolution.

(d) If the Commissioners Court finds that the District is qualified for dissolution under Subsection (a) of this Section, the court shall order an election to determine whether the District is to be dissolved. This election shall be held in the same manner as is required to create the District. The results shall be recorded in the minutes of the Commissioners Court. If a majority of the qualified electors who own taxable property within the District and have rendered that property for taxation and who vote in the election vote for dissolution of the District, the Commissioners Court shall order the dissolution of the District and place a copy of the order in its minutes.

(e) The ballot for the election must be substantially as follows:

“FOR the dissolution of Sinton-Odem Hospital District in San Patricio County, Texas.

“AGAINST the dissolution of Sinton-Odem Hospital District in San Patricio County, Texas.”

(f) Immediately after the order to dissolve the District is made, the Board of Directors shall transfer all records, funds, and assets over to the Commissioners Court. The Court shall wind up the operation and affairs of the District and shall determine the validity of all claims against the District and satisfy totally all valid claims.

(g) When all claims have been settled the Commissioners Court shall by written order, entered upon the minutes of the court, declare the District dissolved. The court shall file a copy of this final order with the county clerk. The District ceases to exist upon the filing of the order with the clerk.

(h) After payment of all claims against the District, any asset of the District remaining shall be liquidated and the proceeds shall be returned to the taxpayers of the District in the same proportion to the tax paid by the taxpayer for the current year as the excess of the assets bears to the total taxes levied for the current year.

(i) The District shall not levy any tax nor conduct any transactions except those absolutely essential to the operation of any hospital facility after the petition is filed. If the Commissioners Court finds that the District is not qualified to be dissolved or the majority of the qualified electors voting in the election vote against the dissolution of the Dis-

trict, the District shall resume its functions as if the petition had not been filed.

(j) If the Commissioners Court finds that the District is not qualified to be dissolved or the majority of the qualified electors voting in the election vote against the dissolution of the District, the Commissioners Court shall not accept another petition within one year from the date of the filing of the next previous petition.

(k) If the District is dissolved, all power and authority to provide hospital services and medical care shall revert to the county, municipality, or other political subdivision which had that power and authority before the District was created.

(l) This Act expires on January 1, 1967, if the District has not been created by a majority of those persons voting at an election for that purpose before that date.

**Severability**

Sec. 17. If any provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable. Acts 1965, 59th Leg., p. 954, ch. 461, emerg. eff. June 16, 1965.

**Title of Act:**

An Act relating to the creation of the Sinton-Odem Hospital District in San Patricio County; providing for the administration and financing of the District; and declaring an emergency. Acts 1965, 59th Leg., p. 954, ch. 461.

**Art. 4494q—37. Motley County Hospital District**

**Constitutional authority; creation of district**

Section 1. In accordance with the provisions of Article IX, Section 9, Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a hospital district within the State of Texas with boundaries identical with those of Motley County, Texas, to be known as Motley County Hospital District. This District shall have the rights, powers and duties as are hereinafter prescribed. *It is hereby found and determined that neither Motley County nor any city therein has acquired or operates any hospital facilities and therefore the District if created shall have no indebtedness to assume, nor shall it have any properties to take over under the provisions of the aforementioned constitutional provision.*

**Purpose of district; election; ballots**

Sec. 2. The Hospital District herein authorized to be created shall provide for the establishment of a hospital system to furnish medical and hospital care to persons residing in said District by the purchase, construction, acquisition, repair or renovation of buildings and improvements; and the equipping of same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants. Such District shall not be created nor shall any tax therein be authorized unless and until such creation and such taxes are approved by a majority of the qualified property taxpaying electors of the District voting in an election called for such purpose. Such election may be initiated by the Commissioners Court of Motley County upon its own motion or upon the petition of one hundred (100) resident qualified property taxpaying electors residing within the boundaries of the proposed Hospital District. Such election when called shall be held not less than thirty (30) nor more than sixty (60) days from the day it is ordered.

For Annotations and Historical Notes, see V.A.T.S.

The order calling the election shall specify the time and place or places of holding same, the form of ballot and the presiding judge for each voting place. At such election there shall be submitted to the qualified property taxpaying electors the proposition of whether or not Motley County Hospital District shall be created with authority to levy annual taxes at a rate not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds and its maintenance and operating expenses. The ballots shall have printed thereon the following:

"FOR the creation of the Motley County Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the one hundred dollar valuation using Motley County, Texas, values and the Motley County, Texas, tax roll"; and

"AGAINST the creation of the Motley County Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the one hundred dollar valuation using Motley County, Texas, values and the Motley County, Texas, tax roll."

Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in the area of the proposed District once a week for two (2) consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election.

The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose.

**Canvass of returns; board of directors; officers**

Sec. 3. Within ten (10) days after such election is held the Commissioners Court in such County shall convene and canvass the returns of the election, and if a majority of the qualified property taxpaying electors voting at said election vote in favor of the proposition, the Court shall so find and declare the Hospital District established and created and appoint five (5) persons as directors of the Hospital District to serve until the first Saturday in April following the creation and establishment of the District, at which time five (5) directors shall be elected. The three (3) directors receiving the highest vote at such first election shall serve for two (2) years, the other two (2) directors shall serve for one (1) year. Thereafter all directors shall serve for a period of two (2) years and until their successors have been duly elected or appointed and qualified. Each director must be a resident of the District, own land subject to taxation within the District, and at the time of his election or appointment be at least twenty-one (21) years of age. All qualified voters of Motley County shall be entitled to vote for all directors. Each member of the board of directors shall qualify by executing the constitutional oath of office, but it shall not be necessary to execute a public official's bond.

The board of directors shall organize by electing one of their number as president and one of their number as secretary. Any three (3) members of the board of directors shall constitute a quorum and a concurrence of three (3) shall be sufficient in all matters pertaining to the business of the District. All vacancies in the office of directors shall be filled for the unexpired term by appointment by the remainder of the board of directors. In the event the number of directors shall be reduced to less than three (3) for any reason, the remaining directors shall immediately call a special election to fill said vacancies, and upon failure to do so a district court may, upon application of any voter or taxpayer of the District, issue a mandate requiring that such election be ordered by the remaining directors.

A regular election of directors shall be held on the first Saturday in April of each year, and notice of such election shall be published in a news-

paper of general circulation in the county one (1) time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for director shall file a petition signed by not less than five (5) qualified voters asking that such name be printed on the ballot, with the secretary of the board of directors of the District. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election.

#### **Management and control of district**

Sec. 4. The management and control of the Hospital District created pursuant to the provisions of this Act are hereby vested in the board of directors of the District, who shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the board of directors.

#### **Levy of tax**

Sec. 5. Upon the creation of such Hospital District, the board of directors shall have the power and authority and it shall be its duty to levy on all property subject to hospital district taxation for the benefit of the District at the same time taxes are levied for county purposes using the county values and the county tax roll, a tax not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of all taxable property within the Hospital District for the purpose of (1) paying the interest on and creating a sinking fund for bonds which may be issued by the Hospital District for hospital purposes as herein provided; and (2) providing for the operation and maintenance of the Hospital District and hospital system.

The board of directors shall have the authority to levy the tax aforesaid for the entire year in which the said Hospital District is established for the purpose of securing funds to initiate the operation of the Hospital District.

#### **Bonds**

Sec. 6. The board of directors shall have the power and authority to issue and sell as the obligations of such Hospital District and in the name and upon the faith of such Hospital District, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any and all of such purposes, provided that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as the same matures providing said tax together with any other taxes levied for said District shall not exceed seventy-five cents (75¢) on the one hundred dollar valuation in any one (1) year. Such bonds shall be executed in the name of the Hospital District and on its behalf by the president of the board of directors and countersigned by the secretary of the board of directors, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of counties of this State. Upon the approval of such bonds by the Attorney General of Texas and registration by the Comptroller the same shall be incontestable for any cause. No bonds shall be issued by such Hospital District (excepting refunding bonds) until authorized by a majority of the participating legally qualified property taxpaying electors of the District who own taxable property therein which has been duly rendered for taxation. Such election may be called by the board of directors on its own motion, and the order calling said election shall specify the date of the election, the place or places where the election shall be held, the presiding officers thereof, the purpose for

For Annotations and Historical Notes, see V.A.T.S.

which the bonds are to be issued, the amount thereof, maximum interest rate (not to exceed six per cent (6%) per annum) and the maximum maturity date of such bonds (not to exceed forty (40) years from the date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such county once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) days prior to the date set for the election. The cost of such election shall be paid by the Hospital District.

The bonds of the District may be optional for redemption prior to their maturity date at the discretion of the board of directors.

The District may without an election issue bonds to refund and pay off any validly issued and outstanding bonds theretofore issued by the District, providing any such refunding bonds shall bear interest at the same rate or at a lesser rate than the bonds being refunded unless it be shown mathematically that a savings will result in the total amount of interest to be paid.

#### **Buildings; contracts for facilities**

Sec. 7. The board of directors is hereby given complete discretion as to the type of buildings (both as to number and location) required to establish and maintain an adequate hospital system. Nothing herein shall prohibit the establishing and equipping of a clinic as a part of the hospital system. The board of directors is further authorized to enter into an operating or management contract with regard to its facilities, or parts thereof, or the board may lease all or part of its buildings and facilities upon terms and conditions it considers to be the best interest of the inhabitants, provided that in no event shall any lease be for a period in excess of twenty-five (25) years from the date the same is entered.

#### **Purchases and expenditures; books and accounts; rules and regulations**

Sec. 8. The board of directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures by and for such Hospital District, and also shall prescribe all accounting and control procedures; the method of purchasing necessary supplies, materials and equipment; and shall have the power to adopt a seal for such District; and may employ a general manager, attorney, book-keeper, architect, and any other employees deemed necessary for the efficient operation of the Hospital District.

All books, records, accounts, notices and minutes, and all other matters of the District and the operation of its facilities shall, except as herein provided, be maintained at the office of the District and there be open to public inspection at all reasonable hours.

The board of directors is specifically empowered to adopt rules and regulations governing the operation of such District and its facilities which rules and regulations shall supplement but shall not contravene any of the provisions of this Act. Such rules and regulations may, upon approval of the board of directors, be published in booklet or pamphlet form at the expense of the District and may be made available to any taxpayer upon request.

#### **Fiscal year; budget**

Sec. 9. The fiscal year of the Hospital District authorized to be established by the provisions hereof shall commence on October 1 of each year and end on the 30th day of September of the following year. The District directors shall cause an annual independent audit to be made of the books and records of the District.

The board of directors shall each year cause a budget to be prepared showing the proposed expenditures and disbursements and the estimated receipts and collections for the following fiscal year and shall hold a public hearing on the proposed budget after publication of a notice of hearing in a newspaper of general circulation in the county at least once not less than ten (10) days prior to the date set for the hearing. Any person who is a taxpayer of the District shall have the right to appear at the time and place designated in the notice and be heard with reference to any item shown in the proposed budget. The proposed budget shall also show the amount of taxes required to be levied and collected during such fiscal year and upon final approval of the budget the board of directors shall levy such tax as may be required and certify the tax rate for such year to the county tax assessor and collector.

#### **Assessment and collection of taxes**

Sec. 10. District taxes shall be assessed and collected in the same manner as provided by law with relation to county taxes. The tax assessor and/or collector of Motley County shall be charged and required to accomplish the assessment and collection of all taxes levied by and on behalf of the District and to promptly pay over the same to the District depository, and shall charge such compensation therefor as may be provided for by contract with the District but not to exceed the amount allowed for assessment and collection of county taxes. All such fees shall be deposited in the county's general fund and shall be reported as fees of office of the tax assessor-collector. The bond of the county tax assessor-collector shall stand as security for the proper performance of his duties as assessor-collector of the District, or if in the judgment of the District board of directors it is necessary additional bond payable to the District may be required.

#### **Eminent domain**

Sec. 11. A Hospital District organized in pursuance of this Act shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said District, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation, provided that the said District shall not be required to make deposits in the registry of the trial court of the sum required by paragraph No. 2 in Article 3268, Revised Civil Statutes of Texas, 1925 as amended, or to make the bond required therein. In condemnation proceedings being prosecuted by the said District, the District shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to condemnation proceedings, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals or to the Supreme Court.

#### **District depository**

Sec. 12. Within thirty (30) days after appointment and qualification of the board of directors of the Hospital District, the said directors shall by resolution designate a bank or banks within the county in which the District is located as the District's depository or treasurer, and all funds of the District shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two (2) years and until a successor has been named.

**Inspection of district**

Sec. 13. The Hospital District established or maintained under provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any State Board of Charities (or Public Welfare) that may hereafter be created, and resident officers shall admit such representatives into all Hospital District facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the Hospital District.

**District alone to incur indebtedness**

Sec. 14. Except as herein provided, Motley County, or any city or town within the Hospital District shall not levy any tax against any property within the Hospital District for hospital purposes; and such Hospital District shall assume full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said Hospital District from the date that taxes are collected for the Hospital District.

**Patients; inquiry as to ability to pay; liability of relatives**

Sec. 15. Whenever a patient residing in the Hospital District has been admitted to the facilities of the Hospital District, the directors shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If they find that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the Hospital District for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The District shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the District to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the Hospital District. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the District's directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the District Court.

**Donations**

Sec. 16. The board of directors of the District is authorized to accept donations, gifts and endowments for the Hospital District for such purposes and under such directions, limitations and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of Hospital District.

**Bonds eligible for investment and to secure deposits**

Sec. 17. All bonds issued by the District authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all un-matured coupons appurtenant thereto.

**Suits**

Sec. 18. The Hospital District created under the provisions of this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this State in the name of such District.

**Violation of constitution; alternative procedures**

Sec. 19. Nothing in this Act shall be construed to violate any provisions of the Federal or State Constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the District or the validity of any other provisions of this Act, and the Legislature hereby declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

**Publication of notice**

Sec. 20. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of Local and Special Laws and is hereby found and declared to be proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 965, ch. 465, emerg. eff. June 16, 1965.

**Title of Act:**

An Act authorizing creation of a county-wide hospital district in Motley County, to be known as Motley County Hospital District; providing for an election in Motley County to create a county-wide hospital district and making certain findings in connection with the establishment of the District; providing for the levy of a tax for the District for the purpose of maintaining and operating the District, paying any bonds issued by the District; providing for the issuance of bonds by the District for the purpose of the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same for hospital purposes and for any and all such purposes and for refunding bonds and prescribing limitations on such power; providing that the District may execute an operating or management contract under certain terms and conditions and that the District may lease all or part of the hospital

facilities under certain conditions; providing bonds issued or assumed by the District shall be lawful investments and collateral for certain funds; providing for the selection of a governing body of such hospital district and tenure of office and powers and duties of such governing body in carrying out the provisions of the Act; prescribing a procedure for the adoption of a budget, the selection of a depository and the power of eminent domain which power is conferred upon the District; prescribing a fiscal year; withdrawing authority for the sale of bonds for hospital purposes by a city located within the District established or the County, prohibiting the levy of taxes by a city for hospital purposes and restricting the powers of Motley County wherein the District is established to levy taxes for the care of indigents under certain circumstances; providing severability; and declaring an emergency. Acts 1965, 59th Leg., p. 965, ch. 465.



**Art. 4494q—38. Muenster Hospital District****Constitutional authority; creation of district; boundaries**

Section 1. (a) By authority of Section 9, Article IX, Constitution of the State of Texas, this Act authorizes the creation of the Muenster Hospital District in Cooke County.

(b) The boundaries of the Muenster Hospital District are coterminous with the boundaries of the Muenster Independent School District and that part of the Saint Jo Independent School District located in Cooke County as those districts are fixed on the effective date of this Act.

**Purpose of district**

Sec. 2. The District herein authorized to be created shall provide for the establishment of hospital or hospital system within its boundaries by the purchase, construction, acquisition, repair or renovation of buildings and improvements, and the equipping of same and the administration thereof for hospital purposes. Such district shall assume full responsibility for providing medical and hospital care for its needy inhabitants. It is hereby found and determined that there is no hospital or hospital system or hospital facilities of any nature presently owned by Cooke County or by any city or town within the boundaries hereinabove set forth, it being further found that the Muenster Hospital Authority has heretofore been established under the provisions of Chapter 472, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 4437e, Vernon's Texas Civil Statutes), and that such Authority currently operates and maintains a hospital within the boundaries hereinabove set forth as a political subdivision of the State of Texas.

**Election and ballots**

Sec. 3. The District shall not be created, nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election shall be called by a majority of the temporary or provisional directors of the District and shall be held not less than thirty (30) nor more than sixty (60) days from the time such election is ordered. The order calling the election shall specify the time and places of holding same, the form of ballot and the presiding judge for each voting place. Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in the area of the proposed District once a week for two consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date set for the election. The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose. At said election there shall be submitted to the qualified property taxpaying electors of said proposed District the proposition of whether or not Muenster Hospital District shall be created with authority to levy annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollars valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds and for the care of indigents, and a majority of the qualified taxpaying electors of the District voting at said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

"FOR the creation of Muenster Hospital District, the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation.

"AGAINST the creation of Muenster Hospital District, the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation."

## Board of directors; election; vacancies; compensation; terms of office

Sec. 4. Upon the effective date of this Act, the following named nine (9) persons shall be and constitute the temporary or provisional Directors of the said District:

Alphonse Felderhoff  
Robert Bayer  
Ray Voth  
John Bayer  
Norbert J. Felderhoff  
Alois Trubenbach  
Albert Dangelmayr  
E. T. Stormer  
Joe Galloway

and each of said Directors shall subscribe to the Constitutional oath of office within sixty (60) days of the effective date of this Act. Should any of the named Directors refuse to act or for any reason fail to qualify as herein required, the County Judge of Cooke County shall fill such vacancy. The terms of office of the first, third, fifth, seventh, and ninth named Directors shall expire on the first Saturday in April of the year following the election for the creation of the District, and the terms of the second, fourth, sixth, and eighth named Directors shall expire on the first Saturday in April of the second year following the election for the creation of the District. A regular election for Directors shall be held on the first Saturday in April of each year. The regular election for Directors shall be ordered by the Board and such order shall state the time, place and purpose of the election, and the Board shall appoint the presiding judge who shall appoint an assistant judge and such clerks as may be required, and such election shall be ordered at least fifteen (15) days prior to the date on which it is to be held. Any person desiring his name to be printed on the ballot as a candidate for director shall file a petition signed by not less than fifteen (15) qualified voters asking that such name be printed on the ballot, with the secretary of the Board of Directors of the District. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election. Notice of such election shall be published one (1) time in a newspaper of general circulation in the area of the District at least five (5) days before the election. All vacancies in office (other than for the failure of an original Director herein appointed to qualify) shall be filled by a majority vote of the remaining Directors and such appointees shall hold office for the unexpired term for which they were appointed.

No director shall be entitled to compensation, but shall be entitled to receive his actual expenses incurred in attending to the District's business, provided such expenses are approved by the remainder of the Board. Any person who is a property owning taxpayer shall be eligible to hold office as director of the District, and at least seven (7) members of the Board shall be residents of the District. The Board of Directors shall elect from its number a president, vice president, secretary and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails and declines to act.

The Directors named herein and their successors in office shall hold office as provisional or temporary Directors until such time as the creation of the District has been approved at an election as herein provided. At such time as the creation of the District is so approved and the returns of the election officially canvassed, the persons acting as provisional or

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temporary Directors shall become permanent Directors whose terms shall expire as hereinabove provided. Each permanent Director and his successor in office shall qualify by executing the Constitutional oath of office. A majority of the Board shall constitute a quorum for the transaction of business.

**Powers and duties of board; administrator or manager of district**

Sec. 5. The Board of Directors shall manage, control and administer the hospitals and hospital system of the District. The District through its Board of Directors shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the District. The Board of Directors shall appoint a qualified person to be known as the administrator or manager of the Hospital District and may in its discretion appoint an assistant to the administrator or manager. Such administrator or manager, and assistant administrator or assistant manager, if any, shall serve at the will of the Board and shall receive such compensation as may be fixed by the Board. The administrator or manager shall, upon assuming his duties, execute a bond payable to the Hospital District in an amount to be set by the Board of Directors, in no event less than Five Thousand Dollars (\$5,000) conditioned that he shall perform the duties required of him and containing such other conditions as the Board may require. The administrator or manager shall supervise all the work and activities of the Hospital and shall have general direction of the affairs of the District, subject to such limitations as may be prescribed by the Board. The Board of Directors, with the administrator, shall have the authority to admit such doctors or employ technicians, nurses and other employees of every kind and character as may be deemed necessary for the efficient operation of the Hospital, or may provide that the administrator or manager shall have the authority to admit or employ such persons. Such Board shall be authorized to contract with any county or incorporated municipality located outside the District for the care and treatment of the sick, diseased or injured persons of any such county or municipality and shall have the authority to contract with the State of Texas and agencies of the Federal government, for treatment of sick, diseased or injured persons for whom the State of Texas or the Federal government are responsible. The Board of Directors is also authorized to enter into such contracts or agreements with the State of Texas or the Federal government as may be required to establish or continue a retirement program for the benefit of the District's employees.

The Board may also enter into a contract or contracts with nonprofit corporations whereby such corporations agree to provide administrative and other personnel for the operation of the hospital facilities, but in no event may such contract be for a period in excess of twenty-five (25) years from the date the same is entered.

**Fiscal year; audits**

Sec. 6. The District shall be operated on a fiscal year commencing on October 1 of each year and ending on September 30 of the succeeding year, and it shall cause an audit to be made of the financial condition of said District which shall at all times be open to inspection at the principal office of the District. In addition the administrator or manager shall prepare an annual budget for approval by the Board of Directors of said District. As soon as practical after the close of each fiscal year, the administrator or manager shall prepare for the Board a full sworn statement of all moneys belonging to the District, and a full account of the disbursements of same.

**Bonds**

Sec. 7. The District may issue bonds for the purpose of the purchase and acquisition of buildings and improvements and equipping the same

for hospitals and the hospital system or for acquiring all buildings, improvements, furnishings and equipment which at the time of the election for the creation of the District had been constructed or acquired by a hospital authority which was established under the provisions of Chapter 472, Acts of the 55th Legislature, Regular Session, 1957 (Article 4437e, Vernon's Texas Civil Statutes), as amended, prior to the creation of the Hospital District, but only if such hospital authority is located wholly within the boundaries of the Hospital District as set forth in Section 1 of this Act. Such bonds may be issued if the following conditions are met: (1) the amount of bonds issued by the Hospital District to acquire such buildings, improvements, furnishings and equipment shall not exceed the amount required to pay (a) the principal amount of all bonds of the Authority which are then outstanding which have been approved as to legality by the Attorney General of Texas, (b) all existing indebtedness of the Authority incurred in connection with the acquisition of equipment, supplies and the payment of ordinary maintenance and operating expenses of the Authority, (c) the interest on such bonds and indebtedness of the Authority as shall have accrued and remains unpaid as of the date of the bonds to be issued by the Hospital District, and (d) any premium for redemption or payment of the bonds issued by the Authority which is paid for the right to retire such bonds prior to their stated maturity; (2) the bonds issued by the District shall mature within forty (40) years of their date; and (3) the bonds issued by the District shall bear interest at the same or lower rate of interest than borne by the bonds issued by the Authority.

#### **Refunding bonds**

Sec. 8. The bonds of the District may be issued for the purpose of refunding and paying off any bond issued by the District. Such refunding bonds may be sold and the proceeds thereof applied to the payment of any outstanding bonds or other refundable indebtedness, or may be exchanged in whole or in part for not less than a like principal amount of such outstanding bonds or refundable indebtedness; provided that if such refunding bonds are to be exchanged for a like amount of said outstanding bonds or other refundable indebtedness, the interest thereon computed in accordance with recognized standard bond interest cost tables, shall not exceed the average interest cost per annum so computed upon the bonds or other indebtedness to be refunded; and provided further that, if such refunding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding bonds or other refundable indebtedness, same shall be issued and payments made in the manner specified by Chapter 503, Acts of the 54th Legislature, 1955 (Article 717k, Vernon's Texas Civil Statutes), as amended.

#### **Tax levy; interest and sinking fund**

Sec. 9. At the time of the issuance of any such bonds permitted by Sections 7 and 8 hereof, a tax shall be levied by the Board sufficient to create an interest and sinking fund and to pay the interest on and principal of said bonds as same mature, providing such tax together with any other taxes levied for said District shall not exceed seventy-five cents (75¢) on each One Hundred Dollars (\$100) valuation of taxable property in any one year. Such bonds shall be issued under the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, 1925, as amended, but without the necessity of an election, but shall be executed in the name of the Hospital District and in its behalf by the president of the Board and attested by the secretary, as provided by Chapter 204, Acts of the 57th Legislature, Regular Session, 1961 (Article 717j—1, Vernon's Texas Civil Statutes), and shall be subject to the same requirements in the matter of approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided

for approval and registration of bonds issued by counties. After approval of any such bonds by the Attorney General and registration by the Comptroller, said bonds shall be incontestable.

#### Acquisition of properties

Sec. 10. The District is hereby given full and complete authority to acquire all buildings, improvements, furnishings and equipment which have been constructed or acquired by a hospital authority which had been established under the provisions of Chapter 472, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 4437e, Vernon's Texas Civil Statutes), prior to the creation of the District, but only if such hospital authority is located wholly within the boundaries of the District as set forth in Section 1 of this Act, and any such hospital authority is given full and complete authority to sell such buildings, improvements, furnishings and equipment provided the same shall be accomplished without the impairment of any contractual obligations of the hospital authority. It is expressly provided that the conveyance of the properties may be conditioned upon the District's assumption of contractual obligations of the Authority in connection with the operation of the hospital facilities so acquired.

#### Bonds exempt from taxation

Sec. 11. In carrying out the purposes of this Act the District will be performing an essential public function and any bonds issued by it and their transfer and the revenues therefrom including any profits made in the sale thereof shall at all times be free from taxation by the State or any municipality or political subdivision thereof.

#### Purchases and expenditures

Sec. 12. The Board of Directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures by and for such Hospital District, and also shall be authorized to prescribe all accounting and control procedures and to make such rules and regulations as may be required to carry out the provisions of this Act. The Board is given exclusive authority to determine the type, character, and use of the facilities forming a part of the hospital system.

#### District depository

Sec. 13. The Board of Directors of the District shall name one or more banks within the District to serve as depository for the funds of the District. All such funds shall, as derived and collected, be immediately deposited with such depository bank or banks for the payment of principal of and interest on the outstanding bonds of the District in time that such money may be received by said bank or banks for payment on or prior to the date of maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

#### Bonds eligible for investment and to secure deposits

Sec. 14. All bonds of the District shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and sinking funds of cities, towns, villages, counties, school districts or other political subdivisions

of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

#### Eminent domain

Sec. 15. The District created hereunder shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple or any lesser interest therein, within the boundaries of the District necessary or convenient to the powers, rights and privileges conferred by this Act, in the manner provided by the General Law with respect to condemnation.

#### Assessment and collection of taxes

Sec. 16. District taxes shall be assessed and collected on county tax values in the same manner as provided by law with relation to county taxes upon all taxable property within said District, subject to Hospital District taxation. The Tax Assessor and/or Collector of Cooke County shall be charged and required to accomplish the assessment and collection of all taxes levied by and on behalf of the District. The Assessor and Collector of taxes shall charge and deduct from payments to the Hospital District the dues for assessing and collecting the taxes at a rate of not to exceed one per cent (1%) for assessing and one per cent (1%) for collecting as may be agreed upon by the District and the Tax Assessor, but in no event shall the amount of such compensation exceed a total of Five Thousand Dollars (\$5,000) in any one fiscal year of the District. Such fees shall be deposited in the officers' salary fund of the county and reported as fees of office of the county Tax Assessor and Collector. Interest and penalties on taxes paid to the Hospital District shall be the same as in the case of county taxes. Discounts shall be the same as allowed by the county. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the District's depository. The Board of Directors shall have the authority to levy the aforesaid tax for the entire year in which said District is established as the result of the election herein provided. The bond of the county Tax Assessor-Collector shall stand as security for the proper performance of his duties as Assessor-Collector of the District or, if in the judgment of the District Board of Directors it is necessary, additional bond payable to the District may be required. In all matters pertaining to the assessment, collection and enforcement of taxes for the District, the county Tax Assessor-Collector shall be authorized to act in all respects according to the laws of the State of Texas relating to state and county taxes.

#### Patients; inquiry as to ability to pay; liability of relatives

Sec. 17. Whenever an indigent patient residing within the District has been admitted to the facilities thereof, the administrator or manager shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment, in whole or in part, an order shall be made directing such patient or said relatives to pay to the Hospital District for the support of such patient a specified sum per week in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The administrator or manager shall have power and authority to collect such sums from the estate of the patient or his relatives legally liable

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for his support in the manner provided by law for the collection of expenses in the last illness of a deceased person. If the administrator or manager finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, same shall become a charge upon the Hospital District to the amount of the inability to pay, as care for indigents. Should there be any dispute as to the ability to pay, or doubt in the mind of the administrator or manager, the Board of Directors shall hear and determine same, after calling witnesses, and shall make such order or orders as may be proper. Appeals from a final order of the Board shall lie to the District Court. The substantial evidence rule shall apply. The provisions of this Section shall also apply to non-residents of the District who are admitted as emergency patients.

#### Donations

Sec. 18. The Board of Directors of the Hospital District is authorized on behalf of such District to accept donations, gifts and endowments to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and object of the Hospital District.

#### Annual budget

Sec. 19. The Board of Directors of said Hospital District shall cause to be prepared an annual budget based upon the fiscal year of the Hospital District, and prior to September 1 of each year shall give notice of the public hearing on the proposed budget. Such notice shall be published in a newspaper of general circulation in the District one time at least ten (10) days prior to the date set for the hearing. At the conclusion of the hearing the Board shall enter on its minutes an order levying taxes for the ensuing year and such order shall state the rate of tax levied for meeting the requirements of the District's bonds and the rate levied for the care of indigents.

#### District alone to incur indebtedness for hospital purposes

Sec. 20. After creation of Muenster Hospital District as herein provided, no other municipality or political subdivision therein shall thereafter issue bonds or other evidences of indebtedness or levy taxes for hospital purposes for medical treatment of indigent persons within the boundaries of said District, and the said Muenster Hospital District shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of indigent persons within its boundaries.

#### State not to be obligated

Sec. 21. The support and maintenance of Muenster Hospital District shall never become a charge against or obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such District.

#### Severability

Sec. 22. If any of the provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

#### Publication of notice

Sec. 23. Proof of publication of the notice required in the enactment hereof under the provisions of Section 9, Article IX, Constitution

of the State of Texas, has been made in the manner and form provided by law pertaining to the enactment of local and special laws and such notice is hereby found and declared proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 984, ch. 477, emerg. eff. June 16, 1965.

Title of Act: of the Muenster Hospital District in Cooke County; and declaring an emergency. Acts 1965, 59th Leg., p. 984, ch. 477.  
An Act relating to the creation, administration, powers and duties, and financing

**Art. 4494q—39. Taft Hospital District****Constitutional authority; boundaries**

Section 1. Pursuant to authority granted by the provisions of Section 9, Article IX, Constitution of the State of Texas, Taft Hospital District of San Patricio County, Texas, is hereby authorized to be created and as created shall have boundaries coextensive with the current boundaries of Taft Independent School District of San Patricio County, Texas, said boundaries being more particularly described as follows, to wit:

BEGINNING at a point on Nueces Bay, such point being the most southerly southeast corner of the Florence M. Hunter tract of land, Abstract 246;

THENCE, in a northerly direction along the most southerly east boundary line of said Hunter tract to an intermediate corner in said most southerly east boundary line of the said Hunter tract;

THENCE, easterly along an intermediate southerly boundary line of said Hunter tract to an intermediate corner on the most northerly east boundary line of the said Hunter tract;

THENCE, northerly along said most northerly east boundary line of said Hunter tract to the most northerly northeast corner of said Hunter tract;

THENCE, in a westerly direction along the most northerly north boundary line of said Hunter tract to the southeast corner of the Whitepoint Development Company 437.5 acre tract;

THENCE, north along the east boundary line of said Whitepoint Development Company tract to the northeast corner of same, said corner being a point in the south boundary line of the J. W. & R. D. Ragsdale 1094 acre tract;

THENCE, in an easterly direction along the south boundary line of the J. W. & R. D. Ragsdale 1094 acre tract to the southeast corner of same, such corner being also the southwest corner of Block 20 of the Roos Subdivision of the Annie S. Taft tract of land, Abstract 247;

THENCE, in a northerly direction along the west boundary lines of Blocks 20, 19, 18, 17, 16, 15, 14 and 13 of said Roos Subdivision of the Annie S. Taft tract of land to the northwest corner of said Block 13, Abstract 78;

THENCE, in an easterly direction along the north boundary line of said Block 13 of the Roos Subdivision of the Annie S. Taft tract of land to a point in said north boundary line, said point being the southwest corner of Section 5 of the George H. Paul Subdivision of the Coleman Fulton Pasture Company Survey;

THENCE, in a northerly direction with the west line of said Section 5 to the northwest corner of said Section 5, Abstract 79, for corner;

THENCE, in an easterly direction along the north boundary lines of Sections 5 and 44 of the George H. Paul Subdivision of the Coleman Fulton Pasture Company Survey to the northeast corner of the northeast quarter of said Section 44;



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THENCE, due north to the southerly or easterly bank of Chiltipin Creek;

THENCE, in a generally easterly and northeasterly direction with the meanders of said southerly or easterly bank of Chiltipin Creek to a point where said southerly or easterly bank of said Creek intersects the west boundary line of the Mrs. Eliza H. Welder tract, Abstract 98;

THENCE, in a southerly direction along the west boundary line of the said Welder tract to the southwest corner of said tract;

THENCE, in an easterly direction along the south boundary line of the Welder tract to the southeast corner of same;

THENCE, in a northerly direction along the east boundary line of said Welder tract to the southerly or easterly bank of Chiltipin Creek;

THENCE, in a generally easterly direction with the meanders of the southerly or easterly bank of Chiltipin Creek to the east boundary line of the west half of Section 39 of the Fourth Subdivision of the Taft Farm Lands;

THENCE, in a southerly direction along the east boundary lines of the west half of Sections 39 and 29 of the Fourth Subdivision of the Taft Farm Lands and Sections 19, 18 and 17 of the Third and Second Subdivisions of the Taft Farm Lands to the southeast corner of the northwest quarter of said Section 17;

THENCE, in a westerly direction along the south boundary lines of the north half of Sections 17, 14, 11 and 8 of the Second Subdivision of the Taft Farm Lands to a point in said boundary line of the north half of said Section 8 which point is due north of the northeast corner of Section 83 of the George H. Paul Subdivision of the Coleman Fulton Pasture Company;

THENCE, due south to the southeast corner of Section 83 of the George H. Paul Subdivision of the Coleman Fulton Pasture Company Survey;

THENCE, westerly with the south line of Section 83 of the George H. Paul Subdivision of the Coleman Fulton Pasture Company Survey to the southeast corner of Section 81 of the George H. Paul Subdivision of the Coleman Fulton Pasture Company Survey;

THENCE, in a southerly direction along the east boundary line of Sections 80 and 79 of the George H. Paul Subdivision of the Coleman Fulton Pasture Company Survey to the southeast corner of said Section 79;

THENCE, in a westerly direction along the south boundary line of said Section 79 of the George H. Paul Subdivision of the Coleman Fulton Pasture Company Survey to a point in said south boundary line, said point being the northeast corner of the west half of Section 78 of the George H. Paul Subdivision of the Coleman Fulton Pasture Company Survey;

THENCE, southerly along the east line of the northwest quarter of Section 78 to the northeast corner of the southwest quarter of said Section 78, and continuing southerly with the east line of the southwest quarter of said Section 78 to the northeast corner of Lot or Block 4 of Section 77 of the George H. Paul Subdivision of the Coleman Fulton Pasture Company Survey, and continuing southerly with the east line of said Lot or Block 4 to Nueces Bay;

THENCE, in a generally westerly direction along the meanders of Nueces Bay to the PLACE OF BEGINNING, all as shown by maps of the Roos Subdivision of the Annie S. Taft tract of land recorded in Volume 1, page 25, of the Map Records of San Patricio County, Texas, and of the George H. Paul Subdivision of the Coleman Fulton Pasture Company Survey recorded in Volume 1, page 27, of the Map Records of San Patricio

County, Texas, and of the Coleman Fulton Pasture Company First Subdivision, and of the Fourth, Third and Second Subdivisions of the Taft Farm Lands, all as recorded in Map Records of San Patricio County, Texas, and by a plat of the original surveys of the San Patricio County File in the Texas State Land Office at Austin, Texas, to which reference is hereby made. The Legislature hereby finds that the foregoing boundaries and field notes of said District form a closure, and, if any mistake is made in copying the field notes in the legislative process, such mistake shall not affect the organization, existence or validity of the District or its right to issue bonds or refunding bonds, and the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District.

#### Purposes of district

Sec. 2. The District hereby authorized to be created shall provide for the establishment of a hospital or hospital system within its boundaries to furnish medical and hospital care to persons residing in said District by the purchase, construction, acquisition, repair or renovation of buildings and improvements and the equipping of same and the administration thereof for hospital purposes. The District shall assume full responsibility for providing medical and hospital care for its needy inhabitants. Since there is no hospital, hospital system or hospital facilities of any nature presently owned by San Patricio County or any city or town within the boundaries of said District, no provisions are made herein for the transfer of properties or equipment or the assumption of outstanding indebtedness heretofore incurred for hospital purposes. After establishment of the District, no other municipality or political subdivision in San Patricio County shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of the District.

#### Creation of district; election; ballots

Sec. 3. The District shall not be created nor shall any tax therein be authorized unless and until the creation and tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. The election shall be initiated by a petition to the San Patricio County Commissioners Court signed by at least fifty (50) qualified property taxpaying electors residing within the boundaries of the proposed District. Within ten (10) days after the presentation of the petition to the Commissioners Court of San Patricio County, Texas, said Court shall order an election to be held within the District not less than thirty (30) days from the date said election is ordered. The order calling the election shall specify the date and place or places of holding same, the form of ballot and the presiding judge for each voting place. At the election there shall be submitted to the qualified property taxpaying electors of said proposed District the proposition of whether or not Taft Hospital District of San Patricio County, Texas, shall be created with authority to levy annual taxes at a rate not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting in said election in favor of the proposition shall be sufficient for its adoption. The ballots of said election shall conform to the requirements of the Texas Election Code, as amended, and shall have printed thereon the following:

"FOR the creation of Taft Hospital District of San Patricio County, Texas; providing for the levy of annual taxes at a rate not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of all taxable property within such District.

"AGAINST the creation of Taft Hospital District of San Patricio County, Texas; providing for the levy of annual taxes at a rate not to exceed

For Annotations and Historical Notes, see V.A.T.S.

seventy-five cents (75¢) on the one hundred dollar valuation of all taxable property within such District."

Notice of said election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in the area of the proposed District, once a week for two consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date set for the election. The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose.

#### Board of directors; qualifications; terms of office

Sec. 4. At said election there shall also be submitted to the resident qualified electors of said proposed District a separate ballot containing the names of all qualified persons who shall file applications, not later than twenty (20) days prior to the date set for said election, to have their names placed on said ballot for election to the board of directors. To be qualified to serve as a director of such District a person must be a resident of such District, at least twenty-one years of age and own land subject to taxation within said District. Each voter shall vote for seven persons and the seven persons receiving the highest number of votes shall constitute the first board of directors. These persons shall serve until the second Tuesday in January, 1967. At that time a general election shall be held at which seven directors shall be elected. The four persons receiving the highest number of votes shall serve for two years. The other three persons shall serve for one year. At the second annual election three directors shall be elected to serve two years, and thereafter there shall be an annual election of four directors in one year and three directors in the next year in continuing sequence.

#### Canvass of returns; oath and bond

Sec. 5. After such creation, tax levy, and first directors' election is held, the officials conducting same shall make due returns to the San Patricio County Commissioners Court which shall canvass the returns thereof. If a majority of the qualified property taxpaying electors voting at the election voted in favor of the proposition to create the District and levy the tax, said Court shall so find and declare the District established and created. The Court shall also determine the seven persons receiving the highest number of votes for directors and shall declare those persons elected. Each member of the board of directors shall qualify by executing the Constitutional Oath of office and by making a good and sufficient bond, to be approved by said Commissioners Court, for \$5,000 payable to the District and conditioned upon the faithful performance of his duties as director, and the oaths and bonds shall be kept in the permanent records of the District. Except for the first board of directors, the bonds of the directors shall be approved by the District board of directors.

#### Bond election

Sec. 6. A bond election may also be held on the same day as the creation, tax levy and directors' election, and the petition mentioned in Section 3 of this Act may also include a proposition on the issuance of bonds of the District. Such bond election may be called by a separate election order, or as a part of the order calling the election provided for in Section 3. The provisions of Section 12 of this Act shall apply to such bond election, except that the election shall be called by the San Patricio County Commissioners Court and the returns canvassed by the Court. If the bonds are authorized at the election, they shall then be issued by the board of directors, assuming that the proposition specified in Section 3 of this Act is favored by a majority vote. With the exception of bonds authorized by this section, all bond elections shall be ordered and the returns thereof shall be canvassed by said board of directors.

**Officers; powers of directors; records; book of accounts;  
vacancies**

Sec. 7. (a) The board of directors of the District shall elect a president and secretary from their number to serve until the next succeeding directors' election. Any four (4) of the directors shall constitute a quorum, and a concurrence of four (4) shall be sufficient in all matters pertaining to the business of the District.

(b) Not by way of limitation, the board shall have the complete management and control of all the business of the District, including but not limited to the power and authority to negotiate and equip a hospital system, and to operate and maintain a hospital or hospitals, and to negotiate and contract with other political subdivisions of the State or private individuals, associations or corporations for such purposes, all as may be determined to be necessary or desirable for the District by the board; and the board shall have all powers necessary, convenient or incidental to carry out the purposes for which said District is created.

(c) The board of directors shall keep a true account of all their meetings and proceedings and shall preserve all contracts, records of notices, duplicate vouchers, duplicate receipts and all accounts and records of whatever kind in a safe place and shall be delivered to their successors in office.

(d) The board of directors shall have kept a complete book of accounts for the District, and shall on June 1st of each year select a competent auditor who shall examine the accounts, books and reports of the depository, the assessor and collector and the board of directors, and make full report thereon, a copy of which shall be filed with the depository, and a copy with the board of directors, and one with the county clerk. The reports shall state for what purposes the money from each fund has been expended.

(e) The board of directors of the District shall serve without compensation but may be reimbursed for actual expenses incurred by them in the performance of their official duties upon the approval of such expenses by the board of directors thereof.

(f) All vacancies in the office of director shall be filled for the unexpired term by appointment of the remainder of the board. If the number of directors is reduced to less than four (4), the remaining directors shall immediately call a special election to fill said vacancies. Upon failure to do so, a District Court may, upon application of any voter or taxpayer of the District, issue a mandate requiring such directors to call and hold such election.

**Levy of tax**

Sec. 8. Upon the creation of the District, the board of directors shall have the power and authority, and it shall be their duty, to levy on all property subject to District taxation for the benefit of the District, a tax at a rate not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of all taxable property within such District, for the purposes of:

- (1) meeting the requirements of the District's bonds;
- (2) providing for the District's maintenance and operating expenses; and
- (3) making improvements and additions to its hospitals or hospital system, and for the acquisition of the necessary sites therefor, by gift, purchase, lease or condemnation. It is provided specifically that the support and maintenance of the District's hospital system shall never become a charge against or obligation of the State of Texas.

**Duties of assessor and collector; interest and penalties**

Sec. 9. Not later than October 1 of each year the board of directors shall levy the tax on all property within the District which is subject to taxation and shall immediately certify the rate to the tax assessor and collector of Taft Independent School District of San Patricio County. The tax so levied shall be collected, on all property subject to District taxation, by the assessor and collector on the school district tax values, and in the same manner and under the same conditions as the school district taxes. The amount of the annual District tax may be included on the annual school tax statements mailed or sent out by the assessor and collector to those taxpayers owning property in both the District and in the school district. The assessor and collector shall charge and deduct from payments to the District the fees for assessing and collecting the tax at the rate of not exceeding one per cent (1%) of the amounts collected as may be determined by the District's board of directors but in no event in excess of Five Thousand Dollars (\$5,000) for any one fiscal year. Interest and penalties on taxes paid such District shall be the same as for the school district taxes. The remainder of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the District's depository and may be withdrawn as directed by said District's board of directors. All other income of the District shall be deposited in the depository. Said board shall have authority to levy the tax for the entire year in which the District is established to obtain funds to initiate the operation of the District.

**District depository**

Sec. 10. As soon as practicable after the election and qualification of the first board of directors of the District, the board shall by resolution designate a bank within the County as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of County funds. The depository shall serve for a period of two (2) years and until a successor has been selected.

**Eminent domain**

Sec. 11. Said District shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of the property in fee simple absolute, within the boundaries of said District, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act in the manner provided by General Law with respect to condemnation; provided that the District shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as last amended, or to make the bond required therein. In condemnation proceedings being prosecuted by the District, the District shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

**Bonds**

Sec. 12. The board of directors shall have the power and authority to issue and sell, as the obligations of the District, and in the name and upon the faith and credit of the District, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any or all of such pur-

poses. A sufficient annual tax shall be levied to create an interest and sinking fund to pay the interest on and principal of said bonds as they mature, providing this tax together with any other taxes levied for said District shall not exceed a rate of seventy-five cents (75¢) on the one hundred dollar valuation of all taxable property within said District in any one year. Such bonds shall be executed in the name of the District and on its behalf by the president of the board of directors, countersigned by the secretary of the board, and shall be subject to the same requirements in the manner of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for the approval and registration of bonds of counties of this State. Upon the approval of the bonds by the Attorney General of Texas and registration by the Comptroller, the same shall be incontestable for any cause. Until such time as the bond proceeds are needed to carry out the bond purpose, the proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit. No bonds (except refunding bonds) shall be issued by the District until authorized by a majority vote of the duly qualified resident electors of said District who own taxable property within said District and who have duly rendered the same for taxation, voting in an election called and held for such purpose. The election shall be called (except as provided in Section 6 of this Act) by the board of directors on its own motion, and the order calling said election shall specify the date of same, the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest (not to exceed six per cent (6%) per annum), and the maximum maturity date of such bonds (not to exceed forty (40) years from their date or dates of issuance). Notice of said election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation within the area of such District once a week for two consecutive weeks, the date of the first publication to be at least fourteen (14) days prior to the date set for said election. The bonds may be made optional for redemption prior to their maturity date at the discretion of the board of directors. The District may, without election, issue bonds to refund and/or pay off any validly issued and outstanding District bonds, provided that the refunding bonds shall bear interest at the same rate or at a lesser rate than the bonds being refunded, unless it be shown mathematically that a savings will result in the total amount of interest to be paid.

#### Inspection of district

Sec. 13. After the creation and establishment of said District, it shall be subject to inspection by any duly authorized representative of the State Board of Health or any State Board of Charities (or Public Welfare) that may hereafter be created, and resident officers shall admit such representatives into all District facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to said District.

#### Bonds eligible for investment and to secure deposits

Sec. 14. All bonds issued by said District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons pertinent thereto.

#### Suits

Sec. 15. The hospital district created under this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this State in the name of such District.

#### Donations

Sec. 16. Not by way of limitation, the board of directors of said District is authorized in its behalf to accept donations, gifts and endowments for the District to be held in trust and administered by the board of directors for such purposes and under such direction, limitations and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of the District.

#### Dissolution of district

Sec. 17. (a) The District may be dissolved after it is created by following the procedure set forth in this Section if, at the time for dissolution, there are no bonds outstanding and all contractual obligations and liabilities incurred by the District do not exceed the total of the funds on hand, the funds to be derived from all taxes levied prior to dissolution, and the market value of the assets of the District.

(b) Within ten (10) days after the receipt of a petition signed by at least the same number of qualified electors who own taxable property within the District and have rendered that property for taxation as would be required to authorize the creation of the District at the time of filing this petition, the Commissioners Court shall set a time and place for a public hearing on the petition. The hearing must be held within forty-five (45) days after the receipt of the petition but only after twenty (20) days notice to the residents of the District.

(c) The public hearing is for the purpose of presenting evidence on whether the District is capable of being dissolved and arguments for and against the proposed dissolution.

(d) If the Commissioners Court finds that the District is qualified for dissolution under Subsection (a) of this Section, the Court shall order an election to determine whether the District is to be dissolved. This election shall be held in the same manner as is required to create the District. The results shall be recorded in the minutes of the Commissioners Court. If a majority of the qualified electors who own taxable property within the District and have rendered that property for taxation and who vote in the election vote for dissolution of the District, the Commissioners Court shall order the dissolution of the District and place a copy of the order in its minutes.

(e) The ballot for the election must be substantially as follows:

“FOR the dissolution of Taft Hospital District in San Patricio County, Texas.

“AGAINST the dissolution of Taft Hospital District in San Patricio County, Texas.”

(f) Immediately after the order to dissolve the District is made, the Board of Directors shall transfer all records, funds, and assets over to the Commissioners Court. The Court shall wind up the operation and affairs of the District and shall determine the validity of all claims against the District and satisfy totally all valid claims.

(g) When all claims have been settled the Commissioners Court shall by written order, entered upon the minutes of the court, declare the District dissolved. The court shall file a copy of this final order with the county clerk. The District ceases to exist upon the filing of the order with the clerk.

(h) After payment of all claims against the District, any asset of the District remaining shall be liquidated and the proceeds shall be returned to the taxpayers of the District in the same proportion to the tax paid by the taxpayer for the current year as the excess of the assets bears to the total taxes levied for the current year.

(i) The District shall not levy any tax nor conduct any transactions except those absolutely essential to the operation of any hospital facility after the petition is filed. If the Commissioners Court finds that the District is not qualified to be dissolved or the majority of the qualified electors voting in the election vote against the dissolution of the District, the District shall resume its functions as if the petition had not been filed.

(j) If the Commissioners Court finds that the District is not qualified to be dissolved or the majority of the qualified electors voting in the election vote against the dissolution of the District, the Commissioners Court shall not accept another petition within one year from the date of the filing of the next previous petition.

(k) If the District is dissolved, all power and authority to provide hospital services and medical care shall revert to the county, municipality, or other political subdivision which had that power and authority before the District was created.

(l) This Act expires on January 1, 1967, if the District has not been created by a majority of those persons voting at an election for that purpose before that date.

**Violation of constitution; alternative procedures**

Sec. 18. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitution, and all things done under this Act shall be in such manner as will conform thereto, whether expressly so provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such constitutions. If any provision of this Act should be invalid, that fact shall not affect the authorization for the creation of the District or the validity of any other provisions of this Act, and the Legislature hereby declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

**Publication of notice**

Sec. 19. Proof of publication of the Constitutional Notice required in the enactment hereof under the provisions of Section 9, Article IX, Constitution of the State of Texas, has been made in the manner and form provided by law pertaining to the enactment of Local and Special Laws and is hereby found and declared to be proper and sufficient to satisfy that requirement. Acts 1965, 59th Leg., p. 1236, ch. 567, emerg. eff. June 17, 1965.

**Title of Act:**

An Act relating to the creation of the Taft Hospital District in San Patricio County; providing for the administration and financing of the District; and declaring an emergency. Acts 1965, 59th Leg., p. 1236, ch. 567.

**Art. 4494q—40. Poteet Community Hospital District of Atascosa County**

**Authorization**

Section 1. By authority of Section 9, Article IX, Constitution of the State of Texas, this Act authorizes the creation of the Poteet Community Hospital District of Atascosa County, Texas.



**Boundary**

Sec. 2. (a) The boundaries of this District are described by the following metes and bounds:

BEGINNING on the Bexar and Atascosa County Line at the Southeast corner of C. J. P. 7827;

THENCE, west to the northeast corner of the Benito Herrera Survey 1414;

THENCE, south along the east line of the Benito Herrera Survey 1414 to its southeast corner;

THENCE, west along the south line of the Benito Herrera Survey 1414 to an intersection of the Palo Alto Creek;

THENCE, following the meanders of the Palo Alto Creek across the Lucius Gates Survey 336 and the Miguel Pacheco Survey 1412 in a southeasterly direction to the northeast corner of the Blas Herrera Survey 1411;

THENCE, south along the east line of the Blas Herrera Survey 1411 and the Blas Herrera Survey 1410 and the Ira Westover Survey 335½ to its southeast corner;

THENCE, west with the north line of the G. A. Wetz Survey 32 and the John Conley Survey 337 to its northwest corner;

THENCE, south with the west line of the John Conley Survey 337 to its southwest corner;

THENCE, west with the north line of the F. A. Golson Survey 49½ to its northwest corner;

THENCE, south with the west line of the F. A. Golson Survey 49½ to the north line of the J. Green Survey 1122½;

THENCE, west with the north line of the J. Green Survey 1122½ to its northwest corner;

THENCE, north with the east line of the J. T. Jacob Survey 1117½ to its northeast corner;

THENCE, west with the north line of the J. T. Jacob Survey 1117½ to the east line of the A. Anderson Survey 26;

THENCE, north with the east line of the A. Anderson Survey 26 to its northeast corner;

THENCE, west along the north lines of the A. Anderson Survey 26 and the F. Dunn Survey No. 27 to the southeast corner of the E. L. & R. R. R. R. Survey No. 9;

THENCE, north with the east line of said Survey #9 to its northeast corner;

THENCE, west to the lower northeast corner of the W. M. Kay Survey #14;

THENCE, north to the northeast corner of Survey No. 14 in the south line of the Michael Schneider Survey No. 92;

THENCE, west to the southwest of said Michael Schneider Survey No. 92;

THENCE, north with west line of said Michael Schneider Survey No. 92 to a point in said line opposite the northeast corner of the John Gaston Survey No. 511½;

THENCE, west crossing Surveys No. 14 and No. 5 F 57007, to the northeast corner of the John Gates Survey No. 511½;

THENCE, west with the north line of said Survey to its northwest corner in the east line of the Jas. E. Parchman Survey No. 9;

THENCE, north with the east line of said Survey No. 9 to its northeast corner;

THENCE, west to its northwest corner;

THENCE, south with its west line to the northeast corner of the Thos. A. Henford Survey No. 512;

THENCE, west with the north line of said Survey No. 512 to its northwest corner;

THENCE, south with the west line of said Survey 512 to the Atascosa Creek;

THENCE, northwesterly up said Atascosa Creek with its meanders to its intersection with the upper south line of the Jno. Sharp Survey No. 518;

THENCE, west along said upper south line to the inner southeast corner of said Survey No. 518;

THENCE, south along the east line of Survey 18 to its lower southeast corner;

THENCE, west along the south lines of Survey 18 and the N. Flores Survey No. 518½ to the Atascosa-Medina County line;

THENCE, south along the west line of Atascosa County to its intersection with the centerline of State Highway No. 173;

THENCE, southeast along said centerline of highway to a point in the southwest line of the Felix Newman Survey #49, said point being the intersection of a perpendicular line erected from the mid-point of the southwest line of the H. & G. N. R. R. Co. Survey No. 71;

THENCE, southwest with said perpendicular line to the mid-point of the southwest line of the H. & G. N. R. R. Co. Survey No. 71;

THENCE, southeast with the northeast line of the Henry H. Wood Survey No. 1507 to its east corner;

THENCE, southwest to the northeast line of the Henry H. Wood Survey No. 1506;

THENCE, southeast with the northeast line of said Henry H. Wood Survey No. 1508 to the East corner of the Diego Perez Survey No. 1194;

THENCE, southeast with the southwest line of said Diego Perez Survey No. 1194, 3418 varas to the southeast line of the B. F. Ballard Subdivision of the Diego Perez Survey No. 1194;

THENCE, northeast in a continuation of the southeast line of said Ballard Subdivision, which line is parallel to the northwest line of the J. A. Navarro 4 league grant, to an intersection with the Atascosa Creek;

THENCE, southwest with the meanders of said Atascosa Creek to the Palo Alto Creek;

THENCE, in a southeasterly direction across the Jose Antonio Navarro Survey to the southwest corner of the B. C. Desha Survey No. 1008;

THENCE, southeast along the south line of the B. D. Desha Survey No. 1008 to the southeast corner of said Survey;

THENCE, east along the south line of the L. L. Lewis Survey and J. K. Caldwell Survey 1228½ to the southeast corner of the Caldwell Survey 1228½;

THENCE, southeast across the Jose McMoradio Survey 1228 to the northwest corner of the A. Herrera Survey No. 1230;

THENCE, southeast along the southwest line of the Jose McMoradio Survey No. 1228 to the northwest line of the J. N. Seguin Survey;

THENCE, northeast along the northwest lines of said J. N. Seguin Survey and Ignacio Herrera Survey No. 2 to the north corner of said Survey No. 2;

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THENCE, northwest along the southwest line of the J. M. Kinnard Survey 996 to its southwest corner;

THENCE, southeast along the southwest line of the Anna Maria Postert Survey 1079 to the south or southeast corner of said Survey;

THENCE, northeast along the east or southeast line of said Survey 1079 to its northeast corner;

THENCE, northwest along the southwest lines of the Jos. Muller Survey 1079½ and the J. D. Wesher Survey 1087 to the southwest corner of said J. D. Wesher Survey 1087;

THENCE, northeast to the southeast of the C. C. Tucker Survey 1088;

THENCE, northwest to the southwest corner of said C. C. Tucker Survey 1088;

THENCE, northeast to the extreme south corner of the N. Haby Survey 1080½;

THENCE, northwest with the south or southwest line of the N. Haby Survey 1080½ and N. J. English Survey 10 to the west corner of said N. J. English Survey 10;

THENCE, northeast with the northwest line of the N. J. English Survey 10 to its most northerly corner;

THENCE, northeast with the west lines of the Jacob Rinker Survey 1112½ and the Otto Schultz Survey 1112¾ to the southwest corner of the John W. Cook Survey 68;

THENCE, north along the west lines of the John W. Cook Survey 68, the Edward Scrugan Survey 712, and the Enoch Jones Survey 711 to a point of intersection of the west line of said Survey 711 with the Atascosa and Bexar County Line;

THENCE, northwest along the Atascosa and Bexar County line to the PLACE OF BEGINNING.

(b) The Legislature finds that the boundary of the District set forth in Subsection (a) of this Section forms a closure and any error in copying the description contained in that Subsection does not affect the validity of the District.

#### Purpose of district

Sec. 3. The District authorized to be created by this Act is charged with the responsibility of establishing a hospital or a hospital system within its boundaries to furnish hospital and medical care to the residents of the District. After this District is created as provided in Section 4 of this Act, no other municipality or political subdivision of this State may levy taxes or issue bonds or other obligations of indebtedness for the purpose of providing hospital service or medical care within the District. This District shall provide all necessary hospital and medical care for the needy inhabitants of the District.

#### Creation of district; election

Sec. 4. (a) The District authorized to be created by this Act is created by approval of a majority of the qualified electors who own taxable property within the District and who have duly rendered that property for taxation and who vote at an election called for this purpose.

(b) Upon receiving the petition of 20 people who are qualified to vote in this election, or by its own order, recorded in the minutes, the Commissioners Court of the county in which this District is located shall order an election for the purpose of creating this District, not less than 20 days nor more than 30 days after the date of the order.

(c) The order calling the election must contain the time and place, or places, of holding the election, the form of the ballot, and the presiding judge for each voting place.

(d) The Commissioners Court shall publish a substantial copy of the election order in a newspaper of general circulation within the District once a week for two consecutive weeks prior to the date of the election. The first notice must be published at least 14 days before the date of the election.

(e) The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the Commissioners Court within 10 days after the election. A copy of the results are to be filed with the county clerk and become of public record. If a majority of the persons voting in the election vote for the creation of the District, the Commissioners Court shall, within 10 days after the results are filed, declare the results and order the District created. A copy of this order shall be placed in the minutes of the Court.

(f) If a majority of the persons voting at the election vote against the creation of the District, this does not prevent the holding of other elections for the same purpose.

(g) The ballot for this election must be substantially as follows:

“FOR the creation of Poteet Community Hospital District of Atascosa County, Texas.

“AGAINST the creation of Poteet Community Hospital District of Atascosa County, Texas.”

#### Board of directors, creation

Sec. 5. (a) The management and control of the District is vested in a Board of Directors which consists of five members, to be elected by the qualified electors who own taxable property within the District and who have duly rendered that property for taxation.

(b) To qualify for election to the Board, a person must:

- (1) be at least 21 years of age;
- (2) have been a resident of the District for at least two years;
- (3) be a qualified voter;

(4) own taxable property within the District and have duly rendered that property for taxation.

(c) At the time of ordering the election to create the District, the Commissioners Court shall order the election of the directors of the District. The Court shall publish notice of this election and the results are to be certified, filed and declared in the same manner as provided in Section 4 of this Act.

(d) Any person who is qualified to serve on the Board of Directors and who desires to serve shall file his name with the Commissioners Court at least two weeks before the date of the election.

(e) Each person entitled to vote for director may cast his vote for five candidates.

(f) The five persons receiving the highest number of votes at this election shall constitute the first Board of Directors. The three directors receiving the highest number of votes shall serve for two years. The remaining directors elected shall serve for one year.

(g) Thereafter, each year on the first Saturday in April an election is to be held for the purpose of electing the appropriate number of directors to the Board.

(h) After the second election, all directors shall serve for a two-year term. In every case the directors shall serve until their successor has been elected and qualified for the office.

**Board of directors, organization**

Sec. 6. (a) When a person is elected to the Board of Directors he shall qualify for office by executing the constitutional oath of office and a good and sufficient commercial bond for \$1,000 payable to the District, conditioned upon the faithful performance of his duties. The oath and bond are to be deposited with the District depository for safekeeping. The cost of the bond is an expense of the District.

(b) The directors shall, at the first meeting after the election elect a president, a secretary, and a treasurer from their number.

(c) A member of the Board of Directors is not entitled to compensation for his services. However, each member is entitled to reimbursement for any necessary expense incurred by him in the performance of the duties of his office.

**Taxes, election**

Sec. 7. (a) At the time of the election to create the District and to elect directors, the Commissioners Court may order an election to determine whether the District may levy taxes within the District. This tax may not exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within the District. If the Commissioners Court does not include this election in the order for the election to create the District, the Board of Directors may order this election at any time.

(b) Prior to this election, notice must be given by the appropriate governmental unit, either the Commissioners Court or the Board of Directors, in the same manner provided in Section 4 of this Act. The presiding judge of each voting place shall certify the results to the appropriate governmental unit which shall declare the results. The results are to be of public record.

(c) The ballot for this election must contain substantially the following:

“FOR the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation on all property subject to taxation within the District.

“AGAINST the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation on all property subject to taxation within the District.”

(d) The Board of Directors shall not levy any tax within the District until a majority of the qualified electors who own taxable property within the District and who have duly rendered that property for taxation, voting in an election for this purpose vote for the levy of this tax.

**Taxes; levy, assessment, and collection**

Sec. 8. (a) After a majority of those persons voting at the election vote for the levy of a tax, the Board of Directors shall levy a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation on all property subject to taxation within the District.

(b) The Board shall use the same valuation used by the Commissioners Court in taxing the property for county purposes which appears on the county tax rolls.

(c) The Board may use the proceeds of this tax for the following purposes only:

(1) paying the interest on and creating a sinking fund for bonds issued under the provisions of this Act;

(2) providing for the operation and maintenance of the hospital district and the hospital system;

(3) making improvements and additions to the hospital system;

(4) acquiring sites for additions to the hospital system.

(d) On or before October 1 of each year, the Board shall levy the tax and immediately certify the tax rate to the tax assessor and collector of the county in which the District is located. The tax assessor and collector of that county shall collect the taxes for the District. The taxes of the District are subject to the same conditions as the taxes of the county.

(e) The assessor and collector of taxes is entitled to a fee as compensation for his services of not more than one per cent of the total tax collected, but not to exceed \$5,000 in any one fiscal year. The Board shall fix the exact amount of compensation. The tax assessor and collector shall deduct this fee from the payments made to the District of the taxes collected, and deposit that amount in the general fund or officers salary fund of the county as a fee of office of the tax assessor and collector.

(f) The Board may levy this tax for the entire year in which the District is established to secure funds necessary to initiate the operation of the hospital district.

#### **Bonds, election**

Sec. 9. (a) At the time of the election to create the District the Commissioners Court may order an election to determine whether the District may issue bonds for the purchase, construction, acquisition, repair, or renovation of buildings and improvements, and for equipping the buildings for hospital purposes. If the Commissioners Court does not include this election in the order for the election to create the District, the Board of Directors may order this election at any time.

(b) The order and notice of election and the certification and declaration of the results to the county clerk are governed by Section 4 of this Act. In addition to the provisions of that Section, the order of this election must include:

(1) the purpose for which the bonds are to be issued;

(2) the amount of the proposed bond issue;

(3) the maximum interest rate;

(4) the maximum maturity date of the bonds.

(c) The Board shall not issue any bond unless the interest rate is six per cent per annum or less. The Board of Directors shall not issue any bond which matures more than 40 years from the date of issuance.

(d) The Board of Directors shall not issue any bonds until a majority of the qualified electors who own taxable property within the District and who have duly rendered that property for taxation, voting in an election for this purpose, vote for the issuance of these bonds.

#### **Bonds, issuance, redemption, and refund**

Sec. 10. (a) After a majority of those persons voting at the election vote for the levy of a tax, the Board may issue bonds, the total of the face value not to exceed the amount specified in the order of the election.

(b) The president of the Board shall execute the bonds in the name of and on behalf of the hospital district. The secretary of the Board of Directors shall countersign the bonds. The Attorney General of the State of Texas shall approve the bonds if they meet the same requirements as provided by law for bonds issued by a county. The bonds are to be registered by the Comptroller of Public Accounts of the State of Texas in the same manner as provided by law for the registration of bonds issued by a county. After approval and registration, the bonds are incontestable for any reason.

(c) The Board may not issue any bonds unless a sufficient tax is levied to create an interest and sinking fund to pay the interest and principal as it matures.

For Annotations and Historical Notes, see V.A.T.S.

(d) All bonds issued by the District may be made optional for redemption prior to their maturity date in the discretion of the board.

(e) The Board may elect to refund and pay off any validly issued and outstanding bonds issued by the District. However, the refund bonds issued must bear interest at the same or a lower rate than the bonds being refunded unless it is shown mathematically that a savings will result in the total interest to be paid.

#### Powers and duties of the board of directors

Sec. 11. (a) The Board of Directors has full power to manage and control the District. Any provision of this Act which provides a specific power or duty does not limit the general authority of the District to carry out the purposes of this Act.

(b) The Board shall keep all books, records, accounts, notices, minutes, and other matters of the District and its operation at the office of the District. The Board shall make these items available for public inspection at reasonable times.

(c) The Board shall adopt rules for the efficient operation of the District and its facilities which are not inconsistent with this Act. The Board shall publish these rules and regulations in book form and furnish copies to interested persons upon request and at the expense of the District.

(d) The Board shall require an annual independent audit of the books and records of the District and shall file a copy of the audit with the Comptroller of Public Accounts and a copy with the District not later than December 1 of each year.

(e) The Board may

(1) prescribe the method of making purchases and expenditures and the manner of accounting and control used by the District;

(2) employ an attorney, general manager, bookkeeper, architect, and other employees necessary for the efficient operation of the District;

(3) employ an administrator to manage the operations of the hospital system, who may hire necessary personnel to perform the services provided by the system.

(f) The Board may accept donations, gifts, and endowments for the District. The Board shall hold all donations, gifts, and endowments in trust and shall administer them under any direction, limitation, or provisions as may be prescribed in writing by the donor, as long as it is not inconsistent with the proper management of the District.

(g) The Board may enter any contract with a municipality or other political subdivision to provide hospital and medical care for needy persons who reside outside the District.

#### Budget

Sec. 12. (a) The fiscal year of the hospital district is from October 1 of each year to September 30 of the following year.

(b) The Board shall prepare a budget showing

(1) the proposed expenditures and disbursements;

(2) the estimated receipts and collections for the next fiscal year;

(3) the amount of taxes required to be levied and collected during the next fiscal year to meet the proposed budget.

(c) The Board shall hold a public hearing on the proposed budget after publication of notice in a newspaper of general circulation in the District. The notice must be given at least once not less than ten days prior to the hearing.

(d) Any person who owns taxable property within the District and has duly rendered that property for taxation is entitled to appear at the hearing and be heard with reference to any item in the proposed budget.

#### **Inquiry into ability to pay**

Sec. 13. (a) A person who resides within the District is entitled to receive necessary medical and hospital care whether he has the ability to pay for the care or not. A person who resides within the District may make application to receive this care without cost.

(b) The Board or the administrator shall employ a person to investigate the ability of the patient and the ability of any relative who is liable for the support of the patient to pay for the medical and hospital care which the patient receives.

(c) If the patient or a relative of the patient who is legally liable for his support is able to pay for this care in whole or in part, the Board shall order the patient or his relatives to pay to the treasurer each week an amount specified in the order. The amount must be in proportion to the ability to pay.

(d) The District may collect this amount from the estate of the patient, or from his relatives who are liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person.

(e) If the investigator finds that neither the patient nor a relative who is legally liable for his support is able to pay in whole or in part for this care, the expense of this care becomes a charge on the District.

(f) If there is a dispute as to the ability to pay, or a doubt in the mind of the investigator, the Board shall hear and determine the question, after calling witnesses, and make the proper order based on its findings.

(g) A party to the hearing who is not satisfied with the result of the order, may appeal to the district court. The appeal is de novo as that term is used in appeals from the justice courts to the county court.

#### **Eminent domain**

Sec. 14. (a) The District has the power of eminent domain for the purpose of acquiring by condemnation any interest, including fee simple absolute, in any real, personal, or mixed property within the boundaries of the District that is necessary or convenient to the exercise of the powers and duties conferred upon it by this Act.

(b) The Board shall exercise this power of eminent domain in the same manner as provided by general law. However, the District is not required to make deposits in the registry of the trial court or to post bond as required by Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as amended.

(c) The District is not required to pay in advance or to give any bond or other security for costs in the trial court otherwise required for the issuance relating to a condemnation proceeding, nor is it required to give a bond for costs or for supersedeas on an appeal or writ of error proceeding to a Court of Civil Appeals or to the Supreme Court.

#### **Depository**

Sec. 15. Within 30 days after the qualification of the Board of Directors, the Board shall by resolution designate a bank within the county in which the District is located to be the depository of the District. All funds of the District shall be deposited in the depository and shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two years and until a successor has been named in accordance with this Section.



**Inspection of the district**

Sec. 16. (a) The District is subject to inspection at any time by an authorized representative of the State Board of Health, the State Board of Public Welfare, or any other state agency created for a similar purpose.

(b) The administrator of the hospital shall admit a representative into the facilities of the District and make accessible on demand all district records, reports, books, papers and accounts.

**State support**

Sec. 17. The support and maintenance of the hospital system of the District and any indebtedness incurred by the District under this Act shall never become a charge against nor an obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature of the State of Texas for the construction, maintenance or improvement of any of the facilities of the District.

**Notice**

Sec. 18. The Legislature has found that proper notice has been given in the District affected by this Act in accordance with the requirement of Section 9, Article IX, Constitution of the State of Texas. Acts 1965, 59th Leg., p. 1339, ch. 609, emerg. eff. June 17, 1965.

**Title of Act:**

<p>An Act relating to the creation, administration, powers and duties, and financing of Poteet Community Hospital District of Atascosa County, Texas, by authority of</p>	<p>Section 9, Article IX, Constitution of the State of Texas; and declaring an emergency. Acts 1965, 59th Leg., p. 1339, ch. 609.</p>
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**Art. 4494q—41. Presidio County Hospital District**

**Authorization**

Section 1. By authority of Section 9, Article IX, Constitution of the State of Texas, this Act authorizes the creation of Presidio County Hospital District of Presidio County, Texas.

**Boundary**

Sec. 2. The boundaries of this District are coterminous with the boundaries of Presidio County, including all "cut over" or "banco" land lying along the north side of the Rio Grande.

**Purpose of district**

Sec. 3. The District authorized to be created by this Act is charged with the responsibility of establishing a hospital or a hospital system within its boundaries to furnish hospital and medical care to the residents of the District. After this District is created as provided in Section 4 of this Act, no other municipality or political subdivision of this State may levy taxes or issue bonds or other obligations of indebtedness for the purpose of providing hospital service or medical care within the District. This District shall provide all necessary hospital and medical care for the needy inhabitants of the District.

**Creation of district; election**

Sec. 4. (a) The District authorized to be created by this Act is created by the approval of a majority of the qualified electors who own taxable property within the District and who have duly rendered that property for taxation and who vote at an election called for this purpose.

(b) Upon receiving the petition of ten per cent of the qualified electors residing in the District, the commissioners court of the county in which this District is located shall order an election for the purpose of creating the District, not less than 20 days nor more than 30 days after the date of the order.

(c) The order calling the election must contain the time and place, or places, of holding the election, the form of the ballot, and the presiding judge for each voting place.

(d) The commissioners court shall publish a substantial copy of the election order in a newspaper of general circulation within the District once a week for two consecutive weeks prior to the date of the election. The first notice must be published at least 14 days before the date of the election.

(e) The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the commissioners court within ten days after the election. A copy of the results are to be filed with the county clerk and become of public record. If a majority of the persons voting in the election vote for the creation of the District, the commissioners court shall, within ten days after the results are filed, declare the results and order the District created. A copy of this order shall be placed in the minutes of the court.

#### **Taxes, election**

Sec. 5. (a) At the time of the election to create the District, the commissioners court shall order an election to determine whether the District may levy taxes within the District. This tax may not exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within the District.

(b) Prior to this election, notice must be given by the commissioners court at the same time and in the same manner provided in Section 4 of this Act. The presiding judge of each voting place shall certify the results to the appropriate governmental unit which shall declare the results. The results are to be of public record.

(c) The Board of Directors shall not levy any tax within the District until a majority of the qualified electors who own taxable property within the District and who have duly rendered that property for taxation voting in an election for this purpose vote for the levy of this tax.

#### **The ballot, subsequent elections**

Sec. 6. (a) The Ballot for the election required in Sections 4 and 5 of this Act must be substantially as follows:

“FOR the creation of Presidio County Hospital District of Presidio County, Texas; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation on all property subject to taxation within the District using Presidio County values and tax rolls.

“AGAINST the creation of Presidio County Hospital District of Presidio County, Texas; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation on all property subject to taxation within the District using Presidio County values and tax rolls.”

(b) If a majority of the persons voting at the election vote against the creation of the District and the levy of the tax this does not prevent holding other elections for the same purpose. However, this Act expires on September 1, 1967, if the District has not been created by a majority of those persons voting at an election for that purpose before that date.

**Board of directors, creation**

Sec. 7. (a) The management and control of the District is vested in a Board of Directors which consists of five members. Within 10 days after the creation of the District, the commissioners court of Presidio County shall appoint five persons who are qualified electors who own taxable property within the District and who have duly rendered that property for taxation as members of the Board of Directors. A person who is a member of the commissioners court is not eligible for appointment to the Board of Directors.

(b) When the commissioners court appoints the first Board of Directors three members shall be appointed for a two year term and the other two for one year. Thereafter, each year, the commissioners court shall appoint the appropriate number of directors to the Board. After the first appointment all appointments shall be for two year terms. In every case the Directors shall serve until the successors have been appointed and qualified for the office.

**Board of directors, organization**

Sec. 8. (a) When a person is appointed to the Board of Directors he shall qualify for office by executing the Constitutional Oath of office and a good and sufficient commercial bond for \$1,000 payable to the District, conditioned upon the faithful performance of his duties. The oath and bond are to be deposited with the District depository for safekeeping. The cost of the bond is an expense of the District.

(b) The Directors shall, at the first meeting after the election, elect a president, a secretary, and a treasurer from their number.

(c) A member of the Board of Directors is not entitled to compensation for his services. However, each member is entitled to reimbursement for any necessary expense incurred by him in the performance of the duties of his office.

**Taxes: levy, assessment, and collection**

Sec. 9. (a) After a majority of those persons voting at the election vote for the levy of a tax, the Board of Directors shall levy a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation on all property subject to taxation within the District.

(b) The Board shall use the same valuation used by the commissioners court in taxing the property for county purposes which appears on the county tax rolls.

(c) The Board may use the proceeds of this tax for the following purposes only:

(1) paying the interest on and creating a sinking fund for bonds issued under the provisions of this Act;

(2) providing for the operation and maintenance of the hospital district and the hospital system;

(3) making improvements and additions to the hospital system;

(4) acquiring sites for additions to the hospital system.

(d) On or before October 1 of each year, the Board shall levy the tax and immediately certify the tax rate to the tax assessor and collector of the county in which the District is located. The tax assessor and collector of that county shall collect the taxes for the District. The taxes of the District are subject to the same conditions as the taxes of the county.

(e) The assessor and collector of taxes is entitled to a fee as compensation for his services of not more than one per cent of the total tax collected, but not to exceed \$5,000 in any one fiscal year. The Board shall fix the exact amount of compensation. The tax assessor and collector shall

deduct this fee from the payments made to the District of the taxes collected, and deposit that amount in the general fund of the county as a fee of office of the tax assessor and collector.

(f) The Board may levy this tax for the entire year in which the District is established to secure funds necessary to initiate the operation of the hospital district.

#### **Bonds, election**

Sec. 10. (a) At the time of the election to create the District the commissioners court may order an election to determine whether the District may issue bonds for the purchase, construction, acquisition, repair, or renovation of buildings and improvements, and for equipping the buildings for hospital purposes. If the commissioners court does not include this election in the order for the election to create the District, the Board of Directors may order this election at any time.

(b) The order and notice of election and the certification and declaration of the results to the county clerk are governed by Section 4 of this Act. In addition to the provisions of that Section, the order of this election must include:

- (1) the purpose for which the bonds are to be issued;
- (2) the amount of the proposed bond issue;
- (3) the maximum interest rate;
- (4) the maximum maturity date of the bonds.

(c) The Board shall not issue any bond unless the interest rate is six per cent per annum or less. The Board of Directors shall not issue any bond which matures more than 40 years from the date of issuance.

(d) The Board of Directors shall not issue any bonds until a majority of the qualified electors who own taxable property within the District and who have duly rendered that property for taxation, voting in an election for this purpose, vote for the issuance of these bonds.

#### **Bonds, issuance, redemption, and refund**

Sec. 11. (a) After a majority of those persons voting at the election vote for the levy of a tax, the Board may issue bonds, the total of the face value not to exceed the amount specified in the order of the election.

(b) The president of the Board shall execute the bonds in the name of and on behalf of the hospital district. The secretary of the Board of Directors shall countersign the bonds. The Attorney General of the State of Texas shall approve the bonds if they meet the same requirements as provided by law for bonds issued by a county. The bonds are to be registered by the Comptroller of Public Accounts of the State of Texas in the same manner as provided by law for the registration of bonds issued by a county. After approval and registration, the bonds are incontestable for any reason.

(c) The Board may not issue any bonds unless a sufficient tax is levied to create an interest and sinking fund to pay the interest and principal as it matures.

(d) All bonds issued by the District may be made optional for redemption prior to their maturity date in the discretion of the Board.

(e) The Board may elect to refund and pay off any validly issued and outstanding bonds issued by the District. However, the refund bonds issued must bear interest at the same or a lower rate than the bonds being refunded unless it is shown mathematically that a savings will result in the total interest to be paid.

#### **Powers and duties of the board of directors**

Sec. 12. (a) The Board of Directors has full power to manage and control the District. Any provision of this Act which provides a specific

power or duty does not limit the general authority of the District to carry out the purposes of this Act.

(b) The Board shall keep all books, records, accounts, notices, minutes, and other matters of the District and its operation at the office of the District. The Board shall make these items available for public inspection at reasonable times.

(c) The Board shall adopt rules for the efficient operation of the District and its facilities which are not inconsistent with this Act. The Board shall publish these rules and regulations in book form and furnish copies to interested persons upon request and at the expense of the District.

(d) The Board shall require an annual independent audit of the books and records of the District and shall file a copy of the audit with the Comptroller of Public Accounts and a copy with the District not later than December 1 of each year.

(e) The Board may

(1) prescribe the method of making purchases and expenditures and the manner of accounting and control used by the District;

(2) employ an attorney, general manager, bookkeeper, architect, and other employees necessary for the efficient operation of the District;

(3) employ an administrator to manage the operations of the hospital system, who may hire necessary personnel to perform the services provided by the system.

(f) The Board may accept donations, gifts, and endowments for the District. The Board shall hold all donations, gifts, and endowments in trust and shall administer them under any direction, limitation, or provisions as may be prescribed in writing by the donor, as long as it is not inconsistent with the proper management of the District.

(g) The Board may enter any contract with a municipality or other political subdivision to provide hospital and medical care for needy persons who reside outside the District.

(h) The Board may enter into any contract or agreement with the State of Texas or the Federal Government which is required in order to establish or continue a retirement program for the benefit of the District's employees.

#### **Budget**

Sec. 13. (a) The fiscal year of the hospital district is from October 1 of each year to September 30 of the following year.

(b) The Board shall prepare a budget showing

(1) the proposed expenditures and disbursements;

(2) the estimated receipts and collections for the next fiscal year;

(3) the amount of taxes required to be levied and collected during the next fiscal year to meet the proposed budget.

(c) The Board shall hold a public hearing on the proposed budget after publication of notice in a newspaper of general circulation in the District. The notice must be given at least once not less than ten days prior to the hearing.

(d) Any person who owns taxable property within the District and has duly rendered that property for taxation is entitled to appear at the hearing and be heard with reference to any item in the proposed budget.

#### **Ability to pay**

Sec. 14. A person who resides within the District is entitled to receive necessary medical and hospital care whether he has the ability to pay for the care or not. The Board shall by rule or regulation adopt a

procedure for determining the ability of a patient to pay for his medical and hospital care and for determining the amount each patient shall be required to pay.

#### **Eminent domain**

Sec. 15. (a) The District has the power of eminent domain for the purpose of acquiring by condemnation any interest, including fee simple absolute, in any real, personal, or mixed property within the boundaries of the District that is necessary or convenient to the exercise of the powers and duties conferred upon it by this Act.

(b) The Board shall exercise this power of eminent domain in the same manner as provided by General Law. However, the District is not required to make deposits in the registry of the trial court or to post bond as required by Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as amended.

(c) The District is not required to pay in advance or to give any bond or other security for costs in the trial court otherwise required for the issuance relating to a condemnation proceeding, nor is it required to give a bond for costs or for supersedeas on an appeal or writ of error proceeding to a Court of Civil Appeals or to the Supreme Court.

#### **Depository**

Sec. 16. Within 30 days after the qualification of the Board of Directors, the Board shall by resolution designate a bank within the county in which the District is located to be the depository of the District. All funds of the District shall be deposited in the depository and shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two years and until a successor has been named in accordance with this Section.

#### **Inspection of the district**

Sec. 17. (a) The District is subject to inspection at any time by an authorized representative of the State Board of Health, the State Board of Public Welfare, or any other State agency created for a similar purpose.

(b) The administrator of the hospital shall admit a representative into the facilities of the District and make accessible on demand all District records, reports, books, papers, and accounts.

#### **State support**

Sec. 18. The support and maintenance of the hospital system of the District and any indebtedness incurred by the District under this Act shall never become a charge against nor an obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature of the State of Texas for the construction, maintenance or improvement of any of the facilities of the District.

#### **Notice**

Sec. 19. The Legislature has found that proper notice has been given in the District affected by this Act in accordance with the requirement of Section 9, Article IX, Constitution of the State of Texas. Acts 1965, 59th Leg., p. 1455, ch. 643.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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

An Act relating to the creation of Presidio County Hospital District of Presidio County, Texas, by authority of Section 9, Article IX, Constitution of the State of Texas; and declaring an emergency. Acts 1965, 59th Leg., p. 1455, ch. 643.

## Art. 4494q—42. Nixon Hospital District

## Authorization

Section 1. By authority of Section 9, Article IX, Constitution of the State of Texas, this Act authorizes the creation of Nixon Hospital District of Gonzales and Wilson Counties, Texas.

## Boundary

Sec. 2. (a) The boundaries of this District are described as being all of that portion of Nixon Independent School District, as created and defined by Chapter 58, Special Laws, Acts of the 36th Legislature, 2nd Called Session, 1919, lying in Gonzales County and in Wilson County; all of DeWitt Common School District No. 47, Hill Common School District No. 25, and Leesville Common School District No. 28, lying wholly in Gonzales County; all of that portion of Dewville Common School District No. 26, lying in Gonzales County; all of the Union Valley Common School District No. 17, lying in Wilson County; all of that portion of the School Land Common School District No. 29, lying in Gonzales County; that part of Seals Chapel No. 23 lying within Wilson County; all of Bebe Common School District No. 30, lying in Gonzales County; and all of Salem Common School District No. 31, lying in Gonzales County, being further described by metes and bounds as follows:

BEGINNING at the Gonzales and Guadalupe County line where the same crosses the Guadalupe River, at a stake on the south side of same for the Northwest corner of the Salem Common School District No. 31;

THENCE, down the said Guadalupe River with its meandering to the Northwest corner of the D. M. Stapp  $\frac{1}{4}$  League, Abstract No. 66;

THENCE, South 5 degrees West 2800 varas to the Southwest corner of said Stapp Survey;

THENCE, with the South line of said D. M. Stapp Survey, South 85 degrees East about 35 varas to stake in the Northwest corner of Minnie Mae Foster 238 acre tract in the Shuff League;

THENCE, South 5 degrees West 522 varas to Minnie Mae Foster's Southwest corner on the line of Q. Griffin's 523.9 acres;

THENCE, South 85 degrees East about 1440 varas to the Southeast corner of said Foster 238 acre tract on the East line of the Washington T. Shuff League;

THENCE, South 5 degrees West 760 varas with the East line of said Shuff League to the Southwest corner of what was formerly J. H. Huggins land, now owned by G. M. Blackman and also being the most northerly corner of Lela Drumgoole's land in the Isom J. Good Survey;

THENCE, South 85 degrees East 490 varas to the Southeast corner of said Huggins tract, now the Blackman tract;

THENCE, North 5 degrees East 750 varas to the Southwest corner of the John Oliver League;

THENCE, with the Southwest line of the Oliver League 85 $\frac{1}{2}$  degrees East 700 varas to a point on said Southwest line of said Oliver League and also the South line of the 108 acres formerly owned by John Stehle out of said John Oliver League and which now stands in the name of John G. K. Towns Estate, and being at the Northeast corner of Mollie S. Mason 320.75 acre tract in the Good League, and at the North or Northwest corner of John G. K. Towns Estate 351 acre tract formerly designated as 243 acres owned by Mike Stehle;

THENCE, South 5 degrees West with the West line of John G. K. Towns Estate 351 acre tract (a portion of which was formerly said Mike Stehle 243 acre tract as aforesaid), and with the West line of the Wm. Eg-

gert 100 acre tract (formerly designated as the John Stehle 101 acres) and the West line of Melvin Sievers' land (formerly designated as the Albert Fink 101 acres), and such line also being the East line of the Mollie S. Mason 320.75 acre tract, all in said Good League, in all 1277 varas to a common corner of the Mollie S. Mason's land and the J. L. Talley 112 acre tract on the South or Southwest line of a public road;

THENCE, with the South or Southwest line of said road and the North line of the J. L. Talley 112 acre tract and the North line of the 318.5 acre Monroe A. Schauer tract, South  $85\frac{1}{2}$  degrees East 1200 varas to a bend in the road and continuing with the South and Southwest line of said road and the line of said Schauer et al tract, South 60 degrees East 450 varas, and then South 5 degrees West 225 varas to a point on the line of said road and Schauer land opposite the Northwest corner of a portion of the Melvin Sievers' 257 acre tract;

THENCE, across said road to said corner of said portion of said Melvin Sievers' lands and then continuing on the same course South  $85\frac{1}{2}$  degrees East (with the South or Southwest line of the road dividing said Melvin Sievers' lands), 400 varas past a point opposite the Southwest corner of Ida D. Towns lands, and continuing on the same course with the South or Southwest line of said road and the North or Northeast line of Melvin Sievers to Melvin Sievers' Northeast corner, and continuing on the same course across an intersecting public road, in all 1725 varas, to a point on the west line of Monroe A. Schauer et al. 372.5 acre tract (such lands at this point having been formerly designated as the G. Bower estate lands), and which point is also on the east line of said intersecting public road;

THENCE, South 5 degrees West with the East line of said road to where said road turns back in a westerly direction, continuing on course South 5 degrees West with the West line of the former Bower tract (now in the Monroe A. Schauer 372.5 acres), in all 1250 varas, to the Southwest corner of said Bower tract;

THENCE, with the Southeast line of said Bower tract, North 65 degrees East 1000 varas along said Bower line and the North line of a tract formerly designated as the Matt Wells estate lands (now in said Schauer 372.5 acres tract), and along the South line of lands now owned by Alex Menking (formerly the Emil Nesloney tract) to a corner that was formerly designated as the Southeast corner of said Emil Nesloney tract, and which is now an inside corner between Alex Menking's 207.6 acre tract and his 346 acre tract;

THENCE, North 5 degrees East with Menking's inside line (formerly the Southeast line of the Nesloney tract) 1250 varas to another Alex Menking inside corner between his 207.6 acre tract and his 346 acre tract;

THENCE, with Menking's inside line, South 60 degrees East 198 varas to another Menking inside corner;

THENCE, continuing with Menking's inside line North 45 degrees East 180 varas, North 62 degrees East 252 varas to the Northwest corner of Wm. Sievers 90 acre tract;

THENCE, with Sievers Southwest line South 23 degrees East 585 varas to Southwest corner of said Sievers tract;

THENCE, with Sievers' and Menking's line South 76 degrees East 558 varas to said Sievers Southeast corner on the West line of the John Stehle 142.9 acre tract at the East corner of Menking's 207.6 acre tract;

THENCE, with the line of Alex Menking's said 207.6 acre tract and the line of Jno. Stehle and Herman Heil, South  $3\frac{1}{2}$  degrees West 682 varas to a corner on John Froehner's 121.75 acre tract (formerly designated as a 123 acre tract) and continuing with Froehner's line on the same course 147 varas, in all about 829 varas, to Menking's most southerly corner on the line between Froehner and W. A. Raeke;



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THENCE, with Menking's line and W. A. Raeke's line North 63 degrees West 147 varas to a corner on W. A. Raeke's 268 acre tract;

THENCE, with Raeke's North line South 65 degrees West 576 varas to stake on the East line of the Chas. Kincaid Survey, Abstract No. 306;

THENCE, with the East line of said Kincaid Survey, South 25 degrees East 400 varas to the North corner of the Ad. Bielefeld 126.5 acre tract in said Chas. Kincaid Survey;

THENCE, with Bielefeld Northwest line and M. J. Siever's line South 67½ degrees West 552 varas to Cottonwood Creek;

THENCE, down Cottonwood Creek with its meanders to its intersection with North line of the Henry Earthman Labor, same being the North line of the C. R. Littlefield Land;

THENCE, North 80 degrees East about 530 varas with the North line of said Earthman Labor and the Littlefield land to the Northeast corner of said Littlefield land, same being the Northwest corner of Aug. Raeke Land (A. A. Raeke);

THENCE, South 10 degrees East 1000 varas with the line between Littlefield and Raeke land to corner of the same on the South line of the Earthman Labor, which is also the North line of John Tumlinson Survey, abstract No. 444;

THENCE, North 80 degrees East 230 varas to the Southeast corner of said Earthman Labor on the West line of the Isaac Roberts Labor;

THENCE, North 10 degrees West with the line of Roberts and Earthman Labors to a stake in the South line of the public road at a Northwest corner of the W. F. Gandre land (formerly the Colwell land), said road running between the A. A. Raeke land and said Gandre land;

THENCE, with the South line of said road North 67½ degrees East and following the North line of said Gandre land and which road also runs to the South of B. A. Froehner's land and following said road to the point where it turns in a northerly direction, and continuing in the same course North 67½ degrees East across said Gandre land, in all about 1200 varas to a point in the West line of the road that runs between said Gandre land and the R. Rossow 138 acre tract, said line being on the West line of the Archibold Gibson Survey and on the East line of the Roberts Labor;

THENCE, with the East line of said Roberts Labor past the Southwest corner of the Gibson Survey and continuing with the line between the Tumlinson Survey and the Roberts Labor past the Southeast corner of the Roberts Labor and continuing with the West line of said public road on the same course South 10 degrees East about 1100 varas to Cottonwood Creek at the Northeast corner of the W. F. Bahlman 155.5 acre tract;

THENCE, with the line between Bahlman land and the W. F. Gandre land South 50 degrees West 652 varas to Bahlman's Northwest corner and the most southerly corner of the Gandre land, same being the Northeast line of the public road;

THENCE, with the Northeast line of the said public road North 40 degrees West 194 varas to corner of the Gandre land on the Southeast line of Mrs. Z. J. Littlefield's 135 acre tract;

THENCE, with Mrs. Littlefield's Southeast line and the Northwest line of the public road, South 50 degrees West 195 varas to the Northeast line of the G. W. Barnett Survey, abstract No. 134;

THENCE, with the Northeast line of said Barnett Survey, South 40 degrees East 500 varas to the most easterly corner of said Barnett Survey;

THENCE, South 50 degrees West 1344 varas with the Southeast line of said Barnett Survey, Abstract No. 134, to the most southerly corner

of same on the Northeast line of the G. W. Barnett Survey, Abstract No. 135;

THENCE, South 40 degrees East 694 varas with the Barnett (Abstract No. 135) and Tumlinson Survey line to the South corner of the L. O. Bailey 73 acres of land and the West corner of J. R. Tinsley's 178 acres;

THENCE, with the Bailey and J. R. Tinsley line North 50 degrees East 267 varas to Creek;

THENCE, up said Creek with its meanders to the South corner of the Carl Pape 76.4 acre tract of land;

THENCE, along Pape's Southeast line North 50 degrees East 1319 varas to Pape's East corner on the West line of a public road, which point is opposite the North corner of a tract of 178 acres owned by J. R. Tinsley in the John Tumlinson Survey;

THENCE, along said road and the Northeast line of Tinsley's 178 acres South 40 deg. East 550 varas to the Southeast corner of same on the North line of the G. W. Barnett League, Abstract No. 110;

THENCE, along the Barnett League Northwest line North 50 degrees East 750 varas to the most northerly corner of the said Barnett League at a corner of the Gonzales County School Land Survey;

THENCE, South 40 degrees East 860 varas with said Barnett League line and the Gonzales County School Land line to stake in the Northeast line of the public road opposite the East corner of the Roberta Tinsley 812.8 acre tract;

THENCE, South 50 degrees West 5000 varas along Roberta Tinsley's Southeast line to stake on the Southwest line of said Barnett League in the Northeast line of Isaac Roberts Survey, abstract No. 399, for corner of Smiley Independent School District and for the South corner of said Roberta Tinsley's 812 acre tract;

THENCE, South 50 degrees West 2400 varas to corner on the Northeast line of the School Land Common School District No. 29 in the Sue L. Houston's 2786.7 acre tract in said Isaac Roberts Survey;

THENCE, South 40 degrees East 1800 varas with the North line of said School Land Common School District No. 29 to corner on the Northwest line of the Henry Earthman League, abstract No. 202;

THENCE, South 50 degrees West about 1260 varas with said League line to the most southerly corner of the J. C. Pruitt 250 acre tract in the Isaac Roberts League on the Northeast line of the M. M. Crunk land;

THENCE, South 40 degrees East about 325 varas with Crunk's line to his most easterly corner;

THENCE, South 50 degrees West about 1415 varas with line of the Crunk land to its most southerly corner on the Southwest line of the Earthman League;

THENCE, South 40 degrees East about 175 varas with said League line to the most easterly corner of the Letha C. Mahan 117.2 acre tract in the Robert Sellers, Jr. League;

THENCE, South 50 degrees West about 1550 varas with line of said Mahan 117.2 acre tract to its most southerly corner;

THENCE, North 40 degrees West about 250 varas with line of said Mahan 117.2 acre tract to corner of same on the Northwest line of said Robert Sellers Jr. League;

THENCE, South 50 degrees West with the Northwest line of said Sellers Jr. League, and continuing in same direction 4100 varas to corner on one of the original lines of said Smiley Independent School District and School Land Common School District No. 29 in the Mary A. Patteson 946 acre tract in the Robert Armstead League;

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THENCE, North 60 degrees West 1150 varas with said School District line to one of the original corners of the Smiley Independent School District in said Mary A. Patteson 946 acre tract;

THENCE, South 30 degrees West 3700 varas with the original line of the Smiley Independent School District to corner of same on the Northeast line of the Nixon Independent School District, such corner being in the Wade Horton Survey and the T. D. Manford 1436.7 acre tract;

THENCE, South 14 degrees East 7200 varas with the line between the Smiley Independent School District and the Nixon Independent School District to common corner of same in the Thomas Wright League;

THENCE, South 76 degrees West 3855 varas with the line between Nixon Independent School District and the old Forrest Home Common School District No. 49, to stake on the Gonzales County line where Karnes County and Wilson County form a common corner, this point being in the Phillip Goodbread Survey;

THENCE, with the Gonzales and Karnes County line South 41 degrees East 6709 varas to its intersection with the Northwest boundary of the T. P. Crosby original Survey, this being also the East corner of the Nancy Myers original Survey;

THENCE, South 70 degrees West with the Northwest boundary of Crosby Survey and D. B. McConnell Survey to a public road running to Nixon, same also being the Southeast corner of a 648.05 acre tract owned by J. K. Holstein, same Holstein tract being in the J. W. Fannin League and Labor;

THENCE, North 20 degrees West with the Northeast boundary of said Holstein tract and with the Northeast boundary of a 453.8 acre tract at the Northeast corner of said Elder tract, crossing an intersecting public road to the Southeast corner of a 32.27 acre tract also in the name of Dr. N. A. Elder and continuing on the same course with the Northeast line of said 32.27 acre tract and the Northeast line of Catherine Barlow 117.7 tract (such tract formerly standing in the name of C. Flowers) to the Northeast corner of said Barlow tract on the Southwest line of the J. W. Fannin League and Labor;

THENCE, South 70 degrees West with the Northwest boundary line of the J. W. Fannin League and Labor to its intersection of the Karnes County and the Wilson County line;

THENCE, South 50 degrees West with the said county lines about  $3\frac{1}{2}$  miles to the Arocha Southwest line;

THENCE, along the Southwest line of the Arocha Survey to its intersection with the Southeast line of the Preston Gilbert Survey and then in a southerly direction along the line of the Preston Gilbert Survey to its most southerly corner;

THENCE, with the Southwest line of the Preston Gilbert Survey, North  $61\frac{1}{2}$  degrees West to the West corner of the Gilbert Survey, being also the Southwest corner of the Valentine Bennett Survey;

THENCE, along the line of the Bennett Survey on the West and Gilbert and Thos. Hodges on the East, North 15 degrees East about 5250 varas to the corner of the Hodges and Bennett on the Southwest line of the James Roden Survey;

THENCE, North 61 degrees West with the line between the James Roden and the Valentine Bennett Surveys 2550 varas to the North corner of the Valentine Bennett Surveys on the Southeast line of the H. & T. C. R. R. Survey No. 109, being on Miller Manford's Southeast line;

THENCE, North 29 degrees East with the Northwest line of the James Roden Survey 3537 varas to the South corner of the Geo. McPeters Survey No. 108, which is also the East corner of the H. & T. C. R. R. Survey No. 107;

THENCE, North 31 degrees West about 2125 varas to the South corner of the W. J. Herbert Survey;

THENCE, North 29 degrees East with the Southeast line of the W. J. Herbert Survey about 690 varas to the Southwest line of the J. J. Tejada League;

THENCE, North 61 degrees West along the line between the J. J. Tejada and the W. J. Herbert Survey to the West corner of the Tejada League, and being at the West corner of the M. P. Dunn 173 acre tract;

THENCE, with the Northwest line of the Tejada League North 29 degrees East 1800 varas to a corner of W. O. Patillo's 50 acre tract in said Tejada League at Clear Fork Creek, the same being also on the J. C. Clark Northeast line;

THENCE, in a northwesterly direction with the meanders of said creek with the J. C. Clark tract on the West or Southwest and the Patillo lands (formerly the Kuebler tract) on the East or Northeast, crossing the Southeast line of the J. E. Johnson (sometimes called the J. B. Johnson) Survey and continuing with said Clark line in such northwesterly direction, with W. R. Parker's lands on the West or Southwest and the J. Resplendek (formerly the Oscar Magee) lands on the East or Northeast to where said creek intersects the line between the Thos. Durham Survey and said Johnson Survey, this call following Clear Fork Creek from its intersection with the Northwest line of the J. J. Tejada League, across a corner of the W. J. Herbert Survey and across the J. B. Johnson Survey to the line of the Thos. Durham Survey;

THENCE, with the line between the J. E. Johnson and Thos. Durham Surveys South 39 degrees West to the South corner of the Thos. Durham Survey;

THENCE, with the line between the Thos. Durham and the Jesse Mapping Surveys North 51 degrees West to the Southwest corner of the Thos. Durham Survey;

THENCE, with the line between the Thos. Durham and Jesse Mapping Surveys North 39 degrees East to the Southeast corner of the J. N. Sheffield Survey, abstract No. 295;

THENCE, with the line between the Jesse Mapping Survey and J. N. Sheffield and the Thos. Bryson surveys North 51 degrees West to the North corner of the Jesse Mapping Survey on the Southeast line of the Daniel Bird League;

THENCE, with the Southeast line of the Daniel Bird League North  $28\frac{3}{4}$  degrees East to the Northeast corner of the Daniel Bird League;

THENCE, with the Northeast line of the Daniel Bird League North  $61\frac{1}{4}$  degrees West to the Northwest or most northerly corner of the J. B. Spear 203 acre tract in the Daniel Bird League, same also being the most easterly corner of the J. Murphy 350 acre tract;

THENCE, with the Northwest line of J. B. Spear's tract South  $38\frac{3}{4}$  degrees West 2000.7 varas to its Southwest corner on the Northeast boundary line of J. B. Spear's 131 acre tract (formerly designated as C. M. Spear's 131 acre tract) and continuing on the same course with said J. B. Spear's 131 acre tract Northwest line to the most southerly corner of a 60 acre tract in the name of D. Moore and the most easterly corner of a 36 acre Bird tract;

THENCE, with the Southwest boundary line of D. Moore's 60 acre tract and his 80 acre tract and continuing with the Southwest boundary line of the J. R. Ware tract at J. R. Ware's most westerly corner crossing a public road then continuing on the same course with G. Schleicher Southwest line crossing a public road and continuing on the same course with said Southwest line of G. Schleicher's 123 acre tract, passing its most westerly corner and the most southerly corner of Jas. White and continu-

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ing on the same course on the Southwest line of Jas. White's 150 acre tract to Jas. White's most westerly corner and the Southeast line of Mrs. J. Bird's land;

THENCE, with the line between Mrs. J. Bird's tract (formerly called the J. D. Bird land) and J. (Jas.) White tract North  $28\frac{3}{4}$  degrees East 284 varas to the Southeast corner of the O. W. Cone 150 acre tract;

THENCE, with the line of the Mrs. J. Bird and O. W. Cone tracts North  $61\frac{1}{4}$  degrees West 1027 varas to the Southwest corner of the O. W. Cone tract in the line between the Daniel Bird League and the John Smith Survey No. 141;

THENCE, with the line of Daniel Bird League and the John Smith Survey North  $28\frac{3}{4}$  degrees East 2227 varas to the most northerly corner of the Daniel Bird Survey;

THENCE, with the East line of the public road and the West line of L. J. Denson's 60 acre tract to a point opposite W. C. Coleman's 163 acre tract Northeast corner;

THENCE, North 60 degrees West across said public road with the Northeast line of the J. Smith Survey at 130 varas passing the Southeast or most southerly corner of S. Wiley Survey, 1080 varas to the Southwest or most westerly corner of the S. Wiley Survey on the Northeast boundary line of the John Smith Survey;

THENCE, with the line between the S. Wiley and the B. L. Watkins surveys North 30 degrees East 730 varas to the point of intersection of the Northeast boundary line of the B. L. Watkins Survey with the Northwest boundary line of the S. Wiley Survey;

THENCE, with the line between the B. L. Watkins and C. C. Williams Survey on the Southeast boundary line of the H. B. Johnson Survey;

THENCE, with the Northwest boundary line of the C. C. Williams and the J. A. Burnside Surveys north 30 degrees east 1260 varas to the Northwest corner of the J. A. Burnside Survey in the southwest boundary line of the S. L. McCracken Survey;

THENCE, with the Southwest boundary line of the S. L. McCracken Survey North 60 degrees West 500 varas to its Southwest or most westerly corner;

THENCE, with the Northwest line of the S. L. McCracken Survey and the L. J. Denson Survey, also known as the Patten Survey, north 30 degrees East 1635 varas to the Northwest corner of the L. J. Denson Survey on the Southeast Boundary line of the P. W. Hobbs Survey and being at the Northeast corner of the D. Alley Survey;

THENCE, with the line between the P. W. Hobbs and D. Alley Surveys North 60 degrees West 916 varas to the Southwest corner of the P. W. Hobbs Survey on the Southeast boundary line of the N. F. Roberts Survey;

THENCE, with the Northwest boundary line of the P. W. Hobbs and the E. S. Click Surveys North 30 degrees east 2400 varas to the common corner of the C. W. Parrott, and E. S. Click and the Geo. W. Martin Surveys and the J. Frenau Survey;

THENCE, with the Southwest line of the Geo. Martin Survey North 50 degrees West 900 varas to another southwest corner of said Geo. Martin Survey on said C. W. Parrott line;

THENCE, North 10 degrees East with the Geo. W. Martin West line to its intersection with the line between Guadalupe County and Wilson County;

THENCE, in an easterly direction along the line between Guadalupe and Wilson Counties to the Southeast corner of Guadalupe County;

THENCE, in a northerly direction along the line between Guadalupe and Gonzales Counties to the intersection of said county line with the

Guadalupe River at the stake on the South side of said river, THE PLACE OF BEGINNING.

(b) The Legislature finds that the boundary of the District set forth in Subsection (a) of this Section forms a closure and any error in copying the description contained in that subsection does not affect the validity of the District.

(c) Notwithstanding the metes and bounds description of the District set forth in Subsection (a) of this Section, the District does not include within its boundaries any land lying in Karnes County.

#### **Purpose of district**

Sec. 3. The District authorized to be created by this Act is charged with the responsibility of establishing a hospital or a hospital system within its boundaries to furnish hospital and medical care to the residents of the District. After this District is created as provided in Section 4 of this Act, no other municipality or political subdivision of this State may levy taxes or issue bonds or other obligations of indebtedness for the purpose of providing hospital service or medical care within the District. This District shall provide all necessary hospital and medical care for the needy inhabitants of the District.

#### **Creation of district; election**

Sec. 4. (a) The District authorized to be created by this Act is created by the approval of a majority of the qualified electors who own taxable property within the District and who have duly rendered that property for taxation and who vote at an election called for this purpose.

(b) Upon receiving the petition of 20 people who are qualified to vote in this election, the Commissioners Court of Gonzales County shall order an election for the purpose of creating the District, not less than 20 days nor more than 30 days after the date of the order.

(c) The order calling the election must contain the time and place, or places, of holding the election, the form of the ballot, and the presiding judge for each voting place.

(d) The commissioners court shall publish a substantial copy of the election order in a newspaper of general circulation within each county in the District once a week for two consecutive weeks prior to the date of the election. The first notice must be published at least 14 days before the date of the election.

(e) The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the commissioners court within ten days after the election. A copy of the results is to be filed with the county clerk of each county in the District and become of public record. If a majority of the persons voting in the election vote for the creation of the District, the commissioners court shall, within ten days after the results are filed, declare the results and order the District created. A copy of this order shall be placed in the minutes of the court, and a copy filed with the county clerk of each county in the District.

(f) If a majority of the persons voting at the election vote against the creation of the District, this does not prevent the holding of other elections for the same purpose.

(g) The ballot for this election must be substantially as follows:

"FOR the creation of Nixon Hospital District of Gonzales and Wilson Counties, Texas.

"AGAINST the creation of Nixon Hospital District of Gonzales and Wilson Counties, Texas."

**Board of directors; creation**

Sec. 5. (a) The management and control of the District is vested in a Board of Directors which consists of seven members, to be elected by the qualified electors who own taxable property within the District and who have duly rendered that property for taxation.

(b) To qualify for election to the Board, a person must:

(1) be at least 21 years of age;

(2) have been a resident of the District for at least two years;

(3) be a qualified voter;

(4) own taxable property within the District and have duly rendered that property for taxation.

(c) At the time of ordering the election to create the District, the Commissioners Court of Gonzales County shall order the election of the directors of the District. The court shall publish notice of this election and the results are to be certified, filed and declared in the same manner as provided in Section 4 of this Act.

(d) Any person who is qualified to serve on the Board of Directors and who desires to serve shall file his name with the commissioners court at least two weeks before the date of the election.

(e) Each person entitled to vote for director may cast his vote for seven candidates.

(f) The seven persons receiving the highest number of votes at this election shall constitute the first Board of Directors. The four directors receiving the highest number of votes shall serve for two years. The remaining directors elected shall serve for one year.

(g) Thereafter, each year on the first Saturday in April an election is to be held for the purpose of electing the appropriate number of directors to the Board.

(h) After the second election, all directors shall serve for a two-year term. In every case the directors shall serve until their successor has been elected and qualified for the office.

**Board of directors, organization**

Sec. 6. (a) When a person is elected to the Board of Directors he shall qualify for office by executing the constitutional oath of office and a good and sufficient commercial bond for \$1,000 payable to the District, conditioned upon the faithful performance of his duties. The oath and bond are to be deposited with the District depository for safekeeping. The cost of the bond is an expense of the District.

(b) The directors shall, at the first meeting after the election elect a president, a secretary, and a treasurer from their number.

(c) A member of the Board of Directors is not entitled to compensation for his services. However, each member is entitled to reimbursement for any necessary expense incurred by him in the performance of the duties of his office.

**Taxes, election**

Sec. 7. (a) At the time of the election to create the District and to elect directors, the commissioners court may order an election to determine whether the District may levy taxes within the District. This tax may not exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within the District. If the commissioners court does not include this election in the order for the election to create the District, the Board of Directors may order this election at any time.

(b) Prior to this election, notice must be given by the appropriate governmental unit, either the commissioners court or the Board of Directors, in the same manner provided in Section 4 of this Act. The presiding judge of each voting place shall certify the results to the appropriate governmental unit which shall declare the results. The results are to be of public record.

(c) The ballot for this election must contain substantially the following:

“FOR the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation on all property subject to taxation within the District.

“AGAINST the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation on all property subject to taxation within the District.”

(d) The Board of Directors shall not levy any tax within the District until a majority of the qualified electors who own taxable property within the District and who have duly rendered that property for taxation voting in an election for this purpose vote for the levy of this tax.

#### Taxes; levy, assessment, and collection

Sec. 8. (a) After a majority of those persons voting at the election vote for the levy of a tax, the Board of Directors shall levy a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation on all property subject to taxation within the District.

(b) The Board shall use the same valuation used by the commissioners court in taxing the property for county purposes which appears on the tax rolls of the county in which the property is located.

(c) The Board may use the proceeds of this tax for the following purposes only:

(1) paying the interest on and creating a sinking fund for bonds issued under the provisions of this Act;

(2) providing for the operation and maintenance of the hospital district and the hospital system;

(3) making improvements and additions to the hospital system;

(4) acquiring sites for additions to the hospital system.

(d) On or before October 1 of each year, the Board shall levy the tax and immediately certify the tax rate to the tax assessor and collector of each county in which the District is located. The tax assessor and collector of each county shall collect the taxes for the District on property located in that county. The taxes of the District are subject to the same conditions as the taxes of the county.

(e) The assessor and collector of taxes is entitled to a fee as compensation for his services of not more than one per cent of the total tax collected on property located in that county but not to exceed \$5,000 in any one fiscal year. The Board shall fix the exact amount of compensation. The tax assessor and collector shall deduct this fee from the payments made to the District of the taxes collected, and deposit that amount in the General Fund of the county as a fee of office of the tax assessor and collector.

(f) The Board may levy this tax for the entire year in which the District is established to secure funds necessary to initiate the operation of the hospital district.

#### Bonds, election

Sec. 9. (a) At the time of the election to create the District the commissioners court may order an election to determine whether the District may issue bonds for the purchase, construction, acquisition, repair, or



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renovation of buildings and improvements, and for equipping the buildings for hospital purposes. If the commissioners court does not include this election in the order for the election to create the District, the Board of Directors may order this election at any time.

(b) The order and notice of election and the certification and declaration of the results to the county clerks are governed by Section 4 of this Act. In addition to the provisions of that Section, the order of this election must include:

- (1) the purpose for which the bonds are to be issued;
- (2) the amount of the proposed bond issue;
- (3) the maximum interest rate;
- (4) the maximum maturity date of the bonds.

(c) The Board shall not issue any bond unless the interest rate is six per cent per annum or less. The Board of Directors shall not issue any bond which matures more than 40 years from the date of issuance.

(d) The Board of Directors shall not issue any bonds until a majority of the qualified electors who own taxable property within the District and who have duly rendered that property for taxation, voting in an election for this purpose, vote for the issuance of these bonds.

#### Bonds, issuance, redemption, and refund

Sec. 10. (a) After a majority of those persons voting at the election vote for the levy of a tax, the Board may issue bonds, the total of the face value not to exceed the amount specified in the order of the election.

(b) The president of the Board shall execute the bonds in the name of and on behalf of the hospital district. The secretary of the Board of Directors shall countersign the bonds. The Attorney General of the State of Texas shall approve the bonds if they meet the same requirements as provided by law for bonds issued by a county. The bonds are to be registered by the Comptroller of Public Accounts of the State of Texas in the same manner as provided by law for the registration of bonds issued by a county. After approval, and registration, the bonds are incontestable for any reason.

(c) The Board may not issue any bonds unless a sufficient tax is levied to create an interest and sinking fund to pay the interest and principal as it matures.

(d) All bonds issued by the District may be made optional for redemption prior to their maturity date in the discretion of the Board.

(e) The Board may elect to refund and pay off any validly issued and outstanding bonds issued by the District. However, the refund bonds issued must bear interest at the same or a lower rate than the bonds being refunded unless it is shown mathematically that a savings will result in the total interest to be paid.

#### Powers and duties of the board of directors

Sec. 11. (a) The Board of Directors has full power to manage and control the District. Any provision of this Act which provides a specific power or duty does not limit the general authority of the District to carry out the purposes of this Act.

(b) The Board shall keep all books, records, accounts, notices, minutes, and other matters of the District and its operation at the office of the District. The Board shall make these items available for public inspection at reasonable times.

(c) The Board shall adopt rules for the efficient operation of the District and its facilities which are not inconsistent with this Act. The Board shall publish these rules and regulations in book form and furnish

copies to interested persons upon request and at the expense of the District.

(d) The Board shall require an annual independent audit of the books and records of the District and shall file a copy of the audit with the Comptroller of Public Accounts and a copy with the District not later than December 1 of each year.

(e) The Board may

(1) prescribe the method of making purchases and expenditures and the manner of accounting and control used by the District;

(2) employ an attorney, general manager, bookkeeper, architect, and other employees necessary for the efficient operation of the District;

(3) employ an administrator to manage the operations of the hospital system, who may hire necessary personnel to perform the services provided by the system.

(f) The Board may accept donations, gifts, and endowments for the District. The Board shall hold all donations, gifts, and endowments in trust and shall administer them under any direction, limitation, or provisions as may be prescribed in writing by the donor, as long as it is not inconsistent with the proper management of the District.

(g) The Board may enter any contract with a municipality or other political subdivision to provide hospital and medical care for needy persons who reside outside the District.

#### **Budget**

Sec. 12. (a) The fiscal year of the hospital district is from October 1 of each year to September 30 of the following year.

(b) The Board shall prepare a budget showing

(1) the proposed expenditures and disbursements;

(2) the estimated receipts and collections for the next fiscal year;

(3) the amount of taxes required to be levied and collected during the next fiscal year to meet the proposed budget.

(c) The Board shall hold a public hearing on the proposed budget after publication of notice in a newspaper of general circulation in each county in the District. The notice must be given at least once not less than ten days prior to the hearing.

(d) Any person who owns taxable property within the District and has duly rendered that property for taxation is entitled to appear at the hearing and be heard with reference to any item in the proposed budget.

#### **Inquiry into ability to pay**

Sec. 13. (a) A person who resides within the District is entitled to receive necessary medical and hospital care whether he has the ability to pay for the care or not. A person who resides within the District may make application to receive this care without cost.

(b) The Board or the administrator shall employ a person to investigate the ability of the patient and the ability of any relative who is liable for the support of the patient to pay for the medical and hospital care which the patient receives.

(c) If the patient or a relative of the patient who is legally liable for his support is able to pay for this care in whole or in part, the Board shall order the patient or his relatives to pay to the treasurer each week an amount specified in the order. The amount must be in proportion to the ability to pay.

(d) The District may collect this amount from the estate of the patient, or from his relatives who are liable for his support, in the manner

provided by law for the collection of expenses of the last illness of a deceased person.

(e) If the investigator finds that neither the patient nor a relative who is legally liable for his support is able to pay in whole or in part for this care, the expense of this care becomes a charge on the District.

(f) If there is a dispute as to the ability to pay, or a doubt in the mind of the investigator, the Board shall hear and determine the question, after calling witnesses, and make the proper order based on its findings.

(g) A party to the hearing who is not satisfied with the result of the order, may appeal to the district court. The appeal is de novo as that term is used in appeals from the justice courts to the county court.

#### **Eminent domain**

Sec. 14. (a) The District has the power of eminent domain for the purpose of acquiring by condemnation any interest, including fee simple absolute, in any real, personal, or mixed property within the boundaries of the District that is necessary to the exercise of the powers and duties conferred upon it by this Act.

(b) The Board shall exercise this power of eminent domain in the same manner as provided by General Law. However, the District is not required to make deposits in the registry of the trial court or to post bond as required by Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as amended.

(c) The District is not required to pay in advance or to give any bond or other security for costs in the trial court otherwise required for the issuance relating to a condemnation proceeding, nor is it required to give a bond for costs or for supersedeas on an appeal or writ of error proceeding to a Court of Civil Appeals or to the Supreme Court.

#### **Depository**

Sec. 15. Within 30 days after the qualification of the Board of Directors, the Board shall by resolution designate a bank within a county in which the District is located to be the depository of the District. All funds of the District shall be deposited in the depository and shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two years and until a successor has been named in accordance with this Section.

#### **Inspection of the district**

Sec. 16. (a) The District is subject to inspection at any time by an authorized representative of the State Board of Health, the State Board of Public Welfare, or any other State agency created for a similar purpose.

(b) The administrator of the hospital shall admit a representative into the facilities of the District and make accessible on demand all District records, reports, books, papers, and accounts.

#### **State support**

Sec. 17. The support and maintenance of the hospital system of the District and any indebtedness incurred by the District under this Act shall never become a charge against nor an obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature of the State of Texas for the construction, maintenance or improvement of any of the facilities of the District.

Sec. 18. The Legislature has found that proper notice has been given in the District affected by this Act in accordance with the requirement of

Section 9, Article IX, Constitution of the State of Texas. Acts 1965, 59th Leg., p. 1461, ch. 644, emerg. eff. June 17, 1965.

**Title of Act:**

An Act relating to the creation of Nixon Hospital District of Gonzales and Wilson Counties, Texas, by authority of Section 9, Article IX, Constitution of the State of Texas; and declaring an emergency. Acts 1965, 59th Leg., p. 1461, ch. 644.

**Art. 4494q—43. Childress County Hospital District**

**Authorization**

Section 1. Pursuant to authority granted by the provisions of Section 9 of Article IX of the Constitution of the State of Texas, Childress County Hospital District is hereby authorized to be created and as created shall have boundaries coextensive with the boundaries of Childress County, Texas, and possess such rights, powers and duties as are hereinafter prescribed.

**Assumption of properties; establishment of hospital system**

Sec. 2. The District herein authorized to be created shall take over and there shall be transferred to it title to all lands, buildings, improvements and equipment in anywise pertaining to the hospitals or hospital system owned by Childress County and any city or town within such County, and thereafter the District shall provide for the establishment of a hospital system by the purchase, construction, acquisition, repair or renovation of buildings and equipment, and equipping same, and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants and shall assume the outstanding indebtedness which shall have been incurred by any city or town or by Childress County for hospital purposes prior to the creation of said District.

**Creation of district; election; ballots**

Sec. 3. The District shall not be created, nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election may be initiated by the Commissioners Court of Childress County upon its own motion, or shall be called by said Commissioners Court upon presentation of a petition therefor signed by at least one hundred (100) qualified property taxpaying electors of the District. Such election shall be held not less than thirty (30) nor more than sixty (60) days from the time such election is ordered by the Commissioners Court. The order calling the election shall specify the time and places of holding same, the form of ballot, and the presiding judge for each voting place. Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in the County once a week for two consecutive weeks, the first publication to appear at least thirty (30) days prior to the date established for the election. The failure of such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose.

At said election there shall be submitted to the qualified property taxpaying electors of the District the proposition of whether or not the hospital district shall be created with authority to levy annual taxes at a rate not to exceed seventy-five cents (75¢) on the one hundred dollar valuation of taxable property within such District for the purpose of meeting the requirements of the District's bonds, indebtedness assumed by it, and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting at said election in favor of the proposition shall be sufficient for its adoption.

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The ballots for such creation election shall have printed thereon the following:

“FOR the creation of Childress County Hospital District providing for the levy of a tax not to exceed seventy-five cents (75¢) on the one hundred dollar valuation using Childress County values and Childress County tax rolls, and providing for the assumption by such District of all outstanding bonds and indebtedness heretofore issued by Childress County and by any city or town within said County for hospital purposes.

“AGAINST the creation of Childress County Hospital District, providing for the levy of a tax not to exceed seventy-five cents (75¢) on the one hundred dollar valuation using Childress County values and Childress County tax rolls, and providing for the assumption by such District of all outstanding bonds and indebtedness heretofore issued by Childress County and by any city or town within said County for hospital purposes.”

#### Canvass of returns; board of directors; election and organization

Sec. 4. Within ten (10) days after such election is held, the Commissioners Court of said County shall convene and canvass the returns thereof, and in the event such election results favorably to the proposition specified in Section 3 hereof, such District shall be governed by a Board of Directors to consist of seven (7) members. Upon creation of the District as above-provided, the Commissioners Court shall appoint seven (7) persons as Directors to serve until the first Saturday in April of the calendar year following the creation of the District, at which time seven Directors shall be elected from the County at large. The four (4) Directors receiving the highest number of votes shall serve for two years, the remaining three (3) shall serve for one year. Thereafter, the term of all Directors shall be two years.

A regular election for Directors shall be held on the first Saturday in April of each year and shall be ordered by the Board. Such order shall state the time, place and purpose of the election, and the Board shall appoint the presiding judge, who shall appoint an assistant judge and such clerks as may be required, and such election shall be ordered at least fifteen (15) days prior to the date on which it is to be held. Any person desiring his name to be printed on the ballot as a candidate for Director shall file a petition signed by not less than fifteen (15) qualified voters asking that such name be printed on the ballot, with the secretary of the Board of Directors of the District. Such petition shall be filed with the secretary at least twenty-five (25) days prior to the date of election. Notice of such election shall be published one (1) time in a newspaper of general circulation in the area of the District at least five (5) days before the election. All vacancies in office (other than for the failure of an original Director herein appointed to qualify) shall be filled by a majority vote of the remaining Directors, and such appointees shall hold office for the unexpired terms for which they were appointed.

No Director shall be entitled to compensation, but shall be entitled to receive his actual expenses incurred in attending to the District's business, provided such expenses are approved by the remainder of the Board. Any person who is a resident property owning taxpaying voter of the District shall be eligible to hold office as Director of the District. The Board of Directors shall elect from its number a president, vice president, secretary, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails and declines to act.

Any four members of the Board shall constitute a quorum and the concurrence of four shall be sufficient in all matters pertaining to the business of the District. The Board shall require the keeping of a true account of all its meetings and proceedings and shall preserve all contracts, records, notices, duplicate vouchers, duplicate receipts, and all accounts and records of the District at its principal office, where same shall be open to public inspection at all reasonable times.

**Management and control of hospitals; rules and regulations;  
administrator or manager**

Sec. 5. The Board of Directors shall manage, control and administer the hospitals and hospital system of the District. The District through its Board of Directors shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the District. The members of the Board of Directors shall be individually liable only for their individual misapplication of public funds. The Board of Directors shall appoint a qualified person to be known as the Administrator or Manager of the hospital district and may in its discretion appoint an assistant to the Administrator or Manager. Such Administrator or Manager and assistant administrator or assistant manager, if any, shall receive such compensation as may be fixed by the Board, and the Board may execute an employment contract with such Administrator or Manager and assistant administrator or assistant manager, but in no event may any such contract be for more than three (3) years, but the same may be renewed or extended annually. The Administrator or Manager shall, upon assuming his duties, execute a bond payable to the hospital district in an amount to be set by the Board of Directors, but in no event less than Twenty-five Thousand Dollars (\$25,000), conditioned that he shall perform the duties required of him, and containing such other conditions as the Board may require. The Administrator or Manager shall keep abreast of and be informed on the latest methods of hospital administration and the care of hospital patients, and shall supervise all the work and activities of the District and shall have general direction of the affairs of the District, subject to such limitations as may be prescribed by the Board.

The Board of Directors shall have the authority to employ, or may provide that the Administrator or Manager shall have the authority to employ, for the efficient operation of the District, nurses, technicians, and employees of the District. The Board of Directors shall be authorized to contract with any county or incorporated municipality located outside its boundaries for the care and treatment of the sick, diseased or injured persons of any such county or municipality, and shall have the authority to contract with the State of Texas and agencies of the Federal Government for the treatment of sick, diseased or injured persons for whom the State of Texas or the Federal Government are responsible. The Board of Directors is also authorized to enter into such contracts or agreements with the State of Texas or the Federal Government as may be required to establish or continue a retirement program for the benefit of the District's employees.

**Fiscal year; audit; annual budget**

Sec. 6. The District shall be operated on a fiscal year commencing on October 1 of each year and ending on September 30 of the following year, and it shall cause an audit to be made of the financial condition of said District, which shall at all times be open to inspection at the principal office of the District. In addition, the Administrator or Manager shall prepare an annual budget for approval by the Board of Directors of said District. A public hearing on the annual budget shall be held

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by the Board of Directors after notice of such hearing has been published one (1) time at least ten (10) days before the date set therefor. No expenditure may be made for any expense not included in the original annual budget or an amendment thereto. The annual budget may be amended from time to time, as the circumstances may require, but the annual budget, and all amendments thereto, shall be approved by the Board of Directors. As soon as practicable after the close of each fiscal year the Administrator or Manager shall prepare for the Board a full sworn statement of all moneys belonging to the District and a full account of the disbursements of same.

**Bonds; authority to issue; approval and registration; purposes**

Sec. 7. The Board of Directors of the hospital district shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such hospital district for the purchase, construction, acquisition, repair or renovation of improvements and equipping the same for hospitals and the hospital system, as determined by the Board, and for any and all of such purposes. At the time of the issuance of any such bonds a tax shall be levied by the Board sufficient to create an interest and sinking fund and to pay the interest on and principal of said bonds as same mature, providing such tax together with any other taxes levied for said District shall not exceed seventy-five cents (75¢) on each one hundred dollar valuation of taxable property in any one year. Such bonds shall be executed in the name of the hospital district and in its behalf by the president of the Board and attested by the secretary, as provided by Article 717j—1, Vernon's Texas Civil Statutes, and shall be subject to the same requirements in the matter of approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. No bonds shall be issued by such hospital district except refunding bonds until authorized by a majority of the qualified electors of the District who own taxable property therein and who have duly rendered the same for taxation voting at an election called for such purpose. Except as provided in Section 8, such election shall be called by the Board of Directors and held in accordance with the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, and except as therein otherwise provided, shall be conducted in accordance with the General Laws of Texas pertaining to elections. The District shall make provisions for defraying the costs of all elections called and held under the provisions of this Act. The bond election order shall specify the date of the election, the amount of bonds to be authorized, the maximum maturity thereof, the maximum rate of interest they are to bear, the place or places where the election shall be held, and the presiding officers thereof.

The bonds of the District may be issued for the purpose of refunding and paying off any bonds issued or assumed by such District. Such refunding bonds may be sold and the proceeds thereof applied to the payment of outstanding bonds, or may be exchanged in whole or in part for not less than a like principal amount of such outstanding bonds, provided that, if refunding bonds are to be exchanged for a like amount of said outstanding bonds, such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid on said refunding bonds, and provided further that if such refunding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding bonds or other refundable indebtedness, same shall be issued and payments made in the manner specified by Article 717k, Vernon's Texas Civil Statutes.

**Bonds; election**

Sec. 8. A petition for an election to create the hospital district (as provided in Section 3) presented to the Commissioners Court may incorporate a request that a separate proposition be submitted at such election as to whether or not the Board of Directors of the District (in the event same is created) shall be authorized to issue bonds for the purposes specified in Section 7. Such petition shall specify the maximum amount of bonds to be issued, their maximum maturity and maximum interest rate, and the same shall be included as a proposition submitted at the election.

**Types of buildings**

Sec. 9. The Board of Directors is hereby given complete discretion as to the type of buildings (both as to number and location) required to establish and maintain an adequate hospital system.

**Exemption of bonds from taxation**

Sec. 10. In carrying out the purposes of this Act, the District will be performing an essential public function and any bonds issued by it and their transfer, and the issuance therefrom, including any profits made in the sale thereof, shall at all times be free from taxation by the State or any municipality or political subdivision thereof.

**Purchases and expenditures**

Sec. 11. The Board of Directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures by and for such hospital district, and also shall be authorized to prescribe all accounting and control procedures and to make such rules and regulations as may be required to carry out the provisions of this Act. All purchases involving the expenditure of more than Two Thousand Dollars (\$2,000) may be made only after advertising in the manner provided by Article 2368a, Vernon's Texas Civil Statutes, as amended.

**Depository**

Sec. 12. The Board of Directors of the District shall name one or more banks within its boundaries to serve as depository for the funds of the District. All such funds shall, as derived and collected, be immediately deposited with such depository bank or banks, except that sufficient funds shall be remitted to the bank or banks for the payment of principal of and interest on the outstanding bonds of the District or other obligations assumed by it and in time that such money may be received by said bank or banks for payment on or prior to the date of maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

**Taxes; levy; purposes**

Sec. 13. The Board of Directors shall levy annually a tax of not to exceed the amount hereinabove permitted for the purpose of paying (1) the indebtedness assumed or issued by the District, and (2) the maintenance and operating expenses of the District. In setting such tax rate the Board shall take into consideration the income of the District from sources other than taxation. Upon determination of the amount of tax required to be levied, the Board shall make such levy and certify the same to the Tax Assessor-Collector of Childress County, Texas.



**Bonds eligible for investment and to secure deposits**

Sec. 14. All bonds of the District shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

**Eminent domain**

Sec. 15. The District shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple, or any lesser interest therein, within the boundaries of the District necessary or convenient to the powers, rights and privileges conferred by this Act, in the manner provided by the General Law with respect to condemnation by counties.

**Taxes; assessment and collection; duties of assessor-collector**

Sec. 16. The District taxes shall be assessed and collected on county tax values in the same manner as provided by law with relation to county taxes upon all taxable property within said District, subject to hospital district taxation. The Tax Assessor-Collector of Childress County shall be charged and required to accomplish the assessment and collection of all taxes levied by and on behalf of the District. The Assessor-Collector of taxes shall charge and deduct from payments to the hospital district the dues for assessing and collecting the taxes at a rate of not to exceed one per cent (1%) for assessing, and one per cent (1%) for collecting, each based upon the amount collected, but in no event shall such fee to the Tax Assessor-Collector exceed Five Thousand Dollars (\$5,000) in any one calendar year. Such fees shall be deposited in the officers' salary fund of the County and reported as fees of office of the County Assessor-Collector. Interest and penalties on taxes paid to the hospital district shall be the same as in the case of County taxes. Discounts shall be the same as allowed by the County. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the District's depository.

The Board of Directors shall have the authority to levy the aforesaid tax for the entire year in which said District is established as the result of the election herein provided. The bond of the County Tax Assessor-Collector shall stand as security for the proper performance of his duties as Assessor-Collector of the District, or if in the judgment of the Board of Directors of the District it is necessary, additional bond payable to the District may be required. In all matters pertaining to the assessment, collection and enforcement of taxes for the District, the County Tax Assessor-Collector shall be authorized to act in all respects according to the laws of the State of Texas relating to State and County taxes.

**Counsel**

Sec. 17. The Board of Directors, at its discretion, shall be authorized to employ legal counsel or contract for other professional services, when it deems advisable.

**Inquiry into ability to pay**

Sec. 18. Whenever a patient residing within the District has been admitted to the facilities thereof, the Administrator or Manager shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment in whole or in part, an order shall be made directing such patient or said relatives to pay to the hospital district for the support of such patient a specified sum per week in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The Administrator or Manager shall have power and authority to collect such sums from the estate of the patient or his relatives legally liable for his support in the manner provided by law for collection of expenses in the last illness of a deceased person. If the Administrator or Manager finds that such patient or said relatives are not able to pay either in whole or in part for his care and treatment in such hospital, same shall become a charge upon the hospital district as to the amount of the inability to pay. Should there be any dispute as to the ability to pay or doubt in the mind of the Administrator or Manager, the Board of Directors shall hear and determine same after calling witnesses, and shall make such order or orders as may be proper. Appeals from a final order of the Board shall lie to the District Court. The substantial evidence rule shall apply.

**Donations**

Sec. 19. The Board of Directors of the hospital district is authorized on behalf of such District to accept donations, gifts and endowments to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations and provisions as may be prescribed in writing by the donor not inconsistent with proper management and object of the hospital district.

**District alone to incur indebtedness**

Sec. 20. After creation of the hospital district, neither Childress County, Texas, nor any city or town therein shall thereafter issue bonds or other evidences of indebtedness for hospital purposes or for medical treatment of indigent persons within such boundaries, nor shall such political subdivisions levy taxes for either of such purposes. The said hospital district shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of indigent persons within its boundaries.

**State support**

Sec. 21. The support and maintenance of the Childress County Hospital District shall never become a charge against or obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such District.

**Severability**

Sec. 22. If any of the provisions of this Act, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**Notice**

Sec. 23. Proof of publication of the notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Con-

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stitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws, and such notice is hereby found and declared proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 1483, ch. 647.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing creation of Childress County Hospital District; providing that the District shall assume the outstanding debt of Childress County incurred for hospital purposes and any outstanding debt incurred by any city or town within said County for such purpose; providing for an election within the area of the proposed hospital district and making certain findings in connection therewith; providing for the levy of a tax by the District for the purpose of maintaining and operating the District, paying any indebtedness assumed or issued by the District; providing for the issuance of bonds by the District for the purpose of the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same for hospital purposes, and for any and all such purposes and for refunding bonds and pre-

scribing limitations on such power, providing bonds issued or assumed by the District shall be lawful investments and collateral for certain funds; providing for a governing body of such hospital district, their tenure of office and powers and duties; imposing certain duties upon the County Tax Assessor-Collector; prescribing a procedure for the adoption of a budget, the selection of a depository and the power of eminent domain which is conferred upon the District; prescribing a fiscal year; withdrawing authority for the sale of bonds for hospital purposes within the District by any city, town or by Childress County and restricting their power of taxation for hospital purposes and restricting the power to levy taxes for the care of indigents under certain circumstances; enacting other provisions incident and related to the subject matter hereof; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1483, ch. 647.

**Art. 4494q—44. Terry Memorial Hospital District**

**Authorization**

Section 1. Pursuant to authority granted by the provisions of Section 9, Article IX, Constitution of the State of Texas, Terry Memorial Hospital District is hereby authorized to be created and as created shall have boundaries coextensive with the boundaries of Terry County, Texas, and possess such rights, powers and duties as are hereinafter prescribed.

**Purposes of district**

Sec. 2. The District herein authorized to be created shall take over and there shall be transferred to it title to all lands, buildings, improvements and equipment in anywise pertaining to the hospitals or hospital systems owned by Terry County and any city or town within such County, and thereafter the District shall provide for the establishment of a hospital system by the purchase, construction, acquisition, repair or renovation of buildings and equipment, and equipping the same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants and shall assume the outstanding indebtedness which shall have been incurred by any city or town or by Terry County for hospital purposes prior to the creation of said District.

**Creation of district**

Sec. 3. The District shall not be created nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election may be initiated by the Commissioners Court of Terry County upon its own motion or shall be called by said Commissioners Court upon presentation of a petition therefor signed by at least 50 qualified property taxpaying electors of the District. Such election shall be held not less than 30 nor more than 60 days from the time such election is ordered by the Commissioners Court. The order calling the election shall specify the time and places of holding same, the form of ballot and the pre-

siding judge for each voting place. Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in Terry County, Texas, once a week for two consecutive weeks, the first publication to appear at least 14 days prior to the date established for the election. The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose. At said election there shall be submitted to the qualified property taxpaying electors of Terry County the proposition of whether or not Terry Memorial Hospital District shall be created with authority to levy annual taxes at a rate not to exceed 75 cents on the one hundred dollar valuation of taxable property within such District for the purpose of meeting the requirements of the District's bonds, indebtedness assumed by it, and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting at said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

"FOR the Creation of Terry Memorial Hospital District providing for the levy of a tax not to exceed 75 cents on the one hundred dollar valuation using Terry County values and Terry County tax rolls, and providing for the assumption by such District of all outstanding bonds and indebtedness heretofore issued by Terry County and by any city or town within said County for hospital purposes.

"AGAINST the Creation of Terry Memorial Hospital District providing for the levy of a tax not to exceed 75 cents on the one hundred dollar valuation using Terry County values and Terry County tax rolls, and providing for the assumption by such District of all outstanding bonds and indebtedness heretofore issued by Terry County and by any city or town within said County for hospital purposes."

#### District management

Sec. 4. Within ten days after such election is held the Commissioners Court of said County shall convene and canvass the returns thereof and in the event such election results favorably to the proposition specified in Section 3 hereof, such District shall be governed by a Board of Directors to consist of seven members. Each such Director must at the time of his election or appointment hereunder own property subject to taxation within the District and be more than twenty-one years of age. Upon creation of the District as above provided, the Commissioners Court shall appoint seven persons as Directors to serve until the first Saturday in April of the year succeeding the year of the District's creation, at which time seven Directors shall be elected. The four Directors receiving the highest vote at such election shall serve for two years and the other three Directors shall serve for one year. Thereafter, all Directors shall serve for a period of two years and until their successors have been duly elected or appointed and qualified. All qualified electors residing in Terry County, Texas, and in the Terry Memorial Hospital District shall be eligible to vote for all Directors. Directors shall be entitled to compensation at a rate to be determined by the Board provided that in no event shall the rate of compensation exceed Ten Dollars (\$10) for each meeting of the Board of Directors.

Each member of the Board of Directors shall qualify for his office by executing the Constitutional oath of office to be filed in the office of the District. The Board of Directors shall organize by electing one of their number as President, one as Vice President and one as Secretary. Any four members of the Board shall constitute a quorum, and a concurrence of four shall be sufficient in all matters pertaining to the business of the District. The Board shall require the keeping of a true account of all its meetings and proceedings, and shall preserve

all contracts, records, notices, duplicate vouchers, duplicate receipts and all accounts and records of the District at its principal office where same shall be open to public inspection at all reasonable times. All vacancies in the office of Director shall be filled for the unexpired term by appointment by the remainder of the Board. However, in the event the number of Directors shall be reduced at any one time to less than four for any reason, the remaining Directors shall immediately call a special election to fill said vacancies and upon failure to do so such vacancies may be filled by appointment by the County Judge of Terry County. The regular election of Directors shall be held on the first Saturday in April in each year, and notice of such election shall be published in a newspaper of general circulation in Terry County one time at least 10 days prior to the date of election. Any person desiring to have his name printed on the ballot as a candidate for Director shall file a petition signed by not less than 10 qualified voters to such effect, at least 25 days prior to the election.

#### **Powers of directors**

Sec. 5. The Board of Directors shall manage, control and administer the hospitals and hospital system of the District. The District through its Board of Directors shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the District. The Board of Directors shall appoint a qualified person to be known as the Administrator or Manager of the hospital district, and may in its discretion appoint an assistant to the Administrator or Manager. Such Administrator or Manager, and assistant administrator or assistant manager, if any, shall serve at the will of the Board and shall receive such compensation as may be fixed by the Board. The Administrator or Manager shall, upon assuming his duties, execute a bond payable to the hospital district in an amount to be set by the Board of Directors in no event less than Ten Thousand Dollars (\$10,000), conditioned that he shall perform the duties required of him and containing such other conditions as the Board may require. The Administrator or Manager shall supervise all the work and activities of the District, and shall have general direction of the affairs of the District, subject to such limitations as may be prescribed by the Board. The Board of Directors shall have the authority to employ such nurses, technicians, and other lay personnel as may be deemed necessary for the efficient operation of the District, or may provide that the Administrator or manager shall have the authority to employ such persons. Such Board shall be authorized to contract with any county or incorporated municipality located outside Terry County for the care and treatment of the sick, diseased or injured persons of any such county or municipality, and shall have the authority to contract with the State of Texas and agencies of the Federal Government, for treatment of sick, diseased or injured persons for whom the State of Texas or the Federal Government are responsible. The Board of Directors is also authorized to enter into such contracts or agreements with the State of Texas or the Federal Government as may be required to establish or continue a retirement program for the benefit of the District's employees.

#### **Fiscal year—audit—accounting**

Sec. 6. The District shall be operated on a fiscal year commencing on October 1 of each year and ending on September 30 of the succeeding year and it shall cause an audit to be made of the financial condition of said District which shall at all times be open to inspection at the principal office of the District. In addition the Administrator or Manager shall prepare an annual budget for approval by the Board

of Directors of said District. As soon as practicable after the close of each fiscal year, the Administrator or Manager shall prepare for the Board a full sworn statement of all moneys belonging to the District and a full account of the disbursements of same.

**Authorization of bonds and levy of tax**

Sec. 7. The Board of Directors of the hospital district shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such hospital district, for the purchase, construction, acquisition, repair or renovation of buildings and improvements, and equipping the same for hospitals and the hospital system, as determined by the Board, and for any or all of such purposes. At the time of the issuance of any such bonds a tax shall be levied by the Board sufficient to create an interest and sinking fund and to pay the interest on and principal of said bonds as same mature, providing such tax together with any other taxes levied for said District shall not exceed 75 cents on each one hundred dollar valuation of taxable property in any one year. Such bonds shall be executed in the name of the hospital district and in its behalf by the President of the Board and attested by the Secretary as provided by Chapter 204, Acts of the 57th Legislature, Regular Session, 1961 (Article 717j—1, Vernon's Texas Civil Statutes), and shall be subject to the same requirements in the matter of the approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. After approval of any such bonds by the Attorney General and registration by the Comptroller, said bonds shall be incontestable. No bonds shall be issued by such hospital district except refunding bonds, until authorized by a majority of the qualified electors of the District, who own taxable property therein and who have duly rendered the same for taxation, voting at an election called for such purpose. Such election shall be called by the Board of Directors and held in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, and except as therein otherwise provided, shall be conducted in accordance with the General Laws of Texas pertaining to elections. The District shall make provisions for defraying the costs of all elections called and held under the provisions of this Act. The bond election order shall specify the date of the election, the amount of bonds to be authorized, the maximum maturity thereof, the maximum rate of interest they are to bear, the place or places where the election shall be held and the presiding officers thereof.

The bonds of the District may be issued for the purpose of refunding and paying off any bonds issued or assumed by such District. Such refunding bonds may be sold and the proceeds thereof applied to the payment of outstanding bonds, or may be exchanged in whole or in part for not less than a like principal amount of such outstanding bonds, provided that, if refunding bonds are to be exchanged for a like amount of said outstanding bonds, such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid on said refunding bonds; and provided further that, if such refunding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding bonds or other refundable indebtedness, same shall be issued and payments made in the manner specified by Chapter 503, Acts of the 54th Legislature, 1955 (Article 707k, Vernon's Texas Civil Statutes).

**Bonds exempt from taxation**

Sec. 8. In carrying out the purposes of this Act the District will be performing an essential public function and any bonds issued by it and their transfer and the revenues therefrom, including any profits made in the sale thereof, shall at all times be free from taxation by the State or any municipality or political subdivision thereof.

**Purchases and expenditures**

Sec. 9. The Board of Directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures, by and for such hospital district, and also shall be authorized to prescribe all accounting and control procedures and to make such rules and regulations as may be required to carry out the provisions of this Act.

**District depository**

Sec. 10. The Board of Directors of the District shall name one or more banks within Terry County to serve as depository for the funds of the District. All such funds shall, as derived and collected, be immediately deposited with such depository bank or banks, except that sufficient funds shall be remitted to the bank or banks for the payment of principal of and interest on the outstanding bonds of the District or other obligations assumed by it and in time that such money may be received by said bank or banks of payment on or prior to the date of maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

**Bonds eligible for investment and to secure deposits**

Sec. 11. All bonds of the District shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and sinking funds of cities, towns, villages, counties, school districts or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposits of public funds of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

**Eminent domain**

Sec. 12. Terry Memorial Hospital District created hereunder shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple, or any lesser interest therein, within the boundaries of the District necessary or convenient to the powers, rights and privileges conferred by this Act, in the manner provided by General Law with respect to condemnation.

**Levy, assessment and collection of taxes**

Sec. 13. District taxes shall be assessed and collected in the same manner as provided by law with relation to county taxes, upon all tax-  
The Tax Assessor-Collector of Terry County shall be charged and re-

able property within such District subject to hospital district taxation. required to accomplish the assessment and collection of all taxes levied by and on behalf of the District and to promptly pay over the same to the District depository. For his services the County Tax Assessor-Collector shall be allowed such compensation as may be provided for by contract with the District, but not to exceed the amount allowed for assessment and collection of county taxes. The bond of the County Tax Assessor-Collector shall stand as security for the proper performance of his duties as Assessor-Collector of the District or, if in the judgment of the Board of Directors of the District it is necessary, an additional bond payable to the District may be required. In all matters pertaining to the assessment, collection and enforcement of taxes for the District, the County Tax Assessor-Collector shall be authorized to act in all respects according to the laws of the State of Texas relating to State and County taxes.

**Patients—inquiry as to the ability to pay—liability of relatives**

Sec. 14. The Board shall establish rates and charges for services, supplies and the use of its facilities. Whenever an indigent patient has been admitted to the facilities thereof, the Administrator or Manager shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment, in whole or in part, an order shall be made directing such patient or said relatives to pay to the hospital district for the support of such patient a specified sum per week in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The Administrator or Manager shall have power and authority to collect such sums from the estate of the patient or his relatives legally liable for his support in the manner provided by law for the collection of expenses in the last illness of a deceased person. If the Administrator or Manager finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, same shall become a charge upon the hospital district as to the amount of the inability to pay. Should there be any dispute as to the ability to pay or doubt in the mind of the Administrator or Manager, the Board of Directors shall hear and determine same after calling witnesses, and shall make such order or orders as may be proper. A party to the dispute who is not satisfied with the order may appeal to the District Court on a trial de novo as that term is used in appeals from the Justice Court to the County Court.

**Donations**

Sec. 15. The Board of Directors of the hospital district is authorized on behalf of such District to accept donations, gifts and endowments to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations and provisions as may be prescribed in writing by the donor not inconsistent with proper management and objects of the hospital district.

**Annual budget**

Sec. 16. The Board of Directors of said hospital district shall cause to be prepared an annual budget based upon the fiscal year of the hospital district in accordance with the provisions of Section 6 hereof and prior to September 1 of each year shall give notice of the public hearing on the proposed budget. Such notice shall be published in a newspaper of general circulation in the County at least ten (10) days prior to the date set for the hearing.



**District alone to incur indebtedness for hospital purposes**

Sec. 17. After creation of Terry Memorial Hospital District, neither Terry County, Texas, nor any city or town therein shall thereafter issue bonds or other evidences of indebtedness or levy taxes for hospital purposes or for medical care, and the said Terry Memorial Hospital District shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of indigent persons.

**State not to be obligated**

Sec. 18. The support and maintenance of the Terry Memorial Hospital District shall never become a charge against or obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such District.

**Severability clause**

Sec. 19. If any of the provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**Publication of notice**

Sec. 20. Proof or publication of the notice required in the enactment hereof under the provisions of Article IX, Section 9 of the Constitution of the State of Texas has been made in the manner and form provided by law pertaining to the enactment of local and special laws and such notice is hereby found and declared proper and sufficient to satisfy such requirement. Acts 1965, 59th Leg., p. 1502, ch. 653.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the creation, administration, powers and duties, and financing of and the transfer of existing facilities to the Terry Memorial Hospital District in Terry County; and declaring an emergency. Acts 1965, 59th Leg., p. 1502, ch. 653.

**Art. 4494s. Parking stations near hospitals in counties of 900,000 or more****Counties of 900,000; power to construct and operate parking station; lease of station**

Section 1. Any Hospital District located in a county which had a population in excess of 900,000 according to the most recent Federal Census, upon a finding by the Commissioners Court of the county in which such Hospital District is located that it is to the best interest of the Hospital District and its inhabitants, shall have the power to construct, enlarge, furnish, equip and operate a parking station or stations in the vicinity of any hospital within such Districts. Any such Hospital District is further authorized from time to time to lease said parking stations to a person or corporation on such terms as the Commissioners Court of such Hospital District shall deem appropriate.

**Definitions**

Sec. 2. As used in this law, "Parking Station" means a lot or area or surface or subsurface structure for the parking of automotive vehicles, together with equipment used in connection with the maintenance and operation thereof, and the site therefor;

"Bond Order" means the order authorizing the issuance of revenue bonds;

"Trust Indenture" means the indenture pledging revenues to secure the revenue bonds issued by any such Hospital District;

"Trustee" means the trustee under the Trust Indenture.

**Revenue bonds; pledge of revenues**

Sec. 3. The Commissioners Court of the county in which any such Hospital District is located may issue negotiable revenue bonds on behalf of any such Hospital District to provide funds for the construction, enlargement, furnishing or equipping said parking stations. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation of such parking stations and any other revenue resulting from the ownership of such parking station properties including rentals received from leasing all or part of said parking stations.

**Order authorizing bonds; maturity; interest cost**

Sec. 4. The bonds shall be authorized by order adopted by a majority vote of a quorum of such Commissioners Courts, on behalf of such Hospital Districts (without the prerequisite of an election) and shall be signed by the County Judge, countersigned by the County Clerk and registered by the County Treasurer. The seal of the Commissioners Court authorizing such bonds shall be impressed or printed thereon. The bonds shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by such Commissioners Court to be the most advantageous reasonably obtainable; provided that the interest cost to the Hospital District, including the discount, if any, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six per cent (6%) per annum, and within the discretion of such Commissioners Court, may be made callable prior to maturity at such times and prices as may be prescribed in the order authorizing the bonds.

**Bonds constituting junior liens on net revenues; parity bonds**

Sec. 5. Bonds constituting a junior lien on the net revenues may be issued unless prohibited by the Bond Order or Trust Indenture. Parity bonds may be issued under conditions specified in the Bond Order or Trust Indenture.

**Setting aside money for interest and operating expenses**

Sec. 6. Money for the payment of not more than two (2) years interest on the bonds and an amount estimated by such Commissioners Court to be required for operating expenses until the parking station or stations become sufficiently operative, may be set aside out of the proceeds from the sale of the bonds.

**Refunding bonds**

Sec. 7. Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this Act for other bonds, and may be exchanged by the Comptroller of Public Accounts of the State of Texas or sold and the proceeds applied to the payment of outstanding bonds.

**Approval by attorney general; registration**

Sec. 8. Bonds issued under this Act and the record relating to their issuance shall be submitted to the Attorney General of Texas and if he finds that they have been issued in accordance with this law and

For Annotations and Historical Notes, see V.A.T.S.

constitute valid and binding special obligations of any such Hospital District and are secured as recited therein he shall approve them, and they shall be registered by the Comptroller of Public Accounts of the State of Texas who shall certify such registration thereon. Thereafter they shall be incontestable. The bonds shall be negotiable and shall contain the following provision: "The holder hereof shall never have the right to demand payment thereof out of money raised or to be raised by taxation."

#### Rentals or rates for services; procedures for operation of stations

Sec. 9. It shall be the duty of any such Hospital District to charge sufficient rentals or rates for services rendered by the parking stations so that revenues will be produced sufficient to pay all expenses in connection with the ownership, operation and upkeep of the parking stations, to pay the principal of and interest on the bonds as they become due, and to create and maintain a bond reserve fund and other funds as provided in the Bond Order or Trust Indenture. The Bond Order or Trust Indenture may prescribe systems, methods, routines and procedures under or in accordance with which the parking stations shall be operated. Acts 1965, 59th Leg., p. 613, ch. 304.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act authorizing Hospital Districts located in counties having a population in excess of 900,000 according to the most recent Federal Census to construct, enlarge, furnish, equip and operate a parking station or stations in the vicinity of any hospital within such Districts; authorizing such Hospital Districts to lease said parking

stations; authorizing the issuance of revenue bonds for such purposes; prescribing the procedure for the issuance of such bonds and the method of paying and securing the payment thereof; authorizing the issuance of refunding bonds; containing a severability clause; enacting other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 613, ch. 304.

## CHAPTER SIX—MEDICINE

### Art. 4498a. Registration of practitioners and interns; fees

Section 1. It shall be the duty of all persons now lawfully qualified to practice medicine in this State as defined in Article 4510, Revised Civil Statutes of 1925, or who shall hereafter be licensed for such practice by the Texas State Board of Medical Examiners, to be registered as such practitioners with the Texas State Board of Medical Examiners on or before the first day of January, A. D., 1932, and thereafter to register in like manner annually, on or before the first day of January of each succeeding year. Each person so registering with the Texas State Board of Medical Examiners shall pay, in connection with each annual registration and for the receipt hereinafter provided for, a fee of not more than Ten Dollars (\$10), which fee shall accompany the application of every such person for such registration. Such payment shall be made to the Texas State Board of Medical Examiners. Every person so registering shall file with the Texas State Board of Medical Examiners a written application for annual registration, setting forth his full name, his age, his post office address, his place of residence, the county or counties in which his certificate entitling him to practice medicine has been registered, and the place or places where he is engaged in the practice of medicine, as well as the school of medicine to which he professes to belong and the number and date of his license certificate. All persons desiring to serve as interns or residents at hospitals in this State shall register with the Texas State Board of Medical Examiners within thirty (30) days after beginning their service as a resident or intern, and shall pay a registration fee of One Dollar (\$1) to the Texas State Board of

Medical Examiners. Upon termination of said internship or residency, notification of such termination shall be given within thirty (30) days to the Texas State Board of Medical Examiners. Registration as an intern or resident does not authorize the practice of medicine as defined by law unless the other provisions regulating the practice of medicine have been complied with.

When a licensee under this Act shall have failed to pay his annual registration fee by March 1st, it shall be the duty of the Board, acting through its Secretary, to notify such licensee at his last known address by registered mail that his annual registration fee is due and unpaid. Fifteen (15) days after date of mailing such notice, it shall be the duty of the Board, acting through its Secretary, to suspend his license for nonpayment of the annual registration fee and to notify such licensee of such suspension by registered letter addressed to his last known address. If the said registration fee is not then paid within thirty (30) days from date of such notice of suspension, the Board shall then cancel such license. Practicing medicine as defined in Article 4510, Revised Civil Statutes of Texas, without an annual registration receipt for the current year as provided herein shall have the same force and effect and be subject to all penalties of practicing medicine without a license. After the Board shall have declared a license cancelled as provided herein, the Board may thereafter in its discretion refuse to issue a new license until such licensee has passed the regular examination for license as provided in this Act.

Upon receipt of such application, accompanied by the proper registration fee, the Texas State Board of Medical Examiners, after ascertaining, either from the records of the Board or from other sources deemed by it to be reliable, that the applicant is a licensed practitioner of medicine in this state, shall issue to the applicant an annual registration receipt, certifying that the applicant has filed such application and has paid the registration fee mentioned for the year in question; provided, that the filing of such application, the payment of the registration fee, and the issuance of such receipt shall not entitle the holder thereof to lawfully practice medicine within the State of Texas, unless he has in fact been previously licensed as such practitioner by the Texas State Board of Medical Examiners, as prescribed by law, and has recorded his license certificate entitling him to practice, as issued by said Board, in the District Clerk's Office of the several counties in which the same may be required by law to be recorded, and unless his license to practice medicine is in full force and effect; and provided further, that in any prosecution for the unlawful practice of medicine as denounced in Chapter 6, Title 12, of the Penal Code of Texas, such receipt showing payment of the annual registration fee required by this Act shall not be treated as evidence that the holder thereof is lawfully entitled to practice medicine. As amended Acts 1965, 59th Leg., p. 143, ch. 59, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

CHAPTER EIGHTEEN—IDENTIFICATION OF  
SYSTEM OF HEALING

Art. 4590e. Healing Art Identification Act

Healing art identifications

Sec. 3.

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(6) If licensed by the State Board of Chiropody Examiners: chiropodist; doctor, D.S.C.; Doctor of Surgical Chiropody; D.S.C.; podiatrist; doctor, D.P.; Doctor of Podiatry; D.P. As amended Acts 1963, 58th Leg., p. 39, ch. 26, § 1; Acts 1965, 59th Leg., p. 963, ch. 476, § 1.

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Effective Aug. 30, 1965, 90 days after date of adjournment.

Acts 1965, 59th Leg., p. 983, ch. 476, § 1 amended paragraph (6) of section 3 of this article; section 2 of the amendatory act of 1965 provided: "Nothing in this Act in any way shall invalidate or affect or be con-

strued to invalidate or affect any valid license duly issued by the State Board of Chiropody Examiners and in effect on the effective date of this Act, or the lawful renewal or reinstatement of any license issued by said Board."

## TITLE 75—HUSBAND AND WIFE

## CHAPTER ONE—CELEBRATION OF MARRIAGE

## Art. 4602. [4608] [2954] [2838] Who authorized to celebrate

All licensed or ordained ministers of the Gospel, Jewish rabbis, or officers of religious organizations, which officers are duly authorized by the organization to perform marriage ceremonies, justices of the peace, and judges or justices of any court of record in this state, are authorized to celebrate the rites of matrimony between persons legally authorized to marry. As amended Acts 1965, 59th Leg., p. 996, ch. 482, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## Art. 4605. [4611] [2957] [2841] Consent of parent or guardian and issuance of license

(a) Any unmarried male of the age of 21 years or upwards, or any unmarried female of the age of 18 years or upwards and not otherwise disqualified, is capable of contracting and consenting to marriage. No female under the age of 18 and no male under the age of 21 years shall enter into the marriage relation, nor shall any license issue therefor, except under the consent and authority expressly given in writing under oath, after being identified in the manner prescribed for identification of applicants in paragraph (b) of this Article, by either parent, or by the guardian, of such underage applicant in the presence of the authority issuing the license; or in the presence of the county clerk, recorder, or other authority who issues marriage licenses, in and for any other county in the United States of America, on forms supplied by the county clerk of the county of issuance of the marriage license. If the certificate of a duly licensed medical doctor or osteopath, acknowledged before an officer authorized by law to take acknowledgments and stating that the parent or guardian is unable by reason of health or incapacity to be present in person, is presented to such licensing authority, the license may issue on the written consent of such parent or guardian, acknowledged in the same manner as the accompanying medical certificate. Any such certificate and written permission shall be retained by the official issuing the marriage license, together with the returned license. Nothing herein shall be construed to effect the issuance of a marriage license in a seduction prosecution. If a minor has neither parent nor guardian, then the clerk shall not issue a license without the consent of the county judge of the county of the residence of the minor, such consent to be in writing and signed and acknowledged by the county judge.

(b) Both parties desiring to be married shall appear in person before the county clerk and make written application, setting forth for each the male and female:

- (1) the full name;
- (2) address of usual residence, including street name and number, city and state;
- (3) date of birth;
- (4) place of birth, including city, county, and state;
- (5) color or race;
- (6) for the female, if previously married, her maiden surname; and
- (7) a description of each document accepted as proof of identity and of birth date.

For Annotations and Historical Notes, see V.A.T.S.

The application shall also include an oath as follows: "Each party hereto, for himself, or herself, individually and together, solemnly swears that the information set forth hereinabove in this application is true and correct; that neither party is disqualified or incapable of entering into the marriage relation; that the parties are not of the relationship prohibited by law; and that there are no legal impediments to such marriage." The application shall be signed and sworn to by both parties before the county clerk, who having checked the full name and the date of birth of each party hereto as the same appear upon a certified copy of birth certificate, or upon a current motor vehicle operator's, or commercial license, or upon a current voter's registration certificate which was issued at least six months prior to the date of the application for marriage license, provided the date of birth is shown thereon, or upon a current passport or visa or upon any other certificate, license or document issued by or existing pursuant to the laws of any nation or of any state or other governmental subdivision thereof, and who being satisfied of the truth and sufficiency of the application; and after application for marriage license has issued, shall issue the license authorizing the marriage.

(c) The County judge in his discretion may waive the requirements listed in paragraphs (a) and (b) of this Article.

(d) The application specified in paragraph (b) of this Article shall be labeled "Application for Marriage License, \_\_\_\_\_ County, Texas"; shall have Items (1) through (7) inclusive for each the male and female listed in a chart eight inches wide and two and three-quarter inches long, divided into two groups of four horizontal spaces each with the first group of four spaces to be used for information relating to the male and the second group of four spaces to be used for information relating to the female; shall have printed immediately below the chart the oath as specified in paragraph (b) hereinabove, followed by lines for the signatures of the parties and the jurat to be executed by the county clerk; and shall have at the bottom of the form a space for the county clerk to enter the date of the marriage and the county in which the marriage was performed. As amended Acts 1965, 59th Leg., p. 1151, ch. 543, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 2 of the amendatory act of 1965 added rule 50b to article 4477 and section 3 of the act provided: "All laws or parts

of laws in conflict with the provisions of this Act are hereby repealed, including but not limited to Article 405, Penal Code of Texas."

## CHAPTER FOUR—DIVORCE

### Art. 4629. [4631—2] Grounds for divorce

A divorce may be decreed in the following cases in favor of either spouse when

(1) the other is guilty of excesses, cruel treatment, or outrages against the complaining spouse, if such ill-treatment is of such nature as to render their living together insupportable;

(2) the other shall have voluntarily left the complaining spouse for three years with the intention of abandonment;

(3) the other shall have committed adultery;

(4) the spouses have lived apart without cohabitation for as long as seven years;

(5) the other shall have been convicted, after marriage, of a felony and imprisoned in this or a sister state or in a federal penitentiary; provided that a suit for divorce shall not be sustained because of the conviction of the other spouse for felony until twelve months after final judgment of conviction, and not then if the convict shall have been pardoned;

and provided that the husband has not been convicted on the testimony of the wife, nor the wife on the testimony of the husband; or

(6) when a spouse, at the time the action is commenced, has been confined in a mental hospital, state mental hospital, or private mental hospital, as these institutions are defined in Section 4, Texas Mental Health Code (Article 5547—4, Vernon's Texas Civil Statutes), as amended, in this or another state for at least five years, and it appears that the spouse's mental disorder is of a degree and nature that he is not likely to adjust, or that if he adjusts, it is probable that he will suffer relapse; but no costs may be adjudged against a spouse against whom a divorce is granted under this Subdivision. As amended Acts 1965, 59th Leg., p. 1634, ch. 701, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.



## INSURANCE CODE

## CHAPTER ONE—THE BOARD, ITS POWERS AND DUTIES

## Art. 1.15. To Examine Carriers

Section 1. The State Board of Insurance shall, once in each six (6) months for the first three (3) years after organization or incorporation, once in each year for the fourth through sixth years after organization or incorporation and thereafter once in each three (3) years, or oftener, if the Board deems necessary, in person or by one or more examiners commissioned by such Board in writing, visit each carrier organized under the laws of this state and examine its financial condition and its ability to meet its liabilities, as well as its compliance with the laws of Texas affecting the conduct of its business; and such Board shall similarly, in person or by one or more commissioned examiners, visit and examine, either alone or jointly with representatives of the insurance supervising departments of other states, each insurance carrier not organized under the laws of this state but authorized to transact business in this state. Such Board or its commissioned examiners shall have free access to all the books and papers of the carrier or agents thereof relating to the business and affairs of such carrier, and shall have power to summon and examine under oath the officers, agents, and employees of such carrier and any other person within the state relative to the affairs of such carrier. Such Board may revoke or modify any certificate of authority issued by such Board or by any predecessor in office when any condition or requirement prescribed by law for granting it no longer exists. Such Board shall give such company at least ten (10) days written notice of its intention to revoke or modify such certificate of authority stating specifically the reason for the action it proposes to take.

Sec. 2. The State Board of Insurance in administering any provision of the Insurance Code, Acts 1951, 51st Legislature, Chapter 491, shall be authorized and empowered in determining "value" or "market value" of any investment in or upon real estate or the improvements thereon by any carrier authorized to do business in the State of Texas to consider any and all matters and things relating thereto, including but not restricted to, appraisals by real estate boards or other qualified persons, affidavits by other persons familiar with such values, tax valuations, cost of acquisition, with proper deductions for depreciation and obsolescence, cost of replacement, sales of other comparable property, enhancement in value from whatever cause, income received or to be received, improvements made or any other factor or any other evidence which to said Board may be deemed proper and material.

Sec. 3. Any insurer whose investment in or upon real estate or the improvements thereon may have been determined or found by said Board shall be entitled to make a written request to the Board for a written finding by the Board; and upon such request being made to the Board, the Board shall, within ten (10) days after receipt of such request, enter its written order or finding setting out separately its finding upon each factor or matter upon which its said determination or finding of "value" or "market value" was made and shall in such written order or finding give the names and addresses of all persons who furnished such evidence as to each such matter, factor or thing and upon whom the Board relied in making such determination or finding and shall deliver a copy of such written finding or order to the carrier so requesting the same.

Sec. 4. Any rule, regulation, order, decision or finding of the Board under this Act shall be subject to full review in any suit filed by any

interested party in any District Court of the State of Texas in Travis County, Texas, and not elsewhere. The filing of such suit shall operate as a stay of any such rule, regulation, order, decision or finding of the Board until the court directs otherwise. The court may review all the facts, shall hear, try and determine said suit de novo as other civil cases in said court; and in disposing of the issues before it, may modify, affirm, or reverse the action of the Board in whole or in part. As amended Acts 1965, 59th Leg., p. 309, ch. 141, § 1.

Effective Aug. 30, 1965, 90 days from date of adjournment.

## **CHAPTER TWO—INCORPORATION OF INSURANCE COMPANIES**

### **Art. 2.11. Directors**

The affairs of any insurance companies organized under the laws of this state shall be managed by not fewer than seven (7) directors. Within thirty (30) days after the subscription books of the company have been filed, a majority of the stockholders shall hold a meeting for the election of directors, each share entitling the holder thereof to one (1) vote. The directors then in office shall continue in office until their successors have been duly chosen and accepted the trust. The annual meeting for the election of directors of any such company shall be held on or before April 30 of each year as the bylaws of the company may direct. Neither directors nor officers need be stockholders unless the Articles of Incorporation or bylaws so require. As amended Acts 1965, 59th Leg., p. 396, ch. 195, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## **CHAPTER THREE—LIFE, HEALTH AND ACCIDENT INSURANCE**

### **SUBCHAPTER E. GROUP INDUSTRIAL AND CREDIT INSURANCE**

Art.

3.50—1 Guaranteeing issuance of policy without evidence of insurability [New].

### **SUBCHAPTER A. TERMS DEFINED; DOMESTIC COMPANIES**

#### **Art. 3.04. Application, charter and organization**

Sec. 4. If the Board shall determine by an affirmative finding any of the above issues adversely to the applicants, it shall reject the application in writing giving the reason therefor. Otherwise, the Board shall approve the application and submit such application together with the articles of incorporation and the affidavit to the Attorney General for examination. If the application, articles of incorporation, the affidavit and the procedure and action thereon shall be found by the Attorney General to be in accordance with the laws of this state, he shall attach thereto his certificate to that effect, whereupon all such documents shall be deposited with the Board. Upon receipt by the Board of such documents so certified by the Attorney General, the Board shall record the same in a book kept for that purpose; and upon receipt of a fee of One Dollar (\$1.00), it shall furnish a certified copy of the same to the incorporators, upon which they shall become a body politic and corporate and may proceed to complete the organization of the company, for which purpose they shall forthwith call a meeting of the stockholders who shall adopt bylaws for the government

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of the company, and elect a board of directors of not less than five (5) members; which board shall have full control and management of the affairs of the corporation, subject to the bylaws thereof as adopted or amended from time to time by the stockholders or directors, and to the laws of this state. The board of directors so elected shall serve until the fourth Tuesday in April thereafter, on which date, there shall be held a meeting of the stockholders at the home office, and a board of directors elected for the ensuing year; provided, however, that when the board of directors shall consist of nine (9) or more members, in lieu of electing the whole number of directors annually, the bylaws may provide that the directors be divided into either two or three classes, each class to be as nearly equal in number as possible, the terms of office of directors of the first class to expire at the first annual meeting of stockholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there be two classes, or until the third succeeding annual meeting, if there be three classes. No classification of directors shall be effective prior to the first annual meeting of stockholders. Annual meetings of the stockholders, after the first meeting, shall be held at the home office of the company on or before April 30 of each year as may be prescribed in the bylaws of the corporation. If the stockholders fail to elect directors at any annual meeting, directors may be elected at a special meeting of the stockholders called for that purpose. Neither directors nor officers need be stockholders unless the articles of incorporation or bylaws so require. The directors shall choose a president from their own number, and all other officers shall be chosen in accordance with the bylaws of the company, and none of such other officers need be a director except as required by the bylaws of such company. The duties and compensation of officers of such company shall be in accordance with the bylaws of the company, or, to the extent of the absence of provisions governing the same in the bylaws, then the duties and compensation of officers shall be defined and fixed by the directors. The directors shall keep a full and correct record of their transactions to be open during business hours to the inspection of stockholders. The directors shall fill any vacancy which occurs in the board or in any office of such company. A majority of the board shall be a quorum for the transaction of such business. At all meetings of the stockholders, each stockholder shall be entitled to one vote for each share of stock fully paid up appearing in his name on the books of the company, except to the extent that the voting rights of the shares of any class or classes of stock are increased, limited or denied by the articles of incorporation as authorized or permitted by the Texas Business Corporation Act, which vote may be given in person or by written proxy. The majority of the paid up capital stock at any meeting of the stockholders shall be a quorum. As amended Acts 1965, 59th Leg., p. 16, ch. 8, § 1, emerg. eff. Feb. 25, 1965.

#### SUBCHAPTER C. RESERVES AND INVESTMENTS

#### Art. 3.39. Authorized Investments and Loans for "Domestic" Life Insurance Companies

##### PART I. AUTHORIZED INVESTMENTS

##### A. ANY OF ITS FUNDS AND ACCUMULATIONS

##### 4. County, City and School District Bonds.

Any bonds or interest-bearing warrants issued by authority of law by any county, city, town, school district or other municipality or subdi-

vision, which is now or hereafter may be constituted or organized under the laws of any state in the United States, and which is authorized to issue such bonds and warrants under the Constitution and laws of the state in which it is situated; provided legal provision has been made by a tax to meet said obligations. As amended Acts 1965, 59th Leg., p. 497, ch. 257, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**5. Bonds of Educational Institutions.**

Any bonds or interest-bearing warrants issued by authority of law by any educational institution which is now or hereafter may be constituted or organized under the laws of any state in the United States, and which is authorized to issue such bonds and warrants under the Constitution and laws of the state in which it is situated; provided legal provision has been made by a tax to meet said obligations. As amended Acts 1965, 59th Leg., p. 497, ch. 257, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**6. Revenue Bonds, etc., of Educational Institutions.**

The bonds and warrants, including revenue and special obligations, of any educational institution located in any state in the United States when special revenue or income to meet the principal and interest payments as they accrue upon such obligations shall have been appropriated, pledged or otherwise provided by such educational institution. As amended Acts 1965, 59th Leg., p. 497, ch. 257, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**7. Bonds and Warrants of Municipally Owned Systems.**

The bonds and warrants payable from designated revenues of any city, county, drainage district, road district, town, township, village or other civil administration, agency, authority, instrumentality, or subdivision which is now or hereafter may be constituted or organized under the laws of any state in the United States, and which is authorized to issue such bonds and warrants under the Constitution and laws of the state in which it is situated; provided special revenue or income to meet the principal and interest payments as they accrue upon such obligations shall have been appropriated, pledged or otherwise provided by such municipality. As amended Acts 1965, 59th Leg., p. 497, ch. 257, § 4.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**8. Paving Certificates.**

Any paving certificates or other certificates or evidence of indebtedness issued by any city in any state in the United States and secured by a first lien on real estate. As amended Acts 1965, 59th Leg., p. 497, ch. 257, § 5.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**10. Corporate First Mortgage Bonds, Notes and Debentures.**

First mortgage bonds or first lien notes on real estate or personal property of any solvent corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment; or of any solvent corporation which has not been in existence for five (5) consecutive years but whose first mortgage bonds or first lien notes on real estate or personal property are fully guaranteed by a solvent corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment; or of any solvent corporation

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which has not been in existence for five (5) consecutive years next preceding such investment, provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which corporation and the corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; or in the notes or debentures of any such corporation with a net worth of not less than Five Million Dollars (\$5,000,000) where no prior lien exists, and, under the provisions of the indenture providing for the issuance of such notes or debentures, no such prior lien can be created against the real or personal property owned by such corporation at the time the notes or debentures were issued; but in no event shall the amount of such investment in the bonds, notes, or debentures of any one such corporation exceed five per cent (5%) of the admitted assets of the insurance company making such investment. As amended Acts 1965, 59th Leg., p. 497, ch. 257, § 6.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### 11. Shares of Savings and Loan Associations.

The shares, stock, share accounts or savings accounts, and investment certificates of Savings and Loan Associations doing business in this state where such association has qualified for participation in insurance issued by the Federal Savings and Loan Insurance Corporation; no such investment shall exceed twenty per cent (20%) of the total assets of any such Individual Savings and Loan Association. As amended Acts 1965, 59th Leg., p. 497, ch. 257, § 7.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### 15. Securities Not Otherwise Specified.

Notwithstanding any expressed or implied prohibitions, a life insurance company may, after the effective date of this amendment, invest any of its funds and accumulations in investments which do not otherwise qualify under any other provision of Chapter 3 of the Insurance Code; provided, however, that the amount of any one such investment under this Section shall not exceed one per cent (1%) of the admitted assets of any such life insurance company; and provided further, that the investments authorized by this Section shall not exceed the lesser of (a) five per cent (5%) of its admitted assets, or (b) the amount of its capital and surplus in excess of Two Hundred Thousand Dollars (\$200,000) as shown on its last annual statement preceding the date of the acquisition of such investment as filed with the State Board of Insurance.

Nothing herein shall be construed or applied so as to authorize any life insurance company to invest any of its funds or accumulations in real property unless already authorized to do so by this Act or some other existing law of the State of Texas. As amended Acts 1965, 59th Leg., p. 497, ch. 257, § 8.

Effective Aug. 30, 1965, 90 days after date of adjournment.

### C. CAPITAL, SURPLUS AND CONTINGENCY FUNDS OVER AND ABOVE POLICY RESERVES

#### 3. Limitation on Investments in Capital Stock.

It may not invest in its own capital stock nor in the stock of any one corporation to any extent more than ten per cent (10%) of the amount of its own capital, surplus, and contingent funds, nor in the stock of any manufacturing corporation with a net worth of less than Twenty-Five Thousand Dollars (\$25,000), nor in the stock of any oil corporation with a net worth of less than Five Hundred Thousand Dollars (\$500,000);

provided, however, that it may own and invest not more than twenty-five per cent (25%) of its capital, surplus and contingency funds in the capital stock of one fire and casualty insurance company, provided such investment gives it a majority of the outstanding stock of such fire and casualty insurance company. As amended Acts 1963, 58th Leg., p. 967, ch. 389, § 1; Acts 1965, 59th Leg., p. 497, ch. 257, § 9.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**PART II. AUTHORIZED LOANS**

**B. CAPITAL, SURPLUS AND CONTINGENCY FUNDS OVER AND ABOVE POLICY RESERVES**

**1. Capital Stock, Bonds, and Other Obligations of Solvent Corporations, and Educational or Religious Corporations.**

It may loan its capital, surplus, and contingency funds, or any part thereof over and above the amount of its policy reserves, taking as security therefor the capital stock, bonds, bills of exchange, or other commercial notes or bills and the securities of any solvent corporation which has not defaulted in the payment of any debt within five (5) years next preceding such investment; or of any solvent corporation which has not been in existence for five (5) consecutive years next preceding such investment, provided such corporation has succeeded to the business and assets and has assumed the liabilities of another corporation, and which corporation and the corporation so succeeded have not defaulted in the payment of any debt within five (5) years next preceding such investment; or in the bonds or notes of any Educational or Religious Corporation where provision has been made for the payment of a sufficient amount of the first weekly or monthly revenues thereof to an interest and sinking fund account in a bank or trust company as an independent paying agent; provided, the market value of such stock, bills of exchange, or other commercial notes or bills and securities shall be at all times during the continuance of such loan at least fifty per cent (50%) more than the sum loaned thereon; provided that it shall not take as collateral security for any loan its own capital stock, nor shall it take as collateral security for any loan the stock of any one corporation to any extent more than ten per cent (10%) of the amount of its own capital, surplus, and contingency funds, nor shall it take as collateral security for any loan the stock of any manufacturing corporation with a net worth of less than Twenty-Five Thousand Dollars (\$25,000), nor the stock of any oil corporation with a net worth of less than Five Hundred Thousand Dollars (\$500,000); and provided further, that it shall not take as collateral security for any such loan any stock on account of which the holder or owner thereof may in any event be or become liable to any assessment except for taxes. As amended Acts 1965, 59th Leg., p. 497, ch. 257, § 10.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**PART III. SEPARATE ACCOUNTS**

Any domestic life insurance company may establish one or more separate accounts, and may allocate to such separate account or accounts, in accordance with the terms of a written agreement, any amounts paid to the company in connection with a pension, retirement or profit sharing plan which are to be applied to provide benefits payable in fixed or variable dollar amounts, subject to the following conditions and limitations:

(a) The amounts allocated to each such account and accumulations thereon may be invested and reinvested in any class of investments which may be authorized in the written agreement without regard to any requirements or limitations prescribed by this Chapter Three of the

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Insurance Code or by any other laws of this state governing the investments of domestic life insurance companies; provided, that to the extent that the company's reserve liability with regard to (1) benefits guaranteed as to amount and duration, and (2) funds guaranteed as to principal amount or stated rate of interest is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be invested in accordance with the laws of this state governing the investments of domestic life insurance companies. The investments in such separate accounts shall not be taken into account in applying the investment limitations applicable to other investments of the company.

(b) The income, if any, and gains and losses, realized or unrealized on each account shall be credited to or charged against the amounts allocated to the account in accordance with the written agreement, without regard to other income, gains or losses of the company.

(c) Assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then in accordance with the terms of the applicable written agreement; provided, that the portion of the assets of such separate account at least equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in Subsection (a) hereof, if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

(d) Amounts allocated to a separate account in the exercise of the power granted by this section shall be owned by the company and the company shall not be, or hold itself out to be, a trustee with respect to such amounts.

(e) No investment shall be transferred between separate accounts or between separate and other accounts, unless the State Board of Insurance shall authorize such transfer in circumstances where such transfer would not be inequitable.

(f) If the agreement provides for payment of benefits in variable amounts, any contract delivered, issued or used in this state providing for such variable benefits shall be a group annuity contract. Such contract shall:

(1) Contain an undertaking by the insurance company to provide, to the extent of the interest in such separate account of the employer and of the covered employees, for the future issue of annuities payable to covered employees on or after their retirement, whether such annuities are payable only in variable dollar amounts or in both variable and fixed dollar amounts; and

(2) Be made in connection with a plan (other than one covering employees some or all of whom are employees within the meaning of Section 401(c) (1), as it now exists or may hereafter be amended, of the Internal Revenue Code) which meets the requirements for qualifications under Section 401, as it now exists or may hereafter be amended, of the Internal Revenue Code or the requirements for deduction of the employers' contributions under Section 404(a) (2), as it now exists or may hereafter be amended, of said Code whether or not the employer deducts the amount paid for the contract under such section; and

(3) Prohibit the allocation to the separate account of any payment or contribution made by the employee; and

(4) Cover at least twenty-five employees at the time of its execution; and

(5) Contain a statement of the essential features of the procedure to be followed by the company in determining the dollar amount of such variable benefits; and

(6) State that such dollar amount may decrease or increase, and contain on its first page, in a prominent position, a statement that the benefits thereunder are on a variable basis, and this requirement shall apply also to any certificate issued under any such contract.

(g) No domestic life insurance company, and no foreign life insurance company admitted to transact business in this state, shall be authorized to deliver, issue or use within this state any group annuity contract providing benefits in variable amounts until said company has satisfied the State Board of Insurance that its condition or methods of operation in connection with the issuance of such contracts will not be such as would render its operation hazardous to the public or its policyholders in this state. In determining the qualification of a company requesting authority to deliver such contracts within this state, the State Board of Insurance shall consider, among other things,

(1) The history and financial condition of the company;

(2) The character, responsibility and general fitness of the officers and directors of the company; and

(3) In the case of a foreign company whether the regulation provided by the state, province or country of its domicile provides a degree of protection to policyholders and the public which is substantially equal to that provided by this section and the rules and regulations issued thereunder.

(h) Nothing contained in this Part III of Article 3.39 of the Insurance Code shall be deemed to authorize the delivery, issue or use in this state of any annuity contract providing benefits in variable amounts other than the group annuity contracts meeting the requirements of paragraph (f) of this Part III of Article 3.39, and the reserve liability for such group annuity contracts shall be established by the State Board of Insurance pursuant to the requirements of the Standard Valuation Law in accordance with actuarial procedures that recognize the variable nature of the benefits provided.

(i) Notwithstanding any other provision of law, the State Board of Insurance shall have sole authority to issue such reasonable rules and regulations as may be necessary to carry out the purposes and provisions of this Part III of Article 3.39 of the Insurance Code.

(j) Nothing herein shall be construed or applied so as to authorize any life insurance company to invest any of its funds or accumulations in real property unless authorized to do so by this Act or some other existing law of the State of Texas. Added Acts 1965, 59th Leg., p. 375, ch. 181.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### SUBCHAPTER E. GROUP INDUSTRIAL AND CREDIT INSURANCE

##### Art. 3.50. Group Life Insurance

**Sec. 1. Definitions.** No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

(1) A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof



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determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract, or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees.

(b) The premium for the policy shall be paid by the policyholder, either wholly from the employer's fund or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five percent (75%) of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at least ten (10) employees at date of issue.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees. No policy may be issued which provides insurance on any employee which together with any other insurance under any group life insurance policies issued to the employer or to the trustees of a fund established by the employer exceeds Twenty Thousand Dollars (\$20,000.00), unless one hundred fifty percent (150%) of the annual compensation of such employee from his employer or employers exceeds Twenty Thousand Dollars (\$20,000.00), in which event all such term insurance shall not exceed Forty Thousand Dollars (\$40,000.00), or one hundred fifty percent (150%) of such annual compensation, whichever is the lesser, except that this limitation shall not apply to group insurance on other than the term plan where such insurance is to be used to fund the benefits under a pension plan and the amount of such insurance does not exceed that required to provide at normal retirement date the pension specified by the plan, and except that a group policy which is issued by the same or another carrier to replace another group policy may provide term insurance not to exceed the amounts provided by the policy which it replaces, or the amounts provided above, whichever are greater.

(2) A policy issued to a labor union, which shall be deemed the employer and policyholder, to insure the members of such union who are actively engaged in the same occupation and who shall be deemed to be the employees of such union within the meaning of this Article.

(3) A policy issued to any association of employees of the United States Government or any subdivision thereof, provided the majority of the members of such association are residents of this state, an incorporated city, town or village, an independent school district, common school district, state colleges or universities, any association of state employees, any association of state, county and city, town or village employees, and any association of any combination of state, county or city, town or village employees and any department of the state government which employer or association shall be deemed the policyholder to insure the employees of any such incorporated city, town or village,

of any such independent school district, of any common school district, of any such state college and university, of any such department of the state government, members of any association of state, county or city, town or village or of the United States Government or any subdivision thereof, provided the majority of such employees reside in this state, employees for the benefit of persons other than the policyholder subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer or all of any class or classes thereof determined by conditions pertaining to their employment.

(b) The premium for the policy shall be paid by the policyholder wholly from funds contributed by the insured employees, provided, however, that any moneys or credits received by or allowed to the policyholder pursuant to any participation agreement contained in or issued in connection with the policy shall be applied to the payment of future premiums and to the pro rata abatement of the insured employees contributions therefor; and provided further, that the employer may deduct from the employees salaries the required contributions for the premiums when authorized in writing by the respective employees so to do; and provided further, the premium for the policy may be paid by the policyholder wholly or partly from funds contributed by any incorporated city, town or village policyholder when authorized by the charter of such city, town or village, or by any independent school district in counties having a population of over one hundred fifty thousand (150,000) according to the most recent United States Government census. Such policy may be placed in force only if at least seventy-five percent (75%) of the eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required premium contributions and become insured thereunder.

(c) The policy must cover at least ten (10) employees at date of issue.

(4) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

(a) The debtors eligible for insurance under the policy shall all be members of a group of persons numbering not less than fifty (50) at all times, who became borrowers, or purchasers of securities, merchandise or other property under agreement to repay the sum borrowed or to pay the balance of the price of the securities, merchandise or other property, purchased to the extent of their respective indebtedness, or the face amount of any loan or loan commitment, totally or partially executed, made to a debtor with seasonal income by a creditor in good faith for general agricultural or horticultural purposes, secured or unsecured, where the debtor becomes personally liable for the payment of such loan, but not to exceed Ten Thousand Dollars (\$10,000.00) on any one life.

(b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or both.

(c) The insurance issued shall not include annuities or endowment insurance.

(d) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment; provided that in the case of a debtor with seasonal income, under a loan or loan commitment for general agricultural or horticultural purposes of the type described in paragraph (a), the insurance in excess of the indebtedness to the creditor, if any shall be payable to the estate of the debtor or under the provision of a facility of payment clause.

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(5) A policy issued to the trustees of a fund established by two or more employers in the same industry or by one or more labor unions, or to the trustees of a fund established by one or more employers in the same industry and one or more labor unions, or by one or more employers and one or more labor unions whose members are in the same or related occupations or trades, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the union, subject to the following requirements:

(a) The persons eligible for insurance shall be all of the employees of the employers and the employees of the trade association of such employers or all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(b) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or, partly from such funds and partly from funds contributed by the insured persons, except that in no event shall the contribution by an insured person toward the cost of his insurance exceed forty cents per thousand per month. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy-five percent (75%) of the then eligible persons of each participating employer unit, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at date of issue at least one hundred (100) persons; unless the policy is issued to the trustees of a fund established by employers which have assumed obligations through a collective bargaining agreement and are participating in the fund either pursuant to those obligations with regard to one or more classes of their employees which are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of their employees, or unless the policy is issued to the trustees of a fund established by one or more labor unions.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder or employer. No policy may be issued which provides term insurance on any person which together with any other term insurance under any group life insurance policy or policies issued to trustees or employers exceeds Twenty Thousand Dollars (\$20,000.00), unless one hundred fifty percent (150%) of the annual compensation of such person from his employer or employers exceeds Twenty Thousand Dollars (\$20,000.00), in which event all such term insurance shall not

exceed Forty Thousand Dollars (\$40,000.00) or one hundred fifty percent (150%) of such annual compensation, whichever is the lesser.

(e) The limitation as to amount of group insurance on any person shall not apply to group insurance on other than the term plan where such insurance is to be used to fund the benefits under a pension plan and the amount of such insurance does not exceed that required to provide at normal retirement date the pension specified by the plan, and except that a group policy which is issued by the same or another carrier to replace another group policy may provide term insurance not to exceed the amount provided by the policy which it replaces, or the amounts provided above whichever is greater.

(f) No policy may be issued (i) to insure employees of any employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer being a commercial correspondent or business client or patron of another employer (regardless of whether such other employer is or is not participating in the fund); or (ii) to insure employees of any employer which is not located in this state, unless the majority of the employers whose employees are to be insured are located in this state, or unless the policy is issued to the trustees of a fund established by one or more labor unions.

(6) No policy of wholesale, franchise or employee life insurance, as hereinafter defined, shall be issued or delivered in this state unless it conforms to the following requirements:

(a) Wholesale, franchise or employee life insurance is hereby defined as: a term life insurance plan under which a number of individual term life insurance policies are issued at special rates to a selected group. A special rate is any rate lower than the rate shown in the issuing insurance company's manual for individually issued policies of the same type and to insureds of the same class.

(b) Wholesale, franchise or employee life insurance may be issued to (1) the employees of a common employer or employers, covering at date of issue not less than five employees; or (2) the members of a labor union or unions covering at date of issue not less than five members; or (3) the members of a credit union or credit unions covering at date of issue not less than five (5) members.

(c) The premium for the policy shall be paid either wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions or by both, or partly from such funds and partly from funds contributed by the insured person, except that in no event shall the contribution by an insured person toward the cost of his insurance exceed forty cents per thousand per month.

(d) No policy may be issued on a wholesale, franchise or employee life insurance basis which, together with any other term life insurance policy or policies issued on a wholesale, franchise, employee life insurance or group basis, provides term life insurance coverage for an amount in excess of Twenty Thousand Dollars (\$20,000.00) unless one hundred fifty percent (150%) of the annual compensation of such person from his employer or employers exceeds Twenty Thousand Dollars (\$20,000.00), in which event all such term insurance shall not exceed Forty Thousand Dollars (\$40,000.00), or one hundred fifty percent (150%) of such annual compensation, whichever is the lesser. An individual application shall be taken for each such policy and the insurer shall be entitled to rely upon the applicant's statements as to applicant's other similar coverage upon his life.

(e) Each such policy of insurance shall contain a provision substantially as follows:

A provision that if the insurance on an insured person ceases because of termination of employment or of membership in the union, such person

For Annotations and Historical Notes, see V.A.T.S.

shall be entitled to have issued to him by the insurer, without evidence of insurability an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one (31) days after such termination.

(f) Each such policy may contain any provision substantially as follows:

(1) A provision that the policy is renewable at the option of the insurer only;

(2) A provision for termination of coverage by the insurer upon termination of employment by the insured employee;

(3) A provision requiring a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as condition to coverage.

(g) The limitation as to amount of group and wholesale, franchise or employee life insurance on any person shall not apply to group insurance on other than the term plan where such insurance is to be used to fund benefits under a pension plan and the amount of such insurance does not exceed that required to provide at normal retirement date the pension specified by the plan, and except that a group policy which is issued by the same or another carrier to replace another group policy may provide term insurance not to exceed the amounts provided by the policy which it replaces, or the amounts provided above, whichever are greater.

(h) Nothing contained in this Subsection (6) shall in any manner alter, impair or invalidate (1) any policy heretofore issued prior to the effective date of this Act; nor (2) any such plan heretofore placed in force and effect provided such prior plan was at date of issue legal and valid; nor (3) any policy issued on a salary savings franchise plan, bank deduction plan, pre-authorized check plan or similar plan of premium collection.

(7) A policy issued to the Veterans Land Board of the State of Texas, who shall be deemed the policyholder to insure persons purchasing land under the Texas Veterans Land Program as provided in Section 16(B) of Article 5421m, Vernon's Texas Civil Statutes (Chapter 318, Acts of the 51st Legislature, Regular Session, 1949, as amended). As amended Acts 1962, 57th Leg., 3rd C.S., p. 134, ch. 45, § 2.

#### Art. 3.50—1. Guaranteeing issuance of policy without evidence of insurability

No provision in the Insurance Code shall be construed to prohibit a life insurance company authorized to do business in this state from guaranteeing to issue individual life insurance policies insuring participants in a qualified pension or profit-sharing plan on other than the term plan without evidence of insurability. The term "qualified pension or profit-sharing plan" means a plan meeting the requirements of Sections 401 or 403 of the United States Internal Revenue Code as now or hereafter amended, or any corresponding provisions of prior or subsequent United States revenue laws. Acts 1951, 52nd Leg., p. 868, ch. 491, art. 3.50—1 added Acts 1965, 59th Leg., p. 563, ch. 286, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Acts 1965, 59th Leg., p. 563, ch. 286, § 2 repealed all conflicting laws and parts of laws.

## SUBCHAPTER G. ACCIDENT AND SICKNESS INSURANCE

## Art. 3.70—2. Form of policy

(A) No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless:

(1) the entire money and other consideration therefor are expressed therein or in the application, if it is made a part of the policy; and

(2) the time at which the insurance takes effect and terminates is expressed therein; and

(3) it purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policy holder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed twenty-five years, and any other person dependent upon the policy holder; and

(4) the style, arrangement and over-all appearance of the policy gives no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers (except copies of applications and identification cards) are plainly printed in lightfaced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lower-case unspaced alphabet length not less than one hundred and twenty-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions); and

(5) the exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in Section 3 of this Act, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions" or "Exceptions and Reductions"; provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

(6) each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(7) it contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or shortrate table filed with the Board.

(8) it shall have printed thereon or attached thereto a notice stating in substance that the person to whom the policy is issued shall be permitted to return the policy within ten (10) days of its delivery to such person and to have the premium paid refunded if, after examination of the policy, such person is not satisfied with it for any reason. If such person pursuant to such notice, returns the policy to the insurer at its home or branch office or to the agent through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued. This subdivision shall not apply to single premium non-renewable policies. As amended Acts 1965, 59th Leg., p. 329, ch. 154, § 1, eff. Jan. 1, 1966.

Section 2 of the amendatory act of 1965 provided that the act should take effect on January 1, 1966.

**Art. 3.71. Texas 65 Health Insurance Plans**

Section 1. Notwithstanding any contrary or inconsistent provision of any law, two or more insurance companies authorized to separately do such an insurance business in this state, including stock companies, reciprocals, or inter-insurance exchanges, Lloyds' associations, fraternal benefit societies and mutual companies of all kinds, including state-wide mutual assessment corporations and local mutual aid associations, and stipulated premium companies, may join together to offer, sell and administer hospital, surgical and medical expense insurance plans under a group policy covering residents of this state who are sixty-five (65) years of age and older and their spouses on which policy each insurance carrier shall be severally liable, and such companies may agree with respect to premium rates, policy provisions, sales, administrative, technical and accounting procedures and other matters within the scope of this Article. Such companies may issue such insurance policies in their own names or in the name of an unincorporated association, trust, or other organization formed for the sole purposes of this Article and evidenced by a contract in writing executed by the participating insurance companies, and any unincorporated associations, trusts, or other organizations heretofore formed for the sole purpose of this Article and evidenced by a contract in writing executed by the participating insurance companies is hereby ratified, confirmed and approved and validated from the date of its formation. Any such policy may be executed on behalf of the insurance companies by a duly authorized person and need not be countersigned on behalf of any such company by a resident agent. Any person who is licensed as a life insurance agent or as a local recording agent or as a solicitor under the provisions of Articles 21.07, 21.07-1, or Article 21.14 of the Insurance Code of the State of Texas, may act as such agent in connection with policies of insurance or certificates of insurance issued by any unincorporated association, trust or other organization formed for the sole purposes of this Article without the necessity of notifying the State Board of Insurance that such person is appointed to so act. As amended Acts 1965, 59th Leg., p. 490, ch. 252, § 1, emerg. eff. May 24, 1965.

**CHAPTER FOUR—TAXES AND FEES**

<p>Art. 4.09 Fees for the privilege of writing credit life insurance or credit accident and health insurance or both credit</p>	<p>life insurance and credit accident and health insurance [New].</p>
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**Art. 4.07. Fees of state board of insurance**

The State Board of Insurance shall charge and receive for the use of the State the following fees:

- For filing each declaration or certified copy of charter of an insurance company ..... \$25.00
- For filing the annual statement of an insurance company, or certificate in lieu thereof ..... \$20.00
- For certificate of authority and certified copy thereof ..... \$ 1.00
- For affixing the official seal and certifying to the same ..... \$ 1.00
- For valuing policies of life insurance, and for each one million of insurance or fraction thereof ..... \$10.00

The State Board of Insurance shall set and collect a sales charge for making copies of any paper of record in the Department of Insurance; such charge to be in an amount deemed sufficient to reimburse the State for the actual expense; provided, however, that the State Board of Insurance may make and distribute copies of papers containing rating information

without charge or for such charge as the Board shall deem appropriate to administer the premium rating laws by properly disseminating such rating information; and provided further that Article 5.29, Texas Insurance Code, shall remain in full force and effect without amendment.

All fees collected by virtue of this Article shall be deposited in the State Treasury and appropriated to the use and benefit of the State Board of Insurance to be used in the payment of salaries and other expenses arising out of and in connection with the examination of insurance companies and/or the licensing of insurance companies and investigations of violations of the insurance laws of this State in such manner as provided in the general appropriation bill. As amended Acts 1965, 59th Leg., p. 1260, ch. 578, § 1, emerg. eff. June 17, 1965.

**Art. 4.09. Fees for the privilege of writing credit life insurance or credit accident and health insurance or both credit life insurance and credit accident and health insurance**

Section 1. The State of Texas shall assess and collect from each credit insurer writing in Texas credit life insurance or credit accident and health insurance or both credit life insurance and credit accident and health insurance, as defined in Article 3.53 of the Insurance Code, an annual fee for such privilege of Five Hundred Dollars (\$500), which shall be independent of and in addition to all other fees and taxes now imposed, or which may hereafter be imposed by law. Such fee shall be for the privilege of doing business from January 1 through December 31, and shall be due and payable at the time the insurer first engages during each calendar year in the writing of such credit insurance. The fee shall be for the privilege of writing such credit insurance for the remainder of the calendar year in which the fee becomes payable, and the amount of the fee shall not be reduced even though the privilege does not cover a full calendar year.

Sec. 2. All fees collected by virtue of this Article shall be deposited in the State Treasury and appropriated to the use and benefit of the State Board of Insurance to be used in the payment of salaries and other expenses arising out of and in connection with the examination of insurance companies and/or the licensing of insurance companies and investigations of violations of the insurance laws of this State. Acts 1951, 52nd Leg., p. 868, ch. 491, art. 4.09 added Acts 1965, 59th Leg., p. 1035, ch. 512, § 1, emerg. eff. June 16, 1965.

## CHAPTER SIX—FIRE AND MARINE COMPANIES

**Art. 6.12. Details of annual statement**

Such annual statement shall exhibit the following items and facts:

1. The name of the company and where located.
2. The names and residence of the officers.
3. The amount of the capital stock of the company.
4. The amount of capital stock paid up.
5. The property or assets held by the company, viz: the real estate owned by such company, its location, description and value as near as may be, and if said company be one organized under the laws of this State, shall accompany such statement with an abstract of the title to the same; the amount of cash on hand and deposited in banks to the credit of the company, and in what bank or banks the same is deposited; the amount of cash in the hands of agents, naming such agents; the amount of cash in course of transmission; the amount of loans secured by first mortgages on real estate, with the rate of interest thereon, specifying the lo-



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cation of such real estate, its value and the name of the mortgagor; the amount of all bonds and other loans, with the rate of interest thereon and how secured; the amount due the company in which judgments have been obtained, describing such judgments; the amount of any stock owned by the company, describing the same and specifying the amount and number of shares, and the par and market value of each kind of stock; the amount of stock held by such company as collateral security for loans, with amount loaned on each kind of stock, its par and market value; the amount of interest actually due to the company and unpaid; all other securities, their description and value; the value of all electronic machines, constituting a data processing system or systems, and all other office equipment, furniture, machines and labor-saving devices heretofore or hereafter purchased for and used in connection with the business of an insurance company to the extent that the total actual cash market value of all of such systems, equipment, furniture, machines and devices constitute less than five per cent (5%) of the otherwise admitted assets of such company; and provided further, that the total value of all such property of a company must exceed Two Thousand Dollars (\$2,000), to qualify hereunder. The Commissioner of Insurance may adopt regulations defining electronic machines and systems, office equipment, furniture, machines and labor-saving devices as used herein, and provide for the maximum period for which each such class of equipment may be amortized; the value of all such property as determined hereunder and under the regulations herein provided for shall be deemed to be an admitted asset for all purposes.

6. The liabilities of such company, specifying the losses adjusted and due; losses adjusted and not due; losses unadjusted; losses in suspense and the cause thereof; losses resisted and in litigation; dividends, either in scrip or cash, specifying the amount of each declared but not due; dividends declared and due; the amount required as the lawful reserve on all unexpired risks computed in the manner provided elsewhere in this Code; the amount due banks or other creditors, naming such banks or other creditors and the amount due to each; the amount of money borrowed by the company, of whom borrowed, the rate of interest thereon and how secured; all other claims against the company, describing the same.

7. The income of the company during the preceding year, stating the amount received for premiums, specifying separately fire, marine and inland transportation premiums, deducting reinsurance; the amount received for interest, and from all other sources.

8. The expenditures during the preceding year, specifying the amount of losses paid during said term, stating how much of the same accrued prior, and how much subsequent, to the date of the preceding statement, and the amount at which losses were estimated in such preceding statement; the amount paid for dividends; the amount paid for return premiums, commissions, salaries, expenses, and other charges of officers, agents, clerks, and other employees; the amount paid for local, state, national, internal revenue and other taxes and duties; the amount paid for all other expenses, such as fees, printing, stationery, rents, furniture, etc.

9. The largest amount insured in any one (1) risk, naming the risk.

10. The amount of risks written during the preceding year.

11. The amount of risks in force having less than one (1) year to run.

12. The amount of risks in force having more than one (1) and not over three (3) years to run.

13. The amount of risks having more than three (3) years to run.

14. Whether or not dividends are declared on premiums received for risks not terminated. As amended Acts 1965, 59th Leg., p. 1615, ch. 691, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 2 of the amendatory act of 1965 amended article 8.07.

## CHAPTER EIGHT—GENERAL CASUALTY COMPANIES

### Art. 8.07. Annual statement

The president, vice president and secretary or a majority of directors or trustees of any such company shall annually, on the first day of January or within sixty (60) days thereafter, prepare and deposit in the office of the Board a verified statement of the condition of such company on the 31st day of December of the preceding year, showing:

1. Name and where located, (a) names of officers, (b) the amount of capital stock, (c) the amount of capital stock paid in.

2. Assets, (a) the value of real estate owned by said company, (b) the amount of cash on hand, (c) the amount of cash deposited in bank or trust company, (d) the amount of bonds of the United States, and all other bonds, giving names and amounts with par and market values of each kind, (e) the amount of loans secured by first mortgage on real estate, (f) the amount of all other bonds, loans and how secured, with rate of interest, (g) the amount of notes given for unpaid stock and how secured, (h) the amount of interest due and unpaid, (i) the value of all electronic machines, constituting a data processing system or systems, and all other office equipment, furniture, machines and labor-saving devices heretofore or hereafter purchased for and used in connection with the business of an insurance company to the extent that the total actual cash market value of all of such systems, equipment, furniture, machines and devices constitute less than five per cent (5%) of the otherwise admitted assets of such company; and provided further, that the total value of all such property of a company must exceed Two Thousand Dollars (\$2,000), to qualify hereunder, (j) all other credits or assets. The Commissioner of Insurance may adopt regulations defining electronic machines and systems, office equipment, furniture, machines and labor-saving devices as used in (i) above, and provide for the maximum period for which each such class of equipment may be amortized; the value of all such property as determined hereunder and under the regulations herein provided for shall be deemed to be an admitted asset for all purposes.

3. Liabilities, (a) the amount of losses due and unpaid, (b) the amount of claims for losses unadjusted, (c) the amount of claims for losses resisted.

4. Income during the year, (a) the amount of fees received during the year, (b) the amount of interest received from all sources, (c) the amount of receipts from all other sources.

5. Expenditures during the year, (a) the amount paid for losses, (b) the amount of dividends paid to stockholders, (c) the amount of commissions and salaries paid to agents, (d) the amount paid to officers for salaries, (e) the amount paid for taxes, (f) the amount of all other payments or expenditures.

6. Miscellaneous, (a) the amount paid in fees during the year, (b) the amount paid for losses during the year, (c) the whole amount of insurance issued and in force on the 31st day of December of the previous year. As amended Acts 1965, 59th Leg., p. 1615, ch. 691, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 1 of the amendatory act of 1965 amended art. 6.12.

## CHAPTER TEN—FRATERNAL BENEFIT SOCIETIES

## Art. 10.19. Qualification

Hereafter, only such corporation, society, order of voluntary association, having not less than five hundred (500) members and ten (10) subordinate lodges, without capital stock organized and carried on solely for the mutual benefit of its members, and not for profit, and having a lodge system and representative form of government, or which limits its membership to a secret fraternity having a lodge system and representative form of government, may, provided that it has been in continuous operation for a period of not less than five (5) years immediately preceding the filing of its articles of incorporation or association as hereinafter provided, qualify as a Fraternal Benefit Society as defined in Article 10.01 for the purpose of providing for the payment of benefits as provided in Article 10.05, by filing with the Board duly certified articles of incorporation or association. Such articles shall set out:

1. The name of the society, which shall not so closely resemble the name of any society or insurance company already transacting business in this state as to mislead the public or lead to confusion.

2. The purpose for which it is formed, which shall not include more liberal powers than are granted by this Chapter. Any lawful, social, intellectual, educational, charitable, benevolent, moral or religious advantages may be set forth among the purposes of the society, and the mode in which its corporate powers are to be exercised.

Such articles of incorporation or association and duly certified copies of the Constitution and laws, rules and regulations, and copies of all proposed forms of benefit certificates, applications therefor and circulars to be issued by such society, and a bond in the sum of Five Thousand Dollars (\$5,000.00), with sureties approved by the State Board of Insurance, conditioned upon the return of the advance payments, as provided in this article, to applicants, if the organization fails to qualify within one (1) year, shall be filed with such Board who may require such further information as it deems necessary, and if the purposes of the society conform to the requirements of this law, and all provisions of law have been complied with, said Board shall so certify and retain and record or file the articles of incorporation or association and furnish the incorporators a preliminary certificate authorizing said society to solicit from its members applications for insurance benefits as hereinafter provided.

Upon receipt of said certificate from the State Board of Insurance, said society may solicit from its members applications for insurance benefits for the purpose of completing its qualification and shall collect from each applicant the amount of not less than one (1) regular monthly payment, in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No such society shall incur any liability other than for such advanced payments, nor issue any benefit certificate nor pay or allow, or offer or promise to pay or allow, to any person any death or disability benefit until actual bona fide applications for death benefit certificates have been secured upon at least five hundred (500) lives for at least One Thousand Dollars (\$1,000.00) each, and all such applicants for death benefits shall have been regularly examined by legally qualified practicing physicians, and certificates of such examination have been duly filed and approved by the chief medical examiner of such society; nor until there shall be established ten (10) subordinate lodges or branches into which said five hundred (500) applicants have been initiated; nor until there has been submitted to said Board, under oath of the president and

secretary or corresponding officers of such society, a list of such applicants, giving their names, addresses, date examined, date approved, date initiated, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted, rate of stated periodical contributions, which shall be sufficient to provide for meeting the mortuary obligation contracted, when valued for death benefits upon the basis of the National Fraternal Congress Table of Mortality, as adopted by the National Fraternal Congress, August 23, 1899, or any higher standard, at the option of the society, and for disability benefits by tables based upon reliable experience and for combined death and permanent total disability benefits by tables based upon reliable experience, with an interest assumption not higher than four per cent (4%) per annum; nor until it shall be shown to the Board by the sworn statement of the treasurer or corresponding officer of such society, that at least five hundred (500) applicants have each paid in cash at least one (1) regular monthly payment as herein provided per One Thousand Dollars (\$1,000.00) of indemnity to be effected, which payments in the aggregate shall amount to at least Twenty-Five Hundred Dollars (\$2,500.00); all of which shall be credited to the mortuary or disability fund on account of such applicants and no part of which may be used for expenses.

Said advanced payments shall, during the period of completing qualification, be held in trust, and if such qualification is not completed within one (1) year as hereinafter provided, returned to said applicants.

The Board may make such examination and require such further information as it deems advisable; and upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the Board shall issue to such society a certificate to that effect. Such certificate shall be prima facie evidence of the qualification of such society at the date of such certificate. The Board shall cause a record of such certificate to be made and a certified copy of such record may be given in evidence with like effect as the original certificate.

Unless the five hundred (500) applicants herein required have been secured and the organization has qualified as a fraternal benefit society as herein provided, the preliminary certificate granted under the provisions of this article shall be null and void after one (1) year from its date, or after such further period, not exceeding one (1) year, as may be authorized by the State Board of Insurance upon cause shown.

Provided, however, that this Article shall not apply to societies specifically exempted from the provisions of Chapter 10 of the Insurance Code and provided further, that the above provisions of this article shall not apply to Fraternal Benefit Societies authorized to transact business in this state on June 1, 1965, so long as their licenses or renewals or extensions thereof continue in force. The following provisions of this article shall apply to such Fraternal Benefit Societies authorized to transact business in this state on June 1, 1965.

When any domestic society shall have discontinued business for the period of one (1) year, or has less than four hundred (400) members holding benefit certificates, its permanent certificate shall become null and void. Every such society shall have the power to make a constitution and bylaws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjusting of the rates of contribution of its members from time to time; and it shall have the power to change, alter, add to, or amend such constitution and bylaws and shall have such other powers as are necessary and incidental to carrying into effect its object and purposes. As amended Acts 1965, 59th Leg., p. 1188, ch. 551, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER ELEVEN—MUTUAL LIFE INSURANCE COMPANIES

## Art. 11.04. Annual and Special Meetings of Policyholders

There shall be an annual meeting of all the policyholders of each mutual life insurance company at the home office of such company or at such other place as may be properly announced to the policyholders, on the fourth Tuesday in April after it shall have received a certificate of authority to transact the business of life insurance, and annually thereafter, at which the directors shall be elected for the succeeding year, and at which bylaws for the government of the company, not inconsistent with the provisions of this Chapter or with the laws of this state may be adopted, and at which the existing bylaws may be repealed or amended. Provided, however, the bylaws of the company may set an annual meeting date on any day prior to April 30 in each year; and provided further, that when the Board of Directors shall consist of nine or more members, in lieu of electing the whole number of directors annually, the bylaws may provide that the directors be divided into either two or three classes, each class to be as nearly equal in number as possible, the terms of office of directors of the first class to expire at the first annual meeting of policyholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there be two classes, or until the third succeeding annual meeting, if there be three classes. No classification of directors shall be effective prior to the first annual meeting of policyholders. At an annual or special meeting, each policyholder shall be entitled to one vote for each Five Hundred Dollars (\$500.00) of insurance held by him. Any policyholder may execute his proxy authorizing and entitling the holder to exercise his voting powers, unless such proxy shall be revoked previous to such annual or special meeting. As amended Acts 1965, 59th Leg., p. 273, ch. 114, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## Art. 11.07. Examination

All of the provisions of Article 1.15 and Article 1.16 relative to the examination of companies shall apply to companies formed under this Chapter. As amended Acts 1965, 59th Leg., p. 309, ch. 141, § 1a.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER FOURTEEN—GENERAL PROVISIONS FOR MUTUAL ASSESSMENT COMPANIES

## Art. 14.15. Annual statement; certificate of authority; reserves; permissive deficiency reserve

## Annual statement; certificate of authority

Section 1. On or before the 1st day of April of each year, each association or company operating under the provisions of this Chapter shall file with the State Board of Insurance a complete and full sworn statement of its condition on the 31st day of December next preceding. Such statement shall exhibit all real and contingent assets, and all lia-

bilities and an account of income and disbursements to and from the mortuary and expense funds during the year, and on forms which the State Board of Insurance shall furnish for the making of such annual statements. Upon examination of said annual statement, the State Board of Insurance shall, if such report shows that the company or association is in all things complying with the requirements of law, issue such company or association a certificate of authority to transact its business in this State for the year next succeeding the filing of said report, or continue its certificate of authority in force as is provided in Article 1.14 of this Insurance Code.

#### Method of calculating reserves

Sec. 2. In the manner as in this Article is hereinafter provided, each company or association regulated by the provisions of this Chapter, except assessment-as-needed associations or companies, shall in each year, commencing as of December 31, 1965, compute or cause to be computed its reserve liability on all outstanding and in force policies of insurance. In making such computation each company or association is authorized to use group methods and approximate averages for fractions of a year or otherwise. Such reserve liability shall be computed upon the net premium basis in accordance with the reserve table and interest rate adopted by such company or association and approved by the State Board of Insurance and such reserve liability may be calculated on not more than a one year preliminary term basis with allowance for the permissive deficiency reserve provided for in this Chapter 14. Such reserves shall be calculated and determined as follows:

(a) (1) Each individual life policy insuring one or more persons at individual premiums for each such person shall be reserved and each company or association regulated by the provisions of this Chapter shall maintain reserves on such individual life policies in accordance with any reserve standards adopted by such company or association and approved by the State Board of Insurance, provided such reserves are at least equal in the aggregate to reserves based on the 1956 Chamberlain Reserve Table with interest not to exceed three and one half per cent (3½%) per annum. Any company or association is hereby authorized to use the 1956 Chamberlain Reserve Table with interest not to exceed three and one half per cent (3½%) per annum.

(2) Family group life policies upon which a group premium is charged, and which premium is not reduced upon the death of any insured, shall be reserved and each company or association shall maintain reserves on such family group policies in any one of the following methods of calculation as may be selected by such company or association:

(i) The reserves shall be equal to the reserves which would be required in accordance with the provisions of this Article on individual life policies on the lives of the then living two oldest members of each such family group; the amount of insurance for such two members shall be based on the assumption that the elder of such two members will be the first to die; or

(ii) The reserves shall be equal to the reserves which would be required, in accordance with the provisions of this Article, on individual life policies, on the lives of the then living members of such family group; the amount of insurance for each such member of the family group shall be based on the assumption that each such member will be the first to die; or

(iii) Any table or any method of calculating reserves as shall be approved in advance by the State Board of Insurance.

(3) As is applicable to all life policies (individual and family group) in force on December 31, 1965, or upon which a rate increase is effected

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after December 31, 1965, life reserves (individual and family group) may be determined as follows: (i) the issue year shall be the last calendar year for which the gross premium on the reserve table and interest rate adopted by the company or association at the attained age in that calendar year is equal to or less than the premium rate charged by the company or association on such policy so reserved, and (ii) the issue age shall be the attained age in the calendar year just defined.

Gross premium as herein used shall mean the renewal net premium plus such expense loading as shall be designated by the company or association or as shall otherwise be regulated by the provisions of this Chapter 14.

(b) All health, accident, hospitalization and sickness insurance shall be reserved by the company or association and such company or association shall maintain reserves on such insurance in the same manner as is required by a company writing such coverage under the provisions of Chapter 22 of this Insurance Code, as amended.

#### Reserve liability, computation

Sec. 3. The State Board of Insurance, as soon as practical, in each year, shall compute or cause to be computed the reserve liability of each company or association regulated by the provisions of this Chapter 14. In making such computation the said Board may use group methods and approximate averages for fractions of a year or otherwise.

#### Permissive deficiency reserve, reduction of permissive deficiency reserve

Sec. 4. (a) As of December 31, 1965, each such company or association regulated by the provisions of this Chapter shall so calculate the amount of the required reserves as aforeprovided in this Article, and shall also determine the amount of the net assets (net assets being the gross amount of such mortuary fund assets at such date, but less any liabilities of said fund, exclusive of reserves) of its mortuary or claim fund, or by whatever name said fund may be designated. In the event the net assets of the mortuary fund are insufficient to equal the amount of the required reserves as in this Article provided, the difference shall be designated and carried as a permissive deficiency reserve.

(b) In the event any company or association shall, as of December 31, 1965, possess a permissive deficiency reserve, it shall not later than July 1, 1966: (1) file an application with the State Board of Insurance seeking approval of a rate increase whereby such rate increase shall be accomplished by charging a premium based upon the advancement of ages of such insureds, from age at issue date, or such ages so previously advanced, in order to totally eliminate such permissive deficiency reserve or to partially eliminate such permissive deficiency reserve in connection with a plan to cure such permissive deficiency reserve; or (2) file an application with the State Board of Insurance for approval of a plan whereby such permissive deficiency reserve will be eliminated over a period of time not to exceed eighteen (18) years. Such plan shall reasonably demonstrate the anticipated ability of the company or association to correct such permissive deficiency reserve during such period of time. Such plan may include any reasonable method, procedure or financial arrangement in order to accomplish the required reduction of the permissive deficiency reserve over such period of eighteen (18) years. Provided said plan is found to reasonably demonstrate the ability of the company or association during such period of time to eliminate such permissive deficiency reserve, then such permissive deficiency reserve shall be allowed without creating the insolvency of the company or association, but the company or association shall reduce said permissive deficiency reserve so determined by at least  $\frac{1}{18}$ th thereof during each calendar year there-

after, commencing as of December 31, 1966, so that as of December 31, 1983, the permissive deficiency reserve will be fully paid and satisfied, provided, however, that such required reduction in the permissive deficiency reserve shall never exceed the cumulative aggregate amount of  $\frac{1}{8}$ th per annum.

In the event that such plan be not finally approved, such company or association shall increase rates as provided in Section 4, Paragraph (b) (1) of this Article.

(c) Each company or association may, in addition to, or in combination with, or in lieu of, such rate adjustment or readjustments of rates as in this Chapter provided, offer each insured a proportionate reduction in the amount of insurance, or some lesser reduction, provided such plan is agreed to by the individual insured or the controller of said policy.

(d) Any decision made by the State Board of Insurance as to approval or disapproval of the plan for curing such permissive deficiency reserve shall be subject to judicial review in accordance with Article 21.44 of Sub-Chapter F of Chapter 21 of this Insurance Code.

#### Net premiums to be charged

Sec. 5. (a) Any company or association using an approved plan to cure its permissive deficiency reserve, but possessing as of December 31, 1965, a permissive deficiency reserve equal to or in excess of 50% of its required reserve so determined to exist as of such date, shall, by July 1, 1966, furnish to the State Board of Insurance an affidavit executed by its President, Vice President or Secretary, certifying that at least the renewal net premium based upon: (1) the table of rates and reserves adopted by the company or association; and (2) the age of each insured at date from which reserves are calculated, is being deposited to the company's or association's mortuary or claim fund upon each in force life policy or life policy in combination with other type benefits. In the event such company or association cannot so furnish such affidavit, said company or association shall: (1) forthwith alter the division of premiums between the mortuary and expense funds so that such renewal net premium so calculated at age from which reserves are calculated on each such policy is placed in the company's or association's mortuary fund; or (2) forthwith apply to the State Board of Insurance for approval of a rate increase whereby the rate charged on each such policy will thereafter contribute to the mortuary fund at least the renewal net premium so determined under such table at age from which reserves are calculated.

(b) Any company or association using an approved plan to cure its permissive deficiency reserve, but possessing as of December 31, 1965, a permissive deficiency reserve of less than 50% of its required reserve so determined to exist as of such date, shall, by July 1, 1966, furnish to the State Board of Insurance an affidavit executed by its President, Vice President or Secretary, certifying that in the aggregate premiums deposited to the mortuary or claim fund equal or exceed at least the aggregate amount of the renewal net premiums on all policies in force on December 31, 1965, based upon (1) the table of rates and reserves adopted by the company or association, and (2) the age of each insured at date from which reserves are calculated. In the event such company or association cannot so furnish such affidavit, said company or association shall: (1) forthwith: (i) alter the division of premiums between the mortuary and expense funds so that such renewal net premium in the aggregate on all policies in force on December 31, 1965, so calculated at age from which reserves are determined on each policy in force is placed in the company's or association's mortuary fund, and (ii) provide in its bylaws that annually thereafter in each calendar year an amount, from the premiums collected, in the aggregate equal to the renewal net premium



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on all policies in force on December 31st of each such year will be deposited to the company's or association's mortuary fund; or (2) forthwith apply to the State Board of Insurance for approval of a rate increase whereby the rate charged on each such policy will thereafter contribute to the mortuary fund at least the renewal net premium so determined under such table at age from which reserves are calculated.

#### Adjustment of premiums to reduce permissive deficiency reserve

Sec. 6. In the event any annual required reduction of the permissive deficiency reserve is not accomplished as of December 31st of each year involved, the Board of Directors of the company or association shall by appropriate action increase rates by charging a premium based upon the advancement of ages of such insureds from age at issue date or such ages so previously advanced, or by any other equitable or reasonable rate adjustment, so as to correct the failure to make the required reduction of the permissive deficiency reserve. In the event of the failure of the Board of Directors of the company or association to so act within thirty (30) days following such calculation of its reserves, the company or association shall be dealt with in accordance with this Chapter as if it were insolvent. In like manner if it shall be apparent at any time during any calendar year that the annual required reduction of the permissive deficiency reserve cannot be accomplished as of December 31st of each or any year, the Board of Directors of the company or association may by appropriate action increase rates by charging a premium based upon the advancement of ages of such insureds from age at issue date or such ages so previously advanced, or by any other equitable or reasonable rate adjustment so as to correct the failure to accomplish such annual required reduction of the permissive deficiency reserve on all or any part of the permissive deficiency reserve. Any such rate adjustment or readjustment shall be deemed and considered as assessments upon said policies.

#### Rate adjustment required to maintain reserves

Sec. 7. In the event any company or association at any future time does not possess in its mortuary fund the required reserves, less any permissive deficiency reserve, the Board of Directors of the company or association shall by appropriate action increase rates on policies in force by charging a premium based upon the advancement of ages of such insureds from age at issue date or such ages so previously advanced, or by any other equitable or reasonable rate adjustment so as to correct such reserve inadequacy. Such rate adjustment may be made at any time, and from time to time, provided it shall be apparent that such reserve inadequacy will exist as of December 31st of the year in which such rate adjustment is made, and any such rate adjustment or readjustment so made shall be deemed and considered as an assessment upon said policies. In the event of the failure of the Board of Directors of the company or association to so act in adjusting rates within thirty (30) days following the calculation of reserves as of the dates in this Chapter provided, the company or association shall be dealt with in accordance with this Chapter as if it were insolvent.

#### Dividends

Sec. 8. In the event that the amount of the mortuary or claim fund of the company or association shall exceed the amount of the required reserves to be maintained, such company or association may pay dividends from said fund to its policyholders provided: (a) no permissive deficiency reserve exists at date of payment; and (b) the amount of the dividend and method of distribution thereof is equitable and nondiscriminating and approved in advance of payment by the State Board of Insurance.

**State board of insurance approval**

Sec. 9. Whenever rates shall be increased subsequent to date of issue of a policy, such increase shall not be placed in effect until first approved by the State Board of Insurance as provided in Article 14.23 of this Chapter 14. As amended Acts 1965, 59th Leg., p. 457, ch. 234, § 1, emerg. eff. May 21, 1965.

**Art. 14.23. Assessments and premiums; adjustment of rates; penalty for failure to comply; authority of State Board of Insurance****Assessments and premiums**

Section 1. (a) Each company or association shall levy regular and periodical assessments by whatever name they may be called. These assessments must be in such amounts and at such proper intervals as will meet the reasonable operating expenses of the company or association and pay in full the claims arising under its certificates.

(b) All premiums or assessments upon policies hereafter issued insuring the life of one or more persons shall be in accordance with the reserve table standards adopted by the company or association and approved by the State Board of Insurance, except that any company or association is hereby authorized to use the 1956 Chamberlain Reserve Table with interest not to exceed  $3\frac{1}{2}\%$  per annum, and shall be in an amount so as to deposit in the mortuary or claim fund an amount at least equal to the renewal net premiums calculated in accordance with the reserve standard adopted by such company or association and approved by the State Board of Insurance.

**Rate adjustments**

Sec. 2. When, or if, in the course of operation the amount of the mortuary fund of the company or association is not equal to or in excess of the required reserves under the reserve standard adopted by the company or association and approved by the State Board of Insurance on such policies, but less any permissive deficiency reserve, the amount of the premiums shall be increased in the manner as prescribed in this Chapter 14 until such rates are adequate to eliminate the inadequacy of the required reserve, less any permissive deficiency reserve, and the State Board of Insurance shall so order.

**Penalty**

Sec. 3. When any company or association shall refuse to comply with the order of the State Board of Insurance respecting rates or assessments as in this Chapter authorized, it shall be treated as insolvent.

**Authority of the board of directors**

Sec. 4. The Board of Directors of each company or association by resolution may increase rates on life policies in force up to the rate on an attained age basis in accordance with the 1956 Chamberlain Reserve Table, with interest at  $3\frac{1}{2}\%$  per annum, or any other reasonable, equitable or necessary increase, and may likewise adjust rates on health, accident, sickness and hospitalization policies in force. Any increase rate or rate adjustment on policies in force shall apply to all classes of the same or similar policies.

**State board of insurance approval**

Sec. 5. Any increase in rates on policies in force shall not be placed in effect without the advance approval of the State Board of Insurance approving the same as being in compliance with the pro-

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visions of this Chapter. As amended Acts 1965, 59th Leg., p. 457, ch. 234, § 2, emerg. eff. May 21, 1965.

**Art. 14.25. Division of funds; bylaw provisions; investment of funds**

**Division of funds**

Section 1. The provisions of this Section 1 shall apply to all companies or associations regulated by the provisions of this Chapter, except companies or associations operating upon an assessment-as-needed basis.

(a) Assessments or premiums upon (i) policies issued after December 31, 1965, insuring the life of one or more persons, and (ii) policies insuring the life of one or more persons issued prior to December 31, 1965, and upon which the rate has been increased based upon an age other than age at date of issue, when collected shall be divided into at least two funds. One of these shall be the mortuary or relief fund, by whatever name it may be called in the different companies or associations, and from which fund claims under certificates shall be paid, and nothing else, except: (1) dividends to policyholders when paid in accordance with this Chapter, (2) income taxes, if any, which may be due by reason of the income to or operation of said fund, and (3) other expenditures permitted by law; and the other fund shall be the expense fund from which expenses may be paid. As applies to all such policies, as defined in (i) and (ii) of this subparagraph and insuring the life of one or more persons, an amount at least equal to the renewal net premium, calculated at the age of issue or some other advanced age in accordance with the reserve standard adopted by such company or association, shall be placed in the mortuary fund. All other portions of the premiums may be placed in the expense fund. Whenever any life premium rate is increased in accordance with the provisions of this Chapter at any age other than at age of issue, the expense loading on the new premiums shall not, upon all ages fifty and above, exceed twenty-five per cent (25%) of such gross premium charged, unless an additional expense loading is approved by the State Board of Insurance as being reasonable and necessary.

(b) Premiums or assessments upon all policies in force on December 31, 1965, except as in Subparagraph (a) of this Section 1 provided, and upon all health, accident, sickness and hospitalization policies shall be divided so that at least sixty per cent (60%) of such premium, exclusive of the membership fee, shall be placed in the mortuary fund of the company or association. The membership fee and the remaining portion of the premium may be placed in the expense fund. As to policies in force on December 31, 1965, insuring the life of one or more persons and upon which a rate increase has not been accomplished, any company or association may at its election divide the premiums on such life policies so as to place at least the net renewal premium, based upon the reserve table adopted by it, in its mortuary fund and place the remaining portion of said premium in its expense fund.

**Assessment-as-needed, division of funds**

Sec. 2. The provision of this Section 2 shall apply to all companies or associations operating upon an assessment-as-needed basis.

(a) Assessments when collected shall be divided into at least two funds. One of these shall be the mortuary or relief fund, by whatever name it may be called in the different associations; and the other fund shall be the expense fund. At least sixty per cent (60%) of assessments collected except the membership fee, must be placed in the mortuary or relief fund.

**Bylaw provision**

Sec. 3. Each company or association shall provide in its bylaws for the method and procedure for the allocation of premiums to be made between the mortuary and expense funds.

**Investment of funds**

Sec. 4. The mortuary fund may be invested only in such securities and investments as are a legal investment for the reserve funds of a domestic life, health and accident insurance company regulated by the provisions of Chapter 3 of this Insurance Code, as amended, and the expense fund may be invested in any securities and investments as are legal investments for the surplus funds of a domestic life, health and accident insurance company regulated by the provisions of Chapter 3 of this Insurance Code, as amended.

**Use of funds**

Sec. 5. Each company or association mortuary fund and expense fund shall be expended only in the manner as is provided for each fund in Subparagraph (a) of Section 1 of Article 14.25 of this Chapter of this Insurance Code and invested only as provided in Section 4 of Article 14.25 of this Chapter of this Insurance Code.

**Cost of defending contested claims**

Sec. 6. The reasonable costs of defending contested claims on health, accident, sickness or hospitalization policies only may be paid from the mortuary or claim fund of any company or association authorized to write health, accident, sickness or hospitalization insurance, provided: (a) each such expenditure for that purpose is approved by the State Board of Insurance, and (b) such company or association possess the required reserves as provided in this Chapter 14 but less any permissive deficiency reserve.

**Limitation upon rate increases on certain life policies**

Sec. 7. Any other provision of this Chapter 14 of this Insurance Code, as amended, notwithstanding, rates on life policies issued after the effective date of this Act may not be increased during any consecutive five-year period more than double the rate than charged such insured at the time of such rate increase. As amended Acts 1965, 59th Leg., p. 457, ch. 234, § 3, emerg. eff. May 21, 1965.

**Art. 14.33 Insolvency; conservatorship; receiver**

If, upon an examination or at any other time, it appears to the Commissioner that such association be insolvent, or its condition be, in the opinion of the Commissioner, such as to render the continuance of its business hazardous to the public, or to holders of its certificates, or if such association appears to have exceeded its powers or failed to comply with the law, or has a membership of less than five hundred (500) paying their assessments, then the Commissioner shall notify the association of his determination and said association shall have thirty (30) days under the supervision of the Commissioner within which to comply with the requirements of the Commissioner; and in the event of its failure to comply within such time, the Commissioner, acting for himself, or through a conservator appointed by the Commissioner for that purpose, shall immediately take charge of such association, and all of the property and effects thereof.

If the Commissioner is satisfied that such association can best serve its policyholders and the public through its continued operation by the

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conservator under the direction of said Commissioner, pending the election of new directors and officers by the membership in such manner as the Commissioner may determine, the same shall be done, and the conservator may, with the approval of the Commissioner, reinsure any part of such company's policies or certificates of insurance with some solvent insurance company or association authorized to transact business in this State. The conservator may transfer to the reinsurance company such mortuary funds or other assets or portions thereof as may be required to reinsure such policies or certificates. If the Commissioner, however, is satisfied that such association is not in condition to satisfactorily continue business in the interest of its policyholders under the conservator as above provided, the Commissioner shall proceed to reinsure the outstanding policies in some solvent association or company, authorized to transact business in this State, or the Commissioner shall proceed through such conservator to liquidate such association, or the Commissioner may give notice to the Attorney General who shall thereupon apply to any court in Travis County having jurisdiction thereof for leave to file a suit in the nature of quo warranto to forfeit the charter of such corporation or to require it to comply with the law or to satisfy the Commissioner as to its solvency. The court may, in its discretion, appoint agents or receivers to take charge of the effects and wind up the business of the corporation, under usages and practices of equity; and may make disposition of the business and membership of the corporation as in the discretion of the court may seem proper. No suit for receiver shall be filed against any such corporation, nor shall any receiver be appointed, except upon the application therefor by the Attorney General, and in no event shall any receiver for any such corporation be appointed until after reasonable notice has issued and a hearing had before the court.

It shall be in the discretion of the Commissioner to determine whether or not he will operate the association through a conservator, as provided above, or proceed to liquidate the association, or report it to the Attorney General, as herein provided.

When the policies of an association are reinsured or liquidated, as herein provided, the Commissioner shall report the same to the Attorney General, who shall take such action as may be necessary to effect the forfeiture or cancellation of the charter of the association so reinsured or liquidated. Where the Commissioner lends his approval to the merger, transfer, or consolidation of the membership of one association with that of another, the same shall be reported to the Attorney General who shall proceed to effect the forfeiture or cancellation of the charter of the association from which the membership was merged, transferred or consolidated, in the same manner as is provided for the charters of associations reinsured or liquidated. No merger or transfer shall be approved unless the association assuming the members transferred or merged is operating under the supervision of the Commissioner of Insurance. The cost incident to the conservator's services shall be fixed and determined by the Commissioner and shall be a charge against the assets and funds of the association to be allowed and paid as the Commissioner may determine. As amended Acts 1965, 59th Leg., p. 1638, ch. 705, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER TWENTY ONE—GENERAL PROVISIONS

Art. 21.48.	Insurance Company Insider Trading and Proxy Regulation Act [New].	Art. 21.48A.	Prohibiting Certain Practices Relating to Insurance of Real Property [New].
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**Art. 21.28. Liquidation, Rehabilitation, Reorganization or Conservation of Insurers**

**Sec. 12A. Legislative appropriations.**

It is the sense of the Legislature, as necessary to state policy, that facilities be immediately and continually available to meet any or all of the requirements of preparing for, placing in, continuing or completing any liquidation, rehabilitation, reorganization or conservation of insurers, and in order to make such provision and to provide that the Liquidator and employees be used for other Insurance Department duties when not involved in liquidation or conservation matters, the Legislature may make provisions for the Liquidator and employees and their expenses, in whole or in part, by making appropriations therefor, or by appropriating or permitting use of funds, other than funds or assets of insurers being liquidated, rehabilitated, reorganized or conserved, which are received by or made available to the Board, or by establishing disappearing or partially or wholly reimbursable revolving funds in the Appropriation Acts, notwithstanding any other provision of Article 21.28 of Chapter 21 of the Insurance Code.

The provisions of this Act are cumulative of existing law and in the event of conflict the provisions of this Act shall govern. Added Acts 1965, 59th Leg., p. 1520, ch. 661, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 21.48. Insurance Company Insider Trading and Proxy Regulation Act**

**Title of act**

**Section 1.** This Article shall be known as the "Insurance Company Insider Trading and Proxy Regulation Act."

**Statement of beneficial ownership of equity securities of domestic stock companies; form and contents; filing**

**Sec. 2.** Every person who is directly or indirectly the beneficial owner of more than ten per cent of any class of any equity security (other than an exempted security) of a domestic stock insurance company, or who is a director or an officer of such a company, shall file with the State Board of Insurance on or before the first day of July 1966 and thereafter within ten days after he becomes such beneficial owner, director, or officer, a statement, in such form as such Board may prescribe, of the amount of all equity securities of such company of which he is the beneficial owner, and within ten days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file in the office of such Board a statement, in such form as it may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

**Recovery by company of profits realized by beneficial owner from purchase and sale of equity securities; suits**

**Sec. 3.** For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director, or

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officer by reason of his relationship to such company, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such company (other than an exempted security) within any period of less than six months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director, or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company shall fail or refuse to bring such suit within sixty days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. This Section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the State Board of Insurance by rules and regulations may exempt as not comprehended within the purpose of this Section.

**Sale of unowned securities; nondelivery of owned securities**

Sec. 4. It shall be unlawful for any such beneficial owner, director, or officer, directly or indirectly, to sell any equity security of such company (other than an exempted security) if the person selling the security or his principal (i) does not own the security sold, or (ii) if owning the security, does not deliver it against such sale within twenty days thereafter, or does not within five days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this Section if he proves that notwithstanding the exercise of good faith he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

**Solicitation of proxy, consent or authorization with respect to unlisted equity securities; disclosure by companies in absence of proxy solicitation by management**

Sec. 5. (1) It shall be unlawful for any person, in contravention of such rules and regulations as the State Board of Insurance may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any equity security (other than an exempted security) of a domestic stock insurance company not listed on a national securities exchange registered as such under the United States Securities Exchange Act of 1934, as amended.

(2) Unless proxies, consents, or authorizations in respect of a security of a domestic stock insurance company subject to subsection (1) of this Section 5 are solicited by or on behalf of the management of such company from the holders of record of stock of such company in accordance with the rules and regulations prescribed under this Section 5 prior to any annual or other meeting, such company shall, in accordance with such rules and regulations prescribed by the Board, file with the Commissioner and transmit to all holders of record of such security, information substantially equivalent to the information which would be required to be transmitted if a solicitation were made.

**Investment accounts; primary or secondary markets**

Sec. 6. The provisions of Section 3 of this Article shall not apply to any purchase and sale, or sale and purchase, and the provisions of Section 4 of this Article shall not apply to any sale, of an equity security of a

domestic stock insurance company not then or theretofore held by him in an investment account, by a dealer in the ordinary course of his business and incident to the establishment or maintenance by him of a primary or secondary market (otherwise than on an exchange as defined in the Securities Exchange Act of 1934) for such security. The State Board of Insurance may, by such rules and regulations as it deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

#### Foreign or domestic arbitrage transactions

Sec. 7. The provisions of Sections 2, 3 and 4 of this Article shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the State Board of Insurance may adopt in order to carry out the purposes of this Act.

#### Definitions

Sec. 8. When used in this Article:

- (1) "Board" means the State Board of Insurance;
- (2) "Commissioner" means the Commissioner of Insurance;
- (3) "Person" shall mean an individual, a corporation, a partnership, an association, a joint-stock company, a business trust, or an unincorporated organization;
- (4) "Equity security" shall mean any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the Board shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as it may prescribe in the public interest or for the protection of the investors, to treat as an equity security;
- (5) "Exempted security" or "exempted securities" shall mean such securities as the Board may, by such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors, either conditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this Article which by their terms do not apply to an "exempted security" or to "exempted securities."
- (6) "Officer" shall mean a president, vice-president, treasurer, actuary, secretary, controller, and any other person who performs for a domestic stock insurance company functions corresponding to those performed by the foregoing officers.
- (7) Without limiting the generality thereof, the term "stock insurance company" shall include domestic title insurance companies, regulated by Chapter 9 of the Texas Insurance Code, and stipulated premium insurance companies, regulated by Chapter 22 of the Texas Insurance Code.

#### Registered equity securities

Sec. 9. The provisions of Sections 2, 3, 4 and 5 of this Article shall not apply to equity securities of a domestic stock insurance company if (a) such securities shall be registered, or shall be required to be registered, pursuant to Section 12 of the Securities Exchange Act of 1934, as amended; or if (b) such domestic stock insurance company shall not have any class of its equity securities held of record by one hundred or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to the provisions of Sections 2, 3, 4, and 5 of this Article except for the provisions of this subsection (b).



**Rules and regulations**

Sec. 10. The State Board of Insurance shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in it by Sections 2 through 9 of this Article, and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters within its jurisdiction. No provision of Sections 2, 3, 4, and 5 of this Article imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the said Board, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

**Violations; criminal penalties**

Sec. 11. Any person who wilfully violates any provision of this Article or any rule or regulation thereunder the violation of which is made unlawful or the observance of which is required under the terms of this Article, or any person who wilfully and knowingly makes, or causes to be made, any statement in any document required to be filed under this Article or any rule or regulation thereunder which statement was false or misleading with respect to any material fact, shall upon conviction be fined not more than ten thousand dollars, or imprisoned not more than two years, or both; but no person shall be subject to imprisonment under this Section 11 for the violation of any rule or regulation if he proves that he has no knowledge of such rule or regulation.

**Violations; civil penalties; injunction**

Sec. 12. Any person wilfully violating any of the provisions of this Article or wilfully violating any rule or regulation of the Board promulgated hereunder, shall be subject to a civil penalty of not less than one hundred dollars nor more than one thousand dollars for each and every day of such violation, and for each and every act of such violation, to be recovered in any court of competent jurisdiction in Travis County, or in the county of the residence of the defendant or, if there be more than one defendant, in the county of the residence of any of them, or in the county in which the violation is alleged to have occurred, such suit to be instituted at the direction of the Board and conducted in the name of the State of Texas by the Attorney General. This penalty shall be in addition to any forfeiture or penalty that may be provided for by law. Any and all violations, and threatened violations, of this Article may be enjoined by any court of competent jurisdiction in which suit for penalty may be brought, and in such cases the court shall issue such writs or injunctions, prohibitory or mandatory, as the facts justify.

**Purpose of article**

Sec. 13. It is the purpose of this Article to provide for the protection of the public interest, the investor, and the shareholder of domestic stock insurance companies by regulating proxy solicitation by domestic stock insurance companies and transactions by officers, directors and principal equity security holders of such companies and requiring appropriate reports thereof. To this end the misuse of information by certain insiders of domestic stock insurance companies shall be prevented and a full and fair disclosure of all material matters relevant to the exercise of the corporate franchise of a shareholder of such companies will be promoted and the free exercise of such franchise will be insured. In exercising the authority granted by this Article to make rules and regulations the Board shall promote the purposes of this Article to prevent misuse of information and to encourage good faith dealing and full and fair disclosure.

**Filing rules and regulations**

Sec. 14. All rules and regulations promulgated by the State Board of Insurance under authority of this Article shall be filed with the Secretary of State, and no such rules or regulations shall be of any force or effect until so filed. Acts 1951, 52nd Leg., p. 868, ch. 491, art. 21.48 added Acts 1965, 59th Leg., p. 435, ch. 222, § 1, emerg. eff. May 21, 1965.

Article 21.48, derived from Acts 1957, 55th Leg., p. 1425, ch. 493, § 2, and repealed by Acts 1961, 57th Leg., p. 884, ch. 387, § 3, provided penalties for false returns, reports and statements. See, now, art. 21.47.

Section 3 of the repealing Act of 1961 read as follows:

"Provided, however, the repeal of this Article shall not abate or affect offenses that have arisen under the provisions of this Article prior to the effective date of its repeal."

### **Art. 21.48A. Prohibiting Certain Practices Relating to Insurance of Real Property**

#### **Section 1. Definitions.**

(1) "Mortgage Lender" means any person, partnership, corporation, or association, or any agent, loan agent, or servicing agent thereof, who loans money and receives a mortgage or deed of trust upon real property as security for such loan.

(2) "Borrower" means any person, partnership, corporation, or association who has or acquires a legal or equitable interest in real property which is or becomes subject to a mortgage or deed of trust.

#### **Sec. 2. Prohibited Practices.**

No Mortgage Lender shall require a fee of over Seven and 50/100ths Dollars (\$7.50) for the substitution by the Borrower of an insurance policy for another insurance policy still in effect, or require any fee for the substitution by the Borrower of an insurance policy for an existing policy upon termination of the existing policy, when such existing or substituted insurance policy is provided through an insurance company duly licensed to do business in the State of Texas pursuant to the provisions of this Insurance Code; provided, however, nothing herein shall prevent a Mortgage Lender who is a duly licensed local recording agent from soliciting insurance on the mortgaged property.

#### **Sec. 3. Exceptions.**

Nothing in this Act shall prevent the right of a Mortgage Lender to require that an insurance policy have a fixed termination date, or to approve or to disapprove, for reasons which are not arbitrary or discriminatory, the insurance company selected by the Borrower to underwrite the insurance.

#### **Sec. 4. Violations.**

A Borrower may recover from any Mortgage Lender who violates any of the provisions of this Act civil damages in an amount not to exceed three (3) times the annual premium for the policy of insurance in force upon the mortgaged property. In the event that such policy of insurance be for a period more than one (1) year, the annual premium shall be calculated by dividing the number of years of the duration of such policy into the total premium specified therein for such entire period.

#### **Sec. 5. Application to title insurance.**

Nothing contained herein shall apply to title insurance.

**Sec. 6. Effective date.**

This Act shall be effective from and after the 1st day of January, 1966. Acts 1951, 52nd Leg., p. 868, ch. 491, art. 21.48A added Acts 1965, 59th Leg., p. 280, ch. 120, § 1, eff. Jan. 1, 1966.

**CHAPTER TWENTY TWO—STIPULATED PREMIUM  
INSURANCE COMPANIES**

Art.  
22.22 Insolvency; conservatorship; re-  
ceiver [New].

**Art. 22.15. Direct Reinsurance of Mutual Assessment Companies Regulated by Chapter Fourteen (14) of this Code**

**Sec. 9. Readjustment of premiums of life policies.** In the event the premiums charged on any life policy assumed by the stipulated premium company shall be less than the renewal net premium calculated in accordance with such reserve standard adopted by the reinsurance agreement, the rate shall be adjusted to an amount at least equal to the renewal net premium calculated in accordance with the reserve standards adopted by such reinsurance agreement based upon the insured's age at issue by the Chapter 14 Company, except that if the gross premium charged upon any family group policy so reinsured by the stipulated premium company is less than such renewal net premium for such policy or contract such rate may at the option of the stipulated premium company be not adjusted provided:

(a) The permissive deficiency reserve of the business of the Chapter 14 Company is less than 25% of the required reserve on such business to be reinsured, including the permissive deficiency premium reserve to be maintained as hereafter in this Section provided;

(b) The gross premium at time of reinsurance by the stipulated premium company of all family group policies is at least equal in the aggregate to 120% of the required net premiums upon such family group policies to be reinsured by the stipulated premium company; and

(c) There shall be maintained on each such policy contract a permissive deficiency premium reserve in addition to all other reserves required by law and for each such policy or contract the permissive deficiency premium reserve shall be the present value, according to such standard, of an annuity, the amount of which shall equal the difference between the premium charged and such net premium and the term of which in years shall equal the number of annual premiums for the remainder of the premium paying period. Such permissive deficiency premium reserve shall be included as a part of such permissive deficiency reserve and shall be reduced in like manner as in this Chapter provided for the permissive deficiency reserve. As amended Acts 1965, 59th Leg., p. 1530, ch. 668, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 22.22. Insolvency; conservatorship; receiver**

If, upon an examination or at any other time, it appears to the Commissioner of Insurance that any stipulated premium company be insolvent, or its condition be, in the opinion of the Commissioner, such as to render the continuance of its business hazardous to the public, or to holders of its policies, or if such company appears to have exceeded its powers or failed to comply with the law, then the Commissioner of Insurance shall notify the company of his determination and said company shall have

thirty (30) days under the supervision of the Commissioner of Insurance within which to comply with the requirements of the Commissioner of Insurance, and in the event of its failure to comply within such time, the Commissioner of Insurance, acting for himself, or through a conservator appointed by the Commissioner of Insurance for that purpose, shall immediately take charge of such company, and all of the property and effects thereof.

If the Commissioner of Insurance is satisfied that such company can best serve its policyholders and the public through its continued operation by the conservator under the direction of said Commissioner of Insurance pending the election of new directors and officers by the shareholders in such manner as the Commissioner of Insurance may determine, the same shall be done, and the conservator may, with the approval of the Commissioner of Insurance, reinsure any part of such company's policies or certificates of insurance with some solvent insurance company authorized to transact business in this State. The conservator may transfer to the reinsurance company such assets or portions thereof as may be required to reinsure such policies. If the Commissioner of Insurance, however, is satisfied that such company is not in condition to satisfactorily continue business in the interest of its policyholders and shareholders under the conservator as above provided, the Commissioner of Insurance shall proceed to reinsure the outstanding policies in some solvent company, authorized to transact business in this State, or the Commissioner of Insurance shall proceed through such conservator to liquidate such company, or the Commissioner of Insurance may give notice to the Attorney General who shall thereupon apply to any court in Travis County having jurisdiction thereof for leave to file a suit in the nature of quo warranto to forfeit the charter of such company or to require it to comply with the law or to satisfy the Commissioner of Insurance as to its solvency. The Court may, in its discretion, appoint agents or receivers to take charge of the effects and wind up the business of the company under usages and practices of equity; and may make disposition of the business and policies of the company as in the discretion of the court may seem proper. No suit for receiver shall be filed against any such company, nor shall any receiver be appointed, except upon the application therefor by the Attorney General, and in no event shall any receiver for any such company be appointed until after reasonable notice has issued and a hearing had before the court.

It shall be in the discretion of the Commissioner of Insurance to determine whether or not he will operate the company through a conservator, as provided above, or proceed to liquidate the company, or report it to the Attorney General, as herein provided.

When all the policies of a company are reinsured or liquidated, and all of its affairs concluded, as herein provided, the Commissioner of Insurance shall report the same to the Attorney General, who shall take such action as may be necessary to effect the forfeiture or cancellation of the charter of the company so reinsured and liquidated. Where the Commissioner of Insurance lends his approval to the merger, reinsurance or consolidation of the policies of one company with that of another, the same shall be reported to the Attorney General who shall proceed to effect the forfeiture or cancellation of the charter of the company from which the policies were merged, reinsured or consolidated, in the same manner as is provided for the charters of companies totally reinsured or liquidated. The cost incident to the conservator's services shall be fixed and determined by the Commissioner of Insurance and shall be a charge against the assets and funds of the company to be allowed and paid as the Commissioner of Insurance may determine. Acts 1951, 52nd Leg., p. 868, ch. 491, art. 22.22 added Acts 1965, 59th Leg., p. 1638, ch. 705, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 1 of Acts 1965, 59th Leg., p. 1638, ch. 705 amended article 14.33.

## TITLE 82—JUVENILES

Art.		Art.	
5139E—2.	Appointment of judge of court of domestic relations as juvenile board member in counties of 68,000 to 73,000 [New].	5139TT.	Hidalgo County Juvenile Board [New].
5139OO.	Runnels County Juvenile Board [New].	5139UU.	Ector County Juvenile Board [New].
5139PP.	Bell County Juvenile Board [New].	5139VV.	Harris County Juvenile Board [New].
5139QQ.	Bosque County Juvenile Board [New].	5139WW.	Van Zandt County Juvenile Board [New].
5139RR.	Comanche County Juvenile Board [New].	5142c—4.	Juvenile officer for Grayson County [New].
5139SS.	Coryell County Juvenile Board [New].	5143e.	Uniform Interstate Compact on Juveniles [New].

**Art. 5139E—2. Appointment of judge of court of domestic relations as juvenile board member in counties of 68,000 to 73,000**

Section 1. In any county having a population of not less than 68,000 and not more than 73,000 according to the last preceding federal census, the commissioners court may name the judge of the court of domestic relations as an additional member of the juvenile board and may pay him for his services on the board in an amount not to exceed the additional compensation allowed other members of the county juvenile board. Acts 1965, 59th Leg., p. 1002, ch. 489, emerg. eff. June 16, 1965.

**Title of Act:**

An Act relating to the appointment and compensation of the judge of the court of

domestic relations as a member of the juvenile board and providing for the declaring an emergency. Acts 1965, 59th Leg., p. 1002, ch. 489.

**Art. 5139S. Hamilton county juvenile board**

Sec. 2. As compensation for the added duties imposed upon them, the county and district judges who are members of the board may be allowed additional compensation not to exceed \$1,200 per year, to be fixed by the commissioners court and paid monthly in twelve equal installments out of the general fund of the county. As amended Acts 1965, 59th Leg., p. 316, ch. 148, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 5139LL. Repealed. Acts 1962, 57th Leg., 3rd C.S., p. 171, ch. 64, § 19. Eff. Sept. 1, 1962**

Former art. 5139LL, establishing a county juvenile board in Galveston County, was derived from Acts 1961, 57th Leg., p. 679, ch. 315. See, now, art. 2338—16.

Prior to repeal, art. 5139LL, provided: "Section 1. There is hereby established a County Juvenile Board in and for the County of Galveston, to be known as the Galveston County Juvenile Board, which Board shall be composed of the County Judge, the Judge of the Juvenile and County Court No. 2, the Judges of the several District Courts in and for Galveston County, and eight citizen members, four (4) to be appointed by the commissioners court of Galveston County; one (1) to be appointed by the Galveston City Council; one (1) to be appointed by the City Commission of Texas City; one (1) to be appointed by the City Council of Lamarque; and one (1) to be appointed by the City

Council of Hitchcock. The Judge of the Juvenile and County Court No. 2 shall serve as chairman of the Juvenile Board. Citizen members of the Board shall serve for terms of two (2) years.

"Sec. 2. The members of the Galveston County Juvenile Board shall receive no compensation for their services on said Board.

"Sec. 3. The Judge of the Juvenile and County Court No. 2 of Galveston County may appoint discreet persons of good moral character to serve as Juvenile Officer and Assistant Juvenile Officers for Galveston County. The Board shall fix the salaries of and allowances for the said Juvenile Officer and Assistant Juvenile Officers and employ a clerk for said office, and the commissioners court shall provide the necessary funds for the payment of such salaries and expenses as may be nec-

essary. All claims for expenses of the Juvenile Officer and Assistant Juvenile Officers shall be certified by the Chairman of the Board to the said county commissioners court as being necessary in the performance of the duty of such officer. The appointment of said Juvenile Officer and Assistant Juvenile Officers shall be filed in the office of the County Clerk of said county, and such officers shall take the oath to perform their duties and file such oaths in the office of the County Clerk of said county. The Judge of the Juvenile and County Court No. 2 may remove the Juvenile Officer or an Assistant Juvenile Officer at any time.

"Sec. 4. The said Juvenile Officer and Assistant Juvenile Officers shall have the authority, powers and duties authorized and required by Article 5142 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto.

"Sec. 5. The Commissioners Court of Galveston County shall furnish automobiles for the official use of said Juvenile Officer and Assistant Juvenile Officers, and provide for the expense of operating the same, as recommended by the Board.

"Sec. 6. This Act shall be cumulative of existing laws; and any laws in conflict herewith are repealed to the extent of such conflict only."

**Art. 5139OO. Runnels County Juvenile Board**

Section 1. There is hereby established a juvenile board for Runnels County, which shall be known as the Runnels County Juvenile Board. The Board shall be composed of the county judge of Runnels County, and the district attorney and presiding judge of the 119th Judicial District. The judge of the court which is designated as the juvenile court for Runnels County shall be chairman of the Board and its chief administrative officer. The Board shall have all the powers conferred on juvenile boards created under Article 5139 of the Revised Civil Statutes of 1925 and any amendments thereto.

Sec. 2. As compensation for the added duties hereby imposed upon him, the chairman of such Board may be allowed by the Commissioners Court additional compensation in an amount not to exceed Six Hundred Dollars (\$600) per annum, which shall be paid in twelve (12) equal installments out of the General Fund or any other available fund of Runnels County. The Commissioners Court of Runnels County may allow each other member of the Board additional compensation in an amount not to exceed Three Hundred Dollars (\$300) per annum, to be paid in twelve (12) equal installments out of the General Fund or any other available fund of Runnels County. Such compensation shall be in addition to all other compensation now provided or allowed by law for county judges, district judges, and district attorneys. Acts 1962, 57th Leg., 3rd C.S., p. 203, ch. 78.

**Title of Act:**

An Act establishing a juvenile board in Runnels County; providing for the Board's powers, duties, and authority; providing

for its membership and the compensation to be paid the members; and declaring an emergency. Acts 1962, 57th Leg., 3rd C.S., p. 203, ch. 78.

**Art. 5139QQ. Bosque County Juvenile Board**

Section 1. The county judge of Bosque County and the judge of the judicial district which includes Bosque County shall constitute the juvenile board of that county. The judge of the court which is designated as the Juvenile Court of Bosque County shall be chairman of the board and its chief administrative officer.

Sec. 2. As compensation for the additional duties imposed upon them, the county and district judges who are members of the board may be allowed additional compensation not to exceed \$1,200 per year, to be fixed by the commissioners court and paid in twelve equal monthly installments out of the general fund of the county.

Sec. 3. This Act shall be cumulative of existing laws relating to compensation of judges of the district courts and county judges. Acts 1965, 59th Leg., p. 315, ch. 146.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating a juvenile board for Bosque County, Texas; and declaring an emer-

gency. Acts 1965, 59th Leg., p. 315, ch. 146.

For Annotations and Historical Notes, see V.A.T.S.

#### Art. 5139RR. Comanche County Juvenile Board

Section 1. The county judge of Comanche County and the judge of the judicial district which includes Comanche County shall constitute the juvenile board of that county. The judge of the court which is designated as the Juvenile Court of Comanche County shall be chairman of the board and its chief administrative officer.

Sec. 2. As compensation for the added duties imposed upon them, the county and district judges who are members of the board may be allowed additional compensation not to exceed \$1,800 per year, to be fixed by the commissioners court and paid in twelve equal monthly installments out of the general fund of the county.

Sec. 3. This Act shall be cumulative of existing laws relating to compensation of judges of the district courts and county judges. Acts 1965, 59th Leg., p. 315, ch. 147.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating a juvenile board for an emergency. Acts 1965, 59th Leg., p. 315, Comanche County, Texas; and declaring ch. 147.

#### Art. 5139SS. Coryell County Juvenile Board

Section 1. The county judge of Coryell County and the judge of the judicial district which includes Coryell County shall constitute the juvenile board of that county. The judge of the court which is designated as the Juvenile Court of Coryell County shall be chairman of the board and its chief administrative officer.

Sec. 2. As compensation for the added duties imposed upon them, the county and district judges who are members of the board may be allowed additional compensation not to exceed \$2,400 per year, to be fixed by the commissioners court and paid in twelve equal monthly installments out of the general fund of the county.

Sec. 3. This Act shall be cumulative of existing laws relating to compensation of judges of the district courts and county judges. Acts 1965, 59th Leg., p. 317, ch. 149.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating a juvenile board for emergency. Acts 1965, 59th Leg., p. 317, Coryell County, Texas; and declaring an ch. 149.

#### Art. 5139TT. Hidalgo County Juvenile Board

##### Juvenile board

Section 1. The Hidalgo County Juvenile Board is composed of the County Judge of Hidalgo County and the judge of each judicial district which includes Hidalgo County.

##### Compensation of board members

Sec. 2. (a) The commissioners court may pay each member of the juvenile board an amount not to exceed \$3,000 per year as compensation for serving as a member of the juvenile board.

(b) The commissioners court may reimburse the judge of the juvenile court for actual and necessary expenses incurred in attending seminars and other educational or instructional meetings pertaining to juvenile problems. The amount payable under this subsection is limited to a maximum of \$600 per year.

**Board powers**

Sec. 3. The juvenile board may

- (1) appoint a qualified person, trained or experienced in the field of juvenile and parental counseling, as juvenile probation officer;
- (2) suspend or remove any employee at any time for good cause;
- (3) require any person employed by the board to enter into a bond, payable to the board, conditioned on the faithful performance of his duties, with the premium for the bond payable by the board;
- (4) authorize the use of foster homes for the temporary care of delinquent, dependent, or neglected children;
- (5) accept gifts or grants of real or personal property, subject to the terms and conditions on which they are made.

**Board duties**

Sec. 4. The juvenile board shall

- (1) prescribe the duties and conditions of employment of its employees;
- (2) control and supervise all homes, schools, farms and other institutions or places of housing maintained and used chiefly by the county for the training, education, detention, support or correction of juveniles;
- (3) appoint superintendents of institutions maintained and used chiefly by the county for the training, education, detention, support or correction of juveniles;
- (4) designate the juvenile court in accordance with Chapter 204, Acts of the 48th Legislature, Regular Session, 1943, as amended (Article 2338—1, Vernon's Texas Civil Statutes);
- (5) submit an annual proposed budget to the Hidalgo County Commissioners Court.

**Powers of juvenile probation officer**

Sec. 5. The juvenile probation officer has all the powers of a peace officer for the purpose of performing his duties under this Act.

**Duties of juvenile probation officer**

Sec. 6. The juvenile probation officer shall

- (1) appoint assistant juvenile probation officers with the approval of the juvenile board;
- (2) appoint, with the approval of the juvenile board, a minimum of one field worker for each 50,000 inhabitants of Hidalgo County according to the last preceding federal census;
- (3) investigate all cases referred to him by the board;
- (4) investigate all cases brought before the juvenile court;
- (5) take charge of juveniles and perform services for them as directed by the board or the juvenile court;
- (6) represent the interest of the juvenile before the juvenile court;
- (7) furnish the board and the juvenile court any information and assistance required by them;
- (8) make a written report to the judge of the juvenile court showing facts relating to the environment, treatment, education, welfare, and other information which may assist the court in determining the proper disposition to be made of any juvenile;
- (9) keep a record which will at all times show the names of all referrals and delinquent juveniles within Hidalgo County and the names and addresses of the persons having custody of them.



**Salaries and financing**

Sec. 7. The commissioners court shall fix the salary of persons employed by the juvenile board. The commissioners court may appropriate money from the general fund to the juvenile board for the administration of this Act. The juvenile board shall administer this Act with money appropriated by the commissioners court. Acts 1965, 59th Leg., p. 383, ch. 186.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the Hidalgo County Juvenile Board and Juvenile Probation Officer; and declaring an emergency. Acts 1965, 59th Leg., p. 383, ch. 186.

**Art. 5139UU. Ector County Juvenile Board**

Section 1. There is established the Ector County Juvenile Board, which shall be composed of the judge of the Juvenile Court of Ector County, the county judge of Ector County, and the judges of the district courts of Ector County. The judge of the Juvenile Court of Ector County, who is also the judge of the County Court at Law of Ector County as provided by Section 1, Chapter 331, Acts of the 56th Legislature, Regular Session, 1959 (Article 2338-12, Vernon's Texas Civil Statutes), is chairman of the board.

Sec. 2. The county judge of Ector County and the judges of the district courts of Ector County are each entitled to additional compensation of their service on the board of not less than \$600 a year nor more than \$1,200 a year. The amount of such additional compensation shall be fixed by the commissioners court and shall be paid in 12 equal monthly installments out of the general fund of the county. The judge of the Juvenile Court of Ector County shall not receive additional compensation for serving as a member or as chairman of the juvenile board.

Sec. 3. The Ector County Juvenile Board has all the powers and duties prescribed for juvenile boards created under Article 5139, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 4. The judge of the juvenile court may appoint a chief juvenile probation officer, subject to the approval of the Ector County Juvenile Board, for a term of 2 years. Subject to the approval of the judge of the juvenile court and the Ector County Juvenile Board, the chief juvenile probation officer may appoint one juvenile probation officer for each 25,000 population in the county, according to the last preceding federal census; a psychologist to serve as juvenile probation officer psychologist for the county; and such additional juvenile officers and juvenile probation officers as the Ector County Juvenile Board may determine to be necessary, each for a term of 2 years. The Ector County Juvenile Board shall recommend the salaries to be paid to the officers, without limitation as to the amount of the salary, and the commissioners court shall approve the salaries for the officers and provide the funds for their expenses. The salaries for the officers shall be paid in 12 equal monthly installments by the county.

Sec. 5. The chief juvenile probation officer and such officers as he may appoint with the approval of the Ector County Juvenile Board have the powers and duties prescribed for juvenile officers by Article 5142 of the Revised Civil Statutes of Texas, 1925, as amended. Such officers shall take the oath to perform their duties, and the oath and appointment of such officers shall be filed in the office of the county clerk. The Ector County Juvenile Board may require and approve a good and

sufficient bond for the faithful performance of duty of any of such officers, payable to the treasurer of Ector County in such sum as may be determined by the Ector County Juvenile Board.

Sec. 6. Subject to the approval of the judge of the Juvenile Court of Ector County, the chief juvenile probation officer may employ one secretary, and may also employ as many additional secretaries as the Ector County Juvenile Board may determine to be necessary, at a salary not to exceed \$6,000 a year for each secretary, which salary shall be recommended by the chief juvenile probation officer and approved by the commissioners court, and paid in 12 equal monthly installments by the county.

Sec. 7. A person appointed or employed under the provisions of this Act may be removed from office by the power appointing him at any time.

Sec. 8. Nothing in this Act shall be construed to affect the status of a person serving as juvenile officer or assistant juvenile officer on the effective date of this Act or to require a new appointment of such officers during their current terms of office. Acts 1965, 59th Leg., p. 392, ch. 191, emerg. eff. May 17, 1965.

<p><b>Title of Act:</b> An Act relating to the establishment, powers, functions, and employees of the</p>	<p>Ector County Juvenile Board; repealing laws in conflict; and declaring an emergency. Acts 1965, 59th Leg., p. 392, ch. 191.</p>
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**Art. 5139VV. Harris County Juvenile Board**

**SUBCHAPTER A. THE JUVENILE BOARD**

**Establishment**

Section 1. The Juvenile Board of Harris County is established.

**Composition**

Sec. 2. The juvenile board consists of the county judge, the judge of the juvenile court, and the judges of the courts of domestic relations of Harris County, and a district judge appointed by majority vote of the district judges of Harris County.

**Officers**

Sec. 3. The county judge is chairman of the board.

**Meetings**

Sec. 4. (a) The board shall hold meetings once a month. It may hold other meetings at the call of the chairman or at the written request to the chairman of at least two members of the board.

(b) The board shall keep accurate and complete minutes of its meetings. The minutes are open to inspection by the public.

**Duties**

Sec. 5. (a) The Chief Probation Officer under the direction of the juvenile board shall prepare the annual budget of the probation department and of the county institutions for the care of neglected, dependent, and delinquent children. The juvenile board then shall submit the budget it approves to the Commissioners Court for final approval in the same manner as prescribed by law for the other agencies and departments of Harris County.

(b) The juvenile board shall make an annual written report to the Commissioners Court concerning the operations and efficiency of the probation department and of the county institutions for the care of neglected, dependent, and delinquent children; and concerning the gen-

For Annotations and Historical Notes, see V.A.T.S.

eral adequacy of juvenile services provided by the county. The board may include within its report any recommendations for improvements which it finds are needed.

(c) At the request of the judge of the juvenile court, the juvenile board shall investigate the operations of the probation department and the county institutions for the care of neglected, dependent, and delinquent children. The juvenile board shall make a written report of the results of its investigations to the Commissioners Court. The juvenile board may make any special studies or investigations that it finds necessary to improve the operations of the probation department and the institutions under its control.

(d) The juvenile board subject to the approval of the Commissioners Court shall establish a general personnel policy for the employees of the probation department and the county institutions for the care of neglected, dependent, and delinquent children. The board shall establish and maintain an employee classification system including:

- (1) an accurate statement of duties of each employee position;
- (2) stated qualifications of each employee position; and
- (3) a compensation plan which will insure equal pay for equal work.

(e) The board neither has, nor may it exercise, judicial power or function.

(f) The juvenile board shall direct whether the district clerk or the chief juvenile probation officer shall receive payments for the support of wives and children made under the order of the district and criminal district courts or the courts of domestic relations of Harris County.

#### SUBCHAPTER B. CHIEF JUVENILE PROBATION OFFICER

##### Establishment of office

Sec. 6. The office of Chief Juvenile Probation Officer of Harris County is established.

##### Appointment

Sec. 7. The judge of the juvenile court shall appoint the chief juvenile probation officer. The appointment is subject to the approval of the juvenile board. The judge may remove the chief juvenile probation officer at any time subject to the approval of the Juvenile Board.

##### Salary

Sec. 8. The Commissioners Court shall pay the chief juvenile probation officer an annual salary of not less than \$12,000.

##### Duties

Sec. 9. (a) The chief juvenile probation officer is the chief administrative officer of the probation department, and the director of the county institutions for the care of neglected, dependent, and delinquent children.

(b) If the chief juvenile probation officer determines that the juvenile court should acquire formal jurisdiction of a case, he shall prepare and file in the juvenile court a petition as described in Section 7, Chapter 204, Acts of the 48th Legislature, 1943 (Article 2338—1, Vernon's Texas Civil Statutes).

##### Support payments

Sec. 10. (a) If the juvenile board directs the chief juvenile probation officer to receive payments for the support of wives and children

made under the order of the district and criminal district courts or the courts of domestic relations, of Harris County, he shall receive the payments and shall disburse the funds in the manner the courts determine to be for the best interests of the parties involved in each case.

(b) If the juvenile board directs the district clerk to receive support payments, the clerk shall receive the payments and shall disburse the funds in the manner the courts determine to be for the best interests of the parties involved in each case.

(c) In all cases in which the juvenile board directs the chief juvenile probation officer to receive support payments, he shall enter into a surety bond with some solvent surety company authorized to execute bonds of this type in Texas. The bond shall be conditioned upon the chief juvenile probation officer's faithful performance of the duties of his position and upon his properly accounting for any moneys entrusted to him. The Commissioners Court shall fix the amount of the bond and shall approve its terms. The Commissioners Court shall pay the premium for the bond out of the general funds of the county.

(d) The chief juvenile probation officer shall keep an accurate and complete record of all his receipts and disbursements of support payment funds. The record is open to inspection by the public. The County Auditor shall inspect the record and shall audit the accounts quarterly, making a report of his findings and recommendations to the juvenile board.

#### **SUBCHAPTER C. THE PROBATION DEPARTMENT**

##### **Establishment**

Sec. 11. The Probation Department of Harris County is established.

##### **Appointment**

Sec. 12. The chief juvenile probation officer shall hire the employees of the probation department. He may remove an employee at any time. Appointments and removals of supervisors are subject to the approval of the juvenile board.

##### **Salaries**

Sec. 13. The Commissioners Court of Harris County shall pay the salaries and expenses of the employees of the probation department as determined by the annual budget prepared by the juvenile board and approved by the Commissioners Court.

##### **Duties**

Sec. 14. (a) The juvenile probation officers of Harris County shall

- (1) investigate all cases referred to them by the juvenile court or the juvenile board;

- (2) be present in the juvenile court and represent the interests of the juvenile when the case is heard;

- (3) furnish to the court and juvenile board any information or assistance required;

- (4) take charge of any child before and after the trial; and

- (5) perform other services for the child as may be required by the court.

(b) Relative to their offices, the juvenile probation officers of Harris County have the powers and authority of police officers and sheriffs.

(c) The juvenile probation officers of Harris County have all other powers granted to juvenile probation officers by General Law.

## SUBCHAPTER D. COUNTY JUVENILE INSTITUTIONS

**Appointment**

Sec. 15. The chief juvenile probation officer shall hire the employees of the county institutions for the care of neglected, dependent, and delinquent children. He may remove an employee at any time. The appointment and removal of superintendents of the county institutions are subject to the approval of the juvenile board.

**Salaries**

Sec. 16. The Commissioners Court of Harris County shall pay the salaries and expenses of the employees of the county institutions for the care of neglected, dependent, and delinquent children as determined by the annual budget prepared by the juvenile board and approved by the Commissioners Court.

**Gifts**

Sec. 17. Subject to the approval of the Commissioners Court, the juvenile board may accept and hold in trust for the county juvenile institutions any grant or devise of land, any gift or bequest of money or other personal property, and any donation, which is to be applied for the benefit of the institutions. Acts 1965, 59th Leg., p. 565, ch. 288.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act establishing a juvenile board, an office of chief juvenile probation officer, and a probation department in Harris County; providing that the juvenile board shall

direct whether the chief juvenile probation officer or the district clerk shall receive support payments for wives and children; and declaring an emergency. Acts 1965, 59th Leg., p. 565, ch. 288.

## Art. 5139WW. Van Zandt County Juvenile Board

**Board established**

Section 1. There is established the Van Zandt County Juvenile Board.

**Composition of board**

Sec. 2. The board is composed of the county judge and county attorney of Van Zandt County, and the district judge of each judicial district which includes Van Zandt County.

**Chairman**

Sec. 3. The judge of the juvenile court for Van Zandt County is the chairman of the board and its chief administrative officer.

**Juvenile officer**

Sec. 4. The board may appoint a juvenile officer.

**Compensation**

Sec. 5. (a) As compensation for the duties added by this Act, the commissioners court for Van Zandt County may pay each member of the board an amount not to exceed \$600 a year. If the commissioners court allows compensation under this Section, the compensation is paid in 12 equal monthly installments, and is paid out of money in the general fund of the County. Compensation allowed under this Section is in addition to any other compensation provided or allowed by law for the district judges, the county judge, and the county attorney.

(b) If the board appoints a juvenile officer, the commissioners court shall pay the juvenile officer a salary in an amount that does not exceed \$4,800 a year, and shall allow him an amount for expenses that does not exceed \$1,800 a year. The commissioners court shall provide money for paying the salary and certified expenses of the juvenile officer. The chairman of the board shall certify to the commissioners court the expenses of the juvenile officer which are necessary for the juvenile officer to properly perform his duties.

#### Powers and duties of the board

Sec. 6. The board has the powers, duties, and functions prescribed for juvenile boards created under the provisions of Article 5139, Revised Civil Statutes of Texas, 1925, as amended.

#### Powers and duties of juvenile officer

Sec. 7. The juvenile officer, if one is appointed, has the powers, duties, and functions prescribed for juvenile officers in Article 5142, Revised Civil Statutes of Texas, 1925, as amended, and any other duty or function prescribed for him by the board. Acts 1965, 59th Leg., p. 792, ch. 379, emerg. eff. June 9, 1965.

#### Title of Act:

An Act establishing a juvenile board in agency. Acts 1965, 59th Leg., p. 792, ch. Van Zandt County; and declaring an emer- 379.

#### Art. 5142a—2. Probation department for Wichita County

Sec. 10. (a) Each month for which a person has been ordered by a District Court of Wichita County to pay child support, alimony, or separate maintenance into the Wichita County Probation Department, the payor of such child support, alimony, or separate maintenance shall pay into the Wichita County Probation Department a child support service fee in the sum of \$1.00 per month payable annually in advance, provided, however, that in those instances where the payor of child support, alimony, or separate maintenance is a member of the Armed Services and where such child support, alimony, or separate maintenance is paid into the Wichita County Probation Department by Government check in behalf of such military personnel, and wherein the monthly payments exceed that amount ordered by the court, the recipient (payee) of such child support, alimony, or separate maintenance shall be the person responsible for paying such annual child support service fee into the Wichita County Probation Department.

(b) The first such child support service fee shall be due on the date such payor of child support, alimony, or separate maintenance has been ordered by the District Court to commence payments of child support, alimony, or separate maintenance following passage of this amendment and thereafter for all such persons ordered to pay child support, alimony, or separate maintenance on each succeeding annual anniversary of the original court order for payment. In those instances where the payee is charged with the responsibility of making such service fee payments, the first such payment shall become due on the date of receipt of the initial child support payment and annually thereafter on the anniversary of the date of the receipt of the first child support allotment check so long as the payor is a member of the Armed Services and so long as child support allotment payments exceed the amount of child support ordered by the court.

(c) Such child support service fees shall be for the purpose of meeting certain expenses of the child support office, including postage, equipment, stationery, office supplies, subpoenas, salaries and other expenses of the Probation Department authorized by the Wichita County Juvenile Board.

For Annotations and Historical Notes, see V.A.T.S.

(d) A record shall be kept of all child support service fees collected, and expended, and such moneys shall be deposited in the child support fund and shall be administered by the Juvenile Board of Wichita County.

(e) Failure or refusal of a person to pay such child support service fee on time and in the amount ordered by the court shall make such person susceptible to an action for contempt of court.

(f) This fund shall be subject to regular audit by the county auditor or other duly authorized persons. Annual report of receipts and expenditures in this account shall be made to the Commissioners Court. As amended Acts 1965, 59th Leg., p. 1337, ch. 608, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sec. 10a. (a) For purposes of providing legal services, court costs and expenses of service in the handling of child support, separate maintenance, and temporary alimony, there shall be assessed the sum of Ten Dollars (\$10) in all matters involving contempt of court for failure and refusal to pay such child support, separate maintenance, or temporary alimony, and in matters involving contempt of court for failure or refusal to abide by orders of the court with respect to child visitation privileges in all such contempt action initiated through the Wichita County Probation Department.

(b) Such fee of Ten Dollars (\$10) shall be paid into the Wichita County Probation Department by the person initiating such contempt proceedings but this sum, in addition to any other expenses incurred by the complainant in the prosecution of the contempt action may, in the judgment of the court, be assessed against the contemner for reimbursement to the complainant.

(c) In any such actions filed with the Wichita County Probation Department for alleged contempt of court, the \$10 assessment shall be used, as needed, for the payment of services rendered by the office of the District Clerk and/or any peace officer. Provided, however, that the complainant may be required to deposit an additional sum when the cost of service in such action for contempt is expected to exceed the \$10 assessment. In such instance, however, any unused funds over and above the \$10 assessment shall be refunded to the depositor by the Probation Department.

(d) Receipts of all disbursements of moneys paid into the Probation Department for matters involving actions of contempt shall be kept on file and all such funds received by the Probation Department shall be deposited to the Child Support Account. This fund shall be administered by the Wichita County Juvenile Board and shall be subject to regular audit by the county auditor or other duly authorized person. Annual report of receipts and expenditures in this account shall be made to the Commissioners Court.

(e) The fee prescribed by this Section shall not be collected from any person who has applied for or receives public assistance under the law of this State. Added Acts 1965, 59th Leg., p. 1337, ch. 608, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Art. 5142c—4. Juvenile officer for Grayson County

Section 1. The commissioners court of Grayson County may appoint a juvenile officer and an assistant juvenile officer.

Sec. 2. The commissioners court may pay the juvenile officer a salary of not more than \$500 per month and may allow him not more than 10 cents per mile for transportation expenses when he supplies his own automobile.

The commissioners court may pay the assistant juvenile officer a salary of not more than \$400 per month and may allow him not more than 10 cents per mile for transportation expenses when he supplies his own automobile. Acts 1965, 59th Leg., p. 409, ch. 198, emerg. eff. May 18, 1965.

Title of Act:

An Act authorizing the commissioners court of Grayson County to appoint a juvenile officer and an assistant juvenile officer; providing for salaries and expenses of each; and declaring an emergency. Acts 1965, 59th Leg., p. 409, ch. 198.

Art. 5143e. Uniform Interstate Compact on Juveniles

Short title

Section 1. This Act may be cited as the Uniform Interstate Compact on Juveniles.

Execution of interstate compact

Sec. 2. The Governor shall execute a compact on the behalf of the state with any other state or states legally joining in it in substantially the following form:

INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree:

ARTICLE I

FINDINGS AND PURPOSE

That juveniles who are not under proper supervision and control, or who have absconded, escaped, or run away are likely to endanger their own health, morals, and welfare, and the health, morals, and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformatory, and protective policies which guide their laws concerning delinquent, neglected, or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II

EXISTING RIGHTS AND REMEDIES

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies, and procedures, and shall not be in derogation of parental rights and responsibilities.



## ARTICLE III

## DEFINITIONS

That, for the purpose of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected, or dependent children; "state" means any state, territory, or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

## ARTICLE IV

## RETURN OF RUNAWAYS

(a) That the parent, guardian, person, or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person, or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner, and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person, or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected, or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person, or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file

subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person, or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for such offense of juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person, or agency entitled to the legal custody of such minor.

## ARTICLE V

### RETURN OF ESCAPEES AND ABSCONDERS

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of

For Annotations and Historical Notes, see V.A.T.S.

his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with this legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for such offense of juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this article shall be responsible for the payment of the transportation costs of such return.

## ARTICLE VI

## VOLUNTARY RETURN PROCEDURE

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped, or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, by executing or subscribing in writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

## ARTICLE VII

COOPERATIVE SUPERVISION OF PROBATIONERS  
AND PAROLEES

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian, or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies, and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian, or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

For Annotations and Historical Notes, see V.A.T.S.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceedings to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for such offense of juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

## ARTICLE VIII

### RESPONSIBILITY FOR COSTS

(a) That the provisions of Articles IV(b); V(b), and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies, and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV(b), V(b), or VII(d) of this compact.

## ARTICLE IX

### DETENTION PRACTICES

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail, or lockup nor be detained or transported in association with criminal, vicious, or dissolute persons.

## ARTICLE X

### SUPPLEMENTARY AGREEMENTS

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment, and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment, and rehabilitation. Such care, treatment, and rehabilitation may be provided in an institution located within any state entering into

such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment, and custody of such delinquent juveniles, taking into consideration the character of facilities, services, and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment, and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person, or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

## ARTICLE XI

### ACCEPTANCE OF FEDERAL AND OTHER AID

That any state party to this compact may accept any and all donations, gifts, and grants of money, equipment, and services from the federal or any local government, or any agency thereof and from any person, firm, or corporation, for any of the purposes and functions of this compact, and may receive and utilize, the same subject to the terms, conditions, and regulations governing such donations, gifts, and grants.

## ARTICLE XII

### COMPACT ADMINISTRATORS

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

## ARTICLE XIII

### EXECUTION OF COMPACT

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form or execution to be in accordance with the laws of the executing state.

## ARTICLE XIV

### RENUNCIATION

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements; and shall not be subject to the six months renunciation notice of the present article.

## ARTICLE XV

## SEVERABILITY

That the provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

## Execution of additional article

Sec. 3. The Governor shall also execute on the behalf of the state with any other state or states legally joining in it, an additional article to the Interstate Compact on Juveniles in substantially the following form:

## ARTICLE XVI

## ADDITIONAL ARTICLE

That this article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

For the purposes of this article, "child," as used herein, means any minor within the jurisdictional age limits of any court in the home state.

When any child is brought before a court of a state of which such child is not a resident, and such state is willing to permit such child's return to the home state of such child, such home state, upon being so advised by the state in which such proceeding is pending, shall immediately institute proceedings to determine the residence and jurisdictional facts as to such child in such home state, and upon finding that such child is in fact a resident of said state and subject to the jurisdiction of the court thereof shall within five days authorize the return of such child to the home state, and to the parent or custodial agency legally authorized to accept such custody in such home state, and at the expense of such home state, to be paid from such funds as such home state may procure, designate, or provide, prompt action being of the essence.

## Execution of amendment

Sec. 4. The Governor shall also execute on the behalf of the state with any other state or states legally joining in it, an amendment to the Interstate Compact on Juveniles in substantially the following form:

## RENDITION AMENDMENT

(a) This amendment shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition.

tion to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

#### **Juvenile compact administrator**

Sec. 5. Under the compact, the Governor may designate an officer as the compact administrator. The administrator, acting jointly with like officers of other party states, shall adopt regulations to carry out more effectively the terms of the compact. The compact administrator serves at the pleasure of the Governor. The compact administrator shall cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of a supplementary agreement entered into by this state.

#### **Supplementary agreements**

Sec. 6. The compact administrator may make supplementary agreements with appropriate officials of other states pursuant to the compact. If a supplementary agreement requires or contemplates the use of an institution or facility of this state or requires or contemplates the provision of a service of this state, the supplementary agreement has no force or effect until approved by the head of the department or agency under whose jurisdiction the institution is operated, or whose department or agency is charged with performing the service.

#### **Financial arrangements**

Sec. 7. The compact administrator may make or arrange for the payments necessary to discharge the financial obligations imposed upon this state by the compact or by a supplementary agreement made under the compact, subject to legislative appropriations.

#### **Enforcement**

Sec. 8. The courts, departments, agencies, and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to effectuate its purposes and intent which are within their respective jurisdictions.

#### **Additional procedures not precluded**

Sec. 9. In addition to the procedures provided in Articles IV and VI of the compact for the return of a runaway juvenile, the particular states, the juvenile, or his parents, the courts, or other legal custodian involved may agree upon and adopt any plan or procedure legally authorized under the laws of this state and the other respective party states for the return of the runaway juvenile. Acts 1965, 59th Leg., p. 676, ch. 324.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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

An Act relating to the adoption of an interstate compact on juveniles; and declaring an emergency. Acts 1965, 59th Leg., p. 676, ch. 324.



## TITLE 83—LABOR

## CHAPTER FOURTEEN—UNEMPLOYMENT COMPENSATION

## Art. 5221b—9. Administration

(f) Oaths and Witnesses: In the discharge of the duties imposed by this Act, the chairman of an appeal tribunal and any duly authorized representative or member of the Commission shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this Act. Notwithstanding the provisions of Article 3912e, Vernon's Texas Civil Statutes, or any other provision of the laws of this state, the fees of sheriffs and constables for serving such subpoenas shall be paid by the Commission out of administrative funds, and the Comptroller of Public Accounts shall issue warrants for such fees as directed by the Commission. As amended Acts 1965, 59th Leg., p. 318, ch. 150, § 1, eff. July 1, 1965.

\* \* \* \* \*

Act 1965, 59th Leg., p. 318, ch. 150 amended articles 5221b—9, 5221b—12, 5221b—15 and 5221b—17 of the Unemployment Compensation Act. Section 7 of the amendatory act of 1965 provided: "All laws or parts of laws in conflict herewith, insofar as they do conflict herewith, are hereby repealed but such repeal shall in no way be construed as

forfeiting or waiving any rights of the State of Texas or of the Texas Employment Commission which have accrued thereunder, including, without limiting or without being limited thereto, the right to collect contributions, interest or penalties that have accrued, and the right of prosecution for violation of any provision thereof."

## Art. 5221b—12. Collection of contributions

(a) Interest and penalties on past due contributions. If any employer subject to the provisions of this Act shall fail to pay contributions due under this Act on the date on which they are due and payable as prescribed by the Commission, such employer shall forfeit to the State of Texas a penalty of one per cent (1%) of such contributions, and after the expiration of one (1) month such employer shall forfeit an additional penalty of one per cent (1%) of such contributions for each month or fraction thereof, until such contributions and penalties shall have been paid in full; provided, however, that the penalties applicable to the contributions due for any period (as prescribed by the regulations of the Commission) shall not exceed twenty-five per cent (25%) of the amount of contributions due at due date; provided, however, that for the exclusive purpose of this subsection, after July 1, 1965, the forfeit of penalty provided herein shall not apply to any employer who failed to pay contributions due under this Act because of the bona fide belief that all or some of their employees are covered under the unemployment insurance law of any other state if such employer paid, pursuant to the unemployment insurance law of such other state, the contributions thereunder when due on all such wages of such employees.

In addition to the penalties provided above, whenever the maximum penalty of twenty-five per cent (25%) shall accrue or shall have accrued as provided above in cases in which the liability of the employer is reduced to judgment, thereafter in addition to the penalties provided above such judgment shall bear interest at the rate of six per cent (6%) per annum in like manner as other civil judgments. As amended Acts 1965, 59th Leg., p. 318, ch. 150, § 2, eff. July 1, 1965.

(b) Collections. If, after due notice, any employer defaults in any payment of contributions, penalties or interest thereon, the amount due shall be collected by civil action in the name of the state and the Attorney General, and the employer adjudged in default shall pay the costs of such action; provided, however, that no court action shall be begun to collect contributions or penalties from an employer after the expiration of three (3) years from the due date of such contributions, except that, in any case of a willful attempt in any manner to evade any of the provisions of the Unemployment Compensation Law or Commission rules and regulations promulgated thereunder, such action may be begun at any time.

An employer liable for contributions, penalties, or interest under this Act who fails to pay such sums when due shall, after judgment has been entered therefor and execution returned unsatisfied, forfeit his right to employ individuals in this state until he enters into a bond with sureties to be approved by the Commission, in an amount not to exceed double the sum then due plus contributions estimated by the Commission to become due by said employer during the next calendar year, said bond to be conditioned upon payment of all contributions, penalties, interest, and court costs due and owing by the employer within thirty (30) days after the expiration of the next ensuing calendar year, and in the event the employer fails to furnish such bond the Commission may proceed by injunction to prevent the continuance of such employment upon such failure by the employer by applying to the court which previously entered judgment against the employer for contributions, penalties, or interest, and a temporary injunction enjoining the employer from employing persons in this state without first posting bond as aforesaid may be granted after reasonable notice of not less than ten (10) days by said court. As amended Acts 1965, 59th Leg., p. 318, ch. 150, § 2, eff. July 1, 1965.

(c) (1) If any employer shall fail to file any reports of wages paid or contributions due as required by this Act or by the rules or regulations of the Commission, such employer shall forfeit to the state for the Unemployment Compensation Special Administration Fund as penalties: (i) for the first month, or part thereof, of violation the sum of Ten Dollars (\$10.00) and in addition thereto one per cent (1%) of the amount of taxable wages paid which the employer failed to report to the Commission; and (ii) for the second successive month, or part thereof, of violation, an additional two per cent (2%) of the amount of taxable wages paid which the employer failed to report to the Commission; and (iii) for the third successive month, or part thereof, of violation, an additional three per cent (3%) of the amount of taxable wages which the employer failed to report to the Commission. The penalties hereinbefore provided in (i), (ii), and (iii) are cumulative and in addition to any other penalties provided in this Act, and if such penalties are not paid to the Commission at the time they are forfeited, they shall be collected by civil action as provided in this Section.

(2) If any employing unit shall (i) fail to keep any of the records required to be kept by the provisions of this Act or by the rules or regulations of the Commission, (ii) make a false report to the Commission, or (iii) fail or refuse to abide by the provisions of this Act, or the rules or regulations of the Commission promulgated hereunder, or violate the same, and if no civil penalty is otherwise provided by this Act, such employing unit shall forfeit to the state for the Unemployment Compensation Special Administration Fund as a penalty the sum of Twenty-Five Dollars (\$25.00). In cases where the violation is of a continuing nature, each day's violation after written notice of the existence of the violation is given to the employer by the Commission shall constitute a separate offense and incur another penalty. If such penalties are not paid when demanded by the Commission or its duly authorized representative, they shall be collected by civil action as provided in this Section.

For Annotations and Historical Notes, see V.A.T.S.

(3) If any employer shall fail to make any reports to the Commission, required by this Act or by rules or regulations of the Commission, the Commission may estimate, from any sources of information available to it, the amount of taxable wages paid by such employer during the period in question, and the Commission may proceed to collect taxes and penalties on the basis of such estimates the same as if the estimated wages had been properly reported by the employer.

\* \* \* \* \*

(4) The collection remedies provided in this Section shall be cumulative and no action shall be construed as an election on the part of the Commission to pursue any given remedy or action hereunder to the exclusion of any other remedy or action for which provision is made in this Act or in the General Laws of the State of Texas. As amended Acts 1965, 59th Leg., p. 318, ch. 150, § 2, eff. July 1, 1965.

\* \* \* \* \*

(f) All sums due by any employing unit under this Act shall become a lien upon all the property both real and personal belonging to such employing unit or to any individual so indebted. Such lien shall attach at the time any contributions, penalties, interest or other charges become delinquent and may be recorded in the "State Tax Liens" book kept by county clerks as provided in Article 107A, Revised Civil Statutes of Texas, 1925, as amended<sup>1</sup>, and such liens may be released in the manner there provided for other state tax liens. The Commission shall pay by warrant drawn by the State Comptroller to the County Clerk of the county in which a notice of lien provided by this subsection has been filed the usual fee for filing and recording other similar instruments. Such fee shall be added to the amount due from the employer. When the liability secured by the lien is fully paid, the Commission shall mail to the employer a release of the said lien and it shall be the employer's responsibility to file such release with the appropriate County Clerk and to pay the County Clerk's fee for recording the release. As amended Acts 1965, 59th Leg., p. 318, ch. 150, § 3, eff. July 1, 1965.

<sup>1</sup> See V.A.T.S. Tax-Gen. art. 1.07A.

\* \* \* \* \*

(l) Taxes, penalties, interest and court costs owed by an employer under a final court judgment under this Act shall be deemed to be a debt owed to the State of Texas by the employer for the purposes of Article 4350, Vernon's Texas Civil Statutes, provided, however, that this subsection shall apply only to warrants which would otherwise be issued by the State Comptroller in refund of taxes, fees, assessments and other deposits required under the laws of Texas and to warrants otherwise owed to the employer as compensation for goods and services (other than warrants owed in payment for services performed as an elective or appointive employee of this state and warrants owed in reimbursement of expenses incurred in the performance of such state employment). Added Acts 1965, 59th Leg., p. 318, ch. 150, § 4, eff. July 1, 1965.

(m) Any qualified attorney who is a regular salaried employee of the Commission may represent any employment security agency of any other state in proceedings in court in this state to collect contributions, penalties, interest, and court costs for which liability has been incurred by an employing unit under an unemployment compensation law or unemployment insurance law of any other state, provided that such liability has been reduced to judgment in a court of record in the state of the requesting agency, and provided further, that the unemployment compensation law or unemployment insurance law of the requesting state provides for like action on behalf of the Commission by the requesting state agency. Venue of such proceedings shall be the same as for actions to collect delinquent

contributions, penalties and interest due under this Act. Added Acts 1965, 59th Leg., p. 318, ch. 150, § 4, eff. July 1, 1965.

Effect of repeal of laws and parts of laws which conflicted with amendatory act of 1965 on accrued rights of State and Em-  
ployment Commission, see note under art. 5221b—9.

**Art. 5221b—15. Representation in court**

\* \* \* \* \*

(c) In all civil and criminal proceedings brought under provisions of this Act, duly certified copies of documents from Commission files and Commission records shall be accepted in evidence in lieu of the originals thereof. Added Acts 1965, 59th Leg., p. 318, ch. 150, § 5, eff. July 1, 1965.

Effect of repeal of laws and parts of laws which conflicted with amendatory act of 1965 on accrued rights of State and Em-  
ployment Commission, see note under art. 5221b—9.

**Art. 5221b—17. Definitions**

As used in this Act unless the context clearly requires otherwise:

\* \* \* \* \*

(g) (5) The term "employment" shall not include:

\* \* \* \* \*

(J) Deleted. Acts 1965, 59th Leg., p. 318, ch. 150, § 6.

Effect of repeal of laws and parts of laws which conflicted with amendatory act of 1965 on accrued rights of State and Em-  
ployment Commission, see note under art. 5221b—9.

**CHAPTER FIFTEEN—INSPECTION OF STEAM BOILERS**

**Art. 5221c. Inspection and inspectors**

**Exemptions from act**

Sec. 3. The following boilers and low pressure heating boilers are exempt from the provisions of this Act.

1. Boilers under Federal control and stationary boilers at round houses, pumping stations and depots of railway companies under the supervision or inspection of the Superintendent of Motive Power of such railway companies.

2. Automobile boilers and boilers on road vehicles. As amended Acts 1965, 59th Leg., p. 887, ch. 440, § 1, emerg. eff. June 16, 1965.

**Exemptions from sections 4, 5, 11 and 12 of act**

Sec. 3a. The following boilers and low pressure heating boilers shall be exempt from the requirements of Sections 4, 5, 11 and 12 of this Act:

1. Low pressure heating boilers for heating in buildings occupied solely for residence purposes with accommodations not to exceed four (4) families;

2. Boilers and low pressure heating boilers located on farms and used exclusively for agricultural purposes;

3. Boilers and low pressure heating boilers used for cotton gins. Added Acts 1965, 59th Leg., p. 887, ch. 440, § 2, emerg. eff. June 16, 1965.

**CHAPTER SIXTEEN—MISCELLANEOUS PROVISIONS**

**Art. 5221e. Repealed. Acts 1965, 59th Leg., p. 213, ch. 86, § 2. Eff. Sept. 1, 1965**

See, now, art. 4101—2, § 4.

**TITLE 85—LANDS—ACQUISITION FOR PUBLIC USE**

Art.  
5248g. Grant of portions of bed and banks  
of Pecos, Devils and Rio Grande  
Rivers to United States [New].

**Art. 5248g. Grant of portions of bed and banks of Pecos, Devils and  
Rio Grande Rivers to United States**

Section 1. The Governor of the State of Texas is hereby authorized to grant to the United States of America in accordance with the conditions hereinafter set out, such of those portions of the bed and banks of the Pecos and Devils Rivers in Val Verde County and the Rio Grande in Brewster, Cameron, Hidalgo, Hudspeth, Jeff Davis, Kinney, Maverick, Presidio, Starr, Terrell, Val Verde, Webb and Zapata Counties as may be necessary or expedient in the construction and use of the storage and flood control dams and their resultant reservoirs, diversion works and appurtenances thereto, provided for in the Treaty between the United States of America and United Mexican States, concluded February 3, 1944.

Sec. 2. When the United States Commissioner, International Boundary and Water Commission, United States and Mexico, shall make application to the Governor of the State of Texas describing the area which is deemed necessary or expedient for use under said Treaty, the Governor shall issue a grant for and on behalf of the State of Texas to the United States of America conveying to it the area described in the application, which said grant shall reserve unto the State of Texas all minerals except rock, sand and gravel needed by the United States in the operation or construction by the United States or its agents of any of the works described in Section 1 of this Act subject to the proviso that the minerals so reserved to the state shall not be explored for, developed or produced in a manner which will at any time prevent or interfere with the operation or construction by the United States of America of any of the works described in Section 1 of this Act; and providing further, that prior to exploring for or developing such reserved minerals the written consent and approval of the United States Section, International Boundary and Water Commission, United States and Mexico, or its successor agency, shall be obtained as to the proposed area sought to be explored or developed by the State of Texas, including, but not by way of limitation, the location of and production facilities for oil and/or gas wells. Successive applications may be made by the said United States Commissioner, and successive grants may be made to the United States of America by the Governor for and on behalf of the State of Texas, embracing various tracts within the limits herein specified, and no time limit shall be imposed upon such grants; provided, however, that nothing herein shall be construed as divesting, limiting, or otherwise affecting the property rights, including, but not by way of limitation, the riparian rights, under the laws of the State of Texas, of the private owners of land abutting the Pecos, Devils, and Rio Grande Rivers in the counties herein referred to. The authority herein granted to the Governor of the State of Texas extends only to the bed and banks of the Pecos, Devils, and Rio Grande Rivers to the extent that title to such bed and banks is by law vested in the State of Texas whether under the civil law, or common law, or court decisions of the State of Texas, or otherwise; provided, however, that any grant or grants made to the United States of America in accordance with this authority shall contain a reservation that in the event any part of the property so granted shall ever cease to be used

for the purposes set out within this Act for a continuous period of five (5) years after the beginning of such use, the part or parts of said property which are not so used shall immediately and automatically revert to the State of Texas after the expiration of said five (5) year period. As amended Acts 1962, 57th Leg. 3rd C.S., p. 167, ch. 61, § 1.

The 1962 amendment inserted the references to the Pecos and Devils Rivers.

## TITLE 86—LANDS—PUBLIC

## CHAPTER FOUR—OIL AND GAS

## Art. 5344c. Oil, gas and mineral leases; terms; extension

\* \* \* \* \*

Sec. 2. Any lease heretofore granted and in good standing covering any of the lands or areas referred to in Section 1 of this Act, upon application by any owner thereof to the Commissioner of the General Land Office before January 1, 1967, may be amended under the terms of this Act so as to provide that such lease shall remain in effect as long after the expiration of its primary term as oil, gas, or other mineral covered by such lease is produced therefrom, provided any amendment executed by virtue of this Act shall include only those minerals covered in the original agreement to which said amendment is made; and providing further, that in amending such leases same shall be amended and renewed separately as to each mineral thereunder, except as to 'oil and gas' which may be contained in one lease and each such lease shall remain in effect as long after the expiration of its primary term as such mineral covered by such lease is produced therefrom in paying quantities. The School Land Board shall fix the consideration for each such amendment, which shall not be less than Two Dollars (\$2) per acre, provided that any such amendment shall not change the original consideration in any lease to the extent that the state shall thereafter receive less than the original royalty provided in said leases. If the consideration so fixed is paid in cash within ninety (90) days after such consideration has been fixed, the Commissioner of the General Land Office shall execute and deliver to the owner of such lease an instrument evidencing such amendment. If the consideration is not paid within the ninety (90) days, the application shall be conclusively presumed to have been withdrawn. This Act shall not authorize the Commissioner of the General Land Office or the School Land Board to change or amend the lease involved in any other respect. As amended Acts 1963, 58th Leg., p. 485, ch. 174, § 1; Acts 1965, 59th Leg., p. 1537, ch. 672, § 1, emerg. eff. June 18, 1965.

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## CHAPTER SEVEN—GENERAL PROVISIONS

## INDIAN LANDS

Art.  
5421z. Alabama-Coushatta Indian Reservation [New].

## Art. 5415d. State beaches; right of public to free and unrestricted use and enjoyment

Regulation of motor vehicle traffic on beaches; littering beaches; violations; penalties

Sec. 8. (a) The Commissioners Court of a county bordering on the Gulf of Mexico or its tidewater limits may by order regulate motor vehicle traffic on a beach within the boundaries of the county. It may also prohibit by order the littering of such beach and to this end may define the term "littering."

(b) Before a Commissioners Court may adopt an order authorized by Subsection (a) of this Section, it must

(1) publish notice in at least one newspaper having general circulation in the county of its intention to adopt the order;

(2) in the notice, state the time and place of a public hearing on the proposed order and state that interested persons may obtain copies of the proposed order from the Commissioners Court;

(3) make copies of the proposed order available to interested persons;

(4) more than two weeks, but less than one month, after the notice is published, conduct a hearing at the time and place stated in the notice, at which it must allow all interested persons to express their views on the proposed order; and

(5) in the case of a traffic regulation, provide in the order for signs, designed and posted in compliance with the current provisions of the Texas Manual on Traffic Control Devices for Streets and Highways, stating the applicable speed limit, parking requirement, or that vehicles are prohibited, as the case may be.

(c) The Commissioners Court may, in an order duly adopted under Subsections (a) and (b) of this Section, provide the following criminal penalties for violation of the order:

(1) for a first conviction, a fine not exceeding \$50.00;

(2) for a second conviction, a fine not exceeding \$200; and

(3) for a conviction subsequent to the second, a fine not exceeding \$500 or imprisonment in the county jail not exceeding 60 days or both such fine and imprisonment.

(d) If an order duly adopted under Subsections (a) and (b) of this Section conflicts with a General Law of this state, the order controls over the state law and in case of violation prosecution may be maintained only under the order. As amended Acts 1965, 59th Leg., p. 1515, ch. 659, § 2, emerg. eff. June 18, 1965.

**Power of city, town or village to regulate traffic and to prohibit littering of beaches; regulatory ordinances**

Sec. 9. This Act<sup>1</sup> shall not limit the power of an incorporated city, town, or village bordering on the Gulf of Mexico or any body of water adjacent thereto to regulate motor vehicle traffic and prohibit littering on a beach within its corporate limits. In the event such regulatory ordinances are passed by such a city, town, or village, and such ordinance conflicts with a General Law of this state, or with an order of the Commissioners Court adopted under this Act, the ordinance controls over the state law, and over such order, and in case of violation, prosecution may be maintained only under the ordinance. Added Acts 1965, 59th Leg., p. 1515, ch. 659, § 3, emerg. eff. June 18, 1965.

<sup>1</sup> Acts 1965, 59th Leg., p. 1515, ch. 659.

**Right to use public beaches**

Sec. 10. The right of the public to use the public beaches defined in this Act<sup>1</sup> remains inviolate subject only to orders duly adopted by a Commissioners Court under this Act and to ordinances enacted by an incorporated city, town, or village. Added Acts 1965, 59th Leg., p. 1515, ch. 659, § 4, emerg. eff. June 18, 1965.

<sup>1</sup> Acts 1965, 59th Leg., p. 1515, ch. 659.

Section 1 of the amendatory act of 1965 provided: "The regulation of traffic and prohibition of littering on the public beaches is of great concern both to the residents of Gulf Coast counties and to those of the state at large. The variety of existing needs and conditions, the ever-changing area and



For Annotations and Historical Notes, see V.A.T.S.

nature of our beaches, and the myriad interests of the counties in whose boundaries the beaches lie require above all else flexible solutions to the traffic and littering problems. The Legislature accordingly finds that

"(1) the continued enjoyment by the people of this state of our public beaches necessitates the orderly regulation of vehicular traffic and prohibition of littering on these beaches; and

"(2) it is impracticable, if not impossible, to prescribe by General Law, appli-

cable to each of our public beaches, regulations and prohibitions which would realistically accommodate the legitimate interests of the local governments most directly concerned.

"It is therefore the purpose of this Act to authorize the Gulf Coast counties to adopt, within the limitations herein prescribed, regulations and prohibitions suited to the conditions and needs prevailing within their boundaries."

**Art. 5421c—3. Control and disposition of lands set apart for permanent free school fund and asylum funds and mineral estate within tide-water limits; dedication of mineral estate to permanent school fund; School Land Board; creation and duties; Board of Mineral Development abolished**

\* \* \* \* \*

3. There is hereby created a board to be known as the School Land Board, and to be composed of three (3) members, namely: The Commissioner of the General Land Office, who shall be Chairman, and one (1) citizen of the state appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years, and one (1) citizen of the state appointed by the Attorney General with the advice and consent of the Senate, who shall serve for a term of two (2) years. The authority of the Attorney General to appoint one of the members of the School Land Board hereunder, including the power to make appointments during the recess of the Senate, shall be the same as the authority provided in the Constitution of the State of Texas for the filling of vacancies in state offices by the Governor, and each appointment made hereunder from time to time by the Governor and by the Attorney General, respectively, shall be made in accordance with and subject to those provisions of the Constitution of the State of Texas authorizing the filling of vacancies in state offices by appointment of the Governor. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 5; Acts 1965, 59th Leg., p. 672, ch. 321, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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Acts 1963, 58th Leg., p. 1138, ch. 442, § 5, which purported to amend paragraph 5 of this article, but which was apparently intended to amend paragraph 3 thereof, relating to membership of the School Land Board, was repealed by Acts 1965, 59th Leg., p. 672, ch. 321, § 2. Sections 2 and 3 of Acts 1965, 59th Leg., p. 672, ch. 321 provided:

"Sec. 2. Section 5 of Chapter 442, Acts 58th Legislature, 1963, is hereby repealed; however, the composition of the School Land Board and appointments by the Attorney General of a citizen of the state to be a member of the School Land Board are hereby in all things ratified, approved, and validated, and for the purpose of deter-

mining the validity, legality, and effect of all actions of such appointees and of the School Land Board taken between the effective date of Chapter 442, Acts 58th Legislature, 1963, and the effective date of this Act, such appointments and the composition of the School Land Board shall be conclusively presumed to be valid, legal and effective.

"Sec. 3. Each citizen member of the School Land Board is entitled to receive a per diem allowance for each day spent in performance of his duties and reimbursement for actual and necessary travel expenses incurred in the performance of his duties, as provided by the General Appropriations Act."

**Art. 5421k—3. Sale of land in Cayo Del Oso to city of Corpus Christi; validation**

**Improvement of land; title to land**

Sec. 4. The City of Corpus Christi, its agents or assigns shall improve such portions of the land covered by said patent or any corrected patent as such city, its agents or assigns, deem suitable and

proper therefor. Such improvement shall consist of the raising or filling to a height of at least three (3) feet above the level of mean high tide, except for such part as may be devoted to channels, canals, or waterways. Title to any portion of such land (except that devoted to channels, canals, or waterways) that has not been so improved by filling to such height before July 1, 1971, shall revert to the State of Texas, and from and after that date neither said city nor its assigns shall have any right, title, claim, or interest to such portion which has not been so improved. No title shall revert, however, to the State of Texas as to any portion or portions which are filled to such height before July 1, 1971, including portions which are devoted to channels, canals, or waterways appurtenant to or used in connection with any portion so improved. As amended Acts 1965, 59th Leg., p. 91, ch. 34, § 1.

**Powers of city to convey or retain land; other powers**

Sec. 5. Said city may retain all or any part of the land subject to this Act, and it may convey all or any part or parts of such land to others. As to each tract or parcel of land which the city conveys to another or others, each such conveyance or conveyances shall:

(A) Contain a condition subsequent, which shall provide that such grantee or grantees shall by the date specified in the conveyance, which date shall in no event be later than July 1, 1971, improve the particular tract or parcel of land included in such conveyance to the extent that it will be filled to a height of at least three (3) feet above mean high tide, except for such portions thereof as may be devoted to channels, canals, or waterways. If the date specified in the conveyance is a date prior to July 1, 1971, such condition subsequent shall provide that if said condition is breached, title to the tract or parcel of land covered by said conveyance that is not so improved (except for such portions as may be devoted to channels, canals, or waterways) shall revert to the City of Corpus Christi, and the right of re-entry retained by said city in the conveyance shall be immediately exercised; and said city may thereafter retain such portion or portions of such tract or parcel, or may convey such portion or portions in the same manner as provided above. If the date specified in the conveyance is July 1, 1971, such condition subsequent shall provide if said condition is breached, title to such portion or portions of the tract or parcel of land covered by said conveyance that are not so improved (except for such portions as may be devoted to channels, canals, or waterways) shall revert to the State of Texas;

(B) Provide that such portion or portions of the tract or parcel of land covered by the conveyance which have been so improved, including such portions thereof as may be devoted to channels, canals, or waterways appurtenant to or used in connection with any portion so improved, shall, upon the written application to the City of Corpus Christi describing the improved area and the area devoted to channels, canals, or waterways appurtenant or used in connection therewith, be by the city by ordinance or resolution released of the condition subsequent and a proper recordable release shall be executed and delivered. Any such ordinance or resolution of said city shall be binding upon all parties concerned, including the State of Texas, as to the making of the improvements in accordance herewith. As amended Acts 1965, 59th Leg., p. 91, ch. 34, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 3 of the amendatory act of 1965 ratified and validated the boundaries of the tract as determined by judicial decree;

section 4 repealed all conflicting laws and parts of laws and section 5 made the act cumulative of all former grants and authorities from the State of Texas to the City of Corpus Christi.

## INDIAN LANDS

**Art. 5421z. Alabama-Coushatta Indian Reservation****Creation of commission**

Section 1. The Commission for Indian Affairs is created.

**Members of commission**

Sec. 2. The Commission consists of three members from the eastern section of the State, appointed by the Governor with the advice and consent of the Senate.

**Terms of office**

Sec. 3. (a) Each member holds office for a term of six years and until his successor is appointed and qualified.

(b) One of the first three members appointed by the Governor shall serve a term expiring on January 31, 1967; one of the members shall serve a term expiring on January 31, 1969; and one of the members shall serve a term expiring on January 31, 1971.

**Chairman**

Sec. 4. The Board shall elect a chairman from among its members, who shall serve for a period of two years or until his successor is elected.

**Meetings of commission**

Sec. 5. (a) The Commission shall hold at least four public meetings per year at times and places fixed by rule of the Commission. The Commission shall make rules providing for the holding of special meetings.

(b) Two members of the Commission constitute a quorum for the transaction of business.

**Compensation of members**

Sec. 6. Each member is entitled to receive per diem compensation for each day he actually attends a meeting and is entitled to reimbursement for actual and necessary expenses incurred in attending meetings, as provided in the General Appropriations Act.

**Commission responsibilities**

Sec. 7. The Commission's primary responsibility is the development of the human and economic resources of the Alabama-Coushatta Indian Reservation and to assist the Tribal Council in making the Reservation self-sufficient. Specifically, the Commission shall assist the Tribal Council in improving the health, educational, agricultural, business, and industrial capacities of the Reservation.

**Transfer of functions, property, etc.**

Sec. 8. All powers, duties, and functions with respect to the supervision, management, and control of the Alabama-Coushatta Indian Reservation, previously vested in the Board for Texas State Hospitals and Special Schools, and all appropriated balances, property, personnel, and records used by the Board in conjunction with such powers, duties, and functions are transferred to the Commission for Indian Affairs.

**Superintendent**

Sec. 9. The Commission shall appoint a Superintendent of the Reservation. The Superintendent serves at the will of the Commission. He is responsible for the management and supervision of the Reservation, subject to the policy direction of the Commission.

**Contracts with local agencies**

Sec. 10. The Commission may cooperate, negotiate, and contract with local agencies and with private organizations and foundations concerned with the development of the human and economic resources of the Reservation, in order to implement the planning and development of the Reservation. Counties and local units of government are authorized to cooperate with the Commission and may furnish the use of any equipment necessary in the development of the Reservation.

**Gifts, grants, and donations**

Sec. 11. The Commission may accept gifts, grants, and donations of money, personal property and real property for use in development of the Reservation. It may acquire by gift or purchase, any additional lands necessary for improvement of the Reservation, its income, and economic self-sufficiency.

**Federal grants**

Sec. 12. The Commission may negotiate with any agency of the United States in order to obtain grants to assist in the development of the Reservation.

**Tribal council may issue bonds**

Sec. 13. Subject to the written approval of the Commission, the Tribal Council may issue revenue bonds or any other evidence of indebtedness, in order to finance the construction of improvements on the Reservation and for the purchase of additional lands necessary therefor or for improvement of the income and economic conditions of the Reservation. The bonds or other evidences of indebtedness may be secured by the income from one or more revenue-producing properties, interests, or facilities of the 3,071-acre tract of land which is held in trust by the State of Texas for the benefit of the Indians of the Alabama and Coushatta Tribes under the authority of Public Law 627, Acts of the 83rd Congress, 1954, 68 Stat. 768, 25 U.S.C.A., Sections 721 et seq.

**Maturity; redemption**

Sec. 14. All bonds issued by the Tribal Council shall mature serially or otherwise not more than 25 years from the date of issuance, and they may be made redeemable prior to maturity, at the option of the Tribal Council, with the written approval of the Commission, at times and prices and under terms and conditions prescribed in the authorizing proceedings.

**Form, conditions, details of bonds**

Sec. 15. Subject to the restrictions contained in this Act, the Tribal Council and the Commission have complete discretion in fixing the form, conditions, and details of the bonds; and the bonds may be refunded or otherwise refinanced whenever the Tribal Council, with the approval of the Commission, deems such action to be necessary or appropriate.

**Sale; terms; price; interest**

Sec. 16. The bonds may be sold, either at public or private sale, at a price and under terms determined by the Tribal Council and the Commission to be the most advantageous price and terms reasonably obtainable. However, the interest cost of the money received may not exceed eight per cent per year, computed with relation to the absolute maturity of the bonds in accordance with standard bond interest tables currently in use by insurance companies and investment houses, excluding from such computation, however, the amount of any premium to be paid on redemption of any bonds prior to maturity.

**Expenses; fees**

Sec. 17. The Tribal Council, with the approval of the Commission, may employ attorneys, fiscal agents, and financial advisors in connection with the issuance and sale of bonds; and proceeds from the sale of the bonds may be used to pay their fees and all other expenses of the issuance and sale of the bonds.

**Bonds as investments and security**

Sec. 18. All bonds issued under this Act are legal, authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of all political subdivisions and public agencies of the State, and when accompanied by all unmatured coupons appurtenant to the bonds, are lawful and sufficient security for deposits in the amount of the par value of the bonds.

**Pledge of revenues and income**

Sec. 19. The Tribal Council, with the approval of the Commission, may pledge the rents, royalties, revenue, and income from revenue-producing properties and facilities of the 3,071-acre tract, to the payment of the interest on and the principal of the bonds, and may enter into agreements regarding the imposition of sufficient charges and other revenues and the collection, pledge, and disposition of them. In making such a pledge, the Tribal Council may specifically reserve the right to issue, with the approval of the Commission, additional bonds which will be on a parity with, or subordinate to, the bonds then being issued.

**Disposition of oil and gas revenue**

Sec. 20. All revenues realized from the leasing of the 3,071-acre tract under the authority of Chapter 325, Acts of the 52nd Legislature, 1951 (Article 5382d, Vernon's Texas Civil Statutes), shall be paid to the Commissioner of the General Land Office, and he shall immediately place such money in a depository or depositories designated in writing by the Tribal Council and the Commission. These funds shall be placed in a special account known as the Alabama-Coushatta Mineral Fund and shall be expended for such purposes as the Tribal Council shall recommend, with the approval of the Commission.

**Debt against state**

Sec. 21. No obligation created by a contract, bond, note, or other evidence of indebtedness issued by the Tribal Council under this Act shall be construed as creating a debt against the State; and every such contract, bond, note, or other evidence of indebtedness shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Acts 1965, 59th Leg., p. 552, ch. 279, eff. Sept. 1, 1965.

Section 22 of Acts 1965, 59th Leg., p. 552, ch. 279 provided that the act takes effect on September 1, 1965.

**Title of Act:**

An Act relating to the supervision, management, and financing of the Alabama-Coushatta Indian Reservation; and declaring an emergency. Acts 1965, 59th Leg., p. 552, ch. 279.

TITLE 89—LIBRARY AND HISTORICAL COMMISSION

<p>Art. 5436a. State plan for library services and library construction [New].</p> <p>5441c. Destruction of worthless records [New].</p>	<p>Art. 5441d. Preservation of Essential Records Act [New].</p>
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Art. 5436. [5602—3] Powers and duties

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(c) The commission is authorized to accept, receive, and administer federal funds made available by grant or loan or both to improve the public libraries of Texas. Added Acts 1965, 59th Leg., p. 1, ch. 1, § 2, emerg. eff. Feb. 4, 1965.

(d) The commission may enter into contracts or agreements with the governing bodies and heads of the counties, cities, and towns of Texas to meet the terms prescribed by the United States and consistent with state law for the expenditure of federal funds for improving public libraries. Added Acts 1965, 59th Leg., p. 1, ch. 1, § 2, emerg. eff. Feb. 4, 1965.

Section 1 of the 1965 amendatory act enacted the provisions codified as art. 5436a.

Art. 5436a. State plan for library services and library construction

Section 1. The Texas Library and Historical Commission is authorized to adopt a state plan for improving public library services and for public library construction. The plan shall include county and municipal libraries. The Texas State Library shall prepare the plan for the commission, and shall administer the plan adopted by the commission. Money to be used may include that available from local, state, and federal sources, and will be administered according to local, state, and federal requirements. The state plan shall include a procedure by which county and municipal libraries may apply for money under the state plan and a procedure for fair hearings for those applications that are refused money. Acts 1965, 59th Leg., p. 1, ch. 1, § 1, emerg. eff. Feb. 4, 1965.

Art. 5441a. Records Management Division

Report of State Auditor; contents

Sec. 6a. The State Auditor, in the audit of the various agencies of the state, shall include the following information in his report:

- (1) the degree to which the agency has complied with records disposal instructions and transfer agreements in order to reduce filing space and equipment required to house records;
- (2) the date when records were last reviewed for transfer or disposal; and
- (3) revisions required in scheduled transfer and disposal dates.

Added Acts 1965, 59th Leg., p. 605, ch. 299, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Art. 5441c. Destruction of worthless records

Section 1. State records have been allowed to accumulate over a period of years to the detriment of a well-organized records management program. It is necessary, therefore, to adopt special provisions for the selection of essential state records and the destruction of worthless material.

1011 LIBRARY AND HISTORICAL COMMISSION **Art. 5441d**

For Annotations and Historical Notes, see V.A.T.S.

Sec. 2. The State Auditor, Board of Barber Examiners, Board of Control, Board of Cosmetology, Board of Medical Examiners, Board of Pardons and Paroles, Board of Regents of the State Teachers Colleges, Bureau of Labor Statistics, Comptroller, Court of Civil Appeals for the Third Supreme Judicial District, Governor's Office, Health Department, Insurance Commission, Legislative Budget Board, Parks and Wildlife Commission, Railroad Commission, Real Estate Commission, Secretary of State, State Securities Board, Teacher Retirement System, Texas Education Agency, Texas State Library, Texas Water Commission, and the Treasury Department shall examine all books, papers, correspondence and records of any kind belonging to each respective agency, dated prior to 1952, which are stored with the Records Management Division.

Sec. 3. Each agency listed in Section 2 of this Act shall:

- (1) classify and index its own records;
- (2) furnish the Records Management Division of the State Library and Historical Commission a copy of the index in which they shall list the records to be preserved;
- (3) name a retention period on records which are to be stored for a definite time; and
- (4) request destruction of worthless records and material in compliance with Article 5441a, Revised Civil Statutes of Texas, 1925, as amended. Acts 1965, 59th Leg., p. 1160, ch. 547.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act requiring certain agencies of state government to examine, index and

request destruction of records dated prior to 1952; and declaring an emergency. Acts 1965, 59th Leg., p. 1160, ch. 547.

**Art. 5441d. Preservation of Essential Records Act**

**Purpose**

Section 1. The Legislature declares that records containing information essential to the operation of government and the protection of the rights and interests of persons must be protected against the destructive effects of all forms of disaster and must be available when needed. It is necessary, therefore, to adopt special provisions for the selection and preservation of essential state records to provide for the protection and availability of such information.

**Short title**

Sec. 2. This Act may be cited as the "Preservation of Essential Records Act."

**Definitions**

Sec. 3. In this Act, unless the context requires a different meaning:

(1) "essential record" means any written or graphic material made or received by any state agency in the conduct of the state's official business, which is filed or intended to be preserved permanently or for a definite period of time, as evidence of that business;

(2) "agency" means any state department, institution, board, or commission, whether executive, judicial, legislative, or eleemosynary in character;

(3) "departmental records supervisor" means the person or persons having authority over the records of the department involved;

(4) "disaster" means any occurrence of fire, flood, storm, earthquake, explosion, epidemic, riot, sabotage, or other condition of extreme peril

resulting in substantial damage or injury to persons or property within this state, whether the occurrence is caused by an act of nature or man; and

(5) "preservation duplicate" means a copy of an essential record which is used for the purpose of preserving such state record.

#### Records preservation advisory committee

Sec. 4. (a) A Records Preservation Advisory Committee is established to advise the Records Preservation Officer and to perform other duties as this Act requires. The committee is composed of the State Librarian, Secretary of State, State Auditor, State Comptroller, Attorney General, or their delegated agents, the Secretary of the Senate and the Chief Clerk of the House of Representatives, all of whom serve as ex officio members of the committee. The committee shall work with and is a part of the Records Management Division of the State Library and Historical Commission.

(b) The State Librarian is the chairman of the committee.

(c) The committee shall:

(1) adopt rules for the conduct of its business;

(2) meet when called by the chairman, at least twice each year;

and

(3) appoint consultants from time to time to obtain the best professional advice on the performance of its duties.

(d) The consultants shall serve without compensation, but shall be reimbursed for actual expenses incurred while performing their duties.

#### Records preservation officer

Sec. 5. The Director of the Records Management Division is also the Records Preservation Officer. The Records Preservation Officer shall establish and maintain such rules and regulations concerning the selection and preservation of essential state records as are necessary and proper to effectuate the purpose of this Act.

#### Bond

Sec. 6. The State Librarian and the Records Preservation Officer shall each execute and file with the Secretary of State a good and sufficient bond, payable to the State of Texas, in an amount consistent with his duties to be set by the committee and conditioned on the faithful performance of his duties.

#### Essential state records

Sec. 7. State records which are within the following categories are essential records which shall be preserved under this Act:

(1) Category A—Records containing information necessary to the operations of government in an emergency created by a disaster; and

(2) Category B—Records to protect the rights and interests of individuals, or to establish and affirm the powers and duties of government in the resumption of operations after a disaster.

#### Confidential records

Sec. 8. When a state record is required by law to be treated in a confidential manner the departmental records supervisor shall so indicate by labeling such record. The Records Preservation Officer and his staff shall protect the confidential nature of any record so labeled. Any employee who fails in this responsibility shall be dismissed from his duties and shall not be permitted to hold another state appointment.



**Selection of records.**

Sec. 9. (a) Each agency shall select the state records which are essential to carrying out the work of its organization and shall determine the category of the record.

(b) In accordance with the rules and regulations promulgated by the Records Preservation Officer each departmental records supervisor shall:

- (1) inventory the state records in his custody or control;
- (2) submit to the Records Preservation Officer a report on the inventory containing, in addition to the information required by the rules and regulations, specific information showing which records are essential; and
- (3) review periodically his inventory and his report and, if necessary, revise his report so that it is current, accurate and complete.

**Preservation duplicates**

Sec. 10. The Records Preservation Officer shall make, or cause to be made, preservation duplicates, or shall designate as preservation duplicates existing copies of essential state records. A preservation duplicate made by means of photography, microphotography, photocopying, or microfilm shall be made in conformity with the standards prescribed by the Records Preservation Officer, and which shall conform to the rules of the United States Bureau of Standards.

**Use of duplicate**

Sec. 11. A preservation duplicate made by a photographic, photostatic, microfilm, micro-card, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, shall have the same force and effect for all purposes as the original record whether the original record is in existence or not. A transcript, exemplification or certified copy of such preservation duplicate shall be deemed for all purposes to be a transcript, exemplification or certified copy of the original record.

**Record storage**

Sec. 12. The Records Preservation Officer shall prescribe the place and manner of safekeeping of essential state records or preservation duplicates and shall establish storage facilities therefor. At least one copy of all essential records, together with a duplicate Seal of the State of Texas, shall be housed in the safest possible location and in facilities constructed to withstand blast, fire, water and other destructive forces. The storage facilities for the preservation duplicates, or the original record, must be in a place other than the legally designated or customary record storage location.

**Removal from storage; temporary use**

Sec. 13. The Records Preservation Officer shall properly maintain essential state records and preservation duplicates stored by him. An essential state record, or preservation duplicate, stored by the Records Preservation Officer shall be recalled by the regularly designated custodian of a state agency record for temporary use when necessary for the proper conduct of his office and shall be returned by such custodian to the Records Preservation Officer immediately after such use.

**Removal from storage; inspection**

Sec. 14. When an essential state record is stored by the Records Preservation Officer, the Records Preservation Officer, upon request of the

regularly designated custodian of the state record, shall provide for its inspection, or for the making or certification of copies thereof and such copies when certified by the Records Preservation Officer shall have the same force and effect as if certified by the regularly designated custodian.

**Program review**

Sec. 15. The Records Preservation Officer and the committee shall at least once every two years review the entire program established by this Act.

**Reports of compliance**

Sec. 16. In the audit of the various state departments and agencies, the State Auditor shall report on the compliance of each state agency with all provisions of this Act. Acts 1965, 59th Leg., p. 1161, ch. 548.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the selection and preservation of essential state records; and declaring an emergency. Acts 1965, 59th Leg., p. 1161, ch. 548.

## TITLE 90—LIENS

CHAPTER TWO—MECHANICS, CONTRACTORS  
AND MATERIAL MEN

Art.

5452—1. Sham contracts with building and  
improvement contractors  
[New].Art. 5452—1. Sham contracts with building and improvement con-  
tractors

## Sham Contracts, Perfecting Liens

1. Whenever any owner of real property shall enter into any contract with a corporation for the construction or repair of any house, building or improvements thereon, and said owner can effectively control the corporation with whom such contract is made, through the ownership of voting stock therein, interlocking directorships or otherwise; or, when any owner of real property shall enter into such a contract with any natural person or corporation for such construction or repair, and it shall be proved by a preponderance of the evidence that such contract was made without good faith intention on the part of the parties thereto that it was to be performed by said person or corporation, then in either such event, any person, firm or corporation who, under a direct contractual relationship with said person or corporation and who may labor, specially fabricate material, or furnish labor or material to be used in the prosecution of the work under such contract shall be deemed to be in a direct contractual relationship with the owner and may perfect his lien against the property in the same manner as any other original contractor.

## False Statements

2. (a) It is unlawful for any (1) person, as owner of real property, or his agent; (2) or any agent, director, officer or employee of any corporation, firm or association, as owner of real property; (3) or any agent, director, officer or employee of any corporation in direct contractual relationship with any owner of real property when such owner can effectively control the corporation through the ownership of voting stock therein, interlocking directorship or otherwise; or (4) any person or any agent, director, officer or employee of any corporation when such person or corporation is in direct contractual relationship with any owner of real property when such contractual relationship was entered into without good faith or without intention that the contract was to be performed by such person or corporation to knowingly with the intent to defraud make or cause to be made to any person, firm, association or corporation a false written statement to the effect that any bill, charge, account, or claim for labor, material, or specially fabricated material furnished to or performed for the construction or repair of any house, building, or improvement on such real property has been paid or satisfied in full or in part, and to procure upon the faith thereof money or other thing of value in connection with said construction or repair. The word owner as used herein shall not include any person, firm, or corporation having or claiming a security interest only.

(b) A person who violates the provisions of Subparagraph (a) of this Paragraph 2 is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$5,000 nor less than \$100 or by im-

prisonment in the county jail for not more than one year or by both. Added Acts 1965, 59th Leg., p. 368, ch. 175, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### CHAPTER SIX—CHATTEL MORTGAGES

Arts. 5489 to 5499. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed arts. 5489 to 5499 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

#### CHAPTER SIX-A—UNIFORM TRUSTS RECEIPTS ACT [NEW]

Art. 5499a—51. Uniform Trust Receipts Act

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed art. 5499a—51 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

#### CHAPTER SEVEN—OTHER LIENS

Art. 5504. [5667—8] Sale of property

When possession of any of the property embraced in Articles 5502 and 5503 has continued for sixty days after the charges accrue, and the charges so due have not been paid, it shall be the duty of the persons so holding said property to notify the owner, if in the state and his residence be known, to come forward and pay the charges due, and on his failure within ten days after such notice has been given him to pay said charges, the persons so holding said property, after twenty days notice, are authorized to sell said property at public sale and apply the proceeds to the payment of said charges, and shall pay over the balance to the person entitled to the same. If the owner's residence is beyond the state or is unknown, the person holding said property shall not be required to give such notice before proceeding to sell. As amended Acts 1965, 59th Leg., p. 715, ch. 337, § 1, emerg. eff. June 9, 1965.

Art. 5506c. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10-102. Eff. June 30, 1966

*Act 1965, c. 721, enacting the Uniform Commercial Code, repealed art. 5506c effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

*Repeal of fee provisions, see art. 3930a, note.*

**TITLE 92—MENTAL HEALTH**

II. Mental Health and Retardation Act [New] .....	Art. 5547—201
III. Miscellaneous Provisions .....	5548

**I. MENTAL HEALTH CODE**

**CHAPTER ONE—GENERAL PROVISIONS**

Art.  
5547—12a. Inspection of records in mentally ill dockets of county clerks [New].

**Abolishment of Board for Texas State Hospitals and Special Schools**

*Acts 1965, 59th Leg., p. 173, ch. 67, §§ 1, 2, the Texas Mental Health and Mental Retardation Act, codified as articles 5547—201 to 5547—204, creating the Texas Department of Mental Health and Mental Retardation and giving it exclusive management and control of state hospitals and schools, abolished the Board for Texas State Hospitals and Special Schools. See article 5547—204, note.*

**Art. 5547—12a. Inspection of records in mentally ill dockets of county clerks**

Each and every statement of facts, together with each and every other writing which discloses intimate details of the personal and private life of the accused, or patient, or which discloses intimate details of the personal life of any and all members of the family of the accused, or patient, in a mentally ill docket in the office of the county clerk, are hereby declared to be public records of a private nature which may be used, inspected, or copied only by a written order of the county judge, or a probate judge, court of domestic relations judge, or a district judge of the county in which the docket is located; and no such order shall issue until the issuing judge has determined informally to his satisfaction that said use, inspection, or copying is justified and in the public interest. Added Acts 1965, 59th Leg., p. 1578, ch. 684, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**CHAPTER THREE—INVOLUNTARY HOSPITALIZATION**

**Art. 5547—63. Transcript**

The clerk of the county court shall prepare one certified transcript of the proceedings in the Temporary Hospitalization or Indefinite Commitment Hearing. Such transcript shall accompany the patient to the designated mental hospital and shall be delivered to the hospital personnel in charge of admissions by the person authorized by the court to transport the patient. The clerk shall send with the transcript any available information concerning the medical, social, and economic status and history of the patient and his family. As amended Acts 1965, 59th Leg., p. 431, ch. 218, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

CHAPTER FOUR—GENERAL HOSPITALIZATION PROVISIONS

Art. 5547—86. Rights of patients

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(c) The head of a mental hospital or the superintendent, supervisor, or manager of a mental hospital in which a patient is confined is the agent for service of process on the patient. The person receiving process directed to a patient shall certify that he is aware of the provisions of this Act and shall sign the certificate with his name and title. The certificate shall be attached to the citation and be returned by the serving officer. The person receiving process directed to a patient shall within three days either forward it by registered mail to the patient's legal guardian or deliver it to the patient personally, whichever appears to be in the best interest of the patient. Added Acts 1965, 59th Leg., p. 424, ch. 210, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

CHAPTER FIVE—PRIVATE MENTAL HOSPITALS

II. MENTAL HEALTH AND RETARDATION ACT [NEW]

ARTICLE 1. GENERAL PROVISIONS  
 Art.  
 5547—201. Mental health and mental retardation; general provisions.

ARTICLE 2. TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION  
 5547—202. Texas Department of Mental Health and Mental Retardation.

ARTICLE 3. COMMUNITY CENTERS FOR MENTAL HEALTH AND MENTAL RETARDATION SERVICES  
 Art.  
 5547—203. Community centers for mental health and mental retardation services.

ARTICLE 4. STATE GRANTS-IN-AID  
 5547—204. State grants-in-aid.

*The Texas Mental Health and Mental Retardation Act, consisting of articles 5547—201 to 5547—204, was enacted by Acts 1965, 59th Leg., p. 165, ch. 67, § 1, effective September 1, 1965.*

ARTICLE 1. GENERAL PROVISIONS

Art. 5547—201. Mental health and mental retardation; general provisions

Purpose and policy

Section 1.01. (a) It is the purpose of this Act to provide for the conservation and restoration of mental health among the people of this state, and toward this end to provide for the effective administration and coordination of mental health services at the state and local levels, and to provide, coordinate, develop, and improve services for the mentally retarded persons of this state to the end that they will be afforded the opportunity to develop their respective mental capacities to the fullest practicable extent and to live as useful and productive lives as possible.

(b) The legislature declares that the public policy of this state is to encourage local agencies and private organizations to assume responsibility for the effective administration of mental health and mental retardation services, with the assistance, cooperation, and support of the Texas Department of Mental Health and Mental Retardation created by this Act.

**Definitions**

Sec. 1.02. In this Act,

(1) "Department" means the Texas Department of Mental Health and Mental Retardation;

(2) "Board" means the Texas Board of Mental Health and Mental Retardation;

(3) "Commissioner" means the Commissioner of Mental Health and Mental Retardation;

(4) "local agency" means a city, county, hospital district, rehabilitation district, school district, state-supported institution of higher education, state-supported medical school, or any organizational combination of two or more of these;

(5) "mental health services" includes all services concerned with the prevention and detection of mental disorders and disabilities and the treatment and rehabilitation of mentally disordered persons;

(6) "mentally retarded person" means any person other than a mentally disordered person, whose mental deficit requires him to have special training, education, supervision, treatment, care or control in his home or community, or in a state school for the mentally retarded;

(7) "mental retardation services" includes all services concerned with research, prevention, and the detection of mental retardation and all services related to the education, training, rehabilitation, care, treatment, supervision, and control of mentally retarded persons;

(8) "region" means the total geographical area covered by the local agencies participating in the operation of a community center established under this Act;

(9) "effective administration" includes continuous in-system planning and evaluation resulting in more efficient fulfillment of the purposes and policies of this Act. Acts 1965, 59th Leg., p. 165, ch. 67, § 1, eff. Sept. 1, 1965.

**ARTICLE 2. TEXAS DEPARTMENT OF MENTAL HEALTH  
AND MENTAL RETARDATION**

**Art. 5547—202. Texas Department of Mental Health and Mental Retardation**

**Creation of department**

Section 2.01. The Texas Department of Mental Health and Mental Retardation is created, consisting of a Texas Board of Mental Health and Mental Retardation, a Commissioner of Mental Health and Mental Retardation, a Deputy Commissioner for Mental Health Services, a Deputy Commissioner for Mental Retardation Services, and a staff under the direction of the Commissioner and the Deputy Commissioners.

**Employees and salaries**

Sec. 2.01A. The number of employees and the salaries shall be as fixed in the general appropriations bill.

**Members of board**

Sec. 2.02. The Board consists of nine members appointed by the Governor with the advice and consent of the Senate.

**Terms of office**

Sec. 2.03. (a) Each member holds office for a term of six years and until his successor is appointed and qualified.

(b) Three of the first nine members appointed by the Governor shall serve terms expiring on January 31, 1967; three shall serve terms expiring on January 31, 1969; and three shall serve terms expiring on January 31, 1971.

**Chairman**

Sec. 2.04. The Board shall elect a chairman from among its members, who shall serve for a period of two years or until his successor is elected.

**Meetings of board**

Sec. 2.05. (a) The Board shall hold at least six regular meetings per year in the state capital on dates fixed by rule of the Board. The Board shall make rules providing for the holding of special meetings.

(b) Five members of the Board constitute a quorum for the transaction of business.

(c) All meetings of the Board are open to the public, except meetings to deliberate the appointment of the Commissioner.

**Compensation of members**

Sec. 2.06. Each member is entitled to receive per diem compensation for each day he actually attends a meeting and is entitled to reimbursement for actual and necessary expenses incurred in attending meetings, as provided in the General Appropriations Act.

**Commissioner**

Sec. 2.07. (a) The Board shall appoint a qualified person to serve as Commissioner.

(b) To be qualified for the office of Commissioner, a person must be a physician licensed to practice in this state and must have proven administrative experience and ability.

(c) The Commissioner holds office at the pleasure of the Board.

(d) The Commissioner is designated as the state mental health authority.

**Deputy commissioners**

Sec. 2.08. (a) The Commissioner shall appoint a Deputy Commissioner for Mental Health Services and a Deputy Commissioner for Mental Retardation Services. Each appointment is subject to the approval of the Board.

(b) To be qualified for appointment as Deputy Commissioner for Mental Health Services, a person must be a physician licensed to practice in this state and certified in psychiatry by the American Board of Psychiatry and Neurology, or have equivalent qualifications.

(c) To be qualified for appointment as Deputy Commissioner for Mental Retardation Services, a person must have proven administrative ability and professional qualifications, including at least five years of broad experience and knowledge in the field of mental retardation.



**Powers and duties of deputy commissioners**

## Sec. 2.09.

(a) Subject to the direction and supervision of the Commissioner, the Deputy Commissioner for Mental Retardation Services has primary responsibility for:

- (1) administration of the state schools for the mentally retarded;
- (2) coordination and administration of the rules, policies, and standards of the Department relating to mental retardation programs and services;
- (3) establishment and administration of all mental retardation services necessary to carry out the purposes of this Act, including residential care services, community services, research and prevention, and information on services for the mentally retarded, within the limits of legislative appropriations.

(b) Subject to the direction and supervision of the Commissioner, the Deputy Commissioner for Mental Health Services has primary responsibility for:

- (1) administration of the state mental hospitals;
- (2) coordination and administration of the rules, policies, and standards of the Department relating to all programs and services of the Department other than those relating to mental retardation.

(c) Each Deputy Commissioner shall submit for the consideration of the Commissioner and the Board proposed rules, policies, and standards affecting his area of responsibility.

**Advisory committees**

Sec. 2.10. The Board shall appoint a medical advisory committee and any other advisory committees it deems necessary to assist in the effective administration of the mental health and mental retardation programs of the Department.

**Separation of departmental authority**

## Sec. 2.11.

(a) The Board shall formulate the basic and general policies, consistent with the purposes, policies, principles, and standards stated in this Act, to guide the Department in administering this Act.

(b) All of the administrative, rule-making, and decisional powers granted by this Act are vested in the Commissioner, subject to the basic and general policies formulated by the Board.

**Effective administration**

Sec. 2.12. (a) The Commissioner is responsible for the effective administration of the programs and services of the Department.

(b) The Commissioner shall, with the approval of the Board, establish within the Department an organizational structure which will promote the effective administration of this Act.

**Contracts with local agencies**

Sec. 2.13. The Department may cooperate, negotiate, and contract with local agencies and with private organizations and foundations concerned with mental health and mental retardation, in order to implement the planning and development of community-based mental health and mental retardation services.

**Gifts, grants, and donations**

Sec. 2.14. The Department may accept gifts, grants, and donations of money, personal property, and real property for use in expanding and improving the mental health and mental retardation services available to the people of this state.

**Federal grants**

Sec. 2.15. The Department may negotiate with any agency of the United States in order to obtain grants to assist in the expansion and improvement of mental health and mental retardation services in this state.

**Transfer of functions, property, etc.****Sec. 2.16.**

(a) All powers, duties, and functions relating to the commitment, care, treatment, maintenance, education, training, and rehabilitation of mentally ill or mentally retarded persons, or relating to the administration of mental health or mental retardation services, previously vested in the Board for Texas State Hospitals and Special Schools and in the Division of Mental Health and the Office of Mental Health Planning of the State Department of Health, are transferred to the Texas Department of Mental Health and Mental Retardation.

(b) All land, buildings, facilities, property, records, and personnel used by the Board for Texas State Hospitals and Special Schools and by the Division of Mental Health and the Office of Mental Health Planning of the State Department of Health in conjunction with such powers, duties, and functions are transferred to the Texas Department of Mental Health and Mental Retardation. Provided, however, this transfer shall not apply to the buildings presently occupied by the Texas State Department of Health.

**State hospitals and schools**

Sec. 2.17. The Department shall have exclusive management and control of:

- (1) the Austin State Hospital;
- (2) the San Antonio State Hospital;
- (3) the Terrell State Hospital;
- (4) the Wichita Falls State Hospital and Vernon Branch;
- (5) the Rusk State Hospital;
- (6) the Big Spring State Hospital;
- (7) the Confederate Homes;
- (8) the Kerrville State Hospital and Legion Annex;
- (9) the Austin State School;
- (10) the Travis State School;
- (11) the Mexia State School;
- (12) the Abilene State School;
- (13) the Lufkin State School;
- (14) the Richmond State School;
- (15) the Denton State School;
- (16) the Corpus Christi State School;
- (17) the Lubbock State School.

**Research institutes**

Sec. 2.18. (a) The authority for the operation of the Houston State Psychiatric Institute for Research and Training is transferred to the Department.

(b) The Department may establish research institutes devoted to research and training in support of the development and expansion of mental health and mental retardation services in this state. The research institutes may be affiliated with major medical centers, medical schools, and universities of the state.

(c) The Department may accept gifts or grants of land and may contract for the construction of buildings and facilities at any site selected for the location of a research institute, or the Department may enter into any contract or leasing arrangement with any federal, state, or local agency, or with any person or other private entity, for the use of buildings and facilities.

(d) The Department may administer and operate research institutes with funds donated by federal, state, and local agencies, and by persons and other private entities, and with any money that may be appropriated by the legislature.

**Facilities for mentally retarded**

Sec. 2.19. The Department may designate the facility in which any mentally retarded person under its jurisdiction is placed, and may designate any facility or part thereof under its management and control as a special facility for the diagnosis, special training, education, supervision, treatment, care or control of mentally retarded persons. The Department is authorized to maintain at facilities under its control and management day classes for the convenience and benefit of the mentally retarded persons of the communities in which such facilities are located when the mentally retarded persons are not capable of being enrolled in regular or special classes of the public school system.

**Reciprocal agreements**

Sec. 2.20. (a) The Department may make reciprocal agreements with the proper agencies of other states to facilitate:

(1) the transfer to other states of persons admitted to the jurisdiction of the Department and whose parents or parent, or spouse or guardian has established residence in another state; and

(2) the transfer to this state of persons who have been admitted to the jurisdiction of the proper agency of another state and whose parents or parent, or spouse or guardian has established residence in this state.

(b) Costs of transporting such persons shall be paid by the state from which they are transferred.

**Cooperation of other state agencies**

Sec. 2.21. At the request of the Department, all departments and agencies and all officers and employees of the state shall cooperate with the Department in activities consistent with their functions. This does not require other departments and agencies to serve the Department in activities inconsistent with their functions or with the authority of their offices or with the laws of this state governing their activities.

**Utility easements**

Sec. 2.22. The Department may grant easements, on terms and conditions deemed by the Department to be in the best interest of the state, across any land held by the Department, for the construction of water, natural gas, telephone, telegraph, and electric power lines.

**Data on condition and treatment of persons**

**Sec. 2.23.**

(a) Any person, hospital, sanitorium, nursing or rest home, medical society, or other organization may provide information, interviews, reports, statements, memoranda, or other data related to the condition and treatment of any person to the State Department of Mental Health and Mental Retardation, medical organizations, hospitals and hospital committees, to be used in the course of any study for the purpose of reducing mental disorders and disabilities, and no liability of any kind or character for damages or other relief arises against any person or organization for providing such information or material, or for releasing or publishing the findings and conclusions of such groups to advance mental health and mental retardation research and education, or for releasing or publishing generally a summary of such studies.

(b) The Department, medical organizations, hospitals and hospital committees may use or publish these materials only for the purpose of advancing mental health and mental retardation research and education, in the interest of reducing mental disorders and disabilities, except that summaries of such studies may be released for general publication.

(c) The identity of any person whose condition or treatment has been studied shall be kept confidential and shall not be revealed under any circumstances. All information, interviews, reports, statements, memoranda, or other data furnished by reason of this Act and any findings or conclusions resulting from such studies are declared to be privileged. Acts 1965, 59th Leg., p. 165, ch. 67, § 1, eff. Sept. 1, 1965.

**ARTICLE 3. COMMUNITY CENTERS FOR MENTAL HEALTH AND MENTAL RETARDATION SERVICES**

**Art. 5547—203. Community centers for mental health and mental retardation services**

**Community centers**

Section 3.01. (a) One or more cities, counties, hospital districts, school districts, rehabilitation districts, state-supported institutions of higher education, and state-supported medical schools, or any combination of these, may cooperate, negotiate, and contract with each other through their governing bodies to establish and operate a community center.

(b) As used in this Act, a "community center" may be:

(1) a community mental health center, which provides mental health services; or

(2) a community mental retardation center, which provides mental retardation services; or

(3) a community mental health and mental retardation center, which provides mental health and mental retardation services.

**Board selection committee**

Sec. 3.02. (a) The governing body of each participating local agency shall appoint two persons who are resident qualified voters to serve on a board selection committee. Members of the board selection committee shall serve terms of two years from the date of their appointment, or until their successors are appointed.

(b) If a community center is established by a single local agency, its governing body may act as the board selection committee.

**Board of trustees**

Sec. 3.03. (a) The board selection committee shall select nine persons who are resident qualified voters of the region to serve as members of the board of trustees of the community center.

(b) The term of office of each member is two years from the date of his appointment and until his successor is appointed and qualified. Members may be reappointed.

(c) A vacancy on the board of trustees shall be filled by the selection committee for the unexpired portion of the term.

**Meetings**

Sec. 3.04. The board of trustees shall make rules to govern the holding of regular and special meetings. All meetings are open to the public, except meetings to deliberate the appointment of a director. Five members constitute a quorum for the transaction of business. The board shall keep a record of its proceedings, and the record is open to inspection by the public.

**Administration**

Sec. 3.05. The board of trustees is responsible for the administration of a community center.

**Advisory committees**

Sec. 3.06. The board of trustees may appoint an advisory council, a medical committee, and other committees to advise the board on matters relating to the administration of mental health or mental retardation services.

**Director**

Sec. 3.07. The board of trustees shall appoint a director of the community center. The board may delegate powers to the director, subject to the policy direction of the board.

**Personnel**

Sec. 3.08. The board or director may select and train personnel for the administration of the various programs and services of the community center.

**Contribution of local agencies**

Sec. 3.09. Each participating local agency may contribute land, buildings, facilities, personnel, and funds for the administration of the various programs and services of the community center.

**Gifts, grants, donations**

Sec. 3.10. A community center may accept gifts, grants, and donations of money, personal property, and real property for use in the administration of its programs and services.

**Buildings, facilities**

Sec. 3.11. A community center may construct buildings and facilities.

**Services**

Sec. 3.12. The board of trustees may make rules, consistent with the purposes, policies, principles, and standards provided by this Act, to regulate the administration of mental health or mental retardation services by the community center, and may make contracts with local agencies

and with qualified persons and organizations to provide portions of these services. A community center may provide services to persons voluntarily seeking assistance and to persons legally committed.

**Recruitment, training, research**

Sec. 3.13. A community center may engage in research and in recruitment and training of personnel in support of its programs and services and may make contracts for these purposes.

**Fees for services**

Sec. 3.14. A community center may provide services free of charge to indigent persons. It may charge reasonable fees, to cover costs, for services provided to other persons. With respect to the collection of fees for the treatment of non-indigent persons, it has the same rights, privileges, and powers granted to the Texas Department of Mental Health and Mental Retardation.

**Cooperation of department**

Sec. 3.15. A community center established under this Act may seek the assistance, advice, and consultation of the Department in the planning and development of its program, including effective administration of mental health or mental retardation services, recruitment and training of personnel, and an effective public information and education program. Acts 1965, 59th Leg., p. 165, ch. 67, § 1, eff. Sept. 1, 1965.

**ARTICLE 4. STATE GRANTS-IN-AID**

**Art. 5547—204. State grants-in-aid**

**Plan**

Section 4.01. As soon as possible after its establishment, a community center shall formulate and submit to the Department:

- (1) a copy of the written agreement between the participating local agencies;
- (2) a plan, within its projected financial, physical, and personnel resources, to develop and make available to the residents of the region a full range of effective mental health or mental retardation services, or both.

**Eligibility for grants-in-aid**

Sec. 4.02. A community center is eligible to receive state grants-in-aid if:

- (1) the population within the region served is 100,000 or more according to the last preceding federal census; and
- (2) it qualifies according to the rules of the Department.

**Rules to establish qualifications**

Sec. 4.03. (a) The Department shall make rules, consistent with the purposes, policies, principles, and standards provided by this Act, establishing the minimum standards relating to the amount, quality, kinds, and accessibility of services which must be provided by a community center in order to qualify it for state grants-in-aid.

(b) The Department shall make rules under which a newly established community center with a sound plan for the development of the full range of services may qualify for grants-in-aid although it does not presently qualify under Subsection (a) of this section.

For Annotations and Historical Notes, see V.A.T.S.

(c) The Department shall hold hearings on all proposed rules under this section. Community centers and local agencies shall be given notice and an opportunity to testify. Delivery or publication of notice may be given in any form which is reasonably calculated to give actual notice.

Grants-in-aid

Sec. 4.04. The Department shall allocate to the eligible community centers the money appropriated to the Department for that purpose.

Allocation

Sec. 4.05. In determining the percentage of the total amount available to be allocated to each eligible community center, the Department shall give due consideration to the following factors:

- (1) the population of the region served by the center;
- (2) the socio-cultural and economic characteristics of the region;
- (3) the rate of mental disorders and disabilities in the region as revealed by reliable statistics;
- (4) the ability or potential ability of the center to provide comprehensive services for all residents of the region; and
- (5) the quality of the center's services and the effectiveness of the services in terms of average cost per patient-stay and other relevant indices, or the potential quality and effectiveness of the services. Acts 1965, 59th Leg., p. 165, ch. 67, § 1, eff. Sept. 1, 1965.

Acts 1965, 59th Leg., p. 173, ch. 67, § 1, which enacted the Texas Mental Health and Mental Retardation Act, provided in section 2: "Hospital Board Abolished. The Board for Texas State Hospitals and Special Schools is abolished. This does not preclude the Governor from appointing one or more members of that board to the Texas Board of Mental Health and Mental Retardation."

III. MISCELLANEOUS PROVISIONS

Art. 5561d. Dallas Neuropsychiatric Institute [New].

Art. 5561c. Alcoholism

Texas Commission on Alcoholism

Sec. 4.

\* \* \* \* \*

(c). Meeting of the Commission and Per Diem Pay. The Commission shall meet quarterly, at such other times as may be necessary, at the call of the chairman, or at the request of three members, for the performance of their duties, not to exceed twenty-four (24) days in all in any one year. The members shall receive Twenty Dollars (\$20) per diem plus their actual and necessary expenses in connection with their attendance at such meetings. Four members of the Commission shall constitute a quorum for the transaction of business. In addition to the meetings herein authorized, the Commission may authorize its members to visit places within the State or in other States and engage in travel for the purpose of carrying out their duties as provided in this Act. For such travel, the members of the Commission shall receive the same per diem and expenses as they receive for their attendance at meetings. As amended Acts 1965, 59th Leg., p. 998, ch. 485, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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**Art. 5561d. Dallas Neuropsychiatric Institute****Establishment, maintenance and operation of institute; powers and duties of Board for Texas State Hospitals and Special Schools or its successor**

Section 1. The Board for Texas State Hospitals and Special Schools or its successor in function (hereafter referred to as the Board) is hereby authorized to establish, construct, maintain and operate the Dallas Neuropsychiatric Institute for treatment, teaching and research. The Board, for the establishment, construction, maintenance of these facilities, shall possess all powers, duties, rights and privileges it possesses with respect to other institutions under its control, including the authority to enter into contract and the promulgation of rules and regulations for and the staffing of the institute in conjunction with The University of Texas Southwestern Medical School.

**Location; acquisition of site**

Sec. 2. The new institute shall be located in Dallas on land adjacent to The University of Texas Southwestern Medical School. The Board for Texas State Hospitals and Special Schools shall acquire by gift or purchase, within the limits of legislative appropriations, the site for such facilities, and such Board shall take title to the land in the name of the State of Texas for the use and benefit of said institute; provided, however, that the Attorney General shall first approve the title to the land selected.

**Plans and specifications for buildings**

Sec. 3. The Board shall proceed, within the limits of legislative appropriations of funds, in consultation with representatives of The University of Texas Southwestern Medical School to prepare plans and specifications for (a) necessary building or buildings; and the Board is authorized to make contracts with such persons, corporations, or agencies of state, local and federal governments, and to accept gifts or grants to effect the purposes of this Act within the limits of authorized appropriations, including constructing and equipping all such facilities. The Board of Regents of The University of Texas is hereby authorized to convey a tract of land not to exceed ten acres on the campus of The University of Texas Southwestern Medical School in Dallas, Texas, the same being in the William B. Coats Survey, Abstract No. 236, Dallas County, Texas, as a construction site for the Dallas Neuropsychiatric Institute in consideration of the same being made available as a full-time teaching facility for The University of Texas Southwestern Medical School in Dallas, Texas, but the deed to said land shall not be executed until a contract is negotiated and executed between the Board of Regents of The University of Texas and the Board for Texas State Hospitals and Special Schools which shall obligate the Board for Texas State Hospitals and Special Schools to operate such institute as a teaching facility fully integrated with the medical program of The University of Texas Southwestern Medical School; said contract may also contain such other terms said conditions as the Boards shall deem reasonable, but nothing herein shall obligate any University of Texas funds for the construction, maintenance or operation of said institute.

**Utilization of staff of University of Texas Southwestern Medical School**

Sec. 4. It is the legislative intent that the Board, in operating these facilities, shall utilize fully the staff, students and research made available by The University of Texas Southwestern Medical School. In addition, the



For Annotations and Historical Notes, see V.A.T.S.

Board may contract with any public or private agency for research purposes or services as it deems necessary. Acts 1965, 59th Leg., p. 981, ch. 475.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act to establish the Dallas Neuropsychiatric Institute for treatment, teaching and research; providing for its site, con-

struction, maintenance and operation; and declaring an emergency. Acts 1965, 59th Leg., p. 981, ch. 475.

## TITLE 93—MARKETS AND WAREHOUSES

### CHAPTER THREE—MARKETS AND WAREHOUSE CORPORATIONS

Arts. 5575, 5576. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed arts. 5575 and 5576 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

Arts. 5604 to 5607. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed arts. 5604 to 5607 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

Art. 5609. Repealed. Acts 1965, 59th Leg., p. 179 (UCC) ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed art. 5609 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

### CHAPTER FOUR—UNIFORM WAREHOUSE RECEIPTS ACT

Arts. 5612 to 5665. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed arts. 5612 to 5665 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

TITLE 94—MILITIA—SOLDIERS, SAILORS AND MARINES.

CHAPTER ONE—MILITIA AND STATE MILITARY FORCES

Chapter 1 of Title 94, consisting of articles 5765 to 5769c, and Chapter 2, consisting of articles 5770 to 5779, were revised by Acts 1965, 59th Leg., p. 1601, ch. 690, § 1, to read as now set out in Chapter 1, consisting of articles 5765 to 5767, and Chapter 2, consisting of article 5768.

DISPOSITION TABLE

Showing where provisions of former articles of chapters 1 and 2 are now covered in articles 5765 and 5766 as enacted by Acts 1965, 59th Leg., p. 1601, ch. 690.

Former Articles	New Articles and Sections	Former Articles	New Articles and Sections
5765	5765, § 1	5771	
5766	5765, § 2	5772	
5767	5765, § 3	5773	
5768	5765, § 4	5774	5766, § 2
5769	5765, § 5	5775	5766, § 3
5769a	5765, § 6	5776	
5769b (repealed)	Sec 5765, § 7	5777	5766, § 4
5769b-1	5765, § 7	5778	5766, § 1
5769c		5779	5766, § 1
5770	5766, § 1		

Art. 5765. General Provisions

The State Militia

Sec. 1. The militia of this State shall be divided into two classes, the Active and Reserve Militia. The Active Militia, herein referred to as the State Military Forces, shall consist of the organized and uniformed military forces of this State which shall be known as the Texas Army National Guard, the Texas Air National Guard, the Texas State Guard, and any other militia or military force organized under the laws of this State; the reserve militia shall consist of all those liable to serve, but not serving, in the State Military Forces. As used herein, the Texas Army National Guard and the Texas Air National Guard shall be referred to collectively as the Texas National Guard.

Who are subject

Sec. 2. All able-bodied citizens, male and female, and able-bodied males and females of foreign birth who have declared their intention to become citizens, who are residents of this State and males between eighteen and sixty years of age and females between twenty-one and fifty-five years of age, and who are not exempt by the laws of the United States or of this State, shall constitute the reserve militia and be subject to military duty.

Exemptions

Sec. 3. In addition to those exempted by the laws of the United States, the following persons shall be exempt from military duty in this State:

- (a) The Lieutenant Governor and the heads of the several departments.
- (b) The judges and clerks of all courts of record.

For Annotations and Historical Notes, see V.A.T.S.

- (c) The Members and officers of both Houses of the Legislature.
- (d) Each sheriff, district attorney, county attorney, county assessor, county collector, and county commissioner.
- (e) The mayor, councilmen, aldermen, assessor and collector of incorporated cities and towns.
- (f) The officers and employees of the Texas Department of Correction, the officers and employees of all State Hospitals and Special Schools, the officers and employees of public or private hospitals and the officers and employees of nursing homes.
- (g) The members of any regularly organized and paid fire or police department in any city or town, but no member shall be relieved from military duty because of his joining any such department.
- (h) All ministers of the gospel exclusively engaged in their calling.
- (i) Idiots, lunatics, vagabonds, confirmed drunkards, persons addicted to the use of narcotic drugs, and persons convicted of infamous crimes.
- (j) Any person who conscientiously scruples against bearing arms.
- (k) All such exempted persons, except those enumerated in Subsection (i) shall be liable to military duty in case of war, insurrection, invasion or imminent danger thereof.

#### Commander-in-chief

Sec. 4. The Governor by virtue of his office, shall be commander-in-chief of the State Military Forces, except such portions as may be at times in the service of the United States. Whenever the Governor is unable to perform the duties of commander-in-chief, the Adjutant General shall command the State Military Forces, except in cases where the Lieutenant Governor or the president of the Senate, under the laws of this State, is required to perform the duties of Governor.

#### Expenditures

Sec. 5. All amounts expended from appropriations made for the State Military Forces shall be paid only on itemized accounts sworn to by the party expending the same and showing the time, purpose and for what said amount was expended and by whom, approved by both the Adjutant General and the Governor before their payment. The Comptroller shall not issue warrants upon the State Treasury for any moneys expended under this title until said itemized accounts have been filed in the Comptroller's office.

#### Discharge

Sec. 6. At the termination of the appointment of an officer in the State Military Forces and at the termination of any enlistment in such Forces, either for expiration of term or for any other cause, the person affected shall be furnished a certificate of discharge bearing the character of his service.

#### Leaves of absence to public officers and employees

Sec. 7. (a) All officers and employees of the State of Texas and of any county or political subdivision thereof, including municipalities, who shall be members of the State Military Forces, or members of any of the Reserve Components of the Armed Forces, shall be entitled to leave of absence from their respective duties without loss of time or efficiency rating or vacation time or salary on all days during which they shall be engaged in authorized training or duty ordered or authorized by proper authority, for not to exceed fifteen (15) days in any one calendar year.

(b) Members of the State Military Forces, or members of any of the Reserve Components of the Armed Forces who are in the employ of the State of Texas, who are ordered to duty by proper authority shall, when relieved from duty, be restored to the position held by them when ordered to duty.

(c) The provision limiting such leaves of absence with pay to fifteen (15) days in any one calendar year shall not apply to Members of the Legislature; but Members of the Legislature shall be entitled to pay on all days, without limitation as to number thereof, when they may be absent from the Session of the Legislature and engaged as above provided.

**Discharge of duty**

Sec. 8. Members of the State Military Forces ordered into active service of the State by proper authority shall not be liable civilly or criminally for any act or acts done by them while in the discharge of their duty. When a suit or proceeding shall be commenced in any court by any person against any officer of the State Military Forces for any act done by such officer in his official capacity in the discharge of his duty, or against any person acting under the authority or order of any such officer, or by virtue of any warrant issued by him pursuant to the law, the court shall require the person prosecuting or instituting the suit or proceeding to file security for the payment of costs that may be awarded to the defendant therein, and the defendant in all cases may make a general denial and give the special matter in evidence. In case the plaintiff shall be non-suited, or have a verdict or judgment rendered against him, the defendant shall recover treble costs. As amended Acts 1965, 59th Leg., p. 1601, ch. 690, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Former article 5765, dividing the state militia into the active and reserve classes, was repealed by Acts 1965, 59th Leg., p. 1601, ch. 690, § 3. See, now, article 5765, § 1.

**Art. 5766. Reserve Militia**

**Military duty**

Sec. 1. The reserve militia shall not be subject to active military duty, except when called into service of this State, in case of war, insurrection, invasion or for the prevention of invasion, the suppression of riot, tumults, and breaches of the peace, or to aid the civil officers in the execution of the laws and the service of process, in which case, they or so many of them as the necessity requires, may be ordered out for actual service by draft or otherwise as the Governor may direct. The portion of the reserve militia ordered out or accepted shall be mustered into the service for such period as may be required, and the Governor may assign them to existing organizations of the State Military Forces, or organize them as the exigency of the occasion may require.

**Drafts**

Sec. 2. Whenever it shall be necessary to call out any portion of the reserve militia for active duty, the Governor may apportion the number by draft according to the population of the several counties of the State, or otherwise, as he shall direct. The Governor shall direct his order to a County Emergency Board hereby created in each county. Such County Emergency Board shall consist of the county judge, the sheriff and the tax assessor and collector, or, in the event of the incapacity or inability of any of the above to act, such other public official as the Governor may designate. The County Emergency Board shall select the persons to fill the draft of the Governor and shall establish fair and equi-

For Annotations and Historical Notes, see V.A.T.S.

table procedures for such selection in accordance with regulations prescribed by the Governor. The Board shall, upon completion of its selection, forward a list of those persons so selected to the Governor and shall notify each person selected of the time and place to appear and report.

#### Drafts: report

Sec. 3. Every member of the reserve militia ordered out, or who volunteers, or is drafted under the provisions of this Article shall by notice of such draft become a member of the State Military Forces as prescribed in Section 101 of Article 5788 and shall be subject to the punitive provisions thereof. Every such member who does not appear at the time and place designated by the County Emergency Board shall be punished as a court martial shall direct.

#### Responsibility

Sec. 4. Any member of the County Emergency Board who neglects or refuses to perform any duty placed upon him by this Article shall be guilty of a misdemeanor offense punishable by a fine of not more than One Thousand Dollars (\$1,000) and by confinement of not less than six (6) months and not more than twelve (12) months in jail.

#### Duty travel

Sec. 5. (a) Any member of the State Military Forces going to and returning from any parade, encampment, drill or other meeting which he may be required by law to attend, shall, together with his conveyance and military property, be allowed to pass through all toll roads, bridges and ferries, free of charge, if he is in uniform and if he presents an order for duty or such identification as the Adjutant General shall prescribe.

(b) Any member of the State Military Forces who claims the privilege conferred in Subsection (a) when he is not in truth and in fact in the status therein mentioned shall upon conviction thereof be guilty of a misdemeanor punishable by a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200).

#### Oaths

Sec. 6. Any commissioned officer in the State Military Forces is authorized to administer oaths for purposes of military administration. The signature without seal of any such officer, together with the title of his assignment, shall be prima facie evidence of his authority.

#### Performance of duty

Sec. 7. Any person who shall wilfully hinder, delay, or obstruct any portion of the State Military Forces on active duty in the service of this State in the performance of any military duty, or who shall wilfully attempt to do so, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000) or by imprisonment for not less than one month nor more than one year, or both.

#### Voting privilege

Sec. 8. Any unit, force, division or command of the State Military Forces that is engaged in regular training on any days on which there is a primary, general, or special election for any State or Federal office shall provide time off or so arrange the duty hours to permit all personnel to vote in said election; provided, however, that this Section shall not apply in event of war, invasion, insurrection, riot, tumult or imminent danger thereof, or during periods of annual active duty for train-

ing not exceeding fifteen (15) days. As amended Acts 1965, 59th Leg., p. 1601, ch. 690, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Former article 5766, providing what persons were subject to military duty, was repealed by Acts 1965, 59th Leg., p. 1601, ch. 690, § 3. See, now article 5765, § 2.

**Art. 5767. Texas National Guard Armory Board****Composition**

Sec. 1. There is hereby created the Texas National Guard Armory Board to be composed of the Commanding General of the 36th Infantry Division, Texas National Guard or its successor, the Commanding General of the 49th Armored Division, Texas National Guard, or its successor, and the senior officer of the Texas Air National Guard, or its successor; provided, however, that when an officer holding one of the three positions named above ceases to hold such position he will create a vacancy on the Board. The Board shall be composed of three (3) members and the term of office for members of the Texas National Guard Armory Board shall be of six (6) years' duration except that an appointment to fill a vacancy for an unexpired term shall be for the duration of the unexpired term. Each officer of the Texas National Guard or the Texas Air National Guard who may thereafter fill the position qualifying him for membership on the Texas National Guard Armory Board, as provided in this Act, shall be certified by the Adjutant General of Texas to the Secretary of State, and to the officer concerned within ten (10) days after the occurrence of a vacancy. Each member of the Texas National Guard Armory Board shall, within fifteen (15) days from the date of his receipt of notice of his eligibility to serve to fill a vacancy, qualify by taking and filing with the Secretary of State the Constitutional Oath of Office.

The senior and junior in military rank, of the members of said Board shall be, respectively, chairman and treasurer thereof, and the persons holding such offices shall change as military rank may determine when changes in membership of said Board occur.

**Reorganization**

Sec. 2. In the event of a reorganization of the Texas National Guard, the Texas National Guard Armory Board shall, effective January 1, 1966, consist of the following persons:

(a) Senior Officer of the Command Augmentation Section, State Headquarters and Headquarters Detachment, Texas National Guard; the Senior Commander of the Separate Brigades of the Line, Texas Army National Guard; and the Senior Officer of the Texas Air National Guard. Such members of the Board shall be residents of the State of Texas and shall serve on the Board until their successors in military function shall have been designated. The Board shall, from time to time, elect its own Chairman and Treasurer without regard to military rank, and shall make its own rules and regulations.

(b) In the event any member(s) of the Board are inducted into Federal service, their respective successor(s) in function shall succeed them as members of the Board, and in the event of induction of their unit to Federal service, the Adjutant General of Texas shall designate a member or members from among the State Military Forces as successor(s) in function, who shall thereupon be and become a member or members of the Board under the same conditions as prescribed above.

**Headquarters**

Sec. 3. The Board may change the location of its headquarters from time to time, but the Board must maintain a headquarters and the headquarters must be located in Travis County.

**Meetings**

Sec. 4. The Board shall act by resolution adopted at a meeting held in accordance with its bylaws. A simple majority of the members of the Board constitutes a quorum for the transaction of business.

**General powers**

Sec. 5. The Board constitutes a body politic and corporate and possesses all powers necessary and convenient for the acquisition, construction, rental, control, maintenance, and operation of all Texas National Guard Armories, including all property and equipment necessary or useful in connection with the armories.

**Express powers**

Sec. 6. The Board possesses but is not limited to the following powers:

- (1) To sue and be sued.
- (2) To enter into contracts in connection with any matter within the objects, purposes or duties of the Board. It shall be the duty of the State Board of Control of the State of Texas to, for and on behalf of the said Armory Board, supervise the taking and tabulation of bids for work approved for bids by the said Armory Board and the construction under contracts executed by said Armory Board and the purchase of furniture and equipment such as is desired by the said Armory Board.
- (3) To have and use a corporate seal.
- (4) To appoint, employ and pay and dismiss an executive secretary, and also such other officials, counsel, lawyers, agents and employees as may be necessary to carry out the objects, purposes and duties of the Board, and to prescribe their duties and fix their compensation.
- (5) To adopt, and from time to time to change or amend, all necessary bylaws for the conduct of the business and affairs of the Board.
- (6) To acquire, by gift or purchase, for use as building sites or for any other purposes deemed by said Board to be necessary or desirable in connection with or for use of units of the Texas National Guard, property of any and every description, whether real, personal or mixed, including, but without limitation on the foregoing, leasehold estates in real property, and hold, maintain, sublease, convey and exchange such property, in whole or in part, and/or pledge the rents, issues and profits thereof in whole or in part; also, to acquire, by gift or purchase, or by construction of the same, furniture and equipment suitable for Armory purposes and to hold, maintain, sublease, convey, and exchange such furniture, and equipment, in whole or in part.
- (7) To construct buildings on any of its real property, whether held in fee simple or otherwise, and to furnish and equip the same and to hold, manage and maintain all of said property and to lease to the State of Texas, in the same manner as hereinafter provided with respect to other property, the buildings, and the sites thereon situated, which it may construct at Camp Mabry, Camp Hulen and Camp Wolters, and to lease and sublease, convey and exchange, in whole or in part, all of its property not located in either of said camps, and/or to pledge the rents, issues and profits of all of said property, wherever located, in whole or in part; provided, however, that before any building is constructed by said Board on the lands comprising either of said camps, the site therefor, in maximum area 200,000 square feet, shall, promptly on said Board's request therefor to the said Adjutant General, be selected and described by a Board of Officers appointed from time to time for the purpose by the said Adjutant

General, and such description shall be certified to said Armory Board and a copy thereof shall be furnished to and preserved in the office of said Adjutant General; and provided further, that when so selected and described and constructed upon, such sites shall be and become the property of the said Armory Board, for all the purposes contemplated by the Act of which this Section is a part, as fully and absolutely as if the same had been acquired by a gift to or purchase by said Armory Board.

(8) From time to time, to borrow money, and to issue and sell bonds, debentures and other evidences of indebtedness for the purpose of acquiring one or more building sites and buildings, and for the purpose of constructing, remodeling, repairing and equipping one or more buildings, such bonds, debentures, or other evidences of indebtedness to be fully negotiable and to be secured as follows: by a pledge of, and payable solely from, the rents, issues and profits of all of the property of the Board; of the property acquired or constructed by the Board, in whole or in part, with the proceeds of the borrowing transactions. Provided, however, that interest falling due within 24 months after the issuance and sale of any particular bonds, debentures, or other evidences of indebtedness, or any series thereof, may be paid out of the proceeds of the sale thereof. Any such bonds, debentures or other evidences of indebtedness may be issued in series, and if so issued, all series thereof issued under or secured by the same trust indenture of trust agreement, shall rank equally, without preference or priority of one series over another, whether by reason of the date of issue or negotiation thereof or date of maturity thereof or for any other reason. All such bonds, debentures, or other evidences of indebtedness and the interest thereon, shall be exempt from taxation (except inheritance taxes) by the State of Texas or by any municipal corporation, county or political subdivision or taxing district of the State. All bonds, debentures or other evidences of indebtedness authorized and issued under authority of this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State of Texas including, but not limited to, the permanent free school fund, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds, debentures, or other evidences of indebtedness, shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds, debentures, or other evidences of indebtedness shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Said bonds, debentures, or other evidences of indebtedness may be sold by the Board in any manner it may determine; provided that no bonds, debentures, or other evidences of indebtedness shall be issued and sold at a price which will be such that the interest costs of the money received by the Board from the sale thereof will exceed 6 per cent per annum, computed to maturity according to standard tables of bond values, and provided further, that no bonds, debentures or other evidences of indebtedness shall be sold unless and until same shall have been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts. The Board shall have power from time to time to execute and deliver trust deeds and trust agreements whereunder any bank or trust company authorized by the laws of the State or of the United States of America to accept and execute trusts in the State, or any individual selected by the Board, may be named and act as Trustee. Any such trust deed or trust agreement shall be signed in the name and on behalf of the Board by the chairman of the Board and countersigned by the treasurer thereof and the corporate seal of the Board shall be thereto



For Annotations and Historical Notes, see V.A.T.S.

affixed and such seal attested by the secretary of the Board; and any such trust deed or trust agreement may, if it name such bank or trust company to act as Trustee, contain provisions for the deposit with the Trustee thereunder and the disbursement by such Trustee of the proceeds of the bonds, debentures or other evidences of indebtedness issued thereunder or secured thereby; and/or the rents, issues and profits of all property acquired or constructed out of such proceeds, and, whether or not such bank or trust company be named as Trustee, may also contain such provisions for the protection and enforcement of the rights and remedies of the Trustee and the holders of such bonds, debentures, or other evidence of indebtedness as the Board may approve, including provisions for the acceleration of the maturity of any such bonds, debentures or other evidences of indebtedness upon default by the Board in the performance or observance of any of the covenants or provisions of such bonds, debentures or other evidences of indebtedness or of the trust deed or trust agreement whereunder the same are issued or secured. Any such trust deed or trust agreement shall provide that all bonds, debentures or other evidences of indebtedness issued at any time thereunder shall be equally secured thereby but any such trust deed or trust agreement may contain and impose upon the Board limitations and conditions governing the right of the Board to issue additional bonds, debentures or other evidence of indebtedness. All such bonds, debentures or other evidence of indebtedness shall be signed by the chairman of the Board, countersigned by the treasurer thereof, and the corporate seal of the Board shall be thereto affixed, and such seal attested by the secretary of the Board, and in case any officer of the Board who shall have signed or attested any such bond, debenture or other evidence of indebtedness shall cease to be such officer before such bond, debenture or other evidence of indebtedness shall have been actually issued by the Board, such bond, debenture or other evidence of indebtedness may nevertheless be validly issued by the Board. Such bonds, debentures or other evidence of indebtedness may be issued in fully registered form without interest coupons, or in coupon form registrable as to principal only, or in bearer form with coupons attached. All of coupons shall be authenticated by the facsimile signature of the treasurer of the Board; and

(9) To execute and deliver leases, or subleases in the case of buildings located upon leasehold estates acquired by the Board, demising and leasing to the State of Texas through the Adjutant General, who shall execute the same for said State, for such lawful term as may be determined by the Board, any building or buildings, and the equipment therein and the site or sites therefor, to be used for Armory and other purposes and to renew such leases or subleases from time to time; provided, however, that if at any time the State of Texas shall fail or refuse to pay the rental reserved in any such lease or sublease, or shall fail or refuse to lease or sublease any such building and site, or to renew any existing lease or sublease thereon at the rental provided to be paid, then the Board shall have the power to lease or sublease such building and equipment and the site therefor to any person or entity and upon such terms as the Board may determine. The law requiring notice and competitive bids shall not apply to leasing or subleasing of such property. The annual rental (which may be made payable in such installments as the Board shall determine) to be charged the State of Texas for the use of such property leased or subleased to it by the Board shall be sufficient to provide for the operation and maintenance of the property so leased or subleased, to pay the interest on the bonds, debentures or other evidences of indebtedness, if any, issued for the purpose of acquiring, constructing or equipping such property, to provide for the retirement of such bonds, debentures or other evidences of indebtedness, if any,

and the payment of the expenses incident to the issuance thereof, as well as the necessary and proper expense of the Board not otherwise provided for.

#### **Transfers and conveyances**

Sec. 7. As and when any of the property owned by the Board shall be fully paid for, free of all liens, and all debts and other obligations incurred in connection with the acquisition or construction of such property have been fully paid, the Board may donate, transfer, and convey such property, by appropriate instruments of transfer, to the State of Texas, and such instruments of transfer and conveyance shall be kept in the custody of the Adjutant General's Department.

#### **Tax Exemptions**

Sec. 8. All property held by the Board, together with the rents, issues and profits thereof shall be exempt from taxation by the State of Texas or by any municipal corporation, county or other political subdivision or taxing district of this State.

#### **Books and records**

Sec. 9. The Board shall cause to be kept accurate minutes of its meetings, and accurate records and books of account in conformity with approved methods of bookkeeping, clearly reflecting the income and expenses of the Board and all transactions in relation to its property. In the execution and administration of objects and purposes herein set forth, the Board shall have power to adopt means and methods reasonably calculated to accomplish such objects and purposes and this Act shall be construed liberally in order to effectuate such objects and purposes.

#### **Receipt of property; dismantling; sale**

Sec. 10. The Board may receive from the Adjutant General State-owned National Guard Camps and all land and improvements, buildings, facilities, installations, and personal property in connection therewith and administer the same or transfer it to the Board of Control for sale, or make proper disposal of such property otherwise when designated by the Adjutant General as "surplus" and when directed by him as being in the best interest of the Texas National Guard, its successors or components. The Armory Board and the Board of Control are further authorized to remove, dismantle, and sever, or authorize the removal, dismantling, and severance of any of said property to accomplish the above purposes. All of such property so designated for sale, shall, when transferred by the Armory Board, be sold by the Board of Control to the highest bidder for cash and in the manner provided by law for the sale of property belonging to the State which is no longer needed, and all funds received from such sale shall be deposited in the State Treasury to the credit of the Texas National Guard Armory Board for the use and benefit of the Texas National Guard or their successors or components; provided, however, that none of these funds may be expended except by legislative appropriation.

#### **Mineral interests**

Sec. 11. Any sale or deed made pursuant to the terms of this Act shall reserve unto the State of Texas a one-sixteenth mineral interest free of cost of production, provided, however, the Board shall be authorized to reconvey on a negotiated basis to the original donors all rights, title, and interests including mineral interests to property and improvements provided another suitable site in the same town or county has been deeded to the Board for the construction of an armory.

**Bonds as legal and authorized investments**

Sec. 12. All bonds, debentures, or other evidences of indebtedness authorized and issued by the Texas National Guard Armory Board, under authority of Senate Bill No. 326, passed at the Regular Session of the 46th Legislature of Texas and approved May 1, 1939<sup>1</sup>, and laws amendatory thereof, shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State of Texas including, but not limited to, the permanent free school fund, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations, or subdivisions of the State of Texas. Such bonds, debentures, or other evidences of indebtedness shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds, debentures or other evidences of indebtedness shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

<sup>1</sup> Article 5890b.

**Refunding bonds**

Sec. 13. (a) The Texas National Guard Armory Board is hereby authorized to provide by resolution for the issue of refunding bonds for the purpose of refunding any bonds issued under the provisions of Chapter 366, Acts of the 45th Legislature, Regular Session, 1937, page 740<sup>1</sup>, and/or Chapter 2, Senate Bill No. 326, Acts of the 46th Legislature, Regular Session, 1939, page 487<sup>1</sup>; provided, however, that this authority to issue refunding bonds is limited to those situations where a savings in interest can be effected thereby.

<sup>1</sup> Article 5890b.

(b) The issuance of such refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the Board in respect to the same shall be governed by the provisions of this Article, insofar as the same may be applicable.

**Ownership of property**

Sec. 14. The Board shall succeed to the ownership of all property of, and all lease and rental contracts entered into by, the Texas National Guard Armory Board that was created by prior statutes and all of the obligations contracted or assumed by the last mentioned Board with respect to any such property and contracts shall be the obligations of the Board created by this Act. With this exception, no obligation of said former Board shall be binding upon the Board hereby created. As amended Acts 1965, 59th Leg., p. 1601, ch. 690, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Former article 5767, exempting certain persons from military duty, was repealed by Acts 1965, 59th Leg., p. 1601, ch. 690, § 3. See, now article 5765, § 3.

Section 1 of Acts 1965, 59th Leg., p. 1601, ch. 690 also amended and revised chapter 2 of Title 94. See article 5768.

Section 2 of Acts 1965, 59th Leg., p. 1601, ch. 690 was a severability clause and is set out as a note under article 5768. Section 3 thereof was a repealer provision and is set out as a note under article 5768.

## CHAPTER TWO—TEXAS STATE GUARD

*Chapter 1 of Title 94, consisting of articles 5765 to 5769c and Chapter 2, consisting of articles 5770 to 5779, were revised by Acts 1965, 59th Leg., p. 1601, ch. 690, § 1, to read as now set out in Chapter 1, consisting of articles 5765 to 5767, and Chapter 2, consisting of article 5768.*

**Art. 5768. Texas State Guard****Authorization**

Section 1. In order to provide a reservoir of militia strength for use by the State of Texas as a supplement to the Texas National Guard, a Texas State Guard is hereby created, authorized and provided. The Texas State Guard is a part of the State Militia of Texas within the meaning of the second Amendment of the Constitution of the United States and a defense force within the meaning of Section 109 of Title 32, United States Code.

**Organization and personnel**

Sec. 2. The Texas State Guard shall consist of such units as the Governor of Texas shall deem advisable. The Texas State Guard shall be composed of all present members of the Texas State Guard Reserve Corps, which is hereby abolished, whether assigned to existing units or unassigned, and such other citizens of Texas as may volunteer for service therein and who shall have attained the age of seventeen (17) years, who shall meet such other qualifications as shall be prescribed by the Governor, and who shall be acceptable to and approved by the Governor, or by the Adjutant General under his direction. The commissioned officers of the Texas State Guard shall be appointed, commissioned and assigned by the Governor or under his authority and direction to hold office and assignment during the pleasure of the Governor. All members of the Texas State Guard shall be subject to serve on active duty at the call and by order of the Governor.

**Disqualifications**

Sec. 3. No minor shall be enlisted without the written consent of his parents or guardian. One who has been expelled or dishonorably discharged from military service of this State or of the United States shall not be eligible for enlistment or reenlistment, unless he produces the written consent to such enlistment of the commanding officer of the organization from which he was expelled or dishonorably discharged, and of the commanding officer of the organization who approved such expulsion or issued such dishonorable discharge.

**Rules and regulations**

Sec. 4. The Governor shall have full control and authority over the Texas State Guard and is hereby authorized to prescribe rules and regulations not inconsistent with the provisions of this Act governing the enlistment, organization, administration, uniforms, equipment, maintenance, command, training and discipline of such forces; provided such rules and regulations, insofar as he deems practicable and desirable, shall conform to existing law governing and pertaining to the Texas National Guard and the rules and regulations promulgated thereunder.

**Active duty**

Sec. 5. The Texas State Guard or any element, unit or member thereof, may be activated and may be called to active duty at the discre-

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tion of the Governor, and when so called or when upon active duty, the Texas State Guard, or any element or unit thereof, shall have and exercise all rights, privileges, duties, functions and authorities, which are now or may hereafter be conferred or imposed by law upon the State Military Forces.

#### Honorary reserve

Sec. 6. At the discretion of the Governor, officers and enlisted personnel of the Texas State Guard who become physically disabled or who shall attain the age of sixty (60) years, or who shall have attained twenty-five (25) years of satisfactory service, may be transferred by the Governor, or under his authority and direction, to the Texas State Guard Honorary Reserve. Such officers and enlisted personnel may, at the discretion of the Governor, be advanced one grade or rank at the time of such transfer.

#### Financial assistance

Sec. 7. The commissioners court of each county and the council or commission of each city or town in this State is hereby authorized, in the discretion of each, to appropriate a sufficient sum not to exceed One Hundred Dollars (\$100) per month, not otherwise appropriated, to assist in paying the necessary expenses for the administration of any unit of the Texas State Guard located in their respective counties and in or near their respective cities or towns; and any and all such donations heretofore made by any commissioners court or any council or commission of any city or town to any such unit or units of the Texas State Guard is hereby validated. The appropriation of State funds to the Texas State Guard shall be the amounts which are designated in line items in the biennial appropriations bill.

#### Maintenance of records

Sec. 8. The Adjutant General of Texas is hereby charged with the care, maintenance and preservation of the individual, unit and organization records of the Texas State Guard and the Texas State Guard Honorary Reserve.

#### Equipment and funds

Sec. 9. For the use of the Texas State Guard, the Governor is hereby authorized to requisition from the United States Government such arms and equipment as may be in possession, and can be spared by, the United States Government; and to make available to such forces the facilities of State armories and their equipment and such other State premises and property as may be available. Authorization is hereby provided for school authorities to permit the use of school buildings by the Texas State Guard; provided further that county commissioners courts, city authorities, communities, and civic and patriotic organizations are empowered and authorized by this Chapter to provide funds, armories, equipment, material, transportation, or other appropriate services or facilities, to the Texas State Guard.

#### Use without this state

Sec. 10. The Texas State Guard shall not be required to serve outside the boundaries of this State except:

(a) Upon the request of the Governor of another state, the Governor of this State may, in his discretion, order any portion or all of such forces to assist the military or police forces of such other state, who are actually engaged in defending such other state. Such forces may be recalled by the Governor at his discretion.

(b) Any organization, unit, or detachment of such forces, upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces beyond the borders of this State into another state until they are apprehended or captured by such organization, unit, or detachment, or until the military or police forces of the other state, or the forces of the United States, have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons; provided such other state shall have given authority by law for such pursuit by such forces of this State. Any such person who shall be apprehended or captured in any other state by an organization, unit, or detachment of the forces of this State shall without unnecessary delay be surrendered to the military or police forces of the state in which he is taken, or to the United States, but such surrender shall not constitute a waiver by this State of its right to extradite or prosecute such person for any crime committed in this State.

#### Permission to forces of other states

Sec. 11. Any military forces or organization, unit, or detachment thereof, of another state, who are in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces, may continue such pursuit into this State until the military or police force of this State or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons, and are hereby authorized to arrest or capture such persons within this State while in fresh pursuit. Any such person who shall be captured or arrested by the military forces of such other state while in this state shall without unnecessary delay be surrendered to the military or police forces of this state to be dealt with according to law. This Section shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.

#### Federal service

Sec. 12. Nothing in this Chapter shall be construed as authorizing the Texas State Guard, or any part thereof, to be called, ordered, or in any manner drafted, as such, into the military service of the United States, but no person shall by reason of his enlistment or commission in any such forces be exempted from military service under any law of the United States.

#### Qualifications of general officers

Sec. 13. To be qualified and eligible for appointment as a General Officer of the Texas State Guard, a person must have been a federally recognized officer, not less than field grade of the Texas National Guard, a regular or reserve component of the United States Army or Air Force, or, must have completed at least fifteen (15) years service as a commissioned officer in the State Military Forces or a regular or reserve component of the United States Army or Air Force. As amended Acts 1965, 59th Leg., p. 1601, ch. 690, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 1 of Acts 1965, 59th Leg., p. 1601, ch. 690 also amended and revised Chapter 1 of Title 94. See articles 5765 to 5767.

Sections 2 and 3 of Acts 1965, 59th Leg., p. 1601, ch. 690 provided:

"Sec. 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 3. Chapters 1, 2, 5 and 6 of Title 94 of the Revised Civil Statutes of Texas, 1925, as amended; Chapter 311, Acts of the 48th Legislature, Regular Session, 1943 (compiled as Article 5769a, Vernon's Annotated Civil Statutes); Chapter 227, Acts of the 53rd Legislature, Regular Session, 1953 (compiled as Article 5769b—1, Vernon's Annotated Civil Statutes); Chapter 558, Acts of the 51st Legislature, Regular Session, 1949 (compiled as Article 5769c, Vernon's Annotated Civil Statutes); Chapter 184, page 462, Acts of the 44th Legislature, Regular Session, 1935; Chapter 366, page 740, Acts of the 45th Legislature,

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Regular Session, 1937; Section 1, page 487. Acts of the 46th Legislature, Regular Session, 1939 (compiled as Article 5890b, Sections 1 through 4); Section 1, Chapter 251, page 467, Acts of the 51st Legislature, 1949 (compiled as Article 5890b, Section 5); page 494, Acts of the 46th Legislature, Regular Session, 1939 (compiled as Article 5890c); Chapter 9, Acts of the 47th Legislature, Regular Session, 1941, as amended (compiled as Article 5891a, Vernon's Annotated Civil Statutes); Chapter 226, Acts of the 50th Legislature, Regular Session, 1947, as amended (compiled as Article 5891c, Vernon's Annotated Civil Statutes); Sections 7 and 8, Article 5786, Revised Civil Statutes of Texas, as amended; Chapter 231,

Acts of the 58th Legislature, Regular Session, 1963 (Article 5890d, Vernon's Texas Civil Statutes); and Section 7 through Section 8 of Article 5786, Chapter 112, Acts of the 58th Legislature (compiled as Section 7 through Section 8 of Article 5786, Revised Civil Statutes of Texas, as amended); are hereby repealed, and all other laws or parts of laws in conflict with this Act are repealed to the extent of such conflict only."

Former article 5768, appearing in Chapter 1 of Title 94, making the Governor the commander-in-chief of the state's military forces, was repealed by Acts 1965, 59th Leg., p. 1601, ch. 690, § 3. See, now, article 5765, § 4.

Arts. 5769, 5769a. Repealed. Acts 1965, 59th Leg., p. 1601, ch. 690, § 3. Eff. Aug. 30, 1965, 90 days after date of adjournment

See, now, art. 5765, §§ 5, 6.

Arts. 5769b—1, 5769c. Repealed. Acts 1965, 59th Leg., p. 1601, ch. 690, § 3. Eff. Aug. 30, 1965, 90 days after date of adjournment

See, now, article 5765, §§ 6, 7.

Arts. 5770—5779. Repealed. Acts 1965, 59th Leg., p. 1601, ch. 690, § 3. Eff. Aug. 30, 1965, 90 days after date of adjournment

See, now, article 5766, §§ 1—8.

### CHAPTER THREE—NATIONAL GUARD

#### Art. 5786. General Provisions

Sections 7, 8. Repealed. Acts 1965, 59th Leg., p. 1601, ch. 690, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Former article 5786, as originally enacted by Acts 1905, p. 167, was repealed by Acts 1963, 58th Leg., p. 209, ch. 112, § 3.

Prior to repeal, former section 7, relating to the National Guard Armory Board, was

amended by Acts 1965, 59th Leg., p. 75, ch. 28, § 1. See, now article 5767. Former section 8 related to bonds and debentures of the National Guard Armory Board. See, now, article 5767, § 12.

#### Art. 5787. Veterans County Service Office

##### Veterans Affairs Commission

Sec. 3. \* \* \* \* \*

(b) Creation, membership. There is hereby created and established by this Act, a Veterans Affairs Commission of the State of Texas. The Commission shall be composed of five (5) members who shall be appointed by the Governor, with the advice, consent and confirmation of the Senate. The members of the Commission and all male personnel are to be veterans of the Spanish-American War, World War I, World War II, or of other wars in which the United States participated. They shall have received honorable discharges from the service of the United States; shall be citizens and bona fide residents of the State of Texas, and at least three (3) members of the Commission shall have been finally separated from the service under honorable conditions as an enlisted man. No two (2) members of the Commission shall reside in the same Senatorial District, and not more than one (1) shall be from a Senatorial District composed of one (1) county. The Commission shall continue in office, as designated by the Governor at the time of

appointment, through the last day of the second, fourth and sixth calendar years respectively following the effective date of this Act. The successors of members initially appointed shall be appointed for terms of six (6) years in the same manner as the members originally appointed under this Act, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his successor. Each member shall serve without pay, except he shall be paid the sum of Twenty-Five Dollars (\$25) per diem for regular and called meetings of the Commission and shall be reimbursed for actual and necessary expenses incurred by him and authorized by the Commission. As amended Acts 1965, 59th Leg., p. 604, ch. 298, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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Arts. 5790-5890c. Repealed. Acts 1963, 58th Leg., p. 209, ch. 112, § 3; Acts 1965, 59th Leg., p. 1601, ch. 690, § 3.

See, now, arts. 5767 and 5780-5789.

**CHAPTER THREE A—NATIONAL GUARD—  
MISCELLANEOUS PROVISIONS**

Art. 5890d. Repealed.

Art. 5890d. Repealed. Acts 1965, 59th Leg., p. 1601, ch. 690, § 3. Eff. Aug. 30, 1965, 90 days after date of adjournment

Former article 5890d, derived from Acts 1963, 58th Leg., p. 209, ch. 112, § 3, related to Guard Armory Board. See, now, article 5767, § 13. refunding bonds of the Texas National

**CHAPTER FIVE—TEXAS DEFENSE GUARD**

**Repeal**

*Chapter 5, Texas Defense Guard, consisting of article 5891a, §§ 1-15, was repealed by Acts 1965, 59th Leg., p. 1601, ch. 690, § 3.*

Art. 5891a. Repealed. Acts 1965, 59th Leg., p. 1601, ch. 690, § 3. Eff. Aug. 30, 1965, 90 days after date of adjournment

For provisions relating to the Texas State Guard, see article 5768.

**CHAPTER SIX—TEXAS STATE GUARD RESERVE CORPS**

**Repeal**

*Chapter 6, Texas State Guard Reserve Corps, consisting of article 5891c, §§ 1-9, was repealed by Acts 1965, 59th Leg., p. 1601, ch. 690, § 3.*

Art. 5891c. Repealed. Acts 1965, 59th Leg., p. 1601, ch. 690, § 3. Eff. Aug. 30, 1965, 90 days after date of adjournment

For provisions relating to the Texas State Guard, see article 5768.



**TITLE 96—MINORS—REMOVAL OF DISABILITIES OF**

**Art. 5921. [5947–5949] Requisites of removal**

Minors above the age of eighteen (18) years, where it shall appear to their material advantage, may have their disabilities of minority removed, and be thereafter held, for all legal purposes, of full age, except as to the right to vote. As amended Acts 1965, 59th Leg., p. 964, ch. 464, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment. Section 2 of the amendatory act of 1965 repealed article 5921a.

**Art. 5921a. Repealed. Acts 1965, 59th Leg., p. 964, ch. 464, § 2. Eff. Aug. 30, 1965, 90 days after date of adjournment**

**TITLE 96A—MINORS—LIABILITY OF PARENTS FOR ACTS OF MINORS**

**Art. 5923—1. Liability of parents for malicious and willful damage to or destruction of property**

Section 1. Any property owner, including any municipal corporation, county, school district, or other political subdivision of the State of Texas, or any department or agency of the State of Texas, or any person, partnership, corporation or association, or any religious organization whether incorporated or unincorporated, shall be entitled to recover actual damages suffered from the parents of any minor under the age of eighteen (18) years and over the age of ten (10), where such minor child maliciously and willfully damages or destroys property, real, personal or mixed, belonging to such owner. However, this Act shall not apply to parents whose parental custody and control of such child has been removed by court order, decree or judgment.

Sec. 2. The suit may be brought in any court of competent jurisdiction and venue thereof shall be governed by the Statutes regulating venue in actions based upon trespass. The recovery shall be limited to the actual damages suffered or the sum of Five Thousand Dollars (\$5,000), whichever is lower, court costs and reasonable attorney's fees.

Sec. 3. The action authorized in this Act shall be in addition to all other actions which the owner is entitled to maintain and nothing in this Act shall preclude recovery from the minor or from any other person, including the parents, for damages to which such minor or other person would otherwise be liable, it being the purpose of this Act to authorize recovery from parents, in situations where they would not otherwise be liable. As amended Acts 1965, 59th Leg., p. 430, ch. 217, § 1, emerg. eff. May 21, 1965.

TITLE 96B—GIFTS TO MINORS

Art. 5923—101. Texas Uniform Gifts to Minors Act

Definitions

Section 1.

\* \* \* \* \*
(e)
\* \* \* \* \*

(1) all securities, money, and life or endowment insurance policies and annuity contracts under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this Act. As amended Acts 1965, 59th Leg., p. 378, ch. 183, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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(o) "Life or endowment insurance policies and annuity contracts" means only life or endowment insurance policies and annuity contracts on the life of a minor or a member of the minor's family as herein defined. Added Acts 1965, 59th Leg., p. 378, ch. 183, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Manner of making gift

Sec. 2. (a) An adult person may, during his lifetime, make a gift of a security or money, a life or endowment insurance policy, or an annuity contract to a person who is a minor on the date of the gift:

(1) if the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person or a trust company, followed, in substance, by the words: "as custodian for (name of minor) under the Texas Uniform Gifts to Minors Act";

(2) if the subject of the gift is a security not in registered form, by delivering it to an adult person other than the donor or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

"GIFT UNDER THE TEXAS UNIFORM GIFTS TO MINORS ACT

I, (name of donor), hereby deliver to (name of custodian) as custodian for (name of minor) under the Texas Uniform Gifts to Minors Act, the following security(ies): (insert an appropriate description of the security or securities delivered sufficient to identify it or them)

(signature of donor)

(name of custodian) hereby acknowledges receipt of the above described security(ies) as custodian for the above minor under the Texas Uniform Gifts to Minors Act.

Dated: \_\_\_\_\_

(signature of custodian)"

(3) if the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of the donor, another adult person or a bank with trust powers, followed, in substance, by the words: "as custodian for (name of minor) under the Texas Uniform Gifts to Minors Act."

(4) if the subject of the gift is a life or endowment insurance policy or an annuity contract, such policy or contract shall be assigned to the custodian in his own name, followed, in substance, by the words: "as custodian for (name of minor) under the Texas Uniform Gifts to Minors Act." Such policy or contract shall be delivered to the person who has been designated as custodian thereof. As amended Acts 1965, 59th Leg., p. 378, ch. 183, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Effect of gift**

Sec. 3. (a) A gift made in a manner prescribed in this Act is irrevocable and conveys to the minor indefeasibly vested legal title to the security or money, life or endowment insurance policies or annuity contracts given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this Act. As amended Acts 1965, 59th Leg., p. 378, ch. 183, § 4.

Effective Aug. 30, 1965, 90 days after date of adjournment.

\* \* \* \* \*

**Duties and powers of custodian**

Sec. 4.

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(f) The custodian may sell, exchange, convert or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable, provided that a custodian may not acquire as custodial property any property other than securities or money, life or endowment insurance policies or annuity contracts. He may vote in person or by general or limited proxy a security, policy or contract, which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer of a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian. As amended Acts 1965, 59th Leg., p. 378, ch. 183, § 5.

\* \* \* \* \*

(j) If the subject of the gift is a life or endowment insurance policy or an annuity contract, the custodian shall have all the incidents of ownership in such policy or contract which he may hold as custodian, to the same extent as if he were the owner thereof, except that the designated beneficiary of any such policy or contract held by a custodian shall always be the minor, or in the event of his death, the minor's estate. Added Acts 1965, 59th Leg., p. 378, ch. 183, § 6.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**TITLE 98—NEGOTIABLE INSTRUMENTS ACT**

Arts. 5932 to 5948. Repealed. Acts 1965, p. 179 (UCC), ch. 721, § 10—102. Eff. June 30, 1966

*Acts 1965, c. 721, enacting the Uniform Commercial Code, repealed arts. 5932 to 5948 effective June 30, 1966. See page 127 for text, table, and index of the Uniform Commercial Code.*

## TITLE 99—NOTARIES PUBLIC

## Art. 5949. [6002] [3503] Notary public

**Appointment; number and terms**

1. The Secretary of State of the State of Texas shall appoint a convenient number of Notaries Public to serve each county of the state. Such appointments may be made at any time, and the terms of all appointments shall end on the first day of June of each odd-numbered year, unless sooner revoked by the Secretary of State.

**Eligibility**

2. To be eligible for appointment as Notary Public for any county, a person shall be at least twenty-one (21) years of age, be a citizen of the United States of America and of Texas and a resident of the county for which he is appointed; provided, that where such person resides within the limits of a county containing an incorporated city, town or village partially located in another county, said person may be appointed Notary Public for either of such counties, but shall be authorized to act only in the county for which such appointment is made; provided further, that nothing herein shall invalidate any commission as Notary Public which has been issued and is outstanding at the time this Act becomes effective.

**Procedure for appointment; application; contents; duties of county clerks**

3. Appointments to the office of Notary Public shall be made as follows:

Any person desiring appointment as a Notary Public shall make application in duplicate to the county clerk of his county of residence, or the county in which the applicant seeks to act as Notary Public, on forms prescribed by the Secretary of State, which includes his name as it will be used in acting as such Notary Public, his post-office address, a statement that he has never been convicted of a crime involving moral turpitude, and shall satisfy the clerk that he is at least twenty-one (21) years of age and otherwise qualified by law for the appointment which is sought. One copy of each application, along with the names of all persons making such application shall be sent in duplicate by the county clerk to the Secretary of State with the certificate of the county clerk that according to the information furnished him, such person is eligible for appointment as Notary Public for such county. The Secretary of State shall act upon all such names submitted at the earliest practicable time and notify the county clerk whether such appointment or appointments have been made. Upon receiving notice from the Secretary of State of such appointments, the county clerk shall forthwith notify all persons so appointed to appear before him within fifteen (15) days from the date of such appointment and qualify as hereinafter provided. The appointment of any person failing to qualify within the time allowed shall be void, and if any such person desires thereafter to qualify, his name shall be resubmitted in the same manner as hereinabove provided.

**Fees**

4. At the time of such qualification the county clerk shall collect the fees allowed him by law for administering the oath and approving and filing the bond of such Notary Public, together with the fee allowed by law to the Secretary of State for issuing a commission to such Notary Public.

**Notice to Secretary of State; issuance of commission; rejection of application; appeal**

5. Immediately after the qualification of any Notary Public, the county clerk shall forthwith notify the Secretary of State that such per-

For Annotations and Historical Notes, see V.A.T.S.

son has qualified and the date of such qualification, and shall remit with such notice the fee due the Secretary of State, whereupon, the Secretary of State shall cause a commission to be issued for the county in which such Notary Public has qualified, which commission shall be effective as of the date of qualification in that county. All such commissions shall be forwarded to the proper county clerk for delivery to such persons entitled to receive them. Nothing herein shall prevent any qualified Notary Public from performing the duties of his office from and after his qualification and before the receipt of his commission.

The Secretary of State may, for good cause, reject any application, or revoke the commission of any Notary Public, but such action shall be taken subject to the right of notice, hearing and adjudication, and the right of appeal therefrom. Such appeal shall be made to the District Court of Travis County, Texas, but upon such appeal the Secretary of State shall have the burden of proof and such trial shall be conducted de novo.

"Good cause" shall include final conviction for a crime involving moral turpitude, any false statement knowingly made in an application, and final conviction for the violation of any law concerning the regulation of the conduct of Notaries Public in this state, or any other state.

**Expiration of term; reappointment; changes of address; dates of reappointment**

6. Any qualified Notary Public whose term is expiring may be reappointed by the Secretary of State without the necessity of the county clerk resubmitting his name to the Secretary of State, provided such appointment is made in sufficient time for such Notary Public to requalify on the expiration date of the term for which he is then serving; and provided further, that each Notary shall notify the Secretary of State and the county clerk of any change of address within ten (10) days and if any such Notary has removed his residence to a county other than the one for which he was appointed, his office shall be automatically vacated, and if he desires to act as Notary Public in the county to which he has removed his residence, he shall surrender his commission to the Secretary of State, and make new application in accordance with eligibility requirements of this Article.

The Secretary of State shall reappoint Notaries Public on May 1 of each odd-numbered year, which reappointment shall be effective June 1 of said year for the next term of office. The County Clerk of each county shall notify such persons, who are reappointed from his or her county, to qualify within the first fifteen (15) days of May of each odd-numbered year which qualifying shall become effective as of June 1 and shall not be effective prior thereto.

**Bond**

7. Any person appointed a Notary Public, before entering upon his official duties, shall execute a bond in the sum of One Thousand (\$1,000.00) Dollars with two or more solvent individuals, or one solvent surety company authorized to do business in this state, as surety, such bond to be approved by the county clerk of his county, payable to the Governor, and conditioned for the faithful performance of the duties of his office; and shall also take and subscribe the official oath of office which shall be endorsed on said bond with the certificate of the official administering the same. Said bond shall be deposited in the office of the county clerk and shall not be void on the first recovery, and may be sued on in the name of the party injured from time to time until the whole amount thereof has been recovered. Any such person shall be deemed to be qualified when he has taken the official oath of office, furnished the bond and paid the fees herein provided for, all within the time allowed therefor.

**Failure or refusal of county clerk to perform duties**

8. If any county clerk fails or refuses to forward the names of persons requesting appointments, notices of qualification, or to remit any fees due to the Secretary of State, or to notify any applicant of his appointment within sixty (60) days after receipt of same by the county clerk, the Secretary of State shall certify such failure or refusal to the State Comptroller, the County Auditor and Commissioners Court of such county, after which no claim or account in favor of such clerk shall be approved or paid until the Secretary of State shall certify to such officials that all requirements hereunder have been complied with.

**Public records; inspection**

9. All matters pertaining to the appointment and qualification of Notaries Public shall be public records in the offices of the county clerks and in the office of the Secretary of State after any such Notary Public has qualified, and shall be open to inspection of any interested person at such reasonable times and in such manner as will not interfere with the affairs of office of the custodian of such records; but neither a county clerk nor the Secretary of State shall be required to furnish lists of the names of persons appointed before their qualification nor lists of unreasonable numbers of qualified Notaries Public.

**Administration and enforcement of act; regulations**

10. The Secretary of State may make regulations necessary for the administration and enforcement of this Act consistent with all of its provisions. As amended Acts 1965, 59th Leg., p. 1517, ch. 660, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

*Amendment of pars. 3 and 6 by Acts 1965, 59th Leg., p. 182, ch. 74, §§ 1, 2, see 5049, post*

**Art. 5949. [6002] [3503] Notary Public**

3. Any person desiring appointment as Notary Public shall furnish to the County Clerk of the county of residence of the applicant, or the county in which the applicant seeks to act as Notary Public, his name as it will be used in acting as such Notary Public, his post office address, and shall satisfy the Clerk that he is at least twenty-one (21) years of age and otherwise qualified by law for the appointment which is sought. The names of all such persons shall be sent forthwith in duplicate by the County Clerk to the Secretary of State with the certificate of the County Clerk certifying that according to the information furnished him, such person is eligible for appointment as Notary Public for such county. The Secretary of State shall act upon all such names submitted at the earliest practicable time and notify the County Clerk whether such appointment or appointments have been made. Upon receiving notice from the Secretary of State of any such appointments, the County Clerk shall forthwith notify all persons so appointed to appear before him within ten (10) days from the date of such notice, and qualify as hereinafter provided. The appointment of any person failing to qualify within such ten (10) day period shall be void, and if any such person desires thereafter to qualify, his name shall be resubmitted in the same manner as hereinabove provided. As amended Acts 1965, 59th Leg., p. 182, ch. 74, § 1, emerg. eff. April 8, 1965.

6(a). Any qualified Notary Public whose term is expiring may be reappointed by the Secretary of State without the necessity of the County Clerk resubmitting his name to the Secretary of State, provided that if any such Notary has removed his residence to a county other than the

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one for which he was appointed, his office shall be automatically vacated, and if he desires to act as Notary Public in such other county his commission shall be surrendered to the Secretary of State and his name shall be submitted by the clerk of such other county as hereinabove provided.

(b). The Secretary of State shall reappoint Notaries Public on May 1 of each odd-numbered year, which reappointment shall be effective June 1 of said year for the next term of office. The County Clerk of each county shall notify such persons, who are reappointed from his or her county, to qualify within the first fifteen (15) days of May of each odd-numbered year which qualifying shall become effective as of June 1 and shall not be effective prior thereto. As amended Acts 1965, 59th Leg., p. 182, ch. 74, § 2, emerg. eff. April 8, 1965.

*Amendment by Acts 1965, 59th Leg., p. 1517, ch. 660, § 1, see art. 5949, ante*

Section 3 of Acts 1965, 59th Leg., p. 182,  
ch. 74 repealed all conflicting laws and parts  
of laws.

## TITLE 102—OIL AND GAS

## GENERAL PROVISIONS

- Art.  
6068c. Mineral Interest Pooling Act [New].  
6036c. False applications and reports;  
abolition of oaths [New].

## Art. 6005. [7848] Plugging abandoned wells

## Definitions

Section 1. In this Article, unless the context requires a different definition,

- (1) "well" means a hole drilled for the purpose of:
- (a) producing oil or gas; or
  - (b) injecting any fluid or gas into the ground in connection with the exploration or production of oil or gas; or
  - (c) obtaining geological information by taking cores or through seismic operations;
- (2) "operator" means a person who is responsible for the physical operation and control of a well at the time the well is about to be abandoned or ceases operation;
- (3) "nonoperator" means a person who owns a working interest in a well at the time the well is about to be abandoned or ceases operation and is not an "operator" as defined in Section 1, paragraph (2), herein. It is understood that the terms "operator" and "nonoperator" as defined in this Article do not mean a royalty interest owner or an overriding royalty interest owner;
- (4) "landowner" means the owner of the land upon which the well is situated at the time the well is abandoned and one who holds a mineral interest therein;
- (5) "person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor and a fiduciary or representatives of any kind;
- (6) "Commission" means the Railroad Commission of Texas.

## Duty of operator

Sec. 2. The operator of a well shall properly plug the well when required and in accordance with the Commission's rules and regulations which are in effect at the time of plugging.

## Duty of nonoperator

Sec. 3. If the operator of a well fails to comply with Section 2 of this Article, then each nonoperator is responsible for his proportionate share of the cost of the proper plugging of the well within a reasonable time, according to the rules and regulations of the Commission in effect at the time the responsibility attaches.

## Duty of landowner

Sec. 4. If the operator fails to comply with Section 2 of this Article and the nonoperator fails to comply with Section 3 of this Article, then, in that event each landowner is responsible for his proportionate share of the cost of proper plugging of the well within a reasonable time, according to the rules and regulations of the Commission in effect at the time the responsibility attaches.



**Cause of action**

Sec. 5. If a landowner plugs or replugs a well under Section 4 of this Article then the landowner shall have a cause of action against the operator and nonoperator or either of them, as the case may be, in any court of competent jurisdiction for all reasonable costs and expenses incurred in the plugging or replugging of the well, to be secured by a lien upon the interest of the operator and the nonoperator, or either of them as the case may be, in the oil and gas underlying the lease upon which the well is located and upon the interest of the operator and the nonoperator, or either of them, as the case may be, in all fixtures, machinery and equipment found or used on said lease; provided, however, that if the landowner is responsible for the well not being properly plugged, then the said landowner shall not have a cause of action under this Article.

**Recovery against others**

Sec. 6. If an operator, nonoperator or landowner owns only a partial interest in the well, oil and gas or land, as the case may be, and said operator, nonoperator or landowner pays a larger proportion of the cost of plugging the well than his proportionate interest in the well, oil and gas or land, as the case may be, then he shall have a cause of action against the other operators, nonoperators or landowners, as the case may be, for their proportionate shares of the cost of plugging.

**Duty of commission**

Sec. 7. (a) If it comes to the Commission's attention that a well which has been abandoned or is not being operated is causing or is likely to cause pollution of fresh water above or below the ground or if gas or oil is escaping from said well, the Commission, after due notice, at a hearing, shall determine whether or not the well was properly plugged under Section 2, Section 3 or Section 4 of this Article.

(b) If the Commission finds that the well was not properly plugged, it shall order the operator to plug the well according to the rules and regulations of the Commission in effect at the time the order is issued. If the operator cannot be found or is no longer in existence, or if the operator has no assets with which to properly plug the well, the Commission shall order the nonoperators to plug the well according to the rules and regulations of the Commission in effect at the time the order is issued. If the nonoperators cannot be found or are no longer in existence, or if the nonoperators have no assets with which to properly plug the well, the Commission shall order the landowners to properly plug the well according to the rules and regulations of the Commission in effect at the time the order is issued.

**Power of the commission**

Sec. 8. (a) Upon the determination by the Commission under Section 7(a) of this Article that such a well has not been properly plugged, or needs replugging, the Commission, through its employees or through a person acting as agent for the Commission, may plug or replug such a well, if

(1) the well was properly plugged according to regulations in effect at the time the well was abandoned or ceased to be operated; or

(2) neither the operator, nonoperator nor the landowner properly plugged the well, and

(A) neither the operator, nonoperator nor the landowner can be found; or

(B) neither the operator, nonoperator nor the landowner has assets with which to properly plug the well.

(b) The Commission, its employees, or its agents, or the operator, or the nonoperator, or the landowner may enter the land of another for the purpose of plugging or replugging the well which the Commission has determined, under the provisions of Section 7(a), has not been properly plugged. The Commission, its employees, its agents, the operator, nonoperator and the landowner shall not be liable for any damages which may occur as a result of acts done or omitted to be done by them or each of them in a good faith effort to carry out the provisions of this Article

#### Cause of action of state

Sec. 9. If the Commission plugs a well under Section 8 of this Article, the State has a cause of action for all reasonable expenses incurred in plugging or replugging the well according to the rules and regulations of the Commission in effect at the time the well is plugged or replugged. The cause of action is first against the operator, to be secured by a lien upon his interest in the oil and gas in the land and all his fixtures, machinery and equipment found or used on the land where the well is situated, and second, against the nonoperator at the time the well should have been plugged, to be secured by a lien upon his interest in the oil or gas in the land, and third, against the landowner, to be secured by a lien upon his interest in the land.

#### Accepting money from private persons

Sec. 10. The Commission may accept money from private persons and use the money to plug or replug any well. Paying money to the Commission is not an admission that the person paying the money is obligated to plug or replug the well. Evidence that a person has paid money to the Commission is not admissible against the person in any suit in which the person's obligation to plug a well is an issue, and introducing the evidence is a compulsory ground for mistrial.

#### Commission enforcement

Sec. 11. In addition to the powers specifically granted to the Commission under the provisions of this Article, the Commission may enforce the provisions of this Article or any rule, regulation or order of the Commission promulgated hereunder, in the same manner and upon the same conditions as provided for in Title 102 of the Revised Civil Statutes of Texas, 1925.

#### Appeals to courts

Sec. 12. Any person affected hereby may sue to test the validity of any rule, regulations or order promulgated by the Commission under this Article in the same manner, upon the same conditions, and to the same court or courts, as prescribed for suits testing the validity of rules, regulations and orders of the Commission promulgated under the general oil conservation statutes of this State.

#### Protection of waters against pollution

Sec. 13. The conservation and development of all of the natural resources of this State are hereby declared a public right and duty. It is further hereby declared that the protection of waters and lands of the State against pollution or the escape of oil or gas is in the public interest. It is therefore necessary and desirable in the exercise of the police power of the State to provide additional means whereby wells which are drilled for the exploration, development or production of oil or gas, or as injection or salt water disposal wells, and which have been abandoned and are leaking salt water, oil, gas or other deleterious substances into fresh water formations or upon the surface of the land, may be plugged, replugged or

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repaired, by or under the authority and direction of the Railroad Commission of Texas. As amended Acts 1965, 59th Leg., p. 762, ch. 355, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Acts 1965, 59th Leg., p. 762, ch. 355, §§ 2, 3 provided:

"Sec. 2. This Act does not alter causes of action arising before the effective date of this Act.

"Sec. 3. Section 9, Chapter 245, General Laws, Acts of the 44th Legislature, Regular Session, 1935 [art. 6032c-2], is hereby repealed. All other laws and parts of laws in conflict herewith, to the extent only that they may be in conflict, are hereby repealed; but where the same are not in conflict, the provisions of this Act shall be cumulative of such other existing law."

#### Art. 6008c. Mineral Interest Pooling Act

Section 1. This Act may be cited and referred to as the Mineral Interest Pooling Act. The term "mineral" as used herein is limited to oil and gas.

Sec. 2. (a) When two or more separately-owned tracts of land are embraced within a common reservoir of oil or gas for which the Railroad Commission of Texas (hereinafter called "Commission") has established the size and shape of proration units, whether by temporary or permanent field rules, and where there are separately-owned interests in oil or gas embraced within an existing or proposed proration unit in the common reservoir, and the owners have not agreed to pool their interests, and where one or more of the owners have drilled or propose to drill a well on the proration unit to the common reservoir, the Commission, to avoid the drilling of unnecessary wells, or to protect correlative rights, or to prevent waste, shall, on the application of any such owner, establish a unit and pool all of the interests therein within an area containing the approximate acreage of such proration unit, which unit shall in no event exceed 160 acres for an oil well or 640 acres for a gas well, plus 10% tolerance. The applicant shall set forth in detail the nature of voluntary pooling offers made to the owners of the other interests in the proposed unit, and the Commission shall dismiss such application if it finds that a fair and reasonable offer to voluntarily pool has not been made by the applicant. The Commission shall not require the owner of a mineral interest, the productive acreage of which is equal to or in excess of the standard proration unit for the reservoir, to pool his interest with others, unless requested by the holder of an adjoining mineral interest, the productive acreage of which is smaller than such pattern, who has not been provided a reasonable opportunity to pool voluntarily, in which event the Commission shall pool the smaller tract with adjacent acreage on a fair and reasonable basis and may authorize a larger allowable for such unit if it exceeds the size of the standard proration unit for the reservoir. The Commission shall only pool such acreage which at the time of its order reasonably appears to lie within the productive limits of the reservoir.

(b) A pooling agreement, offer to pool, or pooling order shall not be considered fair and reasonable if it provides for an operating agreement containing any of the following provisions:

- (1) Preferential right of the operator to purchase mineral interests in the unit;
- (2) A call on or option to purchase production from the unit;
- (3) Operating charges which include any part of district or central office expense other than reasonable overhead charges;
- (4) Prohibition against non-operators questioning the operation of the unit.

(c) Upon the filing of an application for the pooling of interests into a unit under this Act, at least 30 days notice shall be given to all interested parties, including notice by publication if there are unknown owners or

owners whose whereabouts are unknown, in the manner and form prescribed by the Commission before hearing on such application, notwithstanding Article 6036a, Vernon's Civil Statutes of Texas.

(d) All orders effecting such pooling shall be made after notice, as provided above, and hearing, and shall be upon such terms and conditions as are fair and reasonable, and will afford to the owner or owners of each tract or interest in the unit the opportunity to produce or receive his fair share. Each order shall describe the lands included in the unit, identifying the reservoir to which it applies, shall designate the location of the well, and appoint an operator for the unit. All operations upon, and production from, any portion of a unit for which a pooling order has been entered, shall be deemed for all purposes the conduct of such operations upon and production from, each separately-owned tract in the pooled unit, and if any gas well on a pooled unit is shut in, it shall be deemed that the shut-in gas well is on each separately-owned tract in the pooled unit. If only part of a tract is included in the unit, operations upon, production from, or a shut-in gas well on, the unit shall maintain an oil and gas lease on the tract as to the part excluded from the unit only if the lease thereon would be maintained had the unit been created voluntarily under the provisions of the lease. For the purpose of determining the portions of production owned by the persons owning interests in the pooled unit, such production shall be allocated to the respective tracts within the unit in the proportion that the number of surface acres included within each tract bears to the number of surface acres included in the entire unit, unless the Commission finds that allocation on a surface-acreage basis does not allocate to each tract its fair share, in which event the Commission shall so allocate the production that each tract will receive its fair share, which as to any non-consenting owner shall in no event be less than he would receive under a surface-acreage allocation. The pooling order of the Commission shall, as to each owner who elects not to pay his proportionate share of the drilling and completion costs in advance, make provision for reimbursement solely out of production, to the parties advancing the costs, of all actual and reasonable drilling, completing and operating costs plus a charge for risk not to exceed 100% of such drilling and completing costs. If there is any dispute relative to such costs, the Commission shall determine the proper costs and their allocation among working interest owners after due notice to interested parties and a hearing thereon.

(e) A unit established by order of the Commission under authority of this Act may not subsequently be modified or dissolved without the consent of all mineral owners affected, except as may be necessary to permit its enlargement as provided in Section 2(a) above; provided however, such unit shall be automatically dissolved one year after its effective date if no production or drilling operations have been had thereon, or six months after the completion of a dry hole thereon or cessation of production therefrom. Upon termination of any lease pooled by order of the Commission under authority of this Act, interests covered thereby shall be deemed pooled as unleased mineral interests.

(f) This Act shall not apply to any reservoir discovered and produced prior to March 8, 1961.

(g) Any person or party at interest aggrieved by an order of the Commission effecting pooling under this Act may appeal such order within 30 days to the District Court of the county in which the land or any part thereof covered by such order is located, and not elsewhere, notwithstanding the provisions of Section 8 of Article 6049c, Vernon's Civil Statutes of Texas.

(h) This Act shall not apply to any lands owned by the State of Texas, nor to lands in which the State of Texas has an interest directly or indirectly, nor shall this Act amend, repeal, change, alter or affect in any manner

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the authority or jurisdiction of the Commissioner of the General Land Office or the State of Texas with respect to any lands or interest in lands in which the Commissioner of the General Land Office has jurisdiction, nor shall this Act amend, repeal, change, alter or affect in any manner the authority, jurisdiction or consent of the Commissioner of the General Land Office of the State of Texas on the pooling of any interest now subject to the jurisdiction, authority or consent of the Commissioner of the General Land Office of the State of Texas; provided, however, that with the approval or consent first had and obtained, or at the instance of the Commissioner of the General Land Office of the State of Texas, or any board or agency having jurisdiction thereof, the lands in which the State of Texas has such interest as described in this Section may be pooled under this Act. Acts 1965, 59th Leg., p. 24, ch. 11.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act conferring on the Railroad Commission of Texas authority to provide for the pooling of mineral interests into proration units for an oil or gas well under cer-

tain conditions; providing for the allocation of production therefrom and for appeals from such pooling orders. Acts 1965, 59th Leg., p. 24, ch. 11.

**Art. 6032c—2. Repealed. Acts 1965, 59th Leg., p. 762, ch. 355, § 3.**  
**Eff. Aug. 30, 1965, 90 days after date of adjournment**

See, now, article 6005 and note thereunder.

**Art. 6036c. False applications and reports; abolition of oaths**

Any person who makes or subscribes any application, report, or other document required or permitted to be filed with the Railroad Commission of Texas by the provisions of this Title 102, knowing that such application, report, or other document is false or untrue in any material fact; or who aids or assists in, or procures, counsels, or advises the preparation or presentation of any such application, report, or other document which is fraudulent, false, or incorrect as to any material matter, knowing the same to be fraudulent, false, or incorrect; or who knowingly simulates or falsely or fraudulently executes or signs any such application, report, or other document; or who knowingly procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof shall be guilty of a felony and, upon conviction, shall be punished by imprisonment in the state penitentiary for not less than two (2) years nor more than five (5) years, or by a fine of not more than One Thousand Dollars (\$1,000), or by both such fine and imprisonment.

Provided that if any penalties prescribed elsewhere in this Title overlap as to offenses which are also punishable under this Article, then the penalties prescribed by this Article shall be in addition to such other penalties.

Provided further, that from and after the effective date of this Act no application, report, or other document required or permitted to be filed with the Railroad Commission of Texas under Title 102, shall be required to be under oath, verification, acknowledgment, or affirmation. Added Acts 1965, 59th Leg., p. 915, ch. 449, § 1, emerg. eff. June 16, 1965.

Section 2 of Acts 1965, 59th Leg., p. 915, ch. 449 was a severability provision; section 3 of the act of 1965 provided: "The provisions of this Act are cumulative of

existing law, but in the event any provision of this Act shall conflict with any other law the provisions of this Act shall prevail as to such conflict only."

**Art. 6049a. Regulating storage tanks for hire and pipe lines as public utilities****Additional persons as common purchasers; rates and charges**

Sec. 8aa. In addition to persons enumerated in Section 8 hereof, any and all persons, associations of persons, or corporations operating any crude oil gathering system, whether by pipeline or by truck, other than persons, associations of persons, or corporations transporting only crude oil from properties in which any such person, association of persons, or corporation owns an operating interest, which may now or hereafter purchase crude oil or petroleum in this state, whether they be common carriers or affiliated with common carriers shall be a common purchaser of such crude oil or petroleum offered for purchase without discrimination in favor of one producer or person as against another in the same field and without unjust or unreasonable discrimination as between fields in this state as provided in Section 8 hereof. Such common purchasers shall be subject to the same regulation concerning rates and charges for gathering, transporting, loading and delivering crude petroleum as set out in Section 6a hereof. As amended Acts 1965, 59th Leg., p. 611, ch. 303, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Operation of gathering systems for crude petroleum**

Sec. 8aaa. It is declared that the operation of gathering systems for crude petroleum by pipeline or by truck in connection with the purchase, or purchase and sale of crude petroleum, is a business in the mode of the conduct of which the public is interested, and as such is subject to regulation by law; and accordingly it is provided that from and after the expiration of thirty (30) days from the time this law takes effect the business of purchasing, or of purchasing and selling crude petroleum by the use of a gathering system for crude petroleum, whether by pipeline or by truck, shall not be conducted, unless the person, association of persons or corporation operating such gathering system so used in connection with such business be a common purchaser within the purview of this law and subject to the jurisdiction herein conferred upon the Commission; provided, however, the operation of any crude oil gathering system by persons, association of persons or corporation transporting only crude oil from properties in which any such person, association of persons or corporation owns an operating interest, shall not be deemed to be in the business of purchasing, or of purchasing and selling crude petroleum within the meaning of this Article. Added Acts 1965, 59th Leg., p. 611, ch. 303, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Prevention of discrimination**

Sec. 11d. The Railroad Commission shall make inquiry in each field concerning the connections of the various producers and when discrimination is found to be practiced by any common purchaser as defined in this Act the said Railroad Commission shall issue an order to such common purchaser to make such reasonable extensions of their lines, such reasonable connections and such ratable purchases as will prevent such discrimination. The Commission may issue a show cause order to any common purchaser requesting it to appear and show cause why it should not purchase the allowable production of any producer so discriminated against. As amended Acts 1965, 59th Leg., p. 611, ch. 303, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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**Duties and responsibilities of common purchasers, purchasers, gatherers or transporters**

Sec. 11dd. Notwithstanding the provisions of any Statute or law, including Article 6049a, Revised Civil Statutes, 1925, as amended, none of the provisions of this Act<sup>1</sup> shall increase or decrease the duties or responsibilities of any common purchaser, purchaser, gatherer or transporter of natural gas, residue gas, or casinghead gas. Added Acts 1965, 59th Leg., p. 611, ch. 303, § 4.

<sup>1</sup> Acts 1965, 59th Leg., p. 611, ch. 303 which amended sections 8aa and 11d and which added sections 8aaa and 11dd to this article.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Acts 1965, 59th Leg., p. 611, ch. 303, § 5 was a severability provision; section 6 thereof provided that the Act should be construed as being in addition to and

cumulative of all other laws now in force and that the Act should not be construed as any impairment of a limitation of any law now in force, except as provided in section 11dd of this article.

**Art. 6066a. Regulation of transportation of oil or products thereof**

**Definitions**

**Sec. 1.**

\* \* \* \* \*

(d) "Unlawful oil," as that term is used herein shall include oil which has been produced within the State of Texas from any well or wells in excess of the amount allowed by any order of the Commission, and oil which has been produced within said state in violation of any law of said state or in violation of any order of the Commission, and shall include any oil transported in violation of any such law or in violation of any such order. When any oil has been retained in storage for a period of more than six (6) years without being used, consumed or moved into the regular channels of commerce, it shall be presumed that such oil is "unlawful oil." This presumption shall be rebutted by proof that such oil: (1) was produced from a well or wells within the production allowable then applying to such well or wells; and (2) was not produced in violation of any law of the State of Texas or order of the Commission; and (3) if transported from the lease from which it was produced, that such transportation was not in violation of any law of the State of Texas or order of the Commission. As amended Acts 1965, 59th Leg., p. 1528, ch. 667, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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**Forfeiture of unlawful products; suit by attorney general; notice; hearing and determination; fees**

**Sec. 10.**

\* \* \* \* \*

(c) Notice of pendency of such suit shall be served in the manner prescribed by law; either party to said suit may demand a trial by jury on any issue of fact raised by the pleadings and the case shall proceed to trial as other civil cases. If, upon the trial of such suit the oil or product in controversy is found to be unlawful oil or unlawful products, then the court trying said cause shall render judgment forfeiting the same to the State of Texas and authorizing the issuance of an order of sale directed to the sheriff or any constable of the county where the oil or products are located commanding such officer to seize and sell said property in the same manner as personal property is sold under execution. The court may order the oil or products sold in whole or in part as may be deemed proper and the sale shall be conducted at the court house door of the county where

the oil and/or products are located and shall conform in all respects to the sale of personal property as aforesaid. The money realized from the sale of any such unlawful oil and/or products shall be applied, first, to the payment of the costs of suit and expenses incident to the sale of such oil and/or products, then the court may allow compensation to any person for expenses incurred in the storage of such unlawful oil and/or products; provided that in no event shall such compensation exceed one-half of the money received from the sale of the unlawful oil and/or products, and after such expenses have been approved and allowed by the court trying the case, all funds then remaining, shall be remitted forthwith to the State Treasurer and shall be by the Treasurer placed to the credit of the General Revenue Fund of the State of Texas. As amended Acts 1965, 59th Leg., p. 1528, ch. 667, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.



For Annotations and Historical Notes, see V.A.T.S.

### TITLE 103—PARKS

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| <p>2. SAN JACINTO BATTLEGROUND</p> <p>Art.<br/>6071b. Control and custody of Historical State Battlegrounds [New].<br/>6071c. San Jacinto Historical Advisory Board [New].</p> <p>4L. INDEPENDENCE STATE PARK</p> <p>6077n—1. Quitclaiming State's interest in Independence State Park to Baylor University [New].</p> | <p>6. CITY PARKS</p> <p>Art.<br/>6081f. Authority of counties, cities, towns and villages to operate and maintain parks [New].<br/>6081g—1. Home rule cities with population in excess of 60,000 bordering on Gulf of Mexico; beaches for park purposes [New].</p> <p>7. RECREATIONAL AREAS AND FACILITIES</p> <p>6081r. Development of outdoor recreation resources [New].</p> |
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#### 2. SAN JACINTO BATTLEGROUND

##### Control and Custody

*Control and custody of the Historical State Battlegrounds, San Jacinto Battleground and Fannin State Battleground were transferred from the State Board of Control to the Parks and Wildlife Commission by Acts 1965, 59th Leg., p. 441, ch. 225, § 1. See article 6071b.*

**Art. 6071. Repealed. Acts 1965, 59th Leg., p. 441, ch. 225, § 2. Eff. Aug. 30, 1965, 90 days after date of adjournment**

See, art. 6071b, §§ 1, 2.

**Art. 6071a. Change of name**

##### Control and Custody

*Control and custody of the Historical State Battlegrounds, San Jacinto Battleground and Fannin State Battleground were transferred from the State Board of Control to the Parks and Wildlife Commission by Acts 1965, 59th Leg., p. 441, ch. 225, § 1. See, article 6071b.*

**Art. 6071b. Control and custody of Historical State Battlegrounds**

**Section 1.** Control and custody of the Historical State Battlegrounds, San Jacinto Battleground and Fannin State Battleground, are hereby transferred from the State Board of Control to the Parks and Wildlife Commission.

**Sec. 2.** All laws or parts of laws in conflict herewith are hereby repealed and specifically repealed are Articles 6071, 6072 and 6073 of the Revised Civil Statutes of Texas, and House Bill No. 787, Chapter 414, Acts of the 50th Legislature, Regular Session, 1947. Acts 1965, 59th Leg., p. 441, ch. 225, §§ 1, 2, eff. Sept. 1, 1965.

Sections 3 and 4 of Acts 1965, 59th Leg., p. 441, ch. 225 are codified as article 6071c; sections 5-8 thereof are codified as article 6077m—2.

Acts 1965, 59th Leg., p. 441, ch. 225, §§ 3-8, codified as articles 6071c and 6077m—2, inter alia, created the San Jacinto Historical Advisory Board and provided for the powers and functions of the Fannin State Battleground Advisory Commissioners.

##### Title of Act:

An Act transferring the supervision of the Historical State Battlegrounds, of San Jacinto Battleground and Fannin State Battleground, now under the advice and consent of the State Board of Control, to the control and custody of the Parks and Wildlife Commission, under the authority conferred upon the Parks and Wildlife Department by existing laws; providing that all laws which are in conflict, in

whole or in part with this Act, are hereby repealed, including specifically repealing Articles 6071, 6072 and 6073 of the Revised Civil Statutes of Texas, and House Bill No. 787, Chapter 414, Acts of the 50th Legislature, Regular Session, 1947; providing for the creation of the San Jacinto Historical Advisory Board, prescribing their duties and responsibilities; naming the present Fannin State Park Commissioners as Fannin State Park Advisory Commissioners and prescribing their terms of office and powers and functions of the

Fannin State Park Advisory Commission; providing the authority to establish a Fannin State Concession Account to be deposited in the State Treasury; providing for the transfer of all appropriations made for the Historical State Battlegrounds to the Parks and Wildlife Department; excepting the organization, powers or functions of the Battleship Texas Commission from provisions of the Act; providing for the effective date of this Act; providing for severability; and declaring an emergency. Acts 1965, 59th Leg., p. 441, ch. 225.

### Art. 6071c. San Jacinto Historical Advisory Board

Sections 1, 2. [Codified as article 6071b.]

Sec. 3. The San Jacinto Historical Advisory Board shall be composed of five (5) members. Two (2) members of the Advisory Board shall be the Chairman of the Battleship Texas Commission and the President of the San Jacinto Museum of History Association. Three (3) members shall be appointed by the Governor, one (1) for a two-year term, one (1) for a four-year term and one (1) for a six-year term; all appointments thereafter shall be for six-year terms. In making the appointment of the three (3) members who shall serve on the first San Jacinto Historical Advisory Board effective with the effective date of this Act, the Governor shall appoint as one of the members the outgoing Chairman of the San Jacinto Battleground Commission. One or more of the three (3) members may, in the discretion of the Governor, be selected from the patriotic organization known as the San Jacinto Chapter, Daughters of the Republic of Texas.

Sec. 4. The San Jacinto Historical Advisory Board shall meet quarterly to review the policies and operations of the San Jacinto Battleground for the purpose of advising the Parks and Wildlife Commission on the proper historical development of the Battleground. The Board is authorized to accept in the name of the State of Texas all bequests, gifts, and grants of money or property made to the San Jacinto Battleground to be used for such purposes as the grantor of such bequests may specify. All data collected by the Board shall be the property of the State of Texas, and they shall be used to depict the story of Texas Independence and the History of Texas at this sacred historic site. All historical data and Museum items held in the name of the San Jacinto Museum of History Association on the effective date of this Act shall remain the property of the said San Jacinto Museum of History Association.

It is further provided that those Museum Accessions heretofore or which may be hereafter acquired by the San Jacinto Museum of History Association from gifts, grants, bequests, donations or with such funds in the custody and control of the San Jacinto Museum of History Association now and in the future shall become and remain the property of the said Association. The said Association is hereby duly recognized in its capacity as a private non-profit historical association organized for the purpose of operating the San Jacinto Memorial Building and Tower and establishing a historical museum therein as more fully described and provided for by Senate Concurrent Resolution No. 29, 54th Legislature, Regular Session, 1955. Acts 1965, 59th Leg., p. 441, ch. 225, §§ 3, 4, eff. Sept. 1, 1965.

Sections 5-8 of Acts 1965, 59th Leg., p. 441, ch. 225 are codified as article 6077m-2.

Acts 1965, 59th Leg., p. 441, ch. 225, §§ 1, 2, 5-8, codified as articles 6071b and 6077m-2, inter alia, transferred control and custody of the Historical State Battle-

grounds, San Jacinto Battleground and Fannin State Battleground from the State Board of Control to the Parks and Wildlife Commission and established powers and functions of the Fannin State Battleground Commissioners.

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Arts. 6072, 6073. Repealed. Acts 1965, 59th Leg., p. 441, ch. 225, § 2.  
Eff. Aug. 30, 1965, 90 days after date of adjournment

See art. 6071b, §§ 1, 2.

#### 4H. PALO DURO CANYON STATE PARK

Art. 6077j. Palo Duro Canyon State Park—renewing outstanding indebtedness—entrance fees—leases—lands included

##### Charging of gate or entrance fees; disposition of fees

Sec. 5(a). The Parks and Wildlife Commission, formerly the Texas State Parks Board, may, after the indebtedness, and the lien securing the same, has been fully paid off and discharged, permit entrance to such Park without any entrance or gate fees, or such Commission may permit the continued charge and collection of gate and entrance fees, as well as continuing grazing contracts covering all or any part of said park lands; but, all income derived from the charging of entrance or gate fees, as well as income received from grazing contracts, shall be used exclusively by the Commission for such improvements in and to Palo Duro Canyon State Park as they may see fit and proper. Nothing herein shall be construed as changing the method of distribution now provided for the use and disposition of any income derived from the sale of mineral rights or revenue derived from such source, as presently provided by other provisions hereof. Added Acts 1965, 59th Leg., p. 314, ch. 145, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### 4K. FANNIN STATE BATTLEGROUND

##### Control and Custody

*Control and custody of the Historical State Battleground, San Jacinto Battleground and Fannin State Battleground were transferred from the State Board of Control to the Parks and Wildlife Commission by Acts 1965, 59th Leg., p. 441, ch. 225, § 1. See article 6071b.*

Art. 6077m. Repealed. Acts 1965, 59th Leg., p. 441, ch. 225, § 2. Eff. Aug. 30, 1965, 90 days after date of adjournment

See article 6071b, §§ 1, 2.

Art. 6077m—1. Change of name

##### Control and Custody

*Control and custody of the Historical State Battlegrounds, San Jacinto Battleground and Fannin State Battleground were transferred from the State Board of Control to the Parks and Wildlife Commission by Acts 1965, 59th Leg., p. 441, ch. 225, § 1. See article 6071b.*

Art. 6077m—2. Fannin State Battleground Advisory Commission

Sections 1, 2. [Codified as article 6071b.]

Secs. 3, 4. [Codified as article 6071c.]

Sec. 5. (a) The persons who, immediately before the effective date of this Act, were serving as Fannin State Park Commissioners shall, on the

effective date of this Act, be the Fannin State Park Advisory Commissioners. The terms of office of the first Fannin State Park Advisory Commissioners expire on the day their terms would have expired had they remained Fannin State Park Commissioners. The Governor shall appoint the successors to the Fannin State Park Advisory Commissioners for six-year terms of office.

(b) The Fannin State Park Advisory Commission has, for the Fannin State Park, the same powers and functions that the San Jacinto Historical Advisory Board has for the San Jacinto Battleground.

Sec. 6. Authority is granted to establish a Fannin State Concession Account provided funds will be deposited in the State Treasury in accordance to rules and procedures established by the Parks and Wildlife Commission.

Sec. 7. All appropriations heretofore made to the Historical State Battlegrounds, San Jacinto Battleground and Fannin State Battleground, are hereby confirmed in behalf of the Parks and Wildlife Department for said Parks.

Sec. 8. The provisions of this Act do not in any way alter the organization nor reduce the powers or functions of the Battleship Texas Commission. Acts 1965, 59th Leg., p. 441, ch. 225, §§ 5-8, eff. Sept. 1, 1965.

Acts 1965, 59th Leg., p. 441, ch. 225, §§ 1-4, codified as articles 6071b and 6071c, inter alia, transferred control and custody of the Historical State Battlegrounds, San Jacinto Battleground and Fannin State Battleground from the State Board of Control to the Parks and Wildlife Commission and created the San Jacinto Historical Advisory Board.

**4L. INDEPENDENCE STATE PARK**

**Art. 6077n—1. Quitclaiming State's interest in Independence State Park to Baylor University**

Section 1. The Parks and Wildlife Commission may quitclaim all the interest of the State of Texas in Independence State Park, established by Chapter 450, Acts of the 50th Legislature, Regular Session, 1947, and known as the Old Baylor property, to the trustees of Baylor University. Acts 1965, 59th Leg., p. 265, ch. 110.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing the Parks and Wildlife Commission to quitclaim the state's interest in Independence State Park, known as the Old Baylor property, to Baylor University; and declaring an emergency. Acts 1965, 59th Leg., p. 265, ch. 110.

**6. CITY PARKS**

**Art. 6081f. Authority of counties, cities, towns and villages to operate and maintain parks**

Section 1. All counties and all incorporated cities, towns, and villages of this State shall be authorized to operate and maintain parks.

Sec. 2. All counties and all incorporated cities, towns, and villages of this State shall be authorized to acquire or improve, or both, land for park purposes and to issue negotiable bonds therefor, and to assess, levy, and collect ad valorem taxes to pay the principal of and interest on such bonds, the authority hereby given for the issuance of such bonds and levy of such taxes to be exercised in accordance with and subject to the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of Texas of 1925, as amended.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 3. There shall be no limitation on the amount of ad valorem taxes, or the assessment, levy, and collection thereof, to pay park operation and maintenance expenses, or to pay the principal of and interest on such park bonds, except for those ad valorem tax limitations imposed by the provisions of the Constitution of the State of Texas.

Sec. 4. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; and specifically, all ad valorem tax limitations for any park or park bond purposes contained in any laws of the State of Texas, including Article 6080 of the Revised Civil Statutes of Texas of 1925; Chapter 120, Acts of the 41st Legislature, Regular Session, 1929 (compiled as Article 6081b of Vernon's Texas Civil Statutes); Chapter 70, Acts of the 42nd Legislature, Regular Session, 1931 (compiled as Article 6081d of Vernon's Texas Civil Statutes); Chapter 227, Acts of the 58th Legislature, Regular Session, 1963 (compiled as Article 6081e of Vernon's Texas Civil Statutes); and Chapter 7, Acts of the 47th Legislature, Regular Session, 1941 (compiled as Article 6081g, of Vernon's Texas Civil Statutes) are hereby repealed and shall be of no further force or effect, but the remainder of such laws shall remain in full force and effect. Acts 1965, 59th Leg., p. 996, ch. 483.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing all counties and all incorporated cities, towns, and villages of this State to operate and maintain parks, and to acquire or improve, or both, land for park purposes, and to issue negotiable tax bonds for such park purposes; providing that there shall be no limitation on the amount of ad valorem taxes to pay such

park expenses or to pay the principal of and interest on said park bonds, except for those ad valorem tax limitations imposed by the Constitution of the State of Texas; repealing all laws and parts of laws in conflict herewith to the extent of such conflict only; and declaring an emergency. Acts 1965, 59th Leg., p. 996, ch. 483.

**Art. 6081g. Cities of 60,000 or more bordering on Gulf of Mexico granted use and occupancy for park purposes of tidelands and waters**

Sec. 4. That for the purpose of obtaining funds for any of the purposes provided in Section 1 of, or elsewhere in, this Act, any city of the class defined in said Section 1, through its governing body, is hereby authorized, and shall have the power, from time to time, to issue bonds, notes or warrants secured by a pledge of and payable from the net revenues derived from the operation of all or any designated part or parts of such pier, structures, or improvements. As additional security for such bonds, notes or warrants, said city is hereby authorized, and shall have the power, to mortgage and encumber all or any designated part or parts of such pier, structures, or improvements and the furnishings and equipment thereof, together with all lands and interests, easements and other rights in land acquired or to be acquired and used in connection therewith, including the right of use and occupancy of the tidelands and waters and bed of the Gulf of Mexico herein granted (and, if the city now or hereafter owns, or has title to or rights in, the tidelands or bed of the Gulf of Mexico or the waters thereof, including said tidelands, bed, and waters and the rights therein). As further additional security for such bonds, notes or warrants, said city may, by the terms of any such mortgage, grant to the purchaser under sale or foreclosure thereunder a franchise to operate the properties purchased for a period of not over seventy-five (75) years after the purchase thereof; and during such period, in the case of any pier, structures, or improvements located at the time of said sale or foreclosure, wholly or in part, over and into state-owned tidelands and waters and bed of the Gulf of Mexico, such purchaser, his, their, or its heirs, successors or assigns shall have a like right of use and occupancy of said state-owned tidelands and waters and bed of the Gulf of Mexico in connection with such pier, structures or improve-

ments for like purposes as are herein granted to the city, and such right of use and occupancy upon the termination of such period or upon the cessation of the use of the properties for such purpose occurring prior to the termination of such period shall revert to the city.

The power to issue bonds, notes and warrants payable from net revenues and the power to mortgage and encumber in this Section granted may be exercised as to property acquired, built, erected, constructed, furnished or equipped for the purposes of this Act authorized, whether the entire cost thereof shall be defrayed wholly from the proceeds of revenue bonds, notes or warrants issued pursuant to this Section 4, or partly from such proceeds and partly with the proceeds from bonds or warrants issued under authority of Section 3 and Section 5 hereof, or either of them, or with funds obtained from any other lawful source.

All bonds issued under the authority of this Section shall be made payable to bearer or to the order of a named payee and shall be negotiable instruments and are hereby declared to have all the qualities and incidents of negotiable instruments under the Negotiable Instruments Law of the State of Texas, but shall be payable solely from the special fund herein provided, and, at the option of the city, additionally secured by the mortgage and franchise above authorized. Such bonds shall bear interest not exceeding six per cent (6%) per annum, have such dates and such maturities serially or otherwise not exceeding forty (40) years from their date or dates, be in such denominations and be payable as to principal and interest at such place or places (which may be at any bank, either within or without the state), in such medium of payment, contain such provisions for redemption prior to maturity and be in such form as the governing body of the city may determine. No such bond or the interest coupons appurtenant thereto bearing the signature or facsimile signature of any official of the city duly authorized to sign the same at the time such signature may be actually affixed thereto, shall be invalid by reason of such official ceasing to hold office prior to the delivery of such bond, or not having held office on the date of such bond.

Interest on such bonds may be payable in such manner as the governing body of the city may prescribe, and such bonds may in the discretion of the governing body of the city be made registrable as to principal and interest, or as to principal only, under such terms as the governing body may prescribe, or may be issued not subject to registration. Such bonds may be executed in the manner set forth in the proceedings authorizing the issuance of the same, and such proceedings may provide that the bonds and coupons, either or both, shall be executed by facsimile signatures and that the seal of the city on the bonds shall be the printed facsimile seal.

In the proceedings authorizing the issuance of such bonds, the governing body may prohibit the further issuance of bonds payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said net revenues in all respects on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said proceedings. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the city and another party or parties (public agencies or otherwise), including but without in any way limiting the generalization of the foregoing, lease contracts and operation contracts, a copy of such contract or contracts and of the proceedings authorizing the same shall be submitted to the Attorney General, and the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable except for forgery or fraud.

For Annotations and Historical Notes, see V.A.T.S.

No obligation issued and secured under authority of this Section shall ever be a debt of the city issuing the same, but shall be solely a charge upon the income and properties encumbered and shall never be reckoned in determining the power of such city to issue any bonds for any purpose authorized by law. Every such obligation shall contain substantially the following clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

The nature of the pledge of income and encumbrance of properties to secure any such obligations and the control, management and operation of such properties while any such obligation remains unpaid, shall be subject to and be governed by the provisions of Articles 1111 to 1118, both inclusive, Vernon's Texas Civil Statutes, as amended, in like manner as are parks and systems named in Article 1111, as amended; provided, that no election shall be necessary to authorize the issuance of bonds under this Section.

The governing body of the city is hereby authorized to provide by ordinance for the issuance of revenue refunding bonds of the city for the purpose of refunding any revenue bonds issued under the provisions of this Section and then outstanding, together with accrued interest thereon, interest on past due principal, interest on past due interest, and judgments of courts of competent jurisdiction pertaining to past due principal and interest. The issuance of such revenue refunding bonds, the maturities and all other details thereof, the rights of the holders thereof and the duties and powers of the city in respect to the same, shall be governed by the provisions of this Act insofar as the same may be applicable. Such revenue refunding bonds may bear interest at a rate or rates higher than that borne by the underlying bonds, but such rate or rates to be borne by the revenue refunding bonds shall not exceed six per cent (6%) per annum. As amended Acts 1965, 59th Leg., p. 1534, ch. 671, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Repeal of ad valorem tax limitation

*Article 6081f, authorizing counties, cities, towns and villages to operate and maintain parks, provides in section 4 thereof that all ad valorem tax limitations for any park or park bond purposes contained in this article are specifically repealed and shall be of no further force or effect, but that the remainder of the article shall remain in full force and effect.*

Art. 6081g—1. Home rule cities with population in excess of 60,000 bordering on Gulf of Mexico; beaches for park purposes

Application of act; ordinance; finding as to suitability of beach

Section 1. This Act shall apply to Home-Rule cities having a population in excess of 60,000 which are situated or border upon the Gulf of Mexico and have within or adjacent to their corporate boundaries beaches which are suitable for park purposes. The suitability of such beaches for park purposes shall be conclusively established when the governing body of any such city shall have made a finding in an ordinance passed by it that a beach or beaches located within or adjacent to such city's corporate boundaries are suitable for park purposes.

Beach Park Board of Trustees; establishment; election

Sec. 2. Any such city, for the purpose of improving, equipping, maintaining, financing and operating any such public park or parks, or facilities owned by such city or to be acquired by such city, may by ordi-

nance adopted by the governing body thereof, after a favorable majority vote of the qualified voters of the city voting at an election held on such proposition, create a board to be designated "Beach Park Board of Trustees," hereinafter sometimes in this Act referred to as the "Board." Any such Board shall have the powers authorized in and shall perform the duties specified in this Act. Such election shall be called by the governing body and notice thereof shall be given in the manner provided by Article 704, Revised Civil Statutes, 1925, as amended. The ballots shall contain the following proposition: "FOR Establishing a Beach Park Board of Trustees" and the contrary thereof.

**Membership of board; term; expenses**

Sec. 3. The Beach Park Board of Trustees shall be composed of nine members appointed by the governing body of such city, one of whom shall be a member of such governing body. Such trustees shall serve for a term of six years from the date of their appointment and any vacancies shall be filled by appointment of the governing body of such city; provided that three trustees first appointed shall serve for two years, three shall serve for four years and three shall serve for six years, the original term of each trustee to be designated by the governing body. Each trustee shall serve without compensation but shall be reimbursed for all necessary expenses, including traveling, incurred in the performance of his official duties.

**Oath and bond**

Sec. 4. Each trustee so appointed shall within fifteen days after his appointment qualify by taking the official oath and by filing a good and sufficient bond with the city clerk or city secretary of such city, payable to the order of such city and approved by the governing body thereof. Such bond shall be in such sum not exceeding \$5,000 as may be prescribed by the governing body. Such bond shall be conditioned upon the faithful performance of the duties of such trustee, including the proper handling of all moneys that may come into his hands in his capacity as a member of the Beach Park Board of Trustees, the cost of said bond to be paid by the Board.

**Chairman; officers; meetings; moneys**

Sec. 5. At the time of the appointment of the first trustees, the governing body of the city shall designate one of the trustees as chairman of the Board, who shall serve in that capacity for a period of one year and annually thereafter the Board shall elect a chairman from among its members. The Board shall also elect annually from among its own members a vice-chairman, a secretary and a treasurer and the office of secretary and treasurer may be held by the same person. The Board shall hold regular meetings at times to be fixed by the Board and may hold special meetings at such other times as business or necessity may require, which special meetings may be called by the chairman or any three members of the Board. The money belonging to or under control of the Board shall be deposited and shall be secured substantially in the same manner prescribed by law for city funds.

**Records; inspection; contracts; annual audit**

Sec. 6. The Board shall keep a true and full record of all of its meetings and proceedings and preserve its minutes, contracts, accounts and all other records in a fireproof vault or safe. All such records shall be the property of the Board and shall be subject to inspection by the governing body of such city at all reasonable times. The Board may contract with the governing body of such city to have the city keep and maintain its records. An annual audit by independent auditors selected by the Board shall be made of all financial transactions and records of the Board.



**Powers and authority**

Sec. 7. In the ordinance establishing the original Board, the governing body of the city shall designate which particular parks and facilities then owned by the city shall be placed under the management and control of the Board and may designate additional parks and facilities by subsequent ordinances. In addition to the powers and authority herein granted, the Board shall have and exercise the following powers and authority:

(a) To manage, operate, maintain, equip and finance any and all existing public parks placed under its jurisdiction by the ordinance creating such Board and by subsequent ordinances;

(b) To improve, manage, operate, maintain, equip and finance additional parks acquired by gift, but not by the exercise of the power of eminent domain;

(c) To accept, receive and expend gifts of money or other things of value from any person, group of persons, corporation or association for the purpose of performing any function, power or authority herein invested in the Board;

(d) To advertise the city's recreational advantages for the purpose of attracting visitors, tourists, residents, and other users of the public facilities operated by the Board;

(e) To accept and receive from the city and to expend such funds as may be appropriated by the city from time to time for the purpose of improving, equipping, maintaining, operating and promoting recreational facilities under the Board's supervision and control;

(f) To enter into contracts, leases or other agreements connected with or incident to or in any manner affecting the financing, construction, equipping, maintaining or operating all facilities located or to be located on or pertaining to any park or parks under its control and to execute and perform its lawful powers and functions on lands leased from others;

(g) To have general power and authority to make and enter into all contracts, leases and agreements with persons, associations and corporations relating to the management, operation and maintenance of any concession, facility, improvement, leasehold, lands or other property of any nature whatsoever over which such Board shall have jurisdiction and control; provided that the Board shall not enter into any such lease or agreement for the use of its properties by others for a longer term than forty (40) years;

(h) To adopt, promulgate and enforce all reasonable rules and regulations for the use of parks and facilities under the jurisdiction and control of the Board by the public or by lessees, concessionaires and other persons or corporations carrying on any business activity within the area of such public parks and facilities;

(i) To employ secretaries, stenographers, bookkeepers, accountants, technical experts, and such other agents and employees, permanent or temporary, as it may require, and shall determine their qualifications, duties and compensation. In addition, the Board may also employ and compensate a manager for any park or parks or facilities and may give him full authority in the management and operation of the park or parks or facilities subject only to the direction and orders of the Board. For such legal services as it may require the Board may call upon the city attorney of such city and in lieu thereof or in addition thereto the Board may employ and compensate its own counsel and legal staff. The Board shall adopt a seal which shall be placed on all leases, deeds and other

instruments which are usually executed under seal, and on such other instruments as may be required by the Board;

(j) To sue and be sued in its own name;

(k) To issue revenue bonds in the name of the Board which shall be payable solely from the revenues of all or any designated part or parts of the properties or facilities under the jurisdiction and control of the Board, for the purpose of improving and enlarging public parks and facilities. Such bonds may be issued in one or more installments or series by resolutions adopted by the Board without the necessity of an election, shall bear interest at a rate not to exceed six per cent (6%) per annum, shall mature serially or otherwise within forty (40) years from their date or dates, shall be sold by the Board on the best terms obtainable but for not less than par and accrued interest, shall be executed by the chairman and secretary of the Board in the manner provided for the execution of bonds issued by incorporated cities, shall not be delivered until a transcript of the proceedings authorizing their issuance has been submitted to the Attorney General of Texas and by him approved as to legality and the bonds registered by the Comptroller of Public Accounts of the State of Texas, and shall be issued upon such terms and conditions in regard to the security, manner, place and time of payment, pledge of designated revenue, redemption before maturity, and the issuance of additional parity or junior lien bonds as the Board shall specify in the resolution or resolutions authorizing the issuance of such bonds; provided that, except as herein otherwise provided, the provisions of Articles 1111 through 1118, Vernon's Texas Civil Statutes, together with all additions and amendments thereof as found in Chapter 10, Title 28, Vernon's Texas Civil Statutes, shall apply to the issuance of revenue bonds hereunder. All bonds issued under the provisions of this Act shall be, and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be, and are hereby declared to be, legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant thereto;

(l) The Board shall not have the power or authority to issue any bonds payable in whole or in part from ad valorem taxes but shall be authorized to receive and expend the proceeds of any bonds payable from taxes which may be issued by the governing body of the city for park purposes after the same have been authorized at an election held in the manner required by law;

(m) To issue refunding bonds for the purpose of refunding one or more series or installments of original or refunding revenue bonds of the Board outstanding which refunding bonds shall be issued, approved as to legality by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, in the manner and upon the terms and conditions prescribed for the issuance of original revenue bonds herein, such refunding bonds to bear interest at a rate or rates not exceeding that herein provided for original bonds.

For Annotations and Historical Notes, see V.A.T.S.

#### Cumulative effect

Sec. 8. This Act shall be cumulative of all other laws relating to municipal parks but this Act shall take precedence in the event of conflict.

#### Partial invalidity

Sec. 9. In case any one or more of the Sections or provisions of this Act, or the application of such Sections or provisions to any situation, circumstance or person, shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other Sections or provisions of this Act or the application of such Sections or provisions to any other situation, circumstances or persons, and it is intended that this Act shall be construed and applied as if such Sections or provisions had not been included herein for any constitutional application. Acts 1962, 57th Leg., 3rd C.S., p. 94, ch. 33, §§ 1-9.

### Art. 6081j. Cities and counties over 550,000; construction of park and fairground facilities

#### Application of act

Section 1. This Act applies to any city having a population larger than 550,000, according to the last preceding Federal Census; to any county having a population larger than 550,000, according to the last preceding Federal Census; and to such a city and such a county acting together; hereinafter called "eligible city or county."

#### Authorization; use for parks, fairgrounds, exhibits, concessions and entertainment

Sec. 2. An eligible city or county is authorized to construct buildings, improvements, and structures to be used in its park or fairgrounds for exhibits, concessions, and entertainment, and to acquire additional land therefor, if needed, and may acquire, repair, improve, and enlarge buildings and structures to be used for such purposes. Such improvements, buildings, and structures owned and to be owned by an eligible city or county are herein called "park facilities."

#### Lease or contract for operation of facilities

Sec. 3. An eligible city or county is authorized to make a lease of, or a contract for, the operation of any or all of the park facilities with such terms and for such length of time as may be prescribed by the governing body of the city or county.

#### Bond issue

Sec. 4. To obtain funds for purposes named in Section 2 of this Act, the governing body of an eligible city or county may, without the prerequisite of an election, issue negotiable revenue bonds payable from and secured by a pledge of the net revenues from any one or more park facilities or from contracts leasing or providing for the operation of its park facilities. Bonds so secured may also be issued to refund bonds issued under this Act. Bonds issued under this Act shall state on their faces substantially the following: "The holder hereof shall never have the right to demand payment of this bond out of money raised or to be raised by taxation." While bonds issued under this Act are outstanding, it shall be the duty of the governing body of the city or county to enforce its leases and contracts, and to charge adequate fees, charges, and rentals to assure payment of the principal of and interest on the bonds as they become due, and to establish and maintain the funds as provided in the ordinance authorizing their issuance.

**Maturity; interest; approval and registration**

Sec. 5. Such bonds shall mature in not to exceed 40 years, bear interest at a rate not to exceed six per cent per annum, and shall be executed, approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts as provided by law for city bonds. When such bonds are approved by the Attorney General, they shall be incontestable.

**Bonds as legal and authorized investments**

Sec. 6. Bonds issued under this Act shall be, and are hereby declared to be, legal and authorized investments for banks, savings banks, trust companies, building and loan associations, and all insurance companies. Such bonds shall be eligible to secure the deposit of any and all public funds of the State and any and all public funds of cities, counties, school districts, or other political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser when accompanied by all unmatured coupons appurtenant thereto. Acts 1963, 58th Leg., p. 917, ch. 349, as amended Acts 1965, 59th Leg., p. 1653, ch. 713, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**7. RECREATIONAL AREAS AND FACILITIES****Art. 6081r. Development of outdoor recreation resources****Parks and Wildlife Department as State Agency; cooperation with Federal Government; acquisition of land**

Section 1. The Parks and Wildlife Department of the State of Texas is hereby designated as the State Agency to cooperate with the Federal Government in the administration of the provisions of any federal assistance programs for the planning, acquisition, operation, and development of the outdoor recreation resources of the state, including the acquisition of lands and waters and interests therein, and specifically to cooperate with the Federal Government in the administration of the provisions of the "Land and Water Conservation Fund Act of 1965" (Public Law 88-578) effective January 1, 1965, and any amendments which may be added thereto from time to time, in the event no other State Agency is by law designated to cooperate with the Federal Government in the administration of the provisions of such Act or other Acts which may be hereafter enacted by the Congress.

The Parks and Wildlife Department is directed to enact and promulgate such rules and regulations as may be necessary to effect the cooperation as herein outlined and designated. The Parks and Wildlife Department is hereby authorized and directed to cooperate with the proper departments of the Federal Government and with all other departments of the state and local governments including as a part of a state plan water districts, river authorities, and special districts in outdoor recreation in the enforcement and administration of the provisions of the Federal Acts and any Amendments thereto and in compliance with the rules and regulations issued thereunder in the manner prescribed in this Act or as otherwise provided by law. It is the intent of the Legislature to add to the purposes, functions and duties of river authorities and water districts or other political subdivisions organized under Article III, Section 52, or Article XVI, Section 59, of the Constitution of Texas, and counties, to acquire lands for public recreation purposes, to construct thereon facilities for public use, to provide for the

For Annotations and Historical Notes, see V.A.T.S.

operation, maintenance and supervision of such public recreation areas, and to enter into agreements with other local, state or Federal Agencies for planning, construction, maintenance, and operation of such facilities, together with necessary access roads thereto, and to maintain adequate sanitary standards on the land and water areas as a part of and adjacent to such recreation areas.

The Parks and Wildlife Department, in order to accomplish the acquisition of lands under the programs outlined in this Act, may institute condemnation proceedings as are now provided in the Statutes of the State of Texas; however, if, in the exercise of its power of eminent domain or police power, or any other power, it requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties or facilities or pipelines, all such relocation, raising, lowering, rerouting, or changes in grade or alteration of construction shall be accomplished at the sole expense of the Parks and Wildlife Department of the State of Texas. The term "sole expense" shall mean the actual cost of such lowering, rerouting or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

#### State-wide comprehensive plan

Sec. 2. The Parks and Wildlife Department is authorized and empowered to prepare, maintain, and keep up-to-date a state-wide comprehensive plan for the development of the outdoor recreation resources of the State of Texas; to develop, operate, and maintain outdoor areas and facilities of the state and to acquire land, waters, and interests in land and waters for such areas and facilities.

#### Participation in Federal program; contracts; records

Sec. 3. The Parks and Wildlife Department is authorized to apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any Federal program as now provided by law or as may hereafter be provided respecting outdoor recreation. The Parks and Wildlife Department is authorized to enter into contracts and agreements with the United States or any appropriate agency thereof for the purpose of planning, for acquisition of, and development of outdoor recreation resources of the state in conformity with the provisions of the "Land and Water Conservation Fund Act of 1965" and any Amendments thereto, and in conformity with any other Federal Act the purpose of which is the development of outdoor recreation resources of the state. The Department shall keep financial and other records relating to such programs and shall furnish to appropriate officials and agencies of the United States and of the State Government such reports and information as may be reasonably necessary to enable such officials and agencies to carry out their responsibilities for the administration of such programs.

In order to obtain the benefits of any such programs, the Parks and Wildlife Department shall coordinate its activities with and represent the interests of all agencies and political subdivisions of the State of Texas including as a part of a state plan cities, counties, water districts, river authorities, and special districts in outdoor recreation having interests in the planning, development, acquisition, operation, and maintenance of outdoor recreation resources and facilities.

#### State funds; agreements on behalf of political subdivisions

Sec. 4. The Parks and Wildlife Department shall make no commitment or enter into any agreement pursuant to the authority under this Act until it has determined that sufficient funds are available to it for

meeting the state's share, if any, of the cost of the project. It is the legislative intent that to such extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by the State of Texas under authority of this Act such areas and facilities shall be publicly maintained for outdoor recreation purposes.

The Parks and Wildlife Department may enter into and administer agreements with the United States or any appropriate agency thereof for plans, acquisition, operation, and development of projects involving participating Federal aid funds on behalf of any political subdivision or subdivisions of the State of Texas as set out in this Act provided that such political subdivision or subdivisions shall provide certification and give necessary assurance to the Department that they have available sufficient funds to meet their share, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of such subdivision or subdivisions as set out in this Act for public outdoor recreation use.

#### **Expenditure of Federal moneys; receipt and deposit of funds**

Sec. 5. The Parks and Wildlife Department is authorized to accept and expend any Federal moneys allocated to the State of Texas for any projects or programs established for the purpose of carrying out the provisions of this Act and for administrative expenses and/or any other expenses incident to the administration of said projects or programs.

The Parks and Wildlife Department is authorized to receive and expend funds from the state, counties, and cities, and from any other source for the purpose of carrying out the provisions of this Act.

The Department shall deposit all such funds irrespective of source in the Special Fund hereinafter created in the State Treasury, and such funds shall be subject to withdrawal by the Parks and Wildlife Department and all such funds deposited in said Special Fund in the Treasury are hereby appropriated to the Parks and Wildlife Department.

#### **State Land and Water Conservation Fund**

Sec. 6. There shall be created in the State Treasury a Special Fund known as the "State Land and Water Conservation Fund," and all funds received from the Federal Government and/or from any other source for the purpose of paying the cost of planning, acquisition, operation, and development of outdoor recreation resources of the state and the administrative expenses incident to the projects or programs coming within the scope of this Act shall be deposited in said Special Fund in the Treasury subject to withdrawals by the Parks and Wildlife Department.

#### **Rules and regulations**

Sec. 7. The Parks and Wildlife Department is hereby authorized to promulgate rules and regulations governing the priority to be given projects submitted under the plan in pursuance to the provisions of this Act and within the limitations of the appropriation made for such purposes.

#### **Personnel; costs of administration and operation of programs**

Sec. 8. The Parks and Wildlife Department shall have the authority to employ such personnel as may be found necessary by the Executive Director and/or to make such arrangements as are necessary to efficiently carry out the purposes of this Act.

At such time as appropriations are made available for such purposes, the Parks and Wildlife Department is authorized to use such funds for the administrative costs and the operation of the programs established

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under and in pursuance to this Act or as it may hereafter be amended, including but not limited to the payment of salaries, travel expense, rent, bond premiums, postage, telephone and telegraph, freight, express, drayage, stationery, printed forms, office supplies, equipment, repairs, maintenance and miscellaneous and contingent expense. Acts 1965, 59th Leg., p. 269, ch. 112.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act designating the Parks and Wildlife Department of the State of Texas as the State Agency to cooperate with the Federal Government in the administration of the "Land and Water Conservation Fund Act of 1965" (Public Law 88-578); authorizing the Parks and Wildlife Department to enter into any essential agreements with the Federal Government and with any political subdivisions of the state, including cities, counties, water districts, river authorities, and special districts in outdoor recreation projects, for the purpose of carrying out the provisions of this Act; authorizing certain state and local government agencies to engage in recreation projects; authorizing the Parks and Wildlife

Department to accept and expend moneys from the Federal Government and/or moneys received from political subdivisions of the state and/or other sources; authorizing the Department to adopt rules and regulations for administering the program and projects and for determining the method of administration; authorizing the Department to establish a comprehensive state-wide outdoor recreation program for the state; creating a special fund in the Treasury to be known as the "State Land and Water Conservation Fund" and appropriating said fund to the Department; providing a repealing clause; a savings clause; and declaring an emergency. Acts 1965, 59th Leg., p. 269, ch. 112.

## TITLE 106—PATRIOTISM AND THE FLAG

Art. 6144g. Texas Fine Arts Commission [New]. 6145—4. Old Galveston Quarter [New].	Art. 6145-5. Preservation of Gethsemane Church [New].
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## Art. 6142a. Clerifying description of Texas flag

## Salute to the Texas Flag

## Sec. 3.

“Honor the Texas Flag;  
I pledge allegiance to thee,  
Texas, one and indivisible.”

As amended Acts 1965, 59th Leg., p. 138, ch. 55, § 1.

Effective Aug. 30, 1965, 90 days after  
date of adjournment.

## Art. 6144g. Texas Fine Arts Commission

## Creation and establishment of commission; membership

Section 1. The Texas Fine Arts Commission is hereby created and established. The Commission shall consist of eighteen (18) members representing all fields of the fine arts, to be appointed by the Governor with the advice and consent of the Senate from among private individuals who are widely known for their professional competence and experience in connection with the fine arts. The life of the Commission shall be for a period of six (6) years.

## Terms of office

Sec. 2. The term of office of each member shall be for six (6) years, provided however, that of the members first appointed, six (6) shall be appointed for terms of two (2) years from the effective date of this Act, six (6) for terms of four (4) years from such effective date and six (6) for terms of six (6) years from such date.

## Duties and responsibilities

Sec. 3. The duties and responsibilities of the Commission shall be:

a. To foster the development of a receptive climate for the fine arts that will culturally enrich and benefit the citizens of Texas in their daily lives, to make Texas visits and vacations all the more appealing to the world and to attract to Texas residency additional outstanding creators in the field of fine arts through appropriate programs of publicity and education, and to direct other activities such as the sponsorship of art lectures and exhibitions and central compilation and dissemination of information on the progress of the fine arts in Texas.

b. To act as an advisor to the State Building Commission, State Board of Control, Texas State Historical Survey Committee, Texas State Library, Texas Tourist Development Agency, State Highway Department and other state agencies to provide a concentrated state effort in encouraging and developing an appreciation for the fine arts in Texas.

c. To act in an advisory capacity relative to the creation, acquisition, construction, erection or remodeling by the state of any work of art.

d. To act in an advisory capacity, when requested by the Governor, relative to the artistic character of buildings constructed, erected or remodeled by the state.



**Powers**

Sec. 4. The Commission shall have power:

- a. To elect from its members a chairman and other such officers as may be desirable; provided that the first chairman of the Commission shall be named by the Governor and shall call the first meeting of the Commission and serve as such until his successor shall be elected by the Commission.
- b. To hold such meetings, at such places within the State of Texas and at such times as the Commission may designate, not to exceed four (4) such meetings per year.
- c. To conduct research, investigations, and inquiries as may be necessary so as to inform the Commission of the fine arts development in Texas.
- d. To appoint committees from its membership and prescribe their duties.
- e. To appoint consultants to the Commission.
- f. To make rules and regulations for its government and that of its officers and committees; and to prescribe the duties of its officers, consultants, and employees.
- g. To employ a director and other such clerical employees as it may deem necessary within the limits of funds made available for such purposes.

**Donations**

Sec. 5. The Commission may accept on behalf of Texas such donations of money, property, art objects and historical relics as in its discretion shall best further the orderly development of the artistic and cultural resources of Texas. No State Funds shall be used by the Commission. All funds shall be subject to audit by the State Auditor.

**Compensation**

Sec. 6. The members of the Commission shall receive no compensation for their services, but shall be paid their actual traveling and other necessary expenses in the performance of their duties, not to exceed the amount authorized to be paid a member of the Legislature.

**Office; meetings; annual report**

Sec. 7. The Commission shall maintain its office in the city of Austin and shall hold at least one of its meetings each year in the city of Austin. On or before the first day of December of each year the Commission shall make in writing a complete and detailed report to the Governor and to the presiding officer of each House of the Legislature of its activities.

**Abolition of Board of Mansion Supervisors**

Sec. 8. The Board of Mansion Supervisors is hereby abolished and all powers, duties and authority heretofore vested in the Board of Mansion Supervisors are hereby transferred to the Texas Fine Arts Commission provided for herein. The terms of office of the present members of the Board of Mansion Supervisors are hereby terminated. Acts 1965, 59th Leg., p. 674, ch. 323, eff. Sept. 1, 1965.

Section 9 of the act of 1965 provided that the effective date of the act should be September 1, 1965.

**Title of Act:**

An Act creating and establishing the Texas Fine Arts Commission to foster interest in and development of fine arts in

Texas; providing that no state funds shall be used but permitting the acceptance of contributions; abolishing the Board of Mansion Supervisors and transferring their powers and duties to the Fine Arts Commission; repealing laws in conflict; and declaring an emergency. Acts 1965, 59th Leg., p. 674, ch. 323.

## Art. 6145. Texas State Historical Survey Committee

## Naming natural land features

Sec. 9b. (a) The committee may name any natural land feature in the state except:

(1) One previously named under statutory authority or recognized by an agency of the federal government, the state, or a political subdivision of the state;

(2) One located on private property and for which the committee cannot secure the consent of the owner or owners of the property to name the feature.

(b) The committee may name rivers, streams, creeks or other water-courses in accordance with the practices of the United States Department of Interior, Board on Geographic Names.

(c) No feature may be named for a living person.

(d) The committee shall record a proclamation of the name in its minutes. The proclamation shall contain:

(1) A statement of the exact location of the feature in terms used by the United States Geologic Survey;

(2) A statement that the owner of the privately-owned land consents to the name, and;

(3) Any additional pertinent information.

(e) The committee shall include a copy of the proclamation in the report of its activities to the Governor and to the Legislature and shall submit a copy to the Texas Highway Department and to the United States Department of Interior, Board on Geographic names. Added Acts: 1965, 59th Leg., p. 54, ch. 19, § 1, emerg. eff. March 16, 1965.

## Art. 6145—4. Old Galveston Quarter

## Purpose of act

Section 1. The purpose of this Act is to implement the Texas constitutional provisions by preserving and perpetuating as a memorial to the history of Texas one of the most historically significant areas of Texas, being that of Old Galveston.

## Creation of Old Galveston Quarter; boundaries

Sec. 2. (a) There is hereby created in the City of Galveston a district to be known as the Old Galveston Quarter, which shall be comprised of all the territory contained within the boundaries described as follows:

BEGINNING  $\frac{1}{2}$  block South of the corner of Broadway and 12th Street, West parallel to Broadway to a point  $\frac{1}{2}$  block South of the corner of 19th and Broadway;

THENCE North to a point  $\frac{1}{2}$  block North of Sealy;

THENCE East to a point  $\frac{1}{2}$  block North of Sealy and 17th Street;

THENCE North to the corner of 17th Street and Market Street;

THENCE East along Market Street to the corner of Market Street and 15th Street;

THENCE North along 15th Street to Avenue A;

THENCE East along Avenue A to the corner of Avenue A and 12th Street;

THENCE South along 12th Street to the place of beginning.

(b) Property contiguous to that described above may come within said District upon petition of the property owners.

**Old Galveston Quarter Commission; members; terms; chairman and officers**

Sec. 3. (a) The powers of the Old Galveston Quarter shall be exercised by the Old Galveston Quarter Commission consisting of five members all of whom shall be property owners within the Quarter. The Governor shall appoint the five members from a list of ten property owners nominated by the membership of the Old Galveston Quarter Property Owners Association at the annual meeting or a special meeting called for this purpose, provided that all resident property owners within the Quarters are entitled to vote upon these nominations at the meeting. The initial terms of the first five members of the Commission shall be as follows: the Governor shall appoint two for a three year term; two for a two year term; and one for a one year term. Upon the expiration of each of these terms, subsequent appointments shall be filled in a similar manner for a term of three years.

(b) As the term of any such Commissioner, or of any subsequent Commissioner expires, his successor shall be appointed in like manner. Vacancies in the Commission shall be filled in the same manner for the unexpired term. Every Commissioner shall continue in office after the expiration of his term until his successor is duly appointed and has qualified.

(c) The Commission shall elect one of its members as chairman, one as vice-chairman and another as treasurer; and the signed authorization by two shall be necessary for operating expenditures. Members of the Commission shall serve without compensation. The records of the Commission shall set forth every determination made by the Commission and the vote of every member participating therein and the absence or failure to vote of every other member. As amended Acts 1963, 58th Leg., p. 1166, ch. 453, § 1.

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

**Limitation on Issuance of Building Permit**

Sec. 4. No permit shall be issued by the City of Galveston for the construction of any structure in the Old Galveston Quarter or the reconstruction, alteration or demolition of any structure now or hereafter in said Quarter, except in cases excluded by this Act, unless the application for such permit shall bear a certificate under Section 6 of this Act that no exterior architectural feature is involved or shall be accompanied by a certificate of appropriateness issued under this Act, or in the case of the demolition of a structure, a certificate under this Act that thirty (30) days or such lesser period as the Commission may have determined has expired after receipt by the Commission of notice of demolition.

**Certificate of Nonapplicability of Statute**

Sec. 5. Except in cases excluded by Section 8 of this Act, every person about to apply to the City of Galveston for a permit to construct any structure in the Old Galveston Quarter or to reconstruct, alter or demolish any structure now or hereafter in said Quarter shall deposit with the secretary of the Commission his application for such permit together with all plans and specifications for the work involved. Within fifteen (15) days thereafter, Saturdays, Sundays and legal holidays excluded, the Commission shall consider such application, plans and specifications and determine whether any exterior architectural feature is involved. If the Commission determines that no exterior architectural feature is involved, it shall cause its secretary to endorse on the application forthwith a certificate of such determination and return the application, plans and specifications to the applicant.

**Exterior architectural or advertising features; certificate of appropriateness**

Sec. 6. (a) No person shall construct any exterior architectural or advertising feature in the Old Galveston Quarter, or reconstruct or alter any such feature now or hereafter in said Quarter, until such person shall have filed with the Secretary of the Commission an application for a certificate of appropriateness in such form and with such plans, specifications and other material as the Commission may from time to time prescribe and a certificate of appropriateness shall have been issued as hereinafter provided in this Section. As amended Acts 1963, 58th Leg., p. 1166, ch. 453, § 2.

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

(b) Within fifteen (15) days after the filing of an application for a certificate of appropriateness, Saturdays, Sundays and legal holidays excluded, the Commission shall determine the estates deemed by it to be materially affected by such application and, unless a public hearing on such application is waived in writing by all persons entitled to notice thereof, shall forthwith cause its secretary to give by mail, postage prepaid, to the applicant, to the owners of all such estates as they appear on the then most recent real estate tax list, and to any person filing written request for notice of hearings, such request to be renewed yearly in December, reasonable notice of a public hearing before the Commission on such application.

(c) As soon as conveniently may be after such public hearing or the waiver thereof, but in all events within thirty (30) days, Saturdays, Sundays and legal holidays excluded, after the filing of the application for the certificate of appropriateness, or within such further time as the applicant may in writing allow, the Commission shall determine whether the proposed construction, reconstruction or alteration of the exterior architectural feature involved will be appropriate to the preservation of the Old Galveston Quarter for the purposes of this Act, and whether, notwithstanding that it may be inappropriate, owing to conditions especially affecting the structure involved, but not affecting the Old Galveston Quarter generally, failure to issue a certificate of appropriateness will involve a substantial hardship to the applicant and such a certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Act. In passing upon appropriateness, the Commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, general design, arrangement, texture, material and color of the exterior architectural feature involved and the relationship thereof to the exterior architectural features of other structures in the immediate neighborhood.

(d) If the Commission determines that the proposed construction, reconstruction or alteration of the exterior architectural feature involved will be appropriate, or, although inappropriate, owing to conditions as aforesaid, failure to issue a certificate of appropriateness will involve substantial hardship to the applicant and issuance thereof may be made without substantial detriment or derogation as aforesaid, or if the Commission fails to make a determination within the time hereinbefore prescribed, the secretary of the Commission shall forthwith issue to the applicant a certificate of appropriateness. If the Commission determines that a certificate of appropriateness should not issue, the Commission shall forthwith spread upon its records the reasons for such determination and may include recommendations respecting the proposed construction, reconstruction or alteration. Thereupon the secretary of the Commission shall forthwith notify the applicant of such determination, transmitting to him an attested copy of the reasons and recommendations, if any, spread upon the records of the Commission.

**Notice of Demolition**

Sec. 7. No person shall demolish any exterior architectural feature now or hereafter in the Old Galveston Quarter until he shall have filed with the secretary of the Commission on such form as may be from time to time prescribed by the Commission a written notice of his intent to demolish such feature and a period of thirty (30) days, Saturdays, Sundays and legal holidays excluded, or such lesser period as the Commission, because the feature is not historically or architecturally significant or otherwise worthy of preservation, may in a particular case determine, shall have expired following the filing of such notice of demolition. Upon the expiration of such period the secretary of the Commission shall forthwith issue to the person filing the notice of demolition a certificate of the expiration of such period.

**Exclusions**

Sec. 8. Nothing in this Act shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature now or hereafter in the Old Galveston Quarter; nor shall anything in this Act be construed to prevent the construction, reconstruction, alteration or demolition of any such feature which the Commission shall certify is required by the public safety because of an unsafe or dangerous condition; nor shall anything in this Act be construed to prevent the construction, reconstruction, alteration or demolition of any such feature under a permit issued by the City of Galveston prior to the effective date of this Act.

**Appeals**

Sec. 9. Any applicant aggrieved by a determination of the Commission may, within thirty (30) days after the making of such determination, appeal to the District Court of Galveston County. The Court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds the reasons given by the Commission to be unwarranted by the evidence or to be insufficient in law to warrant the determination of the Commission or make such other decree as justice and equity may require. The remedies provided by this Section shall be exclusive; but the parties shall have all rights of appeal and exception as in other equity cases.

**Powers of the Commission**

Sec. 10. The Commission may regulate the types and location of business as well as business hours within the Quarter where such regulation does not conflict with any state law or city ordinance and may sell or lease, for periods not to exceed twenty (20) years, real or personal property for use within the Quarter which it may acquire by purchase or gift; provided that the Commission shall have no power of eminent domain. As amended Acts 1963, 58th Leg., p. 1166, ch. 453, § 3.

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

**Bonds**

Sec. 11. The Commission shall have no authority to issue bonds. As amended Acts 1963, 58th Leg., p. 1166, ch. 453, § 4.

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

**Action for declaratory judgment**

Sec. 12. The Commission may bring an action for a declaratory judgment in any District Court in Galveston or Travis Counties, Texas, in order to finally determine any question concerning this Statute.

**Election; petition; returns**

Sec. 13. (a) The powers granted to the Old Galveston Quarter Commission under this Act shall not take effect until an election has been held within the boundaries of the proposed District, and its creation has been approved by the majority of those voting in an election.

(b) A petition shall first be presented to the Commissioners Court signed by a majority of the resident property owners within the Quarter.

(c) The Commissioners Court shall then order an election to be held within the boundaries of the Old Galveston Quarter at which election shall be submitted the following propositions and none other:

“FOR the Old Galveston Quarter.”

“AGAINST the Old Galveston Quarter.”

(d) A majority of those voting in the Special Election shall be necessary to carry the proposition. Only resident property owners may vote at such an election. All such elections shall be conducted in the manner provided by the General Election Laws, unless otherwise provided. The Commissioners Court shall name polling places within the Quarter and shall appoint the judges and other necessary election officers.

(e) Immediately after the election each presiding judge shall make returns of the result as provided for in General Elections for state and county officers, and return the ballot boxes to the County Clerk, who shall keep same in a safe place and deliver them together with all returns to the Commissioners Court at its next regular or special session to canvass the vote. If the court finds that the proposition carried, it shall so declare the result and enter the same in its minutes. As amended Acts 1963, 58th Leg., p. 1166, ch. 453, § 5.

Acts 1962, 57th Leg., 3rd C.S., p. 81, ch. 30, §§ 1-13.

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

**Art. 6145—5. Preservation of Gethsemane Church**

Section 1. The State Building Commission shall preserve, for the purposes provided in this Act, the structure known as the Gethsemane Church located at 16th Street and Congress Avenue on Parcel 07, Outlot 46, Division “E” of the original City of Austin, County of Travis, Texas, which was purchased by the State of Texas from the governing body of the Gethsemane Lutheran Church in 1961.

Sec. 2. (a) The Building Commission shall with the advice and assistance of the Texas Historical Survey Committee maintain the Gethsemane Church in a state of repair suitable for the purposes provided in this Act.

(b) The Building Commission shall make no additions to the existing structure of the church.

Sec. 3. (a) The Building Commission in cooperation with the Texas Historical Survey Committee shall maintain the Gethsemane Church as a historical site for the following purposes:

(1) to be a monument to the architecture of the Swedish people and of Swedish church design, and a permanent repository of the bricks, stones, and wooden fixtures of the original capitol building;

(2) to house a museum containing relics, archives, books, and all other items of historical significance relating primarily to the early development of the religious heritage of the people of the State of Texas, and the development of the various nationalities who first settled this

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region of the state, and items of general historical significance to the people of Texas; and

(3) to provide a place of rest and meditation for those who so desire.

(b) The Commission and committee shall exercise their discretion in determining what items are to be displayed in the church to preserve as nearly as possible its original decor and aesthetic significance.

Sec. 4. (a) The building commission shall spend such money as the Legislature may appropriate for the purposes expressed in this Act.

(b) The Building Commission may accept gifts and donations to the Gethsemane Church and use the gifts and donations in accordance with all conditions and instructions of the donor which are consistent with this Act. Acts 1965, 59th Leg., p. 303, ch. 136.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the preservation of the Church; and declaring an emergency. structure known as the Gethsemane Acts 1965, 59th Leg., p. 303, ch. 136.

## TITLE 108—PENITENTIARIES

### 1. DEPARTMENT OF CORRECTIONS

Art.

6166g—1. Power of eminent domain [New].

### 2. REGULATIONS AND DISCIPLINE

Art.

6203d—1. Deposit of revenues derived from easements; damages to property [New].

## 1. DEPARTMENT OF CORRECTIONS

### Art. 6166g—1. Power of eminent domain

Section 1. The Texas Board of Corrections has the power of eminent domain for the purpose of condemning and acquiring land necessary to eliminate security hazards, protect the life and property of citizens of Texas, and improve the efficiency, management, and operations of the Texas Department of Corrections. The exercise of the power by the board is governed by the rules of Title 52, Revised Civil Statutes of Texas, 1925. Acts 1965, 59th Leg., p. 294, ch. 127.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act conferring the right of eminent domain on the Texas Board of Corrections; and declaring an emergency. Acts 1965, 59th Leg., p. 294, ch. 127.

TITLE 109—PENSIONS

1. STATE AND COUNTY PENSIONS

Art.

6228a—5. Annuities for employees of local boards of education and gov-

erning boards of institutions of higher education [New].

1. STATE AND COUNTY PENSIONS

Art. 6228a. Retirement system for State employees

Membership

Sec. 3. \* \* \* \* \*

B. The membership of said Retirement System as an elective State official of the State of Texas shall be composed as follows:

\* \* \* \* \*

4. A person who was an elected state official and who completed an entire term of office as a member of the 57th Legislature is entitled to become a member of the Retirement System and to receive the service and benefits of the Retirement System. Before September 1, 1965, he must choose whether to become a member of the Retirement System. Added Acts 1965, 59th Leg., p. 277, ch. 116, § 1, emerg. eff. May 6, 1965.

\* \* \* \* \*

Benefits

Sec. 5. \* \* \* \* \*

B. Allowance for Service Retirement.

\* \* \* \* \*

4. Re-employment of Retired Appointive Officers or Employees.

Any retired appointive officer or employee may return to state employment as an appointive officer or employee, on a temporary basis, provided, however, that such reemployment shall not be for a longer period than six (6) months within any one (1) year. Any retired appointive officer or employee reemployed by the state on a part-time or consulting basis may work without loss of benefits under the Employees Retirement System. It is provided that in the event a retired state appointive officer or employee resumes temporary employment with a state department, commission, institution or agency, he shall notify the Retirement System in writing prior to resuming actual employment, and the head of any state department, commission, institution or agency of the state shall notify the Retirement System in writing before employment of a retired state appointive officer or employee and furnish the Retirement System the name of said retired appointive officer or employee and the dates of employment. After a reemployed, retired appointive officer or employee has worked six (6) months in any one (1) year, retirement benefit payments that would otherwise have been paid to said member shall be suspended and shall be resumed when said member leaves said employment, provided that the annuity payments as suspended shall be paid into the State Accumulation Fund. For the purposes of the six (6) months per year limitation on reemployment, employment for any part of a month shall constitute a full month. It is provided further, that if the retired member had elected to receive an annuity in a guaranteed payment for a certain number of years or months after retirement, that the time so spent in state employment over six (6) months within any one (1) year by such retired member after the initial or original retirement shall count as time within said certain number of



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years or months, the same as if said retired member had not returned to state employment, provided that said retired member temporarily employed shall not contribute to the Retirement System during such re-employment, and the Retirement Plan in effect at the time of his original retirement shall remain unchanged. As amended Acts 1965, 59th Leg., p. 1532, ch. 670, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

\* \* \* \* \*

**Art. 6228a—5. Annuities for employees of local boards of education and governing boards of institutions of higher education**

Local Boards of Education of the Public Schools of this state and the Governing Boards of the state-supported institutions of higher education are hereby authorized to enter into agreements with their employees for the purchase of annuities for their employees as authorized in Section 403(b) of the Internal Revenue Code of 1954, as amended.<sup>1</sup> Acts 1962, 57th Leg., 3rd C.S., p. 60, ch. 22, § 1.

<sup>1</sup> 26 U.S.C.A. (I.R.C.1954) § 403(b).

**Title of Act:**

An Act authorizing the Boards of Education of Public Schools of Texas and the Governing Boards of state-supported in-

stitutions of higher education to purchase annuities for their employees; and declaring an emergency. Acts 1962, 57th Leg., 3rd C.S., p. 60, ch. 22.

**Art. 6228b. Retirement of justices, judges and commissioners of appellate and district courts**

**Disposition of balance of retirement contributions of deceased retired judge**

Sec. 6A. Should any judge of this state die after retiring under the provisions of this Act without having received retirement pay or payments in a total amount equal to the total amount of the contributions made by him as provided in Section 5 of this Act, his named beneficiary shall be paid a sum equal to the difference between the total amount of contributions paid in by him and the total amount received by him as retirement pay; but should any judge die without having named a beneficiary then his heirs or legal representative shall have a period of two years from the date of his death in which to claim said sum. Added Acts 1965, 59th Leg., p. 794, ch. 381, § 1, emerg. eff. June 9, 1965.

**2. CITY PENSIONS**

**Art. 6243e. Firemen's Relief Pension Fund**

**Pension and additional pension allowances; certificate of completion of service period; cities of 900,000 or more population**

Sec. 6B. (a) Any person who has been duly appointed and enrolled and who has attained the age of fifty (50) years, and who has served actively for a period of twenty (20) years in any rank in one or more regularly organized fire departments in any city in this state having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census, which city is now within or may come within the provisions of this Act, shall be entitled to be retired from such service or department and shall be entitled to be paid from the Firemen's Relief and Retirement Fund of that city or town, a monthly pension equal to forty-two and one-half per cent (42-1/2%) of his average salary for the highest three (3) calendar years during his service; provided, however, that such monthly pension shall not be less than One Hundred and Fifty Dollars (\$150) per month.

(b) Any fireman who shall be entitled to be retired under the provisions of this Section, Section 7B, or Section 7C, and who shall retire with more than twenty (20) years of service and of participation in a Fund shall be entitled to be paid from the Firemen's Relief and Retirement Fund of the city in which he last served, in addition to any other benefits provided by this Act, an additional monthly pension allowance which shall be computed as follows: the sum of Two Dollars (\$2) per month shall be allowed for each full year of service and of participation in a fund after the date upon which such fireman shall have completed twenty (20) years of service and/or participation in a fund; provided, however, that such additional pension allowance shall not exceed the sum of Thirty Dollars (\$30) per month.

(c) No fireman who retires under the provisions of this Section, Section 7B, or Section 7C shall receive any pension allowance in excess of that which an Assistant Fire Chief would receive, and no fireman in cities which come within the provisions of said Sections shall be required to pay a contribution to a fund in excess of that which an Assistant Fire Chief would pay.

(d) Notwithstanding any other provision of this Act, it is hereby specially provided that any eligible and qualified fireman who shall have completed twenty (20) years of service in a city to which this Section is applicable, before reaching the age of fifty (50) years, may apply to the Board of Trustees for, and it shall be the Board's duty to issue, a certificate showing the completion of such service and showing and certifying that such fireman, when reaching the age of fifty (50) years, will be entitled to the retirement and other applicable benefits of this Act; provided further, that when any fireman shall have been issued such certificate he shall, when reaching retirement age, be entitled to all the applicable benefits of the Act, even though he shall not have been engaged in active service as a fireman after the issuance of such certificate. However, the fireman shall continue to pay his pension contribution monthly or in advance until the fireman reaches retirement age. Any fireman who does not make his pension contribution monthly or in advance, after issuance of the certificate, shall automatically forfeit any retirement or other benefits he may have been entitled to under this Act. As amended Acts 1965, 59th Leg., p. 55, ch. 20, § 1, emerg. eff. March 16, 1965.

**Cities of 185,000 to 225,000 population; pension allowances; increases**

Sec. 6C. (a) Any person who has been duly appointed and enrolled and who has either (1) attained the age of sixty (60) years and served actively for a period of twenty-five (25) years or (2) served actively for a period of thirty-five (35) years regardless of age, such service having been performed in any rank, as a fully-paid fireman, in one or more regularly organized fire departments in any city or town in this state having a population of not less than one hundred eighty-five thousand (185,000) nor more than two hundred twenty-five thousand (225,000), according to the last preceding Federal Census may retire from such service or department and thereupon is entitled to receive from the Firemen's Relief and Retirement Fund of that city or town a monthly pension equal to the sum of three-fourths of one per cent ( $\frac{3}{4}$  of 1%) of his average monthly salary multiplied by his service, if any, prior to 1941, plus one and one-tenth per cent (1.1%) of his average monthly salary multiplied by his service after 1940.

(b) The factor of one and one-tenth per cent (1.1%) may be increased in increments of one-tenth of one per cent (0.1%), not to exceed a maximum of two per cent (2%) provided that:

(1) the increase is first approved by an actuary; and

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(2) the increase applies only to active full-time firemen in the department at the time of the increase and those who enter the department thereafter.

(c) Any person covered by this Section may retire on the last day of any month after he has attained the age of fifty-five (55) years and actively served for twenty-five (25) years or, if covered by this Act on January 1, 1965, after he has attained the age of fifty-five (55) years and is entitled to receive:

(1) a monthly pension as determined in subsection (a) to begin on the date he would have otherwise normally retired; or

(2) a reduced pension to begin earlier, the reduction being five-twelfths per cent ( $\frac{5}{12}\%$ ) per month for each month by which the commencement of payment precedes the date he would have otherwise normally retired.

(d) The average salary means the monthly average of the fireman's salary for the highest five (5) calendar years during his period of service.

(e) Any person who was covered by the Act on January 1, 1965, may retire under the conditions of Section 6 and is entitled to receive the benefits provided in Section 6 and the first paragraph of Section 6A in lieu of the benefits provided in this Section.

(f) Any person who continues to serve actively beyond the date he would normally retire shall continue to make contributions to the fund and accrue pension credits to the date of actual retirement.

(g) Benefits hereunder shall be payable on the first day of each month commencing with the month following the date as of which the member retired, except that an early retirement pension under Subsection (c) shall commence in the month elected by the member. Added Acts 1965, 59th Leg., p. 20, ch. 10, § 1, emerg. eff. March 1, 1965.

#### Retirement for disability; cities of 900,000 or more population

Sec. 7B. Whenever a person serving as an active fireman duly enrolled in any regularly active fire department in any city in the state having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census, which city is now within or may come within the provisions of this Act, shall become physically or mentally disabled while in and/or in consequence of the performance of his duty or shall become physically or mentally disabled from any cause whatsoever after he has become entitled to a pension certificate, said Board of Trustees shall, upon his request, or without such request if it shall deem proper and for the good of the department, retire such person from active service either for total or partial disability as the case may warrant and shall order that he be paid a monthly pension allowance from such fund:

(1) if for total disability, an amount equal to forty-two and one-half per cent ( $42\frac{1}{2}\%$ ) of the average monthly salary for the highest three (3) calendar years during his service, or so much thereof as he may have served; provided, however, that the monthly pension allowance provided by this Section shall not be less than One Hundred and Fifty Dollars (\$150) per month;

(2) if the disability be less than total, then such sum as in the judgment of the Board of Trustees may be proper and commensurate with the degree of disability; provided further, that if and when such disability shall cease, such disability allowance shall be discontinued and such person shall be restored to active service at not less than the same salary he received at the time of his retirement for disability. As amended Acts 1965, 59th Leg., p. 55, ch. 20, § 2, emerg. eff. March 16, 1965.

Death or disability from cause not resulting from performance of duties;  
cities of 900,000 or more population

Sec. 7C. (a) Whenever a person serving as an active fireman duly enrolled in any regularly active fire department in any city in the state having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census, which city is now within or may hereafter come within the provisions of this Act, shall die or become disabled from any cause other than a disability acquired in the performance of his duty as a fireman, a monthly pension allowance shall be paid to such fireman or his beneficiaries.

(b) Such monthly pension allowance shall be computed as follows:

(1) If such fireman shall become disabled, he shall be paid a monthly pension allowance equal to twenty-two and one-half per cent ( $22\frac{1}{2}\%$ ) of the average monthly salary of such fireman plus two per cent (2%) of such average monthly salary for each full year of service and of participation in a fund, provided, however, that such monthly pension allowance shall not exceed forty-two and one-half per cent ( $42\frac{1}{2}\%$ ) of such average monthly salary. The average monthly salary shall be based on the monthly average of such fireman's salary for the highest three (3) calendar years during his service, or so much thereof as he may have served preceding the date of such retirement.

(2) If such fireman shall die and shall leave surviving him both a widow who married such fireman prior to his retirement, and a child or children of such fireman under the age of eighteen (18) years, said Board of Trustees shall order paid to the widow, so long as she remains the widow of such fireman, a monthly pension allowance equal to one-half ( $\frac{1}{2}$ ) of the amount such fireman would have been entitled to receive, if disabled, under the provisions of subdivision (1); and in addition thereto the Board of Trustees shall order paid to such widow or other person having the care and custody of such child or children under the age of eighteen (18) years a monthly pension allowance, for the use and benefit of such child or children, equal to the amount hereinabove provided for the widow. If such fireman shall leave no child under the age of eighteen (18) years surviving him or if at any time after the death of such fireman no child is entitled to allowance, then the monthly pension allowance to be paid such widow, so long as she remains a widow, shall equal the full amount such fireman would have been entitled to receive, if disabled under subdivision (1), provided, however, that such allowance to a widow, as herein provided if no child is entitled to allowance, shall not exceed one-half ( $\frac{1}{2}$ ) of the maximum base salary provided for the position of pipeman at the time of the death of such fireman.

(3) If such fireman shall die and if his widow dies after being entitled to her allowance as herein provided, or in the event there be no widow to receive an allowance, then the amount of the monthly pension allowance to be paid, for the use and benefit of the child or children under the age of eighteen (18) years, to the person having the care and custody of such child or children shall be computed as follows: an amount equal to one-half ( $\frac{1}{2}$ ) of the amount such fireman would have been entitled to receive, if disabled, under the provisions of subdivision (1) shall be paid for each of such fireman's children under the age of eighteen (18) years, provided that the total monthly pension allowance provided hereby for children shall not exceed the amount to which such fireman would have been entitled under subdivision (1), nor shall such allowance for such children exceed one-half ( $\frac{1}{2}$ ) of the maximum base salary provided for the position of pipeman at the time of the death of such fireman.

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(4) If such fireman shall die and only if no widow or child is entitled to an allowance under the provisions of this Section, a monthly pension allowance equal to one-half ( $\frac{1}{2}$ ) of the amount such fireman would have been entitled to receive, if disabled, under the provisions of subdivision (1) shall be paid to each parent of such deceased fireman upon proof to the Board of Trustees that such parent was dependent upon such fireman immediately prior to the death of such fireman, provided that the total monthly pension allowance provided hereby for parents shall not exceed one-half ( $\frac{1}{2}$ ) of the maximum base salary provided for the position of pipeman at the time of the death of such fireman.

(c) Provided further, however, that in no event shall the total of the allowances paid to a fireman or to his beneficiaries under the provisions of this Section be less than Eighty Dollars (\$80) per month, provided that such minimum shall not be applicable if only one (1) child or only one (1) parent is entitled to an allowance.

(d) Allowance or benefits payable under the provisions of this Section for any minor child shall cease when such child becomes eighteen (18) years of age or marries.

(e) Provided, however, that the provisions of this Section shall not apply if the death or disability of the fireman was caused while such fireman was gainfully employed by someone other than the respective fire department for which he was employed.

(f) Provided further, that the provisions of this Section shall not be applicable to a fireman or his beneficiaries if such fireman's death or disability results from suicide or attempted suicide before such fireman shall have completed two (2) years of service with the fire department for which he was employed. As amended Acts 1965, 59th Leg., p. 55, ch. 20, § 3, emerg. eff. March 16, 1965.

**Retirement for disability; cities of 185,000 to 225,000 population**

Sec. 7D. (a) A person, serving as an active fireman duly enrolled in any regularly active fire department in any city or town in the state having a population of not less than one hundred eighty-five thousand (185,000) nor more than two hundred twenty-five thousand (225,000), according to the last preceding Federal Census, who becomes totally and permanently disabled, the Board of Trustees shall, upon his request, or without his request if it shall deem proper and for the good of the department, retire such person from active service and order that he be paid from the Firemen's Relief and Retirement Fund of such city or town a monthly amount equal to his accrued unreduced pension as determined under Subsection (a), Section 6C. If a person becomes totally and permanently disabled while in or as a consequence of the performance of his duty, the amount to be paid shall not be less than One Hundred Fifty Dollars (\$150), and if a person becomes disabled from any other cause, the amount to be paid shall not be less than Fifty Dollars (\$50).

(b) When the disability of a person who has been granted a pension under Subsection (a) ceases, such pension shall be discontinued and such person shall be restored to active service at not less than the same salary he received at the time of his retirement for disability.

(c) The provisions of this Section shall not apply if the disability of the fireman was caused while he was gainfully employed by someone other than the respective fire department for which he was employed. Added Acts 1965, 59th Leg., p. 20, ch. 10, § 2, emerg. eff. March 1, 1965.

Secs. 7E, 7F. Reserved for future legislation.

**Pension allowances for totally disabled children of firemen**

Sec. 7G. (a) If a fireman who is covered by a provision of this Act dies and leaves a child who is totally disabled as a result of a physical or mental illness, injury or retardation, that child is entitled to receive any pension allowance to which he is entitled under this Act and is further entitled to continue receiving the allowance so long as he remains totally disabled. If the child is not entitled to a pension allowance under this Act solely because he is over the maximum age at the time of the death of his parent and the child is totally disabled as a result of a physical or mental illness, injury or retardation, the child is entitled to receive as an allowance that to which he would have been entitled had he been under the maximum age at the time of the death of his parent.

(b) This Section does not apply to any particular relief and retirement fund until after an election is held and the majority of the participating members of that fund vote to include the provisions of this Section within that fund. Added Acts 1965, 59th Leg., p. 328, ch. 153, § 1, emerg. eff. May 13, 1965.

**Cities of 185,000 but less than 225,000; contributions to funds**

Sec. 10D. (a) Any city having a population of more than one hundred and eighty-five thousand (185,000) inhabitants but less than two hundred and twenty-five thousand (225,000) inhabitants, according to the last preceding Federal Census, which has fully paid firemen and a Firemen's Relief and Retirement Fund has been or is created under the provisions of this Act, shall contribute and appropriate each month to such fund an amount equal to seven and one half percent (7½%) of the monthly payroll of the fire department of the city, and each full-time fireman shall pay into the pension fund seven and one-half per cent (7½%) of his monthly salary. The governing body of a city may authorize the city to make an additional contribution to its Firemen's Relief and Retirement Fund in whatever amount the governing body of the city may fix. The firemen by a majority vote in favor of an increase in contributions above the seven and one-half per cent (7½%), shall increase each member's contribution above seven and one-half per cent (7½%) in whatever amount the pension board recommends.

(b) Money deducted from salaries or compensation as provided by this Section and the payments and contributions provided by this Section shall become and form a part of the Firemen's Relief and Retirement Fund of the city in which the contributing firemen serve.

(c) Any person who enters service as a fireman in any city which has a Firemen's Relief and Retirement Fund to which he is eligible for membership shall become a member of the fund as a condition of his appointment, and shall by acceptance of the appointment agree to make the contributions required by this Act of members of the fund and is eligible to participate in the benefits of membership in the fund as provided in this Act. However, no person is eligible to membership in the fund who has reached his thirtieth birthday at the time he enters service as a fireman and any person who enters service as a fireman may be denied or excused from membership in the fund if the Board of Trustees of the fund determines that he is not of sound health. The applicant shall pay the cost of any physical examination required by the Board of Trustees for this purpose.

(d) Each person who is an active member of a Firemen's Relief and Retirement Fund previously organized and existing under the laws of this state at the effective date of this amendment shall continue as a member of such fund and he shall retain and be allowed credit for all service to which he was entitled in the fund of which he was a member immediately prior to the effective date of this amendment.

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(e) The severance benefit of a fireman who subsequently terminates his employment before he is eligible for retirement shall be an amount equal to the sum total of his monthly contributions made while a participating member of the Firemen's Relief and Retirement Fund. If the member's employment is terminated by death before retirement and he leaves no surviving beneficiary entitled to pension benefits, his estate shall receive his contributions without interest.

(f) The provisions stated herein shall apply to all active full-time members of the fire department at the time of the final passage of this Act and those persons who shall become members of the fire department at any time in the future.

(g) When, in the opinion of the Board of Trustees, there is on hand in the Firemen's Relief and Retirement Fund of any city under this Act a surplus over and above a reasonable and safe amount to take care of the current demands upon such fund, such surplus, or so much of it as in the judgment of said board is deemed safe, may be invested in federal, state, county, or municipal bonds, and in shares or share accounts of savings and loan associations, where such shares or share accounts are insured under and by virtue of the Federal Savings and Loan Insurance Corporation, and in such securities in which the State Permanent School Fund of Texas or the Permanent University Fund of The University of Texas may be invested under present laws, and may also invest in notes and other evidence of debt secured by mortgages insured or guaranteed by the Federal Housing Administration under the provisions of the National Housing Act, and the interest or dividends therefrom and thereon shall be deposited into such fund as a part thereof.

(h) The mayor shall appoint an investment advisory committee consisting of not less than three (3) nor more than five (5) qualified persons to be selected from the personnel of the banks of the city. Such appointees shall be experienced in the handling of such securities and investment matters and shall serve for a two (2) year term. The purpose of this committee shall be to advise and make recommendations on investment procedure and policy, and to review the investments made by the board. From such reviews and observations the committee shall make an annual report to the Board of Pension Fund Trustees of such city within ninety (90) days after the end of each calendar year. Added Acts 1963, 58th Leg., p. 25, ch. 19, § 1, as amended Acts 1965, 59th Leg., p. 20, ch. 10, § 3, emerg. eff. March 1, 1965.

**Cities of 800,000 or more; monthly deductions from salaries; contributions and appropriations; membership; service credits**

Sec. 10E. \* \* \* \* \*

(d) Each person who shall hereafter become a fireman in any such city which has a Firemen's Relief and Retirement Fund in which he is eligible for membership, shall become a member of such Fund as a condition of his appointment, and shall by acceptance of such position agree to make and shall make contributions required under this Act of members of such Fund, and shall participate in the benefits of membership in such Fund as provided in this Act; provided, however, that no person shall be eligible to membership in any such Fund who is more than thirty (30) years of age at the time he first enters service as a fireman; and provided further, that any such person who enters service as a fireman may be denied or excused from membership in the Fund if the Board of Trustees of the Fund determines that such person is not of sound health. The applicant shall pay the cost of any physical examination required in such instance by the Board of Trustees. As amended Acts 1965, 59th Leg., p. 55, ch. 20, § 4, emerg. eff. March 16, 1965.

\* \* \* \* \*

Allowances to beneficiaries of deceased members; cities of 900,000 or more population

Sec. 12A. (a) If a member of any fire department in any city having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census, which city is now within or may hereafter come within the provisions of this Act, who has been retired on allowance because of length of service or disability, shall thereafter die from any cause whatsoever or if while in service, any member shall die from any cause growing out of and/or in consequence of the performance of his duty, or shall die from any cause whatsoever after he has become entitled to an allowance or pension certificate, and if such fireman shall leave surviving a widow, a child or children under the age of eighteen (18) years or a dependent parent or parents, said Board of Trustees shall order paid a monthly allowance which shall be based, as hereinafter provided, upon the amount which such fireman would have been entitled to receive had he continued to live and be retired on allowance at the date of his death. The allowance or allowances provided hereby shall be paid as follows:

(1) If such member shall die and shall leave surviving him both a widow who married such member prior to his retirement and a child or children of such member under the age of eighteen (18) years, said Board of Trustees shall order paid to the widow, so long as she remains the widow of such member, a monthly pension allowance equal to one-half ( $\frac{1}{2}$ ) of said amount such member would have been entitled to receive; and in addition thereto the Board of Trustees shall order paid to such widow or other person having the care and custody of such child or children under the age of eighteen (18) years a monthly pension allowance, for the use and benefit of such child or children, equal to the amount hereinabove provided for the widow. If such member shall leave no child under the age of eighteen (18) years surviving him or if at any time after the death of such member no child is entitled to allowance, then the monthly pension allowance to be paid such widow, so long as she remains a widow, shall equal the full amount such member would have been entitled to receive, provided, however, that such allowance to a widow, as herein provided if no child is entitled to allowance, shall not exceed one-half ( $\frac{1}{2}$ ) of the maximum base salary provided for the position of pipeman at the time of the death of such member.

(2) If such member shall die and if his widow dies after being entitled to her allowance as herein provided, or in the event there be no widow to receive an allowance, then the amount of the monthly pension allowance to be paid, for the use and benefit of the child or children under the age of eighteen (18) years, to the person having the care and custody of such child or children shall be computed as follows: an amount equal to one-half ( $\frac{1}{2}$ ) of said amount such member would have been entitled to receive shall be paid for each of such member's children under the age of eighteen (18) years, provided that the total monthly pension allowance provided hereby for children shall not exceed said amount which such member would have been entitled to receive, nor shall such allowance for such children exceed one-half ( $\frac{1}{2}$ ) of the maximum base salary provided for the position of pipeman at the time of the death of such member.

(3) If such member shall die and only if no widow or child is entitled to an allowance under the provisions of this Section, a monthly pension allowance equal to one-half ( $\frac{1}{2}$ ) of said amount such member would have been entitled to receive shall be paid to each parent of such deceased member upon proof to the Board of Trustees that



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such parent was dependent upon such member immediately prior to the death of such member, provided that the total monthly pension allowance provided hereby for parents shall not exceed one-half ( $\frac{1}{2}$ ) of the maximum base salary provided for the position of pipeman at the time of the death of such member.

(b) Provided further, however, that in no event shall the total of the allowances paid to one (1) member's beneficiaries under the provisions of this Section be less than Eighty Dollars (\$80) per month, provided that such minimum shall not be applicable if only one (1) child or only one (1) parent is entitled to an allowance.

(c) Allowance or benefits payable under the provisions of this Section for any minor child shall cease when such child becomes eighteen (18) years of age or marries. As amended Acts 1965, 59th Leg., p. 55, ch. 20, § 5, emerg. eff. March 16, 1965.

**Allowances to beneficiaries of deceased members; cities of 185,000  
to 225,000**

Sec. 12B. (a) If a fireman duly enrolled in any regularly active fire department in any city or town in the state having a population of not less than one hundred eighty-five thousand (185,000) nor more than two hundred twenty-five thousand (225,000) according to the last preceding Federal Census dies before retirement, his surviving widow shall be entitled to receive a monthly pension, the amount of which shall be seventy-five per cent (75%) of the member's accrued unreduced pension as determined under Section 6C. The monthly pension payable to the widow of a member who dies while in or as a consequence of the performance of his duty shall be not less than One Hundred Dollars (\$100), and the monthly pension payable to the widow of a member who dies while not in the performance of his duty shall be not less than Fifty Dollars (\$50). In no event shall the widow receive less than the amount she would be entitled to under Sections 6A and 12.

(b) Each child of a deceased member under the age of eighteen (18) is entitled to receive as a monthly pension Twenty Dollars (\$20) if there is a surviving widow entitled to a pension, or Forty Dollars (\$40) if not. The benefits paid to the minor children is in addition to the minimums provided for the widow, or any accrued amount that the widow may be entitled to.

(c) Upon the death of a retired member, his surviving widow, provided she married the member prior to his retirement, is entitled to receive as a monthly pension, seventy-five per cent (75%) of the pension being paid to the member. Each child of such deceased retired member under the age of eighteen (18) is entitled to receive as a monthly pension Twenty Dollars (\$20) if there is a widow entitled to a pension or Forty Dollars (\$40) if not.

(d) If a deceased member or retired member leaves no widow or children eligible to receive a benefit hereunder but is survived by a dependent parent (or parents), such dependent parent (or one of the surviving parents designated by the Board of Trustees) is entitled to receive as a monthly pension, the amount otherwise payable to the widow.

(e) If a deceased member leaves no widow, children, or dependent parent eligible to receive a benefit hereunder, his total contributions, less any amount previously paid to him, shall be paid to his estate.

(f) Payments to a child shall be made whether or not a widow survives and shall continue after the death of a widow but shall cease upon the earliest of such child's death, marriage, or attainment of age eighteen (18). Payment to a widow or parent shall cease upon the earlier of such person's death or marriage. After all payments cease, any excess of the

member's total contributions at date of death over any disability and death benefits paid shall be paid to his estate.

(g) The provisions of this Section shall not apply if the death was caused while the member was gainfully employed by someone other than the respective fire department for which he was employed.

(h) Benefits hereunder shall be payable on the first day of each month commencing with the month following the one in which the member's death occurs.

(i) The Board of Trustees shall determine all questions of dependency, and their determination shall be final and conclusive on all parties. All unmarried, legitimate, and legally adopted children under age eighteen (18), in the absence of a determination to the contrary, are considered dependent. Added Acts 1965, 59th Leg., p. 20, ch. 10, § 4, emerg. eff. March 1, 1965.

**Investment of surplus; cities of 900,000 or more population**

Sec. 23A—1. (a) This Section is applicable to the Firemen's Relief and Retirement Fund in any city having a population of nine hundred thousand (900,000) or more according to the last preceding Federal Census.

(b) Whenever, in the opinion of the Board of Trustees, there is on hand in the Firemen's Relief and Retirement Fund a surplus over and above a reasonably safe amount to take care of current demands upon such fund, such surplus, or so much thereof as in the judgment of the Board is deemed proper, may be invested in bonds of other interest bearing obligations and securities of the United States, the State of Texas, or any county, city or other political subdivision of the State of Texas; in shares or share accounts of savings and loan associations, where such shares or share accounts are insured under and by virtue of the Federal Savings and Loan Insurance Corporation; in first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, as amended from time to time and in such corporation bonds, preferred stocks and common stocks as the Board may deem to be proper investments for the fund.

(c) In making each and all of such investments the Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

(d) No more than fifty per cent (50%) of the fund shall be invested at any given time in corporate stocks, nor shall more than four per cent (4%) of the fund be invested in corporate securities issued by any one corporation, nor shall more than five per cent (5%) of the voting stock of any one corporation be owned.

(e) Stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors. As amended Acts 1965, 59th Leg., p. 55, ch. 20, § 6, emerg. eff. March 16, 1965.

Acts 1965, 59th Leg., p. 20, ch. 10, which amended and added various sections to this article, provided in section 6 that the Act does not apply to litigation pending as of its effective date.

## Art. 6243g. Pension system in cities over 900,000

## Creation of system

Section 1. There is hereby created a Municipal Pension System in all cities in this state having a population of nine hundred thousand (900,000) or more according to the last preceding or any future Federal Census.

## Definitions

Sec. 2. The following words and phrases when used in this Act are defined as follows, to-wit:

(a) "Pension System" means the retirement, disability and Pension System for employees of cities coming within the provision of this Act.

(b) "Member" means any and all city employees included in the Pension System provided for and becoming members thereof.

(c) "Pension Board" or "Board" means the Pension Board of the Pension System created under this Act for the purpose of administering the Pension System.

(d) "Service" means the services and work performed by a person employed by such city.

(e) "Pension" means payments for life to the city employees out of the Pension Fund provided for herein to members of the Pension System upon becoming disabled or reaching retirement as provided herein and becoming eligible for such payments.

(f) "Separation from Service" means cessation of work for the city, whether caused by death, discharge or resignation.

(g) "Separation Allowance" means the accumulation of payments made by the employee to the Pension Fund and returned to him upon his separation of service with the city.

(h) The use of the masculine gender includes the feminine gender, and the use of the feminine includes the masculine.

(i) The term "employee" shall mean and include any person whose name appears on a regular full-time payroll of any such city and who is paid a regular salary for his services. Persons who are so paid shall be considered employees; notwithstanding the fact that they are performing services for a department, agency, or other establishment which the city operates jointly with another governmental subdivision.

## Persons eligible under this act

Sec. 3. The following persons are eligible under this Act:

(a) Any person who is now a member of any such System under the terms of the original Act, as amended.

(b) Any person who hereafter becomes an employee of such city shall automatically and immediately at the beginning of his first full pay period become a member of the Pension System as a condition of his employment, except as hereinafter enumerated.

(c) All employees under 70 not presently members and any employee who is a member or who becomes a member of the System under the new law may obtain credit for service prior to the effective date of this law by making election, in writing, before December 31, 1965, to take credit for prior service by paying the current rate of contribution covering the service period requested plus interest at the rate of six percent (6%) per annum. All back payments plus interest must be paid in full by December 31, 1966. The City of Houston shall contribute one and one-half

(1½) times the amount of money paid into the Fund for prior service by such employees.

(d) Elected officers provided such elected officers shall, prior to their election, have been an employee of such city and a member of its Pension System. Such officers shall be subject to physical examinations and shall make repayment of any separation allowance with interest and shall make such election within ninety (90) days from the effective date of this amendatory Act. Any former employee and former member of the Pension System who shall hereafter be elected to an office of said city shall, in like manner, be entitled to reinstatement provided he elects to do so within ninety (90) days from the date he takes office. Any officer coming under the terms hereof who, thereafter, fails of election to said office or another elective office, shall be considered as separated from the service unless he is again employed by such city within ten (10) years from the expiration of his term of office.

#### **Persons not eligible under this act**

Sec. 4. Employees of such city who may not become members of the Pension System shall include:

(a) All quasi-legislative, quasi-judicial and advisory boards and commissions;

(b) All part-time employees;

(c) All seasonal employees, and all employees of the Police and Fire Departments;

(d) Employees now covered by any other Pension System to which the city contributes;

(e) All elected officers of the city unless they qualify under Section 3(d).

#### **Pension board**

Sec. 5. (a) There is hereby created a Pension Board of the Pension System, in which Board there is hereby vested the general administration management and responsibility for the proper and effective operation of the Pension System. The Board shall be organized immediately after its members have qualified and taken the oath of office and shall serve without compensation.

(b) The Pension Board shall be composed of seven (7) members as follows:

(1) The Mayor of the City, or City Manager, if there be one, or the Director of the Civil Service Commission as his representative.

(2) The Treasurer of the City or person performing the duties of Treasurer.

(3) Three (3) employees of the city having membership in the Pension System and elected by the members of such System. No city department shall have more than one (1) representative. The persons now serving as employee members of the Board shall continue in office until the expiration of their terms, in cities having established systems under the original Act, as amended. The term of office of succeeding members so elected shall likewise be two (2) years and each such member shall continue to serve until his successor is duly elected and qualified. Vacancies occurring by death, resignation or removal of such representative shall be filled by appointments made by any two (2) of the Board members elected by the members of the Pension System. Such appointees shall serve for the remainder of the unexpired term of the member they replace. The first election of employee members in cities hereafter coming under this Act shall be held in such city at such time and place as shall be fixed by the governing body of the city, and to be not more than

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seventy-five (75) days from the date such city comes under the terms of this Act.

(4) Two (2) legally qualified taxpayers of such city, who have been residents of the county in which such city is located for the preceding three (3) years, to be chosen by the governing body of the city, being neither employees nor officers of such city. The two (2) members so chosen by the governing body of the city shall serve for two (2) years and until their successors are duly elected and qualified. Vacancies occurring by death, resignation, or removal of such representative shall be filled by the governing body of the city. Public members now on the Boards of cities having established Systems shall continue in office until the expiration of their terms.

(c) Each member of the Pension Board within ten (10) days after his appointment and election shall take an oath of office that so far as it devolves upon him he will diligently and honestly administer the affairs of the Pension System and that he will not knowingly violate, or willingly permit to be violated, any of the provisions of this law.

(d) The Board shall elect from its membership annually a chairman, vice-chairman and secretary. Pursuant to the powers granted under the charter of such city, the Chief Administrative Officer of the city shall appoint one (1) or more employees whose positions and salaries shall be fixed by the governing body of the city and who, acting under direction of the Chief Administrative Officer of the City and City Treasurer, shall keep all of the records of and perform all of the clerical services for the Pension System. The salaries of such employees and all administrative expenses of the Pension System shall be paid by the city.

(e) Each member of the Board shall be entitled to one (1) vote in the Board. Four (4) concurring votes shall be necessary for a decision by the members at any meeting of the Board, and four (4) members shall constitute a quorum.

(f) A meeting of said Pension Board may be called at any time by the chairman, secretary, or by any four (4) members of such Pension Board.

(g) Notice shall be given to all members of such Pension Board unless waived in writing as to any proposed meeting by depositing of a written notice in the United States mail at least forty-eight (48) hours before such meeting, properly addressed to each such member. If a meeting is had, however, at which all of the members of the Board attend, no notice shall be necessary.

(h) No moneys shall be paid out of the Pension Fund except by warrant, check or draft signed by the treasurer and countersigned by the secretary, upon an order by said Pension Board duly entered in the minutes. Facsimile signatures may be authorized by the Board.

(i) The Pension Board shall determine the prior service to be credited to each present employee who becomes a member of the Pension System. The Board shall rely upon the personnel records of such city in determining such prior service credit or upon affidavits if the personnel records are incomplete.

#### Treasurer of pension fund

Sec. 6. The City Treasurer of any such city, or the person discharging the duties of the City Treasurer, is hereby designated as the treasurer of said Pension Fund for said city and his official bond to said city shall operate to cover his position of treasurer of said Pension Fund and his sureties shall be liable in connection with the treasurer's actions pertaining to such Fund as fully as they are liable under the terms of said bond for the other actions and conduct of said treasurer. All moneys.

of every kind and character collected or to be collected for said Fund shall be paid over to said treasurer and shall be administered and paid out only in accordance with the provisions of this Act.

**Contributions by members**

Sec. 7. Commencing with the first day of the month from the date any city comes under the provisions hereof, each member of the Pension Fund shall pay into such Fund the sum of not less than Ten Dollars (\$10) per month, which payments shall be deducted by the city from the salary of each and every member at the rate of Five Dollars (\$5) for each semi-monthly or bi-weekly pay check, and paid to the treasurer of said Pension Fund.

**Contributions by city**

Sec. 8. In addition to the payments provided for in the next preceding Section, such city shall pay monthly into such Pension Fund, from the General or other appropriate Fund, of any such city, an amount equal to one and one-half (1½) the total sum paid into such Fund by salary deductions of members as set out in the next preceding Section.

**Increase in contributions**

Sec. 9. The payments and/or contributions to be paid into the Pension Fund by the members thereof and such city, may at any time, be increased by ordinance of any such city to an amount not to exceed Seven Dollars and Fifty Cents (\$7.50) for each pay period at the rate of Seven Dollars and Fifty Cents (\$7.50) for each semi-monthly or bi-weekly payroll, payable by each member, and one and one-half (1½) times the amount payable by each member by the city, which payments shall be made in the same manner as provided in Sections 7 and 8 respectively of this Act, it being the intention hereof that such city shall contribute to such Pension Fund an amount equal to one and one-half (1½) the amounts paid by each member thereto, but no more.

**Surplus: investment**

Sec. 10. Whenever, in the opinion of the said Pension Board, there is on hand in said Pension Fund a surplus over and above a reasonably safe amount to take care of current demands upon such Funds, such surplus, or so much thereof as in the judgment of the said Pension Board is deemed proper, may be invested in bonds or other interest bearing obligations and securities of the United States, the State of Texas, or any county, city or other political subdivision of the State of Texas, or in first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, as amended from time to time, and in such corporation bonds, preferred stocks and common stocks as the Pension Board may deem to be proper investments for said Funds. In making each and all of such investments said Pension Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the safety of their capital; provided, however, that not more than fifty percent (50%) of said Funds shall be invested at any given time in corporate stocks, nor shall investments in securities issued by any one (1) corporation be more than five percent (5%) of this Fund, nor shall more than five percent (5%) of the voting stock of any one (1) corporation be owned; and provided further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase and which,

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except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors. The Board shall have authority to buy and sell any of its authorized investments.

#### Retirement on pension

Sec. 11. (a) Any member of such Pension System who has been in the service of the city for the period of twenty (20) years and has attained fifty-five (55) years of age shall be entitled to a retirement pension of One Hundred Twenty Dollars (\$120) per month for the rest of his life, upon his retirement from the service of said city. Upon the completion of said twenty (20) years of service and attaining fifty-five (55) years of age, such Pension Board shall issue to said member a certificate showing that he is entitled to said Retirement Pension and thereafter when such member retires, whether such retirement be voluntary or involuntary, such monthly payment shall begin forthwith and continue for the remainder of said member's life. Upon the date of any member's retirement for any reason, if he shall have served in excess of twenty (20) years, he shall, in addition to the said sum of One Hundred Twenty Dollars (\$120) receive an additional sum of Six Dollars (\$6) per month for each additional year served in excess of twenty (20) years. Provided, that where any member of any such System has completed ten (10) years service with such city and shall thereafter attain sixty (60) years of age, he may, at his option, retire and, upon retirement, shall receive a monthly Pension which shall be calculated on the pro rata basis that his term of service bears to the full term of twenty (20) years.

(b) If a member upon reaching the age of seventy (70) years does not retire from the service of the city, he shall not accrue any additional benefits, nor shall he make any further contributions into the Fund nor shall the city make any further contributions in his behalf. When a member retires after age seventy (70), his pension benefits shall be computed from his years of service at the time he reached the age of seventy (70).

#### Disability pensions

Sec. 12. If any member has completed ten (10) years, but less than twenty (20) years service with the city, and shall thereafter become totally and permanently disabled for any reason whatsoever, he shall be retired on a monthly pension which shall be calculated on the pro rata basis that his term of service bears to the full term of twenty (20) years. If any member has completed twenty (20) years service with the city and thereafter becomes totally and permanently disabled for any reason whatsoever, he shall be retired on the full One Hundred Twenty Dollars (\$120) per month pension, plus any bonus accrued for additional service as provided in Section 11 above.

If any member has completed less than ten (10) years service and becomes totally and permanently disabled as a result of the performance of his duties, or as a consequence of such performance, he shall be retired on a monthly pension of Sixty Dollars (\$60) per month.

By total and permanent disability is meant such disability as permanently incapacitates a member from performing the usual and customary duties which he has been performing for such city.

Before any disability pension is allowed, the Pension Board shall require such medical examination and such other evidence as it may see fit to establish such total and permanent disability, as above provided. If any member is eligible for retirement under Section 11 hereof, he shall not be retired on disability pension. The Board's decision shall be final.

When any member has been retired for total and permanent disability, he shall be subject at all times to re-examination by the Pension Board and shall submit himself to such further examination as the Pension Board may require. If any member shall refuse to submit himself to any such examination, the Pension Board may, within its discretion, order said payments stopped. If a member who has been retired under the provisions of this Section should thereafter recover so that in the opinion of the Pension Board he is able to perform the usual and customary duties formerly handled by him for said city, and such member is reinstated or tendered reinstatement to the position he had at the time of his retirement, then the Pension Board shall order such pension payments stopped.

#### Monthly allowance to widows and children

Sec. 13. If any member of the Pension System, as herein defined, shall die from any cause whatsoever after having completed ten (10) years of service with the city, or if, while in the service of the city, any member shall die from any cause growing out of or in consequence of the performance of his duty, or shall die after he has been retired on pension because of length of service or disability and shall leave a surviving widow or widower and/or a child or children under the age of eighteen (18) years, said Board shall order paid a monthly allowance as follows:

(a) To the widow or widower, so long as she or he remains a single person and provided she or he shall have married such member prior to his or her retirement, a sum equal to one-half ( $\frac{1}{2}$ ) of the retirement benefits that the deceased member would have been entitled to had he or she been totally and permanently disabled at the time of his or her retirement or death.

(b) To the guardian of each child the sum of Twelve Dollars (\$12) per month until such child reaches the age of eighteen (18) years.

(c) In the event the widow or widower dies after being entitled to her or his allowance as provided, or in the event there be no widow or widower to receive such allowance, the amount to be paid to the guardian of any child or children under the age of eighteen (18) years shall be increased to the sum of Twenty-Four Dollars (\$24) per month for each such child; provided, however, that the total allowance to be paid all beneficiaries or dependents; as herein provided, shall not exceed the monthly pension to be paid the pensioner had he continued to live or be retired on pension at the date of his death. Allowances or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries. By the term 'guardian,' as used herein shall be meant the surviving widow or widower, or any guardian appointed by law, or the person standing in loco parentis to such dependent minor child responsible for his or her care and upbringing.

#### Refund of contributions

Sec. 14. If any member's employment by the city is terminated for other than total and permanent disability arising as a result of or as a consequence of the performance of his duties prior to his having completed ten (10) years of service with the city, he shall not be paid any pension whatsoever, but he shall receive the amount paid by him into the Pension Fund by way of salary deduction without interest as provided in Section 16 of this Act. In the event of his death, if there are no widow or children to receive the allowance provided for the Section 13 above, his beneficiary, and if none, his estate shall receive the said amount.



**Computing period of service**

Sec. 15. In computing the years of service required for retirement pension, interruption of less than three (3) months out of service shall be construed as continuous service without any deduction therefor; provided that the member shall pay into the Pension Fund all monthly contributions for the months out of service, but if out of service for more than three (3) months and less than ten (10) years, credit shall be given for prior service, but deduction shall be made for the length of time out of service. If out of service more than ten (10) years, no service prior to said time shall be counted. Any member's contribution to the Pension Fund based at one-half ( $\frac{1}{2}$ ) regular rate shall be computed on the basis of one-half ( $\frac{1}{2}$ ) service credit.

**Termination of employment; death; re-employment**

Sec. 16. When any member of such Pension System shall leave the employment of such city, either voluntarily or involuntarily, before becoming eligible for a retirement or disability pension, he shall thereupon cease to be a member of such Pension System, and shall have refunded to him all of the payments made by him into said Pension Fund by way of salary deductions without interest, provided, that if such member leaving the employment of the city has completed twenty (20) years, or more, of service with the city prior to becoming fifty-five (55) years of age, he may, at his option, allow his prior payments to remain in the Pension Fund until he becomes fifty-five (55) years of age, whereupon he shall be entitled to a retirement pension for life for such amount as he had earned at the time of leaving the employment of the city; or if, while still employed by the city, whether eligible for a pension or not, a member dies and leaves no survivors as is provided for in Section 13 hereof, his designated beneficiary, if any, and if none, his estate, shall be entitled to said refund; further provided, it is not the intention of this Amendatory Act to change the status of any former member of the Pension System whose services with the city were terminated under a previous Act.

It is contemplated that said sum shall be paid such departing member, his beneficiary or estate in a lump sum, but if, in the opinion of the Pension Board, the funds on hand are too low to justify such lump sum payment, said payment shall be refunded on a monthly basis in such amounts as may be determined by the Pension Board.

When a member has left the service of such city, as aforesaid, and has therefore ceased to be a member of such Pension System, if such person shall thereafter be re-employed by the city, he shall thereupon be reinstated as a member of such Pension System, provided he is in good physical and mental condition as evidenced by a written certificate executed under oath by a duly licensed and practicing physician residing in said city, satisfactory to the Pension Board. Prior service of such member with such city shall not be counted toward his retirement pension unless such member returns to the service of the city within ten (10) years from his separation therefrom, and also shall, within three (3) months after his re-employment by the city, repay in one lump sum to such Pension Fund all monies withdrawn by him upon his separation from the service plus interest thereon at the rate of six percent (6%) per annum from the date of such withdrawal.

**Reduction of benefits; dissolution of system**

Sec. 17. In the event said Pension Fund becomes seriously depleted in the opinion of the Pension Board, said Pension Board may proportionately and temporarily reduce the benefits of all pensioners

and beneficiaries, but such reductions shall thereafter be paid to such pensioners and beneficiaries, as and when said Fund is, in the opinion of the Pension Board, sufficiently re-established to do so. Should the reserve and surplus in the Pension Fund become exhausted and, at such time, the outgo of the Pension Fund exceeds the income thereto, then, in such event, the governing body of the city shall have the right, by ordinance duly passed, to dissolve the Pension System and require liquidation thereof without any liability to the city whatsoever.

Any member or survivor receiving a retirement pension may at his option, receive any smaller retirement pension after properly requesting same in writing to the Pension Board.

#### **Legal services**

Sec. 18. The City Attorney of such city shall handle all legal matters for the Pension System which are referred to him by the Pension Board or city without additional compensation therefor. The Pension Board may, however, if it deems necessary, employ outside legal advice to the exclusion of, or to assist, the City Attorney, and pay reasonable compensation therefor out of said Pension Fund.

#### **Actuary**

Sec. 19. Such Pension Board may, at its discretion, from time to time, employ an actuary which cost shall be paid for by the city. The governing body of the city may require that an actuarial study, survey and report be made of such Pension System not more than once every five (5) years.

#### **Exemption from execution, attachment or other writ**

Sec. 20. No portion of any such Pension Fund, either before or after its order of disbursement by said Pension Board, and no amounts due or to become due any beneficiary or pensioner, under this Act, shall ever be held, seized, taken, subjected to, detained, or levied upon by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, or any process or proceeding whatsoever, shall issue out of or by any court of this state for the payment or satisfaction in whole or in part out of said Pension Fund, of any debt, damage, claim, demand, or judgment against any such members, pensioners, dependents, or any person whomsoever, nor shall such Pension Fund or any part thereof, or any claim thereto, be directly or indirectly assigned or transferred and any attempt to transfer or assign the same or any part thereof; or any claim thereto, shall be void. Said Fund shall be sacredly held, kept, and disbursed for the purposes provided by this Act, and for no other purpose whatsoever.

#### **Members in military service**

Sec. 21. Members of the Pension System engaged in active military service shall not be required to make the monthly payments into the Pension Fund provided for in this Act, nor shall they lose any previous years of service with the city caused by such military service. Furthermore, the city shall not be required to make any monthly payments into the Pension Fund on such member while he is engaged in the military service. Any member who engages in active military service shall, if he returns to employment by the city within three (3) months after termination of such service, receive credit for his time in such service and shall immediately at the beginning of his first full pay period begin repaying to the Pension Fund the equivalent of all monthly contributions for the total of the number of months elapsed since he went into such service, such repayment to be completed within twenty-four (24) months of re-employment, and the city shall pay into the

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Fund one and one-half ( $1\frac{1}{2}$ ) times such amount. Credit for military service shall be limited to twenty-four (24) months, unless such period is extended by the Pension Board.

#### Employment on retirement when act enacted

Sec. 22. Subject to the provisions of Section 17, any former employee of any city now on retirement by such city shall hereafter be paid at the same rate he is now receiving and it is not the intention of this Act to change the status of any member now on pension by such city.

#### Cities with pension provisions in their charter

Sec. 23. The terms of this Act shall not apply to any city operating a municipal employees pension program under the terms and provisions of their charter. As amended Acts 1965, 59th Leg., p. 246, ch. 107, § 1, emerg. eff. May 3, 1965.

### Art. 6243g—1. Police Officers' Pension Systems in cities of 900,000 or more

#### Creation of fund

Section 1. For the purposes of this Act, there is hereby created in this State a special fund to be known and designated as the Police Officers' Pension Fund in each city in this State having a population of nine hundred thousand (900,000) inhabitants or more according to the last preceding or any future Federal Census, unless any such city now has in operation a police, firemen and fire alarm operators pension system organized under another law.

#### Definitions

Sec. 2. The following words and phrases when used in this Act are defined as follows, to wit:

(a) "Pension System" means the retirement, allowance, disability and pension system for employees of any police department coming within the provisions of this Act.

(b) "Member" means any and all employees in the police department provided for and becoming members thereof.

(c) "Pension Board" or "Board" means the Pension Board of the Pension System created under the Act for the purpose of administering the Pension System.

(d) "Service" means the services and work performed by a person employed in the police department.

(e) "Pension" means payments for life to the police department member out of the Pension Fund provided herein and becoming eligible for such payments.

(f) "Separation from Service" means cessation of work for the city in the police department, whether caused by death, discharge or resignation, or transfer to any other department of the city.

(g) The use of the masculine gender includes the feminine gender.

#### Membership

Sec. 3. (a) Any person who holds a classified position in the police department of such city shall automatically become a member of the Police Officers' Pension System upon the effective date of this Act.

(b) Any person who hereafter becomes an employee, and is appointed to a classified position in the police department shall automatically be-

come a member of the Police Pension System as a condition of his employment.

(c) Employees of such police department who may not become members of the Pension System shall include part-time, seasonal or other temporary employees.

#### Pension board

Sec. 4. (a) There is hereby created a Pension Board of the Pension System, in which Board there is hereby vested the general administration, management, and responsibility for the proper and effective operation of the Pension System. The Board shall be organized immediately after its members have qualified and taken the oath of office and shall serve without compensation.

(b) The Pension Board shall be composed of seven (7) members as follows:

(1) The administrative head of the city, or his authorized representative.

(2) Three (3) employees of the police department having membership in the Pension System and elected by the members of such police department and system.

(3) Two (2) legally qualified taxpaying voters of such city, residents thereof for the preceding three (3) years, to be chosen by the elected members of the Pension Board, being neither employees nor officers of such city.

(4) The city treasurer of the city, or the person discharging the duties of the city treasurer.

The terms of office of the elected members of the Pension Board shall be three (3) years, provided, however, that at the first election after the effective date of this Act, one such elected member shall be elected to a term of one year; one such elected member shall be elected to a term of two (2) years; and one such elected member shall be elected to a term of three (3) years. Thereafter, at an annual election called by the Chief of Police, and held during the month of December, one member shall be elected to a three-year term.

The term of office of appointed members of the Board shall be two (2) years, such appointments shall be made by the elected members of the Board and shall commence on the first day of January after the effective day of this Act.

The term of office of the Board members statutorily provided for, shall be and continue so long as such member holds the position defined in this Act for automatic members of such Board.

(c) Each member of the Pension Board within ten (10) days after his appointment or election shall take an oath of office that he will diligently and honestly administer the affairs of the Pension System and that he will not knowingly violate, or willingly permit to be violated, any of the provisions of this Act.

(d) The Board shall elect from its membership, annually, a chairman, vice-chairman and secretary. Pursuant to the powers granted under the charter of such city, the mayor or administrative head of the city shall appoint one or more employees whose positions and salaries shall be fixed by the governing body of the city and who, acting under the direction of the mayor or administrative head of the city and treasurer or director of the treasury shall keep all of the records of and perform all of the clerical services for the Pension System. The salaries of such employees shall be paid by the city.

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(e) Each member of the Board shall be entitled to one vote in the Board, four (4) concurring votes shall be necessary for a decision by the members at any meeting of the Board and four (4) members shall constitute a quorum.

(f) A meeting of the Pension Board may be called at any time by the chairman, secretary, or any four (4) members of the Board.

(g) Notice shall be given to all members of the Pension Board, unless waived in writing, as to any proposed meeting, by the depositing of a written notice in the United States mail at least forty-eight (48) hours before such meeting, properly addressed to each member. If a meeting is had, however, at which all of the members of the Board attend, no notice shall be necessary.

(h) No moneys shall be paid out of the Pension Fund except by warrant, check, or draft signed by the treasurer and counter-signed by the chairman or secretary, upon an order by the Pension Board duly entered in the minutes.

(i) The Pension Board shall determine the prior service to be credited to each present employee of the police department who becomes a member of the Pension System. The Board shall rely upon the personnel records of the city in determining such prior-service credits. After obtaining the necessary information the Board shall furnish each member of the Pension System with a certificate showing all prior-service credits authorized and credited to such member. Such member may, within one year from the date of issuance or modification of such certificate, request the Board to modify or change his prior-service certificate, otherwise such certificate shall be final and conclusive for retirement purposes as to such service.

#### Treasurer

Sec. 5. The city treasurer or director of the treasury is hereby designated as the treasurer of the Pension Fund for the Police Officers' Pension System, and his official bond to the city shall operate to cover his position as treasurer of such Pension Fund and his sureties shall be liable in connection with the treasurer's actions pertaining to such Fund as fully as they are liable under the term of the bond for the other actions and conduct of the treasurer. All moneys of every kind and character collected or to be collected for the Fund shall be paid over to the treasurer and shall be administered and paid out only in accordance with the provisions of this Act.

#### Contributions by members

Sec. 6. Commencing with the first of the month following the expiration of thirty (30) days after the passage of this Act or after the date of publication of the final census report which shows that the city has attained a population of nine hundred thousand (900,000) or more inhabitants, each member of the Pension Fund shall pay into such Fund each month, the sum of five per cent (5%) of the base salary provided for the classified position in the police department held by the member. Such payments shall be deducted by the city from the salary of each member monthly and paid to the treasurer of the Pension Fund. Should an emergency arise and the Pension Board deem it necessary for the welfare of the Pension System, the Board may raise the monthly payments of each member of the Pension System to an amount not to exceed seven and one-half per cent (7½%) of the base salary provided for the classified position in the police department held by the member.

**Monthly payment by city**

Sec. 7. In addition to the payments in the next preceding Section, the City shall pay monthly into the Pension Fund, from the general or other appropriate fund of the City, an amount equal to seven and one-half per cent ( $7\frac{1}{2}\%$ ) of the payroll of the police department. However, should the Police Pension Board deem it necessary for the welfare of the Pension System to increase the contributions of each member of the Police Pension System within the statutory limits of Section 6 of this Act, then the contribution made to the Police Pension System by the City shall, with the approval of the City Council, be increased by one and one-half ( $1\frac{1}{2}$ ) times the percentage increase in contribution of the members. As an example: If contributing members are assessed at a six per cent (6%) contribution rate, then the City shall, by appropriate Council action, raise its contribution to nine per cent (9%) of the payroll of the police department. However, in no event shall the City be required to pay into such Pension Fund any amount in excess of eleven and one-quarter per cent ( $11\frac{1}{4}\%$ ) of the payroll of the police department as the City's contribution to the Pension Fund, nor shall the City be required to raise its rate of contribution before the next budget year following the effective date of this Act.

**Reduction of benefits**

Sec. 8. In the event the Pension Fund becomes seriously depleted, in the opinion of the Pension Board, the Pension Board may proportionately and temporarily reduce the benefits of all pensioners and beneficiaries, but such reductions shall thereafter be paid to such pensioners and beneficiaries as and when the Fund is, in the opinion of the Pension Board, sufficiently re-established to do so.

**Investment of surplus**

Sec. 9. Whenever in the opinion of the said Pension Board, there is on hand in said Pension Fund a surplus over and above a reasonably safe amount to take care of current demands upon such funds, such surplus, or so much thereof as in the judgment of the said Pension Board is deemed proper, may be invested in bonds or other interest-bearing obligations and securities of the United States, the State of Texas, or any county, city or other political subdivision of the State of Texas, or in first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, as amended from time to time and in such corporation bonds, preferred stocks and common stocks as the Pension Board may deem to be proper investments for said funds. The funds may also be invested in a sum not to exceed ten per cent (10%) with a Federal credit union restricted to employees of the city. In making each and all such investments, such Pension Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital; provided, however, that not more than fifty per cent (50%) of said funds shall be invested at any given time in corporate stocks and bonds, nor shall more than five per cent (5%) of said funds be invested in securities issued by any one (1) corporation, nor more than five per cent (5%) of the voting stock of any one (1) corporation be owned; and provided further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase, and which, except for bank stocks and insurance stocks, are listed

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upon an exchange registered with the Securities and Exchange Commission or its successors.

#### Investment review committee

Sec. 9a. The Mayor shall appoint an Investment Review Committee, consisting of three (3) qualified persons to be selected from the Trust Departments of the banks of the City of Houston, Texas. Such persons shall be experienced in securities and investment matters. The Investment Review Committee shall be appointed for a two-year term. Such Committee shall (a) review the investments of the Fund to determine their suitability and desirability for the Fund; (b) review the investment procedures and policies pursued by the Board in the administration of the Fund; and (c) submit an annual report of its findings and recommendations to the Pension Board of the Houston Police Officers' Pension System and the Mayor of the city within ninety (90) days after the end of each calendar year.

#### Transfer of existing pension fund

Sec. 10. Immediately upon passage of this Act, the city pension officer or anyone discharging the duties of the pension officer shall transfer the pro rata share of any existing pension fund to the Police Officers' Pension Fund.

#### Retirement; amount of pension

Sec. 11. (a) From and after the passage of this Act, any member of such Pension System who has been in the service of the city police department for the period of twenty (20) years shall be entitled to a retirement pension of an amount equal to thirty per cent (30%) of the base salary provided for the classified position in the police department held by the member, provided that if the member has not held the same classified position for five (5) years prior to the date of retirement, the retirement pension shall be based on the average monthly base salary of the member for the five (5) years preceding retirement.

(b) From and after the passage of this Act, any member of such Pension System who has been in the service of the city police department for a period of years in excess of twenty (20) years, and who elects to retire from the service of the police department, shall in addition to the thirty per cent (30%) of his base salary be paid an additional sum equal to one per cent (1%) of his base salary per month for each year of service in the police department in excess of twenty (20) years. For example, a member with twenty-five (25) years' service would be entitled to thirty-five per cent (35%); a member with thirty (30) years, forty per cent (40%); etc.

(c) It shall be compulsory for any member to retire from the service of the police department upon attaining the age of sixty-five (65) years. Failure of any member of the Pension System to comply with this provision shall deprive the member and his dependents of any of the benefits provided for herein. If at the time of retirement because of maximum age requirements, the member has completed less than twenty (20) years of service, his monthly retirement pension shall be prorated on the basis of one and one-half per cent (1½%) of the base salary of the position of the member per month for each year of service completed.

(d) Upon a member's completion of twenty (20) years of service in the police department, the Pension Board shall issue to the member a certificate showing that he is entitled to the retirement pension. Thereafter when such member retires, whether such retirement be voluntary or involuntary, such monthly payment shall begin forthwith and continue for the remainder of the member's life. However, when such member has

completed twenty (20) years service in the police department and if the physicians of the Pension Board agree that the member is physically fit to continue his active duties in the police department, they may so certify, and the member may continue in the service of the city police department until the member attains the age of sixty-five (65) years, at which time his retirement pension shall be computed as hereinbefore stated.

(e) No member shall be required to make any payments into the Pension Fund after the member has received the aforesaid certificate and the member has retired from the service of the police department.

#### Disability benefits

Sec. 12. Any member of the police department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by, the performance of his duty shall, upon presentation to the Pension Board of proof of permanent disability, be retired and shall receive a retirement allowance equal to the percentage of his disability. Such allowance shall be computed on the same basis as a service retirement with regard to length of service; for example, if the member is fifty per cent (50%) disabled he shall receive one-half ( $\frac{1}{2}$ ) the retirement allowance granted a member as a service retirement for the period of service he has completed, provided that in case of a disability retirement before the member has completed twenty (20) years of service, he shall receive an allowance based on the minimum allowed for twenty (20) years' service. Such allowance as is granted by the Pension Board shall be paid the member for the remainder of his life or so long as he remains incapacitated. When any member has been retired for permanent, total or partial disability, he shall be subject at all times to re-examination by the Pension Board and shall submit himself to such further examination as the Pension Board may require. If any member refuses to submit himself to any such examination, the Pension Board may, within its discretion, order the payments stopped. If a member who has been retired under the provisions of this Section should thereafter recover, so that in the opinion of the Pension Board he is able to perform the usual and customary duties formerly handled by him for the city in the police department, and such member is reinstated or tendered reinstatement to the position he held at the time of his retirement, then the Pension Board shall order such payment stopped. No person shall be retired either for total or partial disability unless he files with the Pension Board an application for allowance, at which time the Pension Board shall have him examined by no fewer than three (3) physicians, to be chosen by the Pension Board and who are to make their report to the Pension Board.

#### Rights of survivors

Sec. 13. (a) If any member of the police department who has been retired on allowance because of length of service or disability thereafter dies from any cause whatsoever, or dies from any cause whatsoever after he has become entitled to an allowance or pension certificate, or if while in service any member dies from any cause growing out of or in consequence of the performance of his duty, and leaves surviving a widow, a child or children under the age of eighteen (18) years or a dependent parent, the Board shall order paid a monthly allowance as follows: (a) to the widow, so long as she remains a widow, a sum equal to the allowance which was granted to the member at the time of retirement or which would have been granted to the member upon service or disability pension based on his length of service in the police department; (b) to the guardian of each child, the sum of Fifteen Dollars (\$15) a month until the child reaches the age of eighteen (18) years or marries; (c) to the dependent parent, only in case no widow is entitled to allowance, the sum



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the widow would have received, to be paid to but one (1) parent and such parent to be determined by the Pension Board; and (d) in the event the widow dies after being entitled to her allowance, or in the event there be no widow or dependent parent to receive such allowance, then the amount to be paid to the guardian of any dependent minor child or children under the age of eighteen (18) years shall be increased to the sum of Twenty-five Dollars (\$25) per month for each dependent child, provided that such minor child under eighteen (18) years of age is unmarried. Allowance or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries.

(b) If any member of the Pension System has not completed ten (10) years or more years of service in the police department and is killed or dies from any cause growing out of or in consequence of any act which is clearly not in the actual performance of his official duty, his surviving widow and/or dependent child or children shall be refunded any contributions which the member made to the Pension System, provided that only contributions made by the member himself shall be refunded.

#### Computation of length of service

Sec. 14. In computing the length of service required for retirement pension, continuous service shall be required; provided, however, that in case of interruption of less than two (2) years, credit shall be given for previous service. If out of service more than two (2) years, no service prior to the interruption shall be counted, other than as provided in Section 22.

#### Termination of employment; re-employment

Sec. 15. When any member of the Pension System leaves the employment of the police department other than as provided for in Section 12 or Section 22, either voluntarily or involuntarily, before becoming eligible for a retirement or disability pension, he shall cease to be a member of the Pension System. No member leaving the employment of the police department and the membership in the Pension System shall be refunded any money paid by the member into the System as contributions or any of the moneys paid into the System by any source except as stated in Section 13(b) and in Section 22. If such person is thereafter re-employed by the city police department, he shall thereupon be reinstated as a member of such Pension System provided he is in good physical and mental condition as evidenced by a written certificate executed under oath by a duly licensed and practicing physician or physicians in the city, satisfactory to the Pension Board. Prior service of such member with the city police department shall not be counted toward his retirement pension unless such member returns to the service within two (2) years from his separation therefrom and makes within six (6) months after his re-employment by the city in the police department written application to the Pension Board for reinstatement in the Pension System.

#### Transfer from another department

Sec. 16. No prior credit shall be allowed for service to any person who transfers from some other department in the city to the police department. For example, if one is transferred from some other department of the city to the city police department, such person's service will be computed from the day he enters the city police department.

#### Donations

Sec. 17. The Police Officers' Pension System may accept gifts and donations, and such gifts and donations shall be added to the Pension Fund for the use of such system.

**Conviction of felony**

Sec. 18. Whenever any person who has been granted an allowance hereunder is convicted of a felony, then the Board shall order the allowance so granted or allowed such person discontinued, and in lieu thereof shall order to be paid to his wife or dependent child, children, or dependent parent the amount herein provided to be paid such dependent or dependents in case of the death of the person so originally granted or entitled to allowance.

**Legal advice**

Sec. 19. The city attorney of the city shall handle all legal matters for the Pension System which are referred to him by the Pension Board or city without additional compensation therefor. The Pension Board may, however, if it deems necessary, employ outside advice to the exclusion of, or to assist, the city attorney, and pay reasonable compensation therefor out of the Pension Fund.

**Exemption of benefits from execution, etc.; assignment**

Sec. 20. No portion of the Pension Fund, either before or after its order of disbursement by the Pension Board, and no amounts due or to become due any beneficiary or pensioner under this Act, shall be held, seized, taken, subjected to, detained, or levied upon by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, and no process or proceedings whatsoever, shall issue out of or by any court of this State for the payment or satisfaction, in whole or in part, out of the Pension Fund, of any debt, damage, claim, demand, or judgment against any members, pensioners, dependents, or any person whomsoever, nor shall such pension funds or any part thereof or any claim thereto, be directly or indirectly assigned or transferred. Any attempt to transfer or assign the same or any part thereof or any claim thereto shall be void. The Pension Fund shall be sacredly held, kept, and disbursed for the purposes provided in this Act, and for no other purpose whatsoever.

**Actuary**

Sec. 21. Such Pension Board may employ an actuary and pay his compensation therefor out of the Pension Fund no more than once every ten (10) years.

**Members in military service**

Sec. 22. Members of the Pension System engaged in active military service shall not be required to make the monthly payments into the Pension Fund provided for in this Act, nor shall they lose any previous years' service with the city caused by such military service. Such military service shall count as continuous service in the police department provided that when the member is discharged from the military service, he shall return to the city police department under provisions of the city charter, and his military service shall not exceed the national emergency for that period of military service. The city, however, shall be required to make its regular monthly payments into the Pension Fund on each member while he is engaged in the military service. In the event of death of a member of the Pension System, either directly or indirectly caused from such military service, his widow or dependent parent or other dependents shall be entitled to receive a refund as stated in Section 13(b).

**Actions for funds misapplied, etc.**

Sec. 23. The Pension Board shall have the power and authority to recover by civil action from any offending party, or from his bonds-

For Annotations and Historical Notes, see V.A.T.S.

man, if any, any moneys paid out or obtained from the Pension Fund through fraud, misrepresentation, theft, embezzlement, or misapplication, and may institute, conduct and maintain such action in the name of the Board for the use and benefit of such funds.

**Former employees on retirement when act enacted**

Sec. 24. The former employees of any such police department now on retirement shall hereafter be paid a monthly pension out of the Pension Fund provided for herein in the same amount and under the same conditions as are provided herein for present and future employees of the Police Department becoming members of the Pension System. Re-enacted and amended Acts 1963, 58th Leg., p. 1262, ch. 485, as amended Acts 1965, 59th Leg., p. 640, ch. 315, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 6243h. Texas Municipal Retirement System**

**Revenue**

**Sec. IV. 1.**

\* \* \* \* \*  
 (h) Repealed. Acts 1965, 59th Leg., p. 1571, ch. 682, § 3. Eff. Jan. 1, 1966.

\* \* \* \* \*  
 (i) The rate of contribution required of members of the participating departments of any participating municipality may be reduced from a higher rate of contribution theretofore prescribed by ordinance, to one of the lower rates of contribution authorized by this Act, following an election by secret ballot, conducted under such rules and regulations as may be adopted and promulgated by the Board of Trustees of the System, provided the proposal to reduce the rate of contribution carries by affirmative vote of two-thirds of all the members of the affected participating departments of such city; and provided further that the municipality by ordinance shall so provide. Such reduction in the rate of contribution may be made effective at the beginning of a designated calendar month, provided that the election above required shall have been held and such ordinance shall have been adopted at least ninety (90) days before the date fixed for reduction of contributions, and provided that written notice of such reduction shall have been given to the Director at least sixty (60) days before the date on which such reduction is to be made effective. As amended Acts 1965, 59th Leg., p. 1571, ch. 682, § 1, emerg. eff. June 18, 1965.

2. (a) Each participating municipality shall make normal contributions to the System of a percentage (determined as hereinafter provided) of each payment of earnings made to each member by such municipality and shall make Prior Service contributions to the System of a percentage (determined as hereinafter provided) of each payment of earnings made to each member by such municipality, subject to the limitation that the total of such percentages shall not exceed nine and one-half per centum (9½%) of earnings in the event the rate of current service deposits required of employees of its participating departments is seven per centum (7%) of earnings; and that the total of such percentages shall not exceed seven and one-half per centum (7½%); in the event the rate of current service deposits required of employees of its participating departments is five per centum (5%) of earnings; and that the total of such percentages shall not exceed five and one-half per centum (5½%) in the event the current service deposit rate prescribed for members of participating departments is three per centum (3%) of earnings. The above percentages for each participating municipality shall be determined annually from the

most recent data available at the time of such determination, and shall be certified by the Board to each participating municipality prior to the beginning of each calendar year. As amended Acts 1965, 59th Leg., p. 1571, ch. 682, § 2, emerg. eff. June 18, 1965.

\* \* \* \* \*

Method of financing

Sec. V.

\* \* \* \* \*

8. Expense Fund:

"The Expense Fund shall be the Fund from which the expenses of administration and maintenance of the System shall be paid. Transfers to and payments from this Fund shall be made as follows:

(a) The Director shall prepare annually an itemized budget showing the amount required to defray the expenses for the ensuing fiscal year and shall submit the report to the Board for its review, amendment and adoption.

(b) The amount estimated to be required to meet the expenses of the System shall be paid from the interest reserve account of the Endowment Fund to the extent available. The Board, as evidenced by a resolution of the Board recorded in its minutes, may transfer to the Expense Fund the amount required to cover the expenses as estimated for the year.

(c) If the amount estimated to be required to meet said expenses of the system is in excess of the amount in the interest reserve account of the Endowment Fund, the Board, by a resolution recorded in its minutes, shall assess the estimated additional amount against the participating municipalities in proportion to the number of members as provided in Section IV of this Act. As amended Acts 1965, 59th Leg., p. 1571, ch. 682, § 4, emerg. eff. June 18, 1965.

Optional provision for increased current service annuities

Sec. XIV. Any participating municipality electing to do so may provide for an increased current service annuity reserve at retirement of employees of such municipality, upon the following terms and conditions:

1. The council by ordinance may provide that for each month of current service thereafter rendered by its participating employees, the city will contribute out of its account in the Municipality Current Service Accumulation Fund to the current service annuity reserve of each such member if he retires and at the time of his retirement a sum that is either (at the option of the employing municipality) one hundred fifty per centum (150%) of the accumulated deposits of the member for such month of employment, or two hundred per centum (200%) of the member's accumulated deposits for such month.

2. In the event an employing municipality elects to contribute toward a current service annuity for its employees at the increased rate above provided, the current service annuity reserve of each such employee-member at his retirement (whether for service or for disability) shall consist of:

(a) The accumulated deposits credited to his account in the Employee's Saving Fund at the time of his retirement, which deposits shall be transferred at such time to the Current Service Annuity Reserve Fund; and

(b) An additional sum which shall be the aggregate of the following: (i) an amount equal to the accumulated deposits made by the member during each month of current service in which the participating municipality for which such service was rendered has undertaken to match such deposits on an equal basis; plus (ii) an amount one and one-half

For Annotations and Historical Notes, see V.A.T.S.

times the member's accumulated deposits arising out of periods of employment during which the employing participating municipality had elected to contribute at one hundred fifty per centum (150%) of the deposits made by the employee-member; plus (iii) an amount twice the member's accumulated deposits arising out of periods of employment during which the employing participating municipality had elected to contribute as above provided on a basis of two hundred per centum (200%) of the deposits made by the employee-member.

Upon retirement of any such employee-member, such aggregate sum shall be transferred from the Municipality Current Service Accumulation Fund into the Current Service Annuity Reserve Fund, and the account of the affected participating municipality in the Municipality Current Service Accumulation Fund shall be reduced by the amount so transferred; if the accumulated deposits of the member arose from service rendered in more than one participating municipality, the accounts of the affected participating municipalities in the Municipality Current Service Accumulation Fund shall be reduced by the respective amounts chargeable to such participating municipalities.

3. The current service annuity of any member affected by this section shall mean the annuity, actuarially determined of the total of his own transferred deposits, and those transferred out of the Municipality Current Service Accumulation Fund on account of his service.

4. In the event any participating municipality elects to provide for the greater current service annuities herein authorized, it shall make normal contributions monthly to the System in the manner prescribed by Paragraph (b), Subsection 2 of Section IV hereof, but as to such municipality the term 'present and prospective liabilities' shall include the liabilities defined in Section IV hereof and the additional amounts arising out of its undertaking to contribute (at retirement) one hundred fifty per centum (150%) and two hundred per centum (200%) of its members' accumulated deposits for the periods designated by the municipality.

5. Any participating municipality which has elected for any year to contribute (at retirement) one hundred fifty per centum (150%) of its members' accumulated deposits arising from service during such period, shall be liable for total contributions at a rate per centum of earnings which shall not exceed two per centum (2%) more than the otherwise applicable maximum rate prescribed by Paragraph (a), Subsection 2 of Section IV hereof, and for any year in which the municipality has elected for any year to contribute (at retirement) two hundred per centum (200%) of its members' accumulated deposits arising from service during such year, the municipality shall be liable for total contributions at a rate per centum of earnings which shall not exceed four per centum (4%) more than the otherwise applicable maximum rate prescribed by Paragraph (a) of Subsection 2 of Section IV.

6. No municipality shall undertake to make the increased contributions allowed under this Section until it shall have been a participating municipality of the System for at least three calendar years. The increased rate of contributions authorized hereunder shall only be made effective at the beginning of a calendar year, and provided notice of such proposed increase has been authorized by adoption of the ordinance at least ninety (90) days prior to the date of proposed increase, and notice of such proposed increase is given in writing to the Director of the System at least sixty (60) days prior to the beginning of the year in which such rate is to be made effective.

7. A participating municipality may revert to current-service contributions on an equal-matching basis, or reduce from two hundred per centum (200%) matching to one hundred fifty per centum (150%) match-

ing of deposits as to any service rendered by its members or after the 1st day of January of the ensuing calendar year after adoption of an ordinance terminating (as to such future service) contributions at the higher percentages allowed under this Section; provided such ordinance shall have been adopted at least ninety (90) days (and notice of such reduction is given by the municipality to the Director of the System at least sixty (60) days) before the 1st day of January on which it is proposed to reduce the rate of contributions under this Section. Added Acts 1965, 59th Leg., p. 1571, ch. 682, § 5, emerg. eff. June 18, 1965.

**TITLE 110A—PUBLIC OFFICERS**

Art. 6252—12a. Automatic data processing systems [New].	Art. 6252—15. Use of state-owned aircraft for political purposes [New].
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**Art. 6252—12a. Automatic data processing systems**

**Purpose of act**

Section 1. The purpose of this Act is to provide for the orderly development and management of automatic data processing systems in Texas state government, to eliminate duplication in the collection, storage and processing of data, and to increase the accessibility and usefulness of the information to be derived from the data.

**Automatic data processing systems division; establishment; director and analysts**

Sec. 2. There shall be established in the office of the State Auditor an Automatic Data Processing Systems Division (hereafter referred to as the Systems Division). For the operation of this Division the Auditor shall employ a Systems Director within limits of legislative appropriations and subject to the prior approval of the Legislative Audit Committee. The Auditor shall also employ highly qualified systems analysts, and such other personnel as he may deem necessary for the Systems Division's successful operation.

**Duties of division**

Sec. 3. The Systems Division shall have and maintain comprehensive current information relating to all automatic data processing systems, equipment, etc. It shall serve in an advisory capacity in the determining of the actual needs for and the feasibility of all installations of automatic data processing equipment, to the end that each agency should be able to attain most efficient and economical operations in its system of data collecting, processing, and storing.

The Systems Division shall develop and maintain orderly and continuing plans for ending unnecessary duplication, by and between State agencies, of staff and equipment used for data collection, processing, and storage. It shall also advise as to the economic feasibility of the installing, either in an agency or by cooperative agreements between agencies, of automatic data processing services for agencies not having such installations, or having partial installations.

**Cooperation with systems division**

Sec. 4. It shall be the duty of each State agency to cooperate fully with the Systems Division to provide full and accurate information of current or planned use of automatic data processing equipment, systems, and staff, and to make available all other information the Division may deem necessary for complete and accurate evaluation of automatic data processing by State agencies, for the development of a continuing plan, and for the possible eventual implementation of a comprehensive Data Processing Center or Centers.

**Annual current status report; recommendations**

Sec. 5. The Systems Division of the Auditor's office shall submit annually, on or before June 1, to the Legislative Budget Board and the Governor's Budget Division a current status report on the accomplishments of the Systems Division. With the report of the even-numbered years

the Division shall also file with the Legislative Budget Board and Governor's Budget Division specific recommendations for the further accomplishing of purposes of this Act.

**Effective date**

Sec. 6. This Act shall be effective from and after September 1, 1965.

**Repeal of conflicting laws**

Sec. 7. Chapter 324, Acts of the 56th Legislature, Regular Session, 1959 (codified as Article 4344b, Vernon's Revised Civil Statutes), is hereby repealed to the extent of conflict with this Act, and all other laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict. Acts 1965, 59th Leg., p. 685, ch. 325, eff. Sept. 1, 1965.

**Title of Act:**

An Act relating to automatic data processing systems for state agencies; providing for the establishment of the Automatic Data Processing Systems Division in the office of the State Auditor; providing that the Auditor shall develop orderly plans for the development and management of automatic data processing systems in state agencies; describing the duties, responsibilities and authority of the State Auditor and other state agencies with the

respect to utilization and acquisition of automatic data processing systems and equipment; providing an effective date; repealing, to the extent of any conflict herewith, Chapter 324, Acts of the 56th Legislature, Regular Session, 1959 (codified as Article 4344b, Vernon's Revised Civil Statutes), and other laws in conflict; containing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 685, ch. 325.

**Art. 6252—13. Administrative rules and regulations; adoption; filing**

**Definitions**

Section 1. For the purpose of this Act:

(a) "Agency" means any state board, commission, department, or officer, authorized by law to make rules, except those in the legislative or judicial branches or institutions of higher education.

(b) "Rule" is hereby defined to mean and shall include only rules and regulations promulgated or adopted by any agency governing or relating to rules of procedure or practice before such agency, or to govern its organization or procedure, including the amendment, change, or repeal thereof, whether with or without prior hearing; provided that such definition shall not include or be applicable to rules, regulations, orders, rates, standards, or classifications adopted, promulgated, or prescribed by any agency to properly perform its statutory duties or to implement or make specific the law enforced or administered by any such agency, or to rules, regulations, or orders concerning the internal management of the agency and not directly affecting the rights of or procedure available to the public.

**Adoption of Rules**

Sec. 2. In addition to the rule-making requirements imposed or authorized by law:

(a) Each agency shall adopt rules concerning the formal and informal procedures, including rules of practice before the agency. Such rules may include forms and instructions so far as deemed practical.

(b) To assist interested persons dealing with it, each agency shall, so far as deemed practicable, supplement its rules with descriptive statements of its procedures.

(c) Prior to the adoption of any rule as defined in Section 1(b) hereof or the amendment or repeal thereof, the adopting agency shall, so far as practical, publish or otherwise circulate notice of its intended action and afford interested persons opportunity to submit data or views orally or in writing.



**Filing and taking effect of rules**

Sec. 3. (a) Within ninety (90) days after the effective date of this Act each agency which has not previously filed a copy of any such rule with the Secretary of State shall file in the office of the Secretary of State a certified copy of each rule as defined herein and adopted by it. The Secretary of State shall keep a permanent file, register, or record of such rules open to public inspection.

(b) Each rule adopted after the effective date of this Act shall take effect not less than thirty (30) days after filing.

**Rules not in conformity with Act**

Sec. 4. Any rule as defined herein made by any agency not in conformity with this Act shall be void and of no effect.

**Failure to file rules; rules under litigation**

Sec. 5. All rules, regulations, orders, rates, standards or classifications duly adopted, promulgated or prescribed by any agency to properly perform its statutory duties or to implement or make specific the law enforced or administered by it and in effect on or issued subsequent to August 31, 1961, and prior to the effective date hereof shall not be held invalid by reason of the failure of such agency to file a certified copy of said rule, regulation or order with the Secretary of State as required by House Bill No. 261, Acts 57th Legislature, Regular Session, 1961, Chapter 274; provided, however, the provisions of this Section shall not apply to any rule, regulation, order, rate, standard or classification, the validity of which was in litigation on August 31, 1961, unless such rule, regulation, order, rate, standard or classification was filed on or before the date on which it was required to be filed by the provisions of House Bill No. 261, Acts 57th Legislature, Regular Session, 1961, Chapter 274. As amended Acts 1962, 57th, Leg., 3rd C.S., p. 90, ch. 31, § 1.

**Art. 6252—15. Use of state-owned aircraft for political purposes**

No State-owned aircraft, nor any State funds, shall be used solely for political purposes; providing that if this provision is violated such person so violating this Act shall be civilly liable to the State of Texas for the cost thereof. Acts 1965, 59th Leg., p. 1025, ch. 510, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 1 of the act of 1965 provided: "There is hereby appropriated from the State Treasury from funds not otherwise appropriated the sum of Two Hundred and Seventy-five Thousand Dollars (\$275,000) to be used for the acquisition of a twin engine executive type airplane and an additional One Hundred and Fifty Thousand

Dollars (\$150,000) for the operation of the airplane to be used by the Governor or as he directs."

**Title of Act:**

An Act relating to the acquisition and use of certain aircraft; making other provisions relating to State-owned aircraft; making an appropriation; and declaring an emergency. Acts 1965, 59th Leg., p. 1029, ch. 510.

## TEXAS PROBATE CODE

## CHAPTER II—DESCENT AND DISTRIBUTION

## § 47. Passage of Title Upon Simultaneous Death

(b) **Disposal of Community Property.** When a husband and wife have died, leaving community property, and there is no direct evidence that they have died otherwise than simultaneously, one-half of all community property shall be distributed as if the husband had survived, and the other one-half thereof shall be distributed as if the wife had survived. The provisions of this subsection apply to proceeds of life or accident insurance which are community property and become payable to the estate of either the husband or the wife, as well as to other kinds of community property. As amended Acts 1965, 59th Leg., p. 279, ch. 119, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

(e) **Insured and Beneficiary.** When the insured and a beneficiary in a policy of life or accident insurance have died and there is no direct evidence that they have died otherwise than simultaneously, the insured shall be deemed to have survived the beneficiary for the purpose of determining the rights under the policy of the beneficiary or beneficiaries as such. The provisions of this subsection shall not prevent the application of subsection (b) above to the proceeds of life or accident insurance which are community property. As amended Acts 1965, 59th Leg., p. 279, ch. 119, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

CHAPTER V—PROBATE, GRANT OF ADMINISTRATION,  
AND GUARDIANSHIP

## PART 3. ESTATES OF MINORS AND INCOMPETENTS

## § 109. Persons Qualified to Serve as Guardians

(a) **Natural Guardians.** If the parents live together, the father is the natural guardian of the person of the minor children by the marriage, and one of the parents, which may be either the father or the mother, is entitled to be appointed guardian of their estates. In event of disagreement as to which parent shall be appointed, the court shall make the appointment on the basis of which one is the better qualified to serve in that capacity. If one parent is dead, the survivor is the natural guardian of the person of the minor children, and is entitled to be appointed guardian of their estates. The rights of parents who do not live together are equal; the guardianship of their minor children shall be assigned to one or the other, the interest of the children alone being considered. As amended Acts 1965, 59th Leg., p. 689, ch. 327, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

CHAPTER VI—SPECIAL TYPES OF ADMINISTRATION  
AND GUARDIANSHIP

## § 165. Bond of Community Administrator

The community administrator shall at the time the inventory, appraisal, and list of claims are returned, present to the court a bond with two or more good and sufficient sureties, payable to and to be approved by the judge and his successors in a sum as is found by the judge to be adequate under all the circumstances, or a bond with one surety in a sum as is found by the judge to be adequate under all the circumstances, if the surety is an authorized corporate surety, conditioned that such surviving spouse will faithfully administer such community estate and pay one-half the surplus thereof, after the payment of the debts with which the whole of such property is properly chargeable, to such person or persons as shall be entitled to receive same. As amended Acts 1965, 59th Leg., p. 717, ch. 339, § 1, emerg. eff. June 9, 1965.

CHAPTER VIII—PROCEEDINGS DURING ADMINISTRATION  
AND GUARDIANSHIPPART 10. INVESTMENTS, LOANS, AND CONTRIBUTIONS  
OF ESTATES OF WARDS

## § 390. Investment in Life Insurance or Annuities

(b) **New Insurance and Annuities.** The guardian of the estate may invest in policies of life, term, or endowment insurance, or in annuity contracts, or both, issued by a life insurance company as herein defined, or administered by the Veterans Administration, subject, however, to the following conditions and limitations:

(1) The guardian shall first apply to the court for an order authorizing the guardian to make such investment. The application shall include a report showing in detail the financial condition of the estate at the time such application is made; the name and address of the life insurance company from which the policy or annuity contract is to be purchased and that such company is then licensed by the State Board of Insurance to transact such business in this state, or that the policy or contract is administered by the Veterans Administration; a statement of the face amount and plan of the policy of insurance sought to be purchased and of the amount, frequency and duration of the annuity payments to be provided by the annuity contract sought to be purchased; a statement of the amount, frequency and duration of the premiums required by the policy or annuity contract; and a statement of the cash value of the policy or annuity contract at its anniversary nearest the twenty-first birthday of the ward, assuming that all premiums to such anniversary are paid and that there is no indebtedness against the policy or contract incurred in accordance with its terms.

(2) The policy or policies of insurance shall be on the life of the ward, his father, mother, spouse, child, brother, sister, grandfather, grandmother, or a person in whose life the ward may have an insurable interest.

(3) The ward, his or her estate, father, mother, spouse, child, brother, sister, grandfather or grandmother, and none other, shall be the beneficiary or beneficiaries of any such policy of insurance and of the death benefit of any such annuity contract, and the ward, and none other, shall be the annuitant in any such annuity contract.

(4) The control of any such policy or annuity contracts, and of the incidents of ownership therein, shall be vested in the guardian during the life and disability of the ward.

(5) The policy or annuity contract shall not be amended or changed during the life and disability of the ward except upon application to and order of the court. As amended Acts 1965, 59th Leg., p. 527, ch. 271, § 1, emerg. eff. May 28, 1965.

(c) **Old or Existing Insurance or Annuities.** If a policy of life, term or endowment insurance or a contract of annuity is owned by the ward when a proceeding for the appointment of a guardian is begun, and it is made to appear that the company issuing such policy or contract of annuity is a life insurance company as herein defined, or the policy or contract is administered by the Veterans Administration, it shall be lawful to continue such policy or contract in full force and effect. All future premiums may be paid out of surplus funds of said ward. Provided, however, that the guardian shall apply to the court for an order to continue said policy or contract, or both, according to their existing terms or to modify the same to fit any new developments affecting the welfare of the ward, and provided further, that before any such application is granted the guardian shall file a report in said court showing in detail the financial condition of the estate of the ward at the time the application is filed. As amended Acts 1965, 59th Leg., p. 527, ch. 271, § 1, emerg. eff. May 28, 1965.

## TITLE 112—RAILROADS

### CHAPTER EIGHT—RESTRICTIONS, DUTIES AND LIABILITIES

Arts. 6377, 6378. Repealed. Acts 1965, 59th Leg., p. 302, ch. 134, § 1.  
Eff. Aug. 30, 1965, 90 days after date of adjournment

Prior to repeal, article 6377 was amended by Acts 1941, 47th Leg., p. 1405, ch. 638, § 1.

**TITLE 116—ROADS, BRIDGES, AND FERRIES**

**CHAPTER ONE—STATE HIGHWAYS**

1A. CONSTRUCTION AND MAINTENANCE	Art.
Art. 6674u-1. Warning devices on public streets and highways; damaging or removing [New].	6675a-5d. Credit for license fees paid on motor vehicles subsequently destroyed [New].
2. REGULATION OF VEHICLES	6675a-6d. Temporary permits for commercial motor vehicles [New].
6675a-5c. Special personalized prestige license plates [New].	

**1. STATE HIGHWAY DEPARTMENT**

**Art. 6663a.** Photographic or microphotographic records; authority of Highway Department and Public Safety Department to make; destruction of original records

**Sec. 2a.** The State Highway Engineer, for the State Highway Department, and the Director of the Texas Department of Public Safety for the Texas Department of Public Safety, or their duly authorized representatives are hereby authorized to certify to the authenticity of any photograph or microphotograph herein authorized and shall make such charges therefor as may be authorized by law. Such certified records shall be furnished to any person who is entitled to receive the same under the law. As amended Acts 1965, 59th Leg., p. 192, ch. 77, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 6669. Engineer**

The Commission shall elect a State Highway Engineer who shall be a Registered Professional Engineer in the State of Texas and a competent civil engineer, experienced and skilled in highway construction and maintenance. He shall hold his position until removed by the Commission. He shall first execute a bond payable to the state in such sum as the Commission may deem necessary, to be approved by the Commission, and conditioned upon the faithful performance of his duties. He shall act with the Commission in an advisory capacity, without vote, and shall quarterly, annually and biennially submit to it detailed reports of the progress of public road construction and statement of expenditures. He shall be allowed all actual traveling and other expenses therefor, under the direction of the Department, while absent from Austin in the performance of duty under the direction of the Commission. As amended Acts 1965, 59th Leg., p. 689, ch. 328, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**1A. CONSTRUCTION AND MAINTENANCE**

**Art. 6674c-1.** Contributions from counties or political subdivisions for roads therein

**Section 1.** Any county, or any other political subdivision of this State, or political subdivision of any county, acting through its governing agency, may make, and the State Highway Commission, in its discretion, may accept, voluntary contributions of available funds from

such county, or any other political subdivision of this State, or political subdivision of any county for expenditure by the State Highway Commission in the proper development and construction of the public roads and State Highway System within such county, or any other political subdivision of this State, or political subdivision of any county. As amended Acts 1965, 59th Leg., p. 301, ch. 133, § 1, emerg. eff. May 6, 1965.

Section 2 of Acts 1965, 59th Leg., p. 301, ch. 133 provided: "All prior contracts, if any, between such parties wherein such voluntary contributions have been accepted and expended for such development and construction as is herein authorized are hereby validated in all respects."

Section 3 of the amendatory act of 1965 repealed all conflicting laws and parts of laws.

**Art. 6674u—1. Warning devices on public streets and highways; damaging or removing**

Section 1. In this Act,

(1) "Street or highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open for public use for purposes of vehicular travel or when under construction or repair and intended for public use for purposes of vehicular travel upon completion, and includes the space above and below the surface of a street used for all proper street purposes or under construction for use;

(2) "Person" means every natural person, firm, copartnership, association, or corporation and/or any officer, agent, independent contractor, employee, servant or trustee thereof;

(3) "Political subdivision" includes every county, municipality, local board, or other body of this State having authority to authorize the construction or repair of streets, highways or roads under the constitution and laws of this State;

(4) "Contractor" means every person engaged in the construction or repair of any street, highway or road of this State under contract with the state or any political subdivision of the State;

(5) "Public utility" means all telegraph, telephone, water, gas, light and sewage companies or cooperatives, or their contractors, and any other business presently or hereinafter recognized by the Legislature as a public utility.

Sec. 2. (a) No person may damage, remove, deface, carry away, or interfere or tamper with a barricade, flare pot, sign, flasher signal or any other device warning of construction, repair or detour on or adjacent to streets or highways of this State, after the device has been set out by a contractor or by the State or a political subdivision of the State or by a public utility.

(b) Subsection (a) of this section does not apply to any of the following persons acting within the scope and duty of their employment:

(1) an officer, agent, independent contractor, employee, servant, or trustee of the State;

(2) an officer, agent, independent contractor, employee, servant, or trustee of a political subdivision of the State;

(3) a contractor or a public utility.

Sec. 3. A person who violates a provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$1000, or by imprisonment in the county jail for not more than two years or both. Acts 1965, 59th Leg., p. 159, ch. 65.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to warning devices on public streets and highways; providing a penalty; and declaring an emergency. Acts 1965, 59th Leg., p. 159, ch. 65.

## 2. REGULATION OF VEHICLES

## Art. 6675a—2. Registration

(c-1). Owners of farm trailers and farm semitrailers with a gross weight exceeding 4,000 pounds but not exceeding 15,000 pounds and used solely to transport cotton from the place of production to the place of process, market or storage thereof, may operate or move such vehicles temporarily upon the highways without the payment of the regular registration fees as prescribed by law, provided the owners of such farm trailers and semitrailers secure for a fee of \$5 for each year or portion thereof a distinguishing license plate from the State Highway Department through the County Tax Collector upon forms prescribed and furnished by the Department. Such vehicles shall be exempt from the inspection requirements of Sections 140 and 141 of the Uniform Act Regulating Traffic on Highways. Added Acts 1965, 59th Leg., p. 61, ch. 21, § 1.

(e). The exemptions from registration under Subsection (b) of this Act and from regular fees under Subsections (c) and (c-1) of this Act apply to farm trailers and farm semitrailers owned by cotton gins and used solely for supplying, without charge, such farm trailers and farm semitrailers to farmers to haul agricultural products from the place of production to the place of process, market, or storage of the agricultural products. As amended Acts 1965, 59th Leg., p. 61, ch. 21, § 2.

## Art. 6675a—3. Application for registration

(e) Owners of motor vehicles used in the conduct of consular affairs in this State by the representatives of any foreign government which maintains friendly relations with the United States shall apply to the Department annually to register the vehicles as provided by law. If at the time of registration, an authorized representative of the foreign government concerned executes an affidavit that the vehicle is used in this State in the conduct of the government's consular affairs, the owner may register one vehicle for each official representative in the State without paying the required registration fee. Subsec. (e) added Acts 1965, 59th Leg., p. 976, ch. 471, § 1.

(f) Application shall be made for the registration of a new vehicle for the unexpired portion of the year in which it is acquired before it is operated on the public highways; except that a new vehicle may be operated temporarily by a dealer under the dealer's license number or by its purchaser under a special dealer cardboard number, as provided in Chapter 211, General and Special Laws of the Regular Session of the Fortieth Legislature, as amended. The year for the purpose of registration of motor vehicles shall be April 1st to March 31st of the next succeeding calendar year, and may be referred to as the "Motor Vehicle Registration Year"; and "current year" where used in the statutes relating to payment of registration fees shall mean that Vehicle Registration Year. Application for the renewal of registration of a vehicle shall be made not later than April 1st of such year. Acts 1961, 57th Leg., p. 666, ch. 307, § 1, relettered (f) by Acts 1965, 59th Leg., p. 976, ch. 471, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 2 of the amendatory act of 1965 amended article 6675a-3aa.

## Art. 6675a—3aa. Specially designated plates for exempt vehicles

(a) Before the issuance or delivery of a license plate or plates to an owner of a vehicle that is exempt by law from the payment of registration fees, the application shall have the approval of the State

Highway Department, and if it appears that the vehicle was transferred to any such owner or purported owner for the sole purpose of evading the payment of registration fees, or that the transfer was not made in good faith, or that the vehicle is not being used in accordance with the exemption requirements, such shall not be issued. If after the issuance of such plates, the vehicle ceases to be owned and operated by such owner, or to be used in accordance with the exemption requirements, then the license shall be revoked and the plates may be recalled and taken into possession by the Department.

(b) The Department may provide for issuance of specially designated plates to those exempt by law. With respect to vehicles used in the conduct of consular affairs, the Department shall provide specially designated plates on which the words "Consular Official" prominently appear.

(c) Specially designated plates are not issued annually but, once issued, remain on the vehicle until (1) it is no longer owned and operated by those exempt by law or (2) the plates are mutilated, lost, or stolen. The plates and registration receipts of a vehicle no longer owned and operated by the registered owner, or no longer used for an exempt purpose, shall be forwarded to the Department for cancellation.

(d) The Department may provide rules and regulations for the issuance of exempt license plates.

(e) It shall be unlawful for any person to operate a vehicle after the license has been revoked, and any such person shall be liable for the penalties prescribed for the failure to register a vehicle as provided by law when it is being operated upon the public highways. As amended Acts 1965, 59th Leg., p. 976, ch. 471, § 2.

Section 1 of the amendatory act of 1965 amended article 6657a-3.

#### **Art. 6675a—5c. Special personalized prestige license plates**

The State Highway Department shall establish and issue special personalized prestige license plates. For a fee of Ten Dollars (\$10.00), which fee shall be in addition to the regular motor vehicle registration fee, any owner may apply for issuance of said personalized license plates. The Department shall establish and promulgate procedures for application for and issuance of such special personalized prestige license plates and provide a deadline each year for the applications. No two owners will be issued identical lettered and/or numbered plates. An owner must make a new application and pay a new fee each year he desires to obtain special personalized prestige license plates. However, once an owner obtains personalized plates, he will have first priority on those plates for each of the following years that he makes timely and appropriate application. Ninety-five per cent (95%) of each Ten Dollar fee collected by the Department under this Section shall be deposited in the State Treasury to the credit of the General Revenue Fund and the remaining five per cent (5%) shall be deposited in the State Treasury to the credit of the State Highway Fund to defray the costs of administration of this Section. Acts 1929, 41st Leg., 2nd C.S. p. 178, ch. 88, § 5c, added Acts 1965, 59th Leg., p. 302, ch. 135, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### **Art. 6675a—5d. Credit for license fees paid on motor vehicles subsequently destroyed**

Section 1. If the owner of any motor vehicle which is destroyed to such an extent that it cannot thereafter be operated upon the highways of this state transmits the license fee receipt and the license plates for



**For Annotations and Historical Notes, see V.A.T.S.**

the vehicle to the State Highway Department, he is entitled to a license fee credit if the prorated portion of the license fee for the remainder of the year is over \$15.00. The State Highway Department, upon satisfactory proof of the destruction of the vehicle, shall issue a license fee credit slip to the owner in an amount equal to the prorated portion of the license fee for the remainder of the year if it is over \$15.00. The owner of the vehicle at the time of destruction may during the same or the following registration year use the license fee credit slip as payment or part payment for the registration of additional vehicles to the extent of the license fee credit slip. The State Highway Department shall promulgate regulations necessary for the administration of this Act.

Any owner of a motor vehicle applying for a license fee credit under this Section shall execute a sworn statement upon a form provided by the State Highway Department showing that the license plates have been surrendered to the State Highway Department. This statement shall be delivered to the purchaser of the destroyed vehicle who may surrender this statement to the State Highway Department in lieu of the vehicle license plates. Acts 1965, 59th Leg., p. 740, ch. 346.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to a credit for license fees paid on motor vehicles which are sub-

sequently destroyed; and declaring an emergency. Acts 1965, 59th Leg., p. 740, ch. 346.

**Art. 6675a—6d. Temporary permits for commercial motor vehicles**

**Purpose; authority to issue temporary permits in lieu of registration**

Section 1. To provide for the movement of commercial motor vehicles, trailers, semitrailers, and motor buses owned by residents of the United States, which are subject to registration by the State of Texas and which are not authorized to travel on the public roads of the State for lack of registration or for lack of reciprocity with the State of the United States in which such vehicles are registered, the Texas Highway Department is authorized to issue temporary permits which will be recognized in lieu of registration.

**Fee; duration of permit; inspection of vehicles**

Sec. 2. A temporary permit valid for seventy-two (72) hours shall be issued to each such vehicle for the fee of Ten Dollars (\$10), and such temporary permit shall be valid for any period of time not to exceed seventy-two (72) hours from the effective day and time as shown on the receipt issued as evidence of such registration. Such vehicles shall be exempt from the inspection requirements of Sections 140 and 141 of the Uniform Act Regulating Traffic on Highways.

**Rules and regulations**

Sec. 3. The Texas Highway Department may, from time to time, promulgate such reasonable rules and regulations as it may deem necessary to carry out the orderly operation of this Act and may prescribe an application for such permits and other forms as it may deem proper.

**Violations of registration laws**

Sec. 4. A permit under this Act shall not be issued to commercial motor vehicles, trailers, semitrailers, or motor buses apprehended for violating the registration laws of this State; and, furthermore, such apprehended vehicles shall be immediately subject to Texas registration as prescribed by law.

**Applications for permits; deposit of fees**

Sec. 5. Such temporary registration permits shall be issued by the County Tax Assessor-Collectors or by the Texas Highway Department upon receipt of proper application accompanied by the statutory fees, as prescribed by Section 2 above, in cash, postal money order, or certified check for each such vehicle to be operated or moved upon the public highways. All temporary permit fees collected by the Texas Highway Department shall be deposited in the State Treasury to the credit of the State Highway Fund, and such fees collected by the County Tax Assessor-Collectors shall be reported and deposited the same as all registration fees as provided by Section 10, Chapter 88, Acts of the Forty-first Legislature, Second Called Session, 1929, as amended by Section 2, Chapter 301, Acts of the Fifty-fifth Legislature, Regular Session, 1957 (codified in Vernon's Texas Civil Statutes as Article 6675a—10).

**Operating with expired permits**

Sec. 6. Any person operating a commercial motor vehicle, trailer, or semitrailer with an expired permit issued under this Act shall be deemed to be operating an unregistered vehicle subject to the penalties as prescribed by law. Acts 1965, 59th Leg., p. 1643, ch. 707.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 7 of Acts 1965, 59th Leg., p. 1643, ch. 707 repealed all conflicting laws and parts of laws to the extent of such conflict.

**Title of Act:**

An Act relating to certain vehicles; providing for the issuance of temporary per-

mits and the conditions relating thereto; prescribing a fee; providing a method of issuing said permits; defining an offense and prescribing a penalty; making other provisions relating thereto; repealing conflicting laws; containing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1643, ch. 707.

**Art. 6687b. Driver's, chauffeur's, and commercial operator's licenses; accident reports**

**ARTICLE I—WORDS AND PHRASES DEFINED**

**Section 1. Definition of words and phrases**

The following words and phrases when used in this Act shall, for the purpose of this Act, have the meanings respectively ascribed to them in this title.

(a) "Vehicle." Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor Vehicle." Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motorcycle." Every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground but excluding a tractor and machinery for maintaining or cleaning streets.

(d) "School Bus." Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(e) "Motor Bus." Every vehicle, except those operated by muscular power or exclusively on stationary rails or tracks, which is used in transporting persons between or through two (2) or more incorporated cities

and towns for compensation (or hire), whether operated over fixed routes or otherwise; except such of said vehicles as are operated exclusively within the limits of incorporated cities and towns and suburban additions thereto.

(f) "Farm Tractor." Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(g) "Implements of Husbandry." Farm implements, machinery and tools as used in tilling the soil, namely: cultivators, farm tractors, reapers, binders, combines, or mowing machinery, but shall not include any automobile or truck.

(h) "Director." The Director of the Department of Public Safety of the State of Texas.

(i) "Department." The Department of Public Safety of the State of Texas, acting directly or through its authorized officers and agents, except in such Sections of this Act in which some other State Department is specifically named.

(j) "Persons." Every natural person, firm, copartnership, association, or corporation.

(k) "Pedestrian." Any person afoot.

(l) "Driver." Every person who drives or is in actual physical control of a vehicle.

(m) "Operator." Every person, other than a chauffeur or commercial operator, who is in actual physical control of a motor vehicle upon a highway.

(n) "Commercial Operator." Every person who is the driver of a motor vehicle designed or used for the transportation of property, including all vehicles used for delivery purposes, while said vehicle is being used for commercial or delivery purposes.

(o) "Chauffeur." Every person who is the driver for wages, compensation, or hire, or for fare, of a motor vehicle transporting passengers.

(p) "Nonresident." Every person who is not a resident of this state.

(q) "Highway." The entire width between property lines of any road, street, way, thoroughfare, or bridge in this state not privately owned or controlled, when any part thereof is open to the public for vehicular traffic and over which the state has legislative jurisdiction under its police power.

(r) "The suspension or revocation of a license." Shall be considered as a penalty and subject to executive clemency as any other fine or punishment. As amended Acts 1965, 59th Leg., p. 1663, ch. 717, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## ARTICLE II—ISSUANCE OF LICENSES, EXPIRATION, AND RENEWAL

### Sec. 3. What persons are exempt from license

The following persons are exempt from license hereunder:

\* \* \* \* \*

4a. A person operating a truck with a manufacturer's rated carrying capacity not to exceed 2,000 pounds, which is intended to include trucks commonly known as pickup trucks, panel delivery trucks, station wagons, and carry-all trucks, who holds an operator's license, shall not

be required to obtain a commercial operator's license. As amended Acts 1965, 59th Leg., p. 752, ch. 350, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

ARTICLE IV—CANCELLATION, SUSPENSION, AND REVOCATION OF LICENSES

Sec. 22. Authority of Department to suspend or revoke a license

(a) When under Section 10 of this Act the Director believes the licensee to be incapable of safely operating a motor vehicle, the Director may notify said licensee of such fact and summons him to appear for hearing as provided hereinafter. Such hearing shall be had not less than ten (10) days after notification to the licensee or operator under any of the provisions of this Section, and upon charges in writing a copy of which shall be given to said operator or licensee not less than ten (10) days before said hearing. For the purpose of hearing such cases jurisdiction is vested in the mayor of the city, or judge of the police court, or a justice of the peace in the county or subdivision thereof where the operator or licensee resides. Such court may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relative books and papers. It shall be the duty of the court to set the matter for hearing upon ten (10) days' written notice to the Department. Upon such hearing, the issues to be determined are whether the license shall be suspended or whether the license shall be revoked, and, in the event of a suspension, the length of time of the suspension, which shall not exceed one (1) year. The officer who presides at such hearing shall report the finding to the Department which shall have authority to suspend the license for the length of time reported; provided, however, that in the event of such affirmative finding, the licensee may appeal to the county court of the county wherein the hearing was held, said appeal to be tried de novo. Notice by registered mail to address shown on the license of licensee shall constitute service for the purpose of this Section. As amended Acts 1965, 59th Leg., p. 1663, ch. 717, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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(c) In all appeals prosecuted in any of the courts of this state pursuant to Section 22(a) or Section 31, such trials shall be de novo as that term is used and understood in appeals from Justice of the Peace Courts to County Courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act. The Legislature hereby specifically declares that the provisions of this Section shall not be severable from the balance of this Act, and further specifically declares that this Act would not have been passed without the inclusion of this Section. If this Section, or any part thereof, is for any reason ever held by any court to be invalid, unconstitutional or inoperative in any way, such holding shall apply to this entire Act, and in such event this entire Act shall be null, void and of no force and effect. Any such licensee as may bring suit to vacate and set aside such ruling and decision shall send a copy

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thereof, certified to by the clerk of said court, to the Department by registered mail. If any licensee who is a party to such final ruling and decision of the Department fails within thirty (30) days to institute or prosecute a suit to set such suspension aside, then said final ruling and decision of the Department shall be binding upon all parties thereto. As amended Acts 1965, 59th Leg., p. 1663, ch. 717, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Transfer of Funds

Acts 1965, 59th Leg., p. 486, ch. 248, §§ 1-3, requiring the Comptroller of Public Accounts to transfer four million, five hundred thousand dollars from the Operator's and Chauffeur's License Fund to the General Revenue Fund, provided:

"Section 1. The Comptroller of Public Accounts from time to time shall transfer any sums in the Operator's and Chauffeur's License Fund which are in excess of the amounts required to finance authorized appropriations for the normal operation and maintenance of the Department of Public Safety, to the General Revenue Fund until the total of such transfers equals Four Million, Five Hundred Thousand Dollars (\$4,500,000); thereafter the allocation of

such revenue shall be as provided in Chapter 173, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended (codified as Article 6687b, Vernon's Texas Civil Statutes), prior to the effective date of this Act.

"Sec. 2. This Act shall be in force and in effect from and after September 1, 1965.

"Sec. 3. All laws in conflict herewith are repealed to the extent of such conflict. The provisions of this Act shall take precedence over those provisions in Section 15, Chapter 173, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended (codified as Article 6687b, Vernon's Texas Civil Statutes), only insofar as they relate to the 'Operator's and Chauffeur's License Fund.'"

CHAPTER ONE A--TRAFFIC REGULATIONS

Art. 6701d. Uniform Act Regulating Traffic on Highways

ARTICLE I--WORDS AND PHRASES DEFINED

Vehicles

Sec. 2.

\* \* \* \* \*

(d) Authorized Emergency Vehicle. Vehicles of the fire department (fire patrol), police vehicles, public and private ambulances for which permits have been issued by the State Board of Health, emergency vehicles of municipal departments or public service corporations as are designated or authorized by the governing body of an incorporated city, and private vehicles operated by volunteer firemen while answering a fire alarm. As amended Acts 1953, 53rd Leg., p. 749, ch. 297, § 1; Acts 1965, 59th Leg., p. 774, ch. 365, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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ARTICLE VII--TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

Turning movements and required signals

Sec. 68.

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(d) The signal lamps provided for in Section 69 of this Act shall be used to indicate an intention to turn, change lanes, or start from a parked position and shall not be flashed on a moving vehicle as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear. Added Acts 1965, 59th Leg., p. 767, ch. 358, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

ARTICLE XIII—MISCELLANEOUS RULES

Limitations as to trailers

Sec. 106(a).

Repeal in Part

Acts 1965, 59th Leg., p. 298, ch. 130, §§ 1, 2 repealed section 106(a) of this article to the extent, and only to the extent of its conflict with Acts 1965, 59th Leg., p. 123, ch. 50, (S.B.No.3), which, inter alia, amended Vernon's Ann.P.C. art. 827a, section 3(c), relating to lengths of motor vehicles, truck-tractors, trailers and combinations thereof, and repealed all other laws and parts of laws in conflict with Chapter 50 (S.B.No. 3) to the extent of such conflict.

ARTICLE XIV—EQUIPMENT

Brakes

Sec. 132.

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3a. Subsection 3 does not apply to any farm trailer or farm semitrailer operated or moved temporarily upon the highways solely to transport cotton

(1) if the gross weight of the trailer or semitrailer is not more than 15,000 pounds;

(2) if the speed of the trailer or semitrailer is not more than 30 miles per hour; and

(3) if the trailer or semitrailer is totally or partially exempt from the regular registration fees under Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, Second Called Session, 1929, as amended (Article 6675a—2, Vernon's Texas Civil Statutes). Added Acts 1965, 59th Leg., p. 61, ch. 21, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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ARTICLE XIX—SPEED RESTRICTIONS

Maximum speeds of vehicles

Sec. 166. (a)

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4. The speed limits for any bus or other vehicle engaged in this State in the business of transporting passengers for compensation or hire, for any commercial vehicle which is in authorized use as a 'Highway Post Office' vehicle furnishing Highway Post Office service in the transportation of the United States mail, and for any light truck, as described in Subdivision 5 of this subsection, shall be the same as prescribed for passenger cars at the same location. As amended Acts 1965, 59th Leg., p. 443, ch. 226, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

5.

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b. Sixty (60) miles per hour in daytime and fifty-five (55) miles per hour during nighttime for any truck, except light trucks as described in this Subdivision 5, truck tractor, trailer or semitrailer, or for any vehicle towing any trailer, semitrailer, another motor vehicle, or any house trailer of actual or registered gross weight, less than four thousand, five hundred

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(4,500) pounds and over-all length of thirty-two (32) feet or less, excluding the tow bar. As amended Acts 1965, 59th Leg., p. 443, ch. 226, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

c. Fifty (50) miles per hour for any school bus.

"Daytime" means from one half ( $\frac{1}{2}$ ) hour before sunrise to one half ( $\frac{1}{2}$ ) hour after sunset, and "nighttime" means at any other hour.

"Urban District" means the territory contiguous to and including any highway or street which is built up with structures devoted to business, industry or dwelling houses, situated at intervals of less than one hundred (100) feet for a distance of one-quarter ( $\frac{1}{4}$ ) of a mile or more on either side.

"Passenger car" means every motor vehicle, except motorcycles and motor-driven cycles, designed for carrying ten (10) passengers or less and used for the transportation of persons.

"Light truck" means any truck, as defined in this Act, with a manufacturer's rated carrying capacity not to exceed two thousand (2,000) pounds and is intended to include those trucks commonly known as pickup trucks, panel delivery trucks and carry-all trucks.

The maximum speed limits set forth in this Section may be altered as authorized in Sections 167, 168 and 169. As amended Acts 1965, 59th Leg., p. 443, ch. 226, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## Art. 6701h. Safety Responsibility Law

### Surrender of license and registration

Sec. 31. Any person whose license or registration shall have been suspended as herein provided, or whose policy of insurance or bond, when required under this Act, shall have been cancelled or terminated or who shall neglect to furnish other proof upon request of the Department, shall return his license and registration to the Department within ten (10) days after receiving notice from the Department in writing, either by personal delivery thereof to the person to be so notified or by deposit in the United States mail of such notice in an envelope with postage prepaid, addressed to such person at the last address supplied to the Department by the licensee, which notice shall be presumed to be complete upon the expiration of nine (9) days after such is deposited in the United States mail. If any person shall fail to return to the Department the license or registration as provided herein, the Department shall forthwith direct any employee of the Department to secure possession thereof and to return the same to the Department. The Director of the Department of Public Safety, or a person designated by him, may file a complaint in any court of competent jurisdiction under Subsection (d) of Section 32 against any person whom he has reason to believe has wilfully failed to return license or registration as required herein. Proof of the giving of notice in either such manner as hereinabove set out may be made by the certificate of any employee of the Department that such notice was prepared in the regular course of business and placed in the United States mail as a part of the regular organized activity of the Department, or, if given in person, by certificate of the employee of the Department, naming the person to whom such notice was given and specifying the time, place and manner of the giving thereof. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 19; Acts 1965, 59th Leg., p. 1636, ch. 703, § 1, eff. Jan. 1, 1966.

Other violations—penalties

Sec. 32.

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(d) Any person wilfully failing to return license or registration as required in Section 31 shall be fined not more than Two Hundred Dollars (\$200). As amended Acts 1965, 59th Leg., p. 1636, ch. 703, § 2, eff. Jan. 1, 1966.

\* \* \* \* \*

Exceptions

Sec. 33. This Act shall not apply with respect to any motor vehicle owned by the United States, the State of Texas or any political subdivision of this State, or any municipality therein, nor to the officers, agents or employees of the United States, the State of Texas, or any political subdivision of the State, while driving said vehicle in the course of their employment; provided, however, that the operator of every motor vehicle specified herein shall comply with the provisions of Section 4 of this Act; nor, except for Sections 4 and 26 of this Act, with respect to any motor vehicle which is subject to the requirements of Articles 911a (Sec. 11) and 911b (Sec. 13) of the Revised Civil Statutes of Texas; provided, however, that nothing in this Act shall be construed so as to exclude from this Act its applicability to taxicabs, jitneys, or other vehicles for hire, operating under franchise or permit of any incorporated city, town or village. As amended Acts 1965, 59th Leg., p. 298, ch. 131, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 3 of the amendatory act of 1965 provided that the act should take effect and be in force from and after January 1, 1966.

CHAPTER TWO—ESTABLISHMENT OF COUNTY ROADS

Art. 6704. [6871—2—3—4] Classes of roads; cattle guards

The Commissioners Court shall classify all public roads in their counties as follows:

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4. Any county in this State containing a population of less than ten thousand (10,000) inhabitants, or any county with a population of not less than twenty-one thousand, two hundred and sixty-five (21,265) nor more than twenty-one thousand, seven hundred and eighty-five (21,785), according to the last preceding Federal Census, may by a majority vote of the Commissioners Court thereof authorize the construction of cattle guards across any or all of the first class, second class, or third class roads in said county, and such cattle guards shall not be classed or considered as obstructions on said roads.

The Commissioners Court of any county coming under the provisions of this Act shall provide proper plans and specifications of a standard cattle guard to be used on the roads of said county, said plans and specifications to be plainly written, supplemented by such drawings as may be necessary and shall be available to the inspection of the citizenship of such county. After said Commissioners Court provides said proper plans and specifications of a standard cattle guard to be used on the roads of said county any person constructing any cattle guard that is not in accordance with said approved plans and specifications prepared by said Commissioners Court shall be deemed guilty of obstructing said roads of said county, and the person responsible for such improper construction



of said cattle guards shall be deemed guilty of a misdemeanor, and shall be fined not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100).

The Commissioners Court of any county coming under the provisions of this Act is hereby authorized and empowered to construct cattle guards on the first class, second class, and third class roads of said county and pay for same out of the Road and Bridge Funds of said county when in their judgment they believe the construction of such cattle guards to be to the best interest of the citizens of said county. As amended Acts 1965, 59th Leg., p. 1499, ch. 650, § 1, emerg. eff. June 17, 1965.

### CHAPTER THREE—MAINTENANCE OF ROADS

Arts. 6717–6728. Repealed. Acts 1965, 59th Leg., p. 945, ch. 459, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment

Arts. 6731–6735. Repealed. Acts 1965, 59th Leg., p. 945, ch. 459, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment

Art. 6749. Repealed. Acts 1965, 59th Leg., p. 949, ch. 459, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment

Arts. 6755, 6756. Repealed. Acts 1965, 59th Leg., p. 945, ch. 459, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment

Art. 6758. Repealed. Acts 1965, 59th Leg., p. 945, ch. 459, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment

Art. 6765. Repealed. Acts 1965, 59th Leg., p. 945, ch. 459, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment

Arts. 6767, 6768. Repealed. Acts 1965, 59th Leg., p. 945, ch. 459, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment

Art. 6770a. Repealed. Acts 1965, 59th Leg., p. 945, ch. 459, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment

Art. 6770a—2. Repealed. Acts 1965, 59th Leg., p. 945, ch. 459, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment

Art. 6770a—4. Repealed. Acts 1965, 59th Leg., p. 945, ch. 459, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment

## CHAPTER SIX—PARTICULAR COUNTIES, LAW RELATING TO

Art.  
6812d. Private roads; construction and  
maintenance in certain counties  
[New].

Art. 6812d. Private roads; construction and maintenance in certain  
counties

Section 1. The county commissioners court of a county which has more than 6,400 persons but fewer than 6,430 persons, of a county which has more than 8,000 persons but fewer than 8,040 persons, of a county which has more than 10,670 persons but fewer than 10,900 persons, of a county which has more than 11,260 persons but fewer than 11,950 persons, of a county which has more than 16,160 persons but fewer than 16,285 persons, of a county which has more than 20,000 persons but fewer than 21,000 persons, and of a county which has more than 34,550 persons but fewer than 35,000 persons, all according to the last preceding Federal Census, by order, may authorize a commissioner of the county to direct the use of county employees and equipment to construct and maintain any private road in his precinct, when requested to do so in writing by a person owning an interest in the private road or in the land on which the private road is to be constructed.

Sec. 2. A county commissioner who uses county employees and equipment under an order provided for in Section 1 of this Act shall, on behalf of the county, charge persons requesting the use of the employees and equipment for the use. The county commissioner shall charge an amount equal to the prevailing charges for like work in the same area. Money collected under this Section shall be paid to the county treasurer and credited to the county road and bridge fund to be used in the precinct in which the work is done.

Sec. 3. The county commissioners court, by order, shall prescribe the kinds of records that are to be maintained under this Act and the manner in which the records are maintained. The records shall be filed with the county commissioners court at the meeting of the county commissioners court following the date on which the use of the employees and equipment ends.

Sec. 4. Records maintained under Section 3 of this Act are public records open to inspection by a member of the public at any reasonable time. Acts 1965, 59th Leg., p. 304, ch. 137, emerg. eff. May 13, 1965.

Title of Act:

An Act relating to the construction and maintenance of private roads in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 304, ch. 137.

## TITLE 117—SALARIES

Art.

6813b. Salaries of state officers and employees for biennium; exceptions [New].

6819a—37. Additional compensation of district court judges of 69th and 84th Judicial Districts [New].

6819a—38. Additional compensation for district court judges of 92nd, 93rd and 139th Judicial Districts [New].

Art.

6819a—39. Additional compensation for district court judges of 58th, 60th, 136th Judicial Districts and Criminal District Court of Jefferson County [New].

6819a—40. Additional compensation of district court judges of 19th, 54th and 74th Judicial Districts [New].

6819a—41. Additional compensation for district court judge of 137th Judicial District [New].

## Art. 6813b. Salaries of state officers and employees for biennium; exceptions

Section 1. From and after the effective date of this Act, all salaries of all State officers and State employees, including the salaries paid any individual out of the General Revenue Fund, shall be in such sums or amounts as may be provided for by the Legislature in the biennial Appropriations Act.<sup>1</sup> It is specifically declared to be one of the intents hereof that the Legislature shall also fix the amount of supplemental salaries hereafter, out of court fees and receipts, to be paid to the clerks and other employees of the Courts of Civil Appeals, the Supreme Court and the Court of Criminal Appeals. It is further provided that in instances where the biennial Appropriations Act does not specify or regulate the salaries or compensation of a State official or employee, the law specifying or regulating the salary or compensation of such official or employee is not suspended by this Act.

Sec. 2. All laws and parts of laws fixing the salaries of all State officers and employees, saving only the exception specified in Section 1 of this Act and the Position Classification Act of 1961<sup>2</sup> (Chapter 123, Acts 1961, Fifty-seventh Legislature, Regular Session), are hereby specifically suspended insofar as they are in conflict with this Act. It is specifically declared to be one of the intents hereof that any and all laws authorizing payment of supplemental salaries from court receipts and fees to clerks and other employees of the Courts of Civil Appeals, the Supreme Court, and the Court of Criminal Appeals, are suspended insofar as they are in conflict with this Act. Acts 1965, 59th Leg., p. 118, ch. 46, §§ 1, 2.

<sup>1</sup> Acts 1965, 59th Leg., p. 118, ch. 46.

<sup>2</sup> Article 6252—11.

Effective Aug 30, 1965, 90 days after date of adjournment.

Similar provisions for prior bienniums were enacted as follows:

Acts 1933, 43rd Leg., p. 59, ch. 30.

Acts 1935, 44th Leg., p. 124, ch. 48.

Acts 1937, 45th Leg., p. 1339, ch. 497.

Acts 1939, 46th Leg., p. 619.

Acts 1941, 47th Leg., p. 813, ch. 503.

Acts 1943, 48th Leg., p. 415, ch. 282.

Acts 1945, 49th Leg., p. 652, ch. 362.

Acts 1947, 50th Leg., p. 1023, ch. 441.

Acts 1949, 51st Leg., p. 75, ch. 43.

Acts 1951, 52nd Leg., p. 811, ch. 455.

Acts 1953, 53rd Leg., p. 451, ch. 136.

Acts 1955, 54th Leg., p. 437, ch. 118.

Acts 1957, 55th Leg., p. 5, ch. 4.

Acts 1959, 56th Leg., p. 144, ch. 85.

Acts 1961, 57th Leg., p. 212, ch. 110.

Acts 1963, 58th Leg., p. 947, ch. 375.

## Art. 6819a—13. Compensation of district court judge of 75th Judicial District

Section 1. The Judge of the 75th Judicial District is authorized to receive from all sources a salary not exceeding \$21,000 a year.

Sec. 2. (a) The Commissioners Courts of the counties comprising the 75th Judicial District may supplement the Judge's salary in any

amount which, when combined with his State salary, does not exceed \$21,000 a year.

(b) Any supplemental salary shall be paid by the counties on a pro rata basis according to the population of each county as determined by the last preceding and each future Federal Census. As amended Acts 1965, 59th Leg., p. 876, ch. 433, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 6819a—25a. Additional compensation of judges of district and criminal district courts in counties of 900,000 or more**

Section 1. In any county in this State having a population of 900,000 or more according to the last preceding Federal Census and having five or more Civil District Courts and two or more Criminal District Courts, the Judges of the several District and Criminal District Courts of such counties shall receive, in addition to the salary paid by the State to them, and to other District Judges of this State, the sum of \$8,000 annually, to be paid in equal monthly installments out of the General Fund or Officers' Salary Fund of such counties. The Commissioners Court shall make proper budget provisions for the payment thereof. Any District Judge of the State who may be assigned to sit for the Judge of any District Court in such counties under the provisions of Article 200-A, Vernon's Texas Civil Statutes, as amended, may, while so serving, receive an addition to his necessary expenses, additional compensation from county funds in an amount not to exceed the difference between the pay of such visiting Judge from all sources by District Judges in the counties affected by the provisions of this Act, such amount to be paid by the county upon approval of the presiding Judge in which said Court is located. Acts 1961, 57th Leg., p. 437, ch. 211, as amended Acts 1965, 59th Leg., p. 452, ch. 229, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 6819a—37. Additional compensation of district court judges of 69th and 84th Judicial Districts**

Section 1. The commissioners courts of Dallam, Deaf Smith, Hartley, Moore, Oldham and Sherman counties may pay to the District Judge of the 69th Judicial District, for services rendered in performing administrative duties therein, the sum of \$3,000 annually. The sum provided for herein, if payment is approved, shall be paid by the counties composing such Judicial District in accordance with the proportion that the population of each county bears to the total population of the Judicial District, as shown by the last preceding federal census. The salary shall be paid in equal monthly installments, and may be paid out of the general fund or any other fund available for such purpose, as may be determined by the commissioners court of each county.

Sec. 2. The commissioners courts of Hansford, Hutchinson and Ochiltree counties may pay to the District Judge of the 84th Judicial District, for services rendered in performing administrative duties therein, the sum of \$3,000 annually. The sum provided for herein, if payment is approved, shall be paid by the counties comprising such Judicial District in accordance with the proportion that the population of each county bears to the total population of the Judicial District, as shown by the last preceding federal census. The salary shall be paid in equal monthly installments and may be paid out of the general fund or any other fund available for such purpose as may be determined by the commissioners court of each county.

Sec. 3. The compensation provided for in Sections 1 and 2 shall be in addition to the compensation provided by law and paid by the

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State of Texas to District Judges. Acts 1965, 59th Leg., p. 382, ch. 185, emerg. eff. May 17, 1965.

**Title of Act:**

An Act authorizing the commissioners courts of Dallam, Deaf Smith, Hartley, Moore, Oldham and Sherman counties to supplement the salary of the District Judge of the 69th Judicial District of Texas; au-

thorizing the commissioners courts of Hansford, Hutchinson and Ochiltree counties to supplement the salary of the District Judge of the 84th Judicial District of Texas; and declaring an emergency. Acts 1965, 59th Leg., p. 382, ch. 185.

**Art. 6819a—38. Additional compensation for district court judges of 92nd, 93rd and 139th Judicial Districts**

Section 1. The Commissioners Court of Hidalgo County may supplement the compensation of the Judges of the 92nd, 93rd, and 139th Judicial Districts not to exceed \$3,000 a year, in addition to all other compensation the judges are entitled or permitted to receive from either the state or the county. Acts 1965, 59th Leg., p. 391, ch. 190.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the compensation of the Judges of the 92nd, 93rd, and 139th Ju-

dicial Districts; and declaring an emergency. Acts 1965, 59th Leg., p. 391, ch. 190.

**Art. 6819a—39. Additional compensation for district court judges of 58th, 60th, 136th Judicial Districts and Criminal District Court of Jefferson County**

Section 1. In addition to the compensation paid by the State of Texas to the District Judges, the Commissioners Court of Jefferson County shall pay District Judges of the 58th Judicial District, the 60th Judicial District, 136th Judicial District and the Criminal District Court of Jefferson County, respectively, for services rendered to Jefferson County and for performing administrative duties, an annual sum of not less than Seven Thousand Dollars (\$7,000) nor more than Eight Thousand Dollars (\$8,000) to each of said Judges, to be paid in equal monthly installments out of the General Fund or Officers Salary Fund of Jefferson County. Such compensation shall be for all judicial and administrative services now rendered by such Judges, and any additional judicial and administrative services hereafter to be assigned to them, and in addition to all salaries paid or hereafter to be paid to them by the State of Texas out of state revenues.

Sec. 2. The salary of the Judge of the Court of Domestic Relations for Jefferson County shall be the same and equal to that paid, or which may hereafter be paid, to each of the aforesaid District Judges, and shall be paid by the Commissioners Court of Jefferson County out of the General Fund or Officers Salary Fund of Jefferson County in twelve (12) equal monthly installments.

Sec. 3. The salary and compensation provided by this Act for the Judges of the aforesaid District Courts, Criminal District Court and Court of Domestic Relations shall be in lieu of the salary and compensation provided for said Judges as members of the Jefferson County Juvenile Board established by Chapter 63, Acts of the 55th Legislature, Regular Session, 1957 (Article 5139P, Vernon's Texas Civil Statutes), provided, however, this Act shall not affect the salary and compensation authorized to be paid to the County Judge of Jefferson County as a member of the said Jefferson County Juvenile Board, nor shall this Act affect the existence or functions of said Board. Acts 1965, 59th Leg., p. 426, ch. 212, emerg. eff. May 18, 1965.

**Title of Act:**

An Act providing that the Commissioners Court of Jefferson County, Texas, pay the Judges of the 58th Judicial District, the

60th Judicial District, the 136th Judicial District and Criminal District Court, compensation in addition to compensation paid by the State and providing the manner of

payment thereof; providing for compensation to be paid by the Commissioners Court of Jefferson County to the Judge of the Court of Domestic Relations for Jefferson County, and providing the manner of payment thereof; providing that the compensation provisions of this Act be in lieu of

that authorized by Chapter 63, Acts of the 55th Legislature, Regular Session, 1957; providing a repealing clause; providing that if any portion of this Act is unconstitutional, it shall not affect the remainder thereof; and declaring an emergency. Acts 1965, 59th Leg., p. 426, ch. 212.

**Art. 6819a—40. Additional compensation of district court judges of 19th, 54th and 74th Judicial Districts**

Section 1. (a) The Commissioners Court of McLennan County shall supplement the salary of the Judges of the 19th, 54th, and 74th Judicial Districts in an amount not less than \$1,500 nor more than \$5,000 a year for services rendered to the Juvenile Board of McLennan County.

(b) The Commissioners Court may also supplement these Judges' salaries by not more than \$5,000 a year for administrative services rendered to the County.

Sec. 2. The supplemental salary described in Section 1 of this Act is in addition to all other salary now paid or authorized to be paid by the State to the Judges of the 19th, 54th, and 74th Judicial Districts. Acts 1965, 59th Leg., p. 772, ch. 363.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**  
An Act relating to the salary of the Judges of the 19th, 54th, and 74th Judicial

Districts; and declaring an emergency. Acts 1965, 59th Leg., p. 772, ch. 363.

**Art. 6819a—41. Additional compensation for district court judge of 137th Judicial District**

Section 1. The Commissioners Court of Lubbock County shall pay to the Judge of the 137th Judicial District, for services rendered in performing administrative duties in Lubbock County, the sum of Three Thousand, Five Hundred Dollars (\$3,500) annually. The sum provided for herein shall be paid in equal monthly installments out of the general fund or officers' salary fund of Lubbock County and the Commissioners Court of Lubbock County shall make proper budget provisions therefor.

Sec. 2. The compensation provided for in Section 1 shall be in addition to the compensation provided by law and paid by the State of Texas to District Judges and all other compensation now paid or authorized to be paid to the District Judge of the 137th Judicial District. Acts 1965, 59th Leg., p. 979, ch. 473.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**  
An Act directing the Commissioners Court of Lubbock County to supplement the salary of the District Judge of the 137th

Judicial District of Texas; making other provisions relating thereto; and declaring an emergency. Acts 1965, 59th Leg., p. 979, ch. 473.

**TITLE 121—STOCK LAWS****CHAPTER ONE—MARKS AND BRANDS**

Art.

6899d—2. Marks and brands of livestock in Matagorda County [New].

**Art. 6899d—2. Marks and brands of livestock in Matagorda County**

Section 1. This Act shall apply to Matagorda County only. Each owner of any livestock mentioned in Chapter 1 of Title 121 of the Revised Civil Statutes of 1925, as amended, shall within six months after this Act takes effect have his mark and brand for such stock recorded in the office of the County Clerk of the County. Such owners shall so record such marks and brands whether the same have been heretofore recorded or not. The owner shall have the right to have his mark and brand recorded in his name who according to the present records of said County first recorded the same in the County, or in event it can not be ascertained from the records who first recorded same in the County, then the person who has been using such mark and brand the longest shall have the right to have the same recorded in his name. After the expiration of six months from the taking effect of this Act all records of marks and brands now in existence in said County shall no longer have any force or effect and after the expiration of six months only the records made after this Act takes effect shall be examined or considered in recording marks and brands in said County. Immediately upon the taking effect of this Act the County Clerk of the County shall have this Act published in some newspaper of general circulation in the County for a period of thirty days, which publication shall be paid for by the County out of the General County Fund. Acts 1965, 59th Leg., p. 871, ch. 427.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the recording in Matagorda County of marks and brands of own-

ers of certain livestock; and declaring an emergency. Acts 1965, 59th Leg., p. 871, ch. 427.

**CHAPTER EIGHT—LIVE STOCK SANITARY COMMISSION****Art. 7009. [7312—13] Commission**

The Governor shall, within thirty days after this Act becomes effective, by and with the advice and consent of the Senate, appoint six citizens of this state as a Texas Animal Health Commission. The Governor shall designate one such member as a Chairman. Each Commissioner shall give bond payable to the State of Texas in the sum of Ten Thousand Dollars to be approved by the Comptroller. There shall be one Commissioner from each of the following industries, and with the following qualifications: (1) practitioner of veterinary medicine; (2) dairyman; (3) practical cattle raiser; (4) practical hog raiser; (5) sheep or goat raiser; and (6) poultry raiser.

Inssofar as is practicable the Commissioners appointed hereunder shall be appointed so as to give proportionate representation from the west, from the south, from the north, and from the eastern portions of Texas; provided, however, that the present members of the Texas Animal Health Commission of the State of Texas shall compose three of the six members hereunder authorized, and shall continue to hold office for the terms to which they have been appointed. The Governor shall designate which appointee he desires to fill each term, and that beginning with

the appointment of said Commissioners, present membership excepted, the term of office of the members of the Commission shall be for a period of six years, except that those first appointed shall be appointed for two, four, and six years, and that they shall serve until their successors have been appointed and have duly qualified. All vacancies which shall occur in the Commission for any reason shall be filled in the same manner as hereinbefore provided, and shall be for the unexpired term.

Each Commissioner is entitled to receive \$20 per diem plus the actual and necessary expenses incurred while in the performance of his official duties. As amended Acts 1965, 59th Leg., p. 217, ch. 89, § 1, emerg. eff. April 22, 1965.



**TITLE 122—TAXATION**

**CHAPTER ONE—LEVY OF TAXES AND  
 OCCUPATION TAXES**

Art.

7044a. Tax rate for succeeding taxable year; notice to assessor-collector [New].

**Art. 7044a. Tax rate for succeeding taxable year; notice to assessor-collector**

Section 1. From and after January 1, 1966, all taxing authorities which use the services of the county tax assessor-collector, either to assess or collect taxes for such taxing authority, shall, on or before July 20 of each year, notify the county tax assessor-collector whose services are to be used by the taxing authority of the tax rate for the succeeding taxable year adopted by the taxing authority.

Sec. 2. In the event any taxing authority using the services of the county tax assessor-collector for either assessing or collecting taxes of the taxing authority fails to notify the county tax assessor-collector of the tax rate adopted by the taxing authority, prior to July 20, as provided in Section 1 of this Act, the tax rate for the succeeding year shall be the tax rate for the preceding year, rather than the tax rate adopted by the taxing authority, and in no event shall a new tax rate be in force and effect unless notification of such tax rate is furnished the county tax assessor-collector prior to July 20 of each year.

Sec. 3. In compiling the tax roll for a taxing authority using the services of the county tax assessor-collector, the county tax assessor-collector shall use the rate furnished him by the taxing authority prior to July 20 of each year, or, in the event the county tax assessor-collector has not been furnished a new tax rate, the county tax assessor-collector shall use the tax rate adopted for the preceding taxable year by the taxing authority. Acts 1965, 59th Leg., p. 729, ch. 343, emerg. eff. June 9, 1965.

**Title of Act:**

An Act requiring all taxing authorities using the services of the county tax assessor-collector, either in assessing or collecting taxes for the taxing authority, to furnish the county tax assessor-collector, on or before July 20th of each year, the tax rate adopted by the taxing authority

for the succeeding taxable year; providing in the event such tax rate is not furnished to the county tax assessor-collector within the time prescribed, the tax rate shall be that rate adopted for the preceding taxable year; making other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 729, ch. 343.

**Art. 7057c. Oleomargarine tax**

**Wholesalers' statement to Comptroller**

Sec. 2. That in addition to the taxes now provided for by law, each and every wholesaler, as defined in this Act, who is now engaged or may be hereafter engaged in his own name, or in the name of others, or in the name of representatives or agents in this state, in the sale of oleomargarine as herein defined, containing any fat and/or oil ingredient other than oleo oil from cattle, oleo stock from cattle, oleo stearine from cattle, neutral lard from hogs, cottonseed oil, peanut oil, corn oil, soya bean oil, milk fat, safflower, milo, and/or any other vegetable oil, shall not later than the fifteenth day of each calendar month render sworn statements to the State Comptroller of all such oleomargarine sold by such wholesaler in the State of Texas during the preceding

calendar month, and pay an excise tax of Ten Cents (10¢) per pound on all such oleomargarine so sold as shown by such statement in the manner and within the time hereinafter provided. As amended Acts 1965, 59th Leg., p. 73, ch. 26, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

CHAPTER TWO—TAXES BASED UPON GROSS RECEIPTS

Art. 7083a. Allocation of revenue derived from certain occupations and gross receipts taxes; appropriations and allocations for certain funds

Sec. 2.

(1) There shall be allocated, transferred and credited to the Special Fund in the Treasury known as the "Blind Assistance Fund" for the purpose of providing assistance to the blind in the manner as authorized by Senate Bill No. 36, Acts of the Regular Session, 46th Legislature, 1939, and any amendments thereto, an amount out of state funds for each fiscal year which will provide funds in amounts equivalent to the funds appropriated by the Legislature for such purposes, said allocation to be provided for on a basis of equal monthly payments payable on the first day of each calendar month. As amended Acts 1961, 57th Leg., p. 391, ch. 197, § 1; Acts 1965, 59th Leg., p. 500, ch. 258, § 1, eff. Aug. 31, 1965.

(2) There shall be allocated, transferred and credited to the Special Fund in the Treasury known as the "Children's Assistance Fund" for the purpose of providing assistance on behalf of dependent children in the manner as authorized by Senate Bill No. 36, Acts of the Regular Session, 46th Legislature, 1939, and any amendments thereto, an amount out of state funds for each fiscal year which will provide funds in amounts equivalent to the funds appropriated by the Legislature for such purposes, said amount to be provided on the basis of equal monthly payments payable on the first day of each calendar month. As amended Acts 1965, 59th Leg., p. 500, ch. 258, § 2, eff. Aug. 31, 1965.

(4) After the above allocations and payments have been made from such "Clearance Fund" there shall be allocated, transferred and credited to the Special Fund in the Treasury known as the "Old Age Assistance Fund" for the purpose of providing assistance to the needy aged in the manner as authorized by Senate Bill No. 36, Acts of the Regular Session, 46th Legislature, 1939, and any amendments thereto, an amount out of state funds, when taken together with any other funds received from any other sources by reason of other state laws still in effect, for each fiscal year which will provide funds in amounts equivalent to the funds appropriated by the Legislature for such purposes, said allocation to be provided in monthly installments, one installment being payable on the first day of each calendar month.

If, on the first day of any calendar month, the amount on that day transferred from the "Clearance Fund" to the "Blind Assistance Fund," the "Children's Assistance Fund," and the "Old Age Assistance Fund" is not sufficient to provide the allocation from state funds as herein provided for that month, then in that event, there shall be deposited to the credit of the "Blind Assistance Fund," the "Children's Assistance Fund," or the "Old Age Assistance Fund" from the first revenues collected after the first day of the month, which would otherwise go into the General Revenue Fund, such sum, as with the balance on hand in the fund plus the payment from the "Clearance Fund" will make available in the various

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funds the total amount of state funds for that month as is herein provided.

The allocations shall be and are in lieu of all other state allocations for aid to the blind, aid to dependent children, and old age assistance, and such allocations and appropriations shall not include any funds received from the Federal Government.

None of the money herein allocated for old age assistance payments, aid to the blind payments, or aid on behalf of needy children shall be used for the purpose of paying assistance to any person who disposes of property, either personal or real, for the purpose of qualifying or increasing need for assistance, provided that the property, if still available, would affect either eligibility or the amount of assistance payment. As amended Acts 1961, 57th Leg., p. 391, ch. 197, § 1; Acts 1965, 59th Leg., p. 500, ch. 258, § 3, eff. Aug. 31, 1965.

\* \* \* \* \*

(6) There shall be allocated, transferred, and credited to the Special Fund in the Treasury known as the "Disabled Assistance Fund" for the purpose of providing assistance to the permanently and totally disabled in the manner as authorized by law or as hereafter may be authorized by law, an amount out of State funds for each fiscal year which will provide funds in amounts equivalent to the funds appropriated by the Legislature for such purposes, said amount to be provided for on the basis of equal monthly payments payable on the first day of each calendar month.

If, on the first day of any calendar month, the amount on that day transferred from the "Clearance Fund" to the "Disabled Assistance Fund" is not sufficient to provide the allocation from State funds as herein provided for that month, then in that event, there shall be deposited to the credit of the "Disabled Assistance Fund" from the first revenues collected after the first day of the month, which would otherwise go into the General Revenue Fund, after deposit of such revenues as provided in Subsection (4) of this Section, such sum, as with the balance on hand in the Fund plus the payment from the "Clearance Fund," will make available in the "Disabled Assistance Fund" the total amount of State funds for that month as is herein provided.

The allocation shall be and is in lieu of all other State allocations for permanently and totally disabled assistance and such allocation and appropriation shall not include any funds received from the Federal Government. As amended Acts 1965, 59th Leg., p. 500, ch. 258, § 4; Acts 1965, 59th Leg., p. 1619, ch. 693, § 2, eff. Aug. 31, 1965.

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(8) There shall be created in the State Treasury a Special Fund known as the "Economic Opportunity Fund—Welfare," and all funds received from the Federal Government and/or from any other source for the purpose of paying the cost and the administrative expenses incident to the projects or programs coming within the scope of this Act shall be deposited in said Special Fund in the Treasury subject to withdrawals upon authorization by the Commissioner of Public Welfare. Acts 1941, 47th Leg., p. 269, ch. 184, Art. XX, § 2, subd. 8 added Acts 1965, 59th Leg., p. 268, ch. 111, § 3, emerg. eff. May 6, 1965.

Section 1 of Acts 1965, 59th Leg., p. 1619, ch. 693 amended article 695c. Section 3 thereof provided that the effective date of the act should be August 31, 1965.

Acts 1965, 59th Leg., p. 268, ch. 111, §§ 1, 2 amended article 695c by adding section 6-A thereto; section 3 of the amendatory act of 1965 amended section 2 of this article by adding subsection (8); the introductory clause to section 3 of the amendatory act of 1965 provided in part: "said amendment

shall be contingent upon and effective at such time as appropriations for such purpose of carrying out the provisions of this Act are authorized by the Federal Government and appropriated and allocated to the State Department of Public Welfare by the Department of Health, Education, and Welfare and/or any other Federal Agencies authorized by law to carry out the provisions or the purposes of this Act. . . ."

CHAPTER SIX—PROPERTY SUBJECT TO TAXATION  
AND RENDITION

## Art. 7152. [7509] [5067] How rendered

All property shall be listed or rendered in the manner following:

(1) By the owner. Every person of full age and sound mind, being a resident of this State, shall list all of his real estate, moneys, credits, bonds or stock of joint stock or other companies (when the property of such company is not assessed in this State), moneys loaned or invested, annuities, franchises, royalties, and all other property.

(2) As agent. He shall also list all lands or other real estate, moneys and other personal property invested, loaned or otherwise controlled by him as agent or attorney, or on account of any other person, company, or corporation, whatsoever, and all moneys deposited subject to his order, check, or drafts and credits due from or owing by any person, body corporate or politic.

(3) Minor. The property of a minor child shall be listed by his guardian, or by the person having such property in charge.

(4) Separate property of married person. The separate property of each spouse shall be rendered by the owner thereof, but the husband or wife of the owner may act as agent of the owner in such rendition.

(5) Idiot. The property of any idiot or lunatic, by the person having charge of such property.

(6) Cestui que trust. The property of a person for whose benefit it is held in trust by the trustee of the estate; of a deceased person, by the executor or administrator.

(7) Receivers. The property of corporations whose assets are in the hands of receivers, by such receivers.

(8) Corporations. The property of a body politic or corporate, by the president or proper agent or officer thereof.

(9) Copartnership. The property of a firm or company, by a partner or agent thereof.

(10) Manufactories. The property of manufacturers and others in the hands of an agent, by such agent, in the name of his principal, as real, personal and merchandise. As amended Acts 1965, 59th Leg., p. 980, ch. 474, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER TEN—DELINQUENT TAXES

## Art. 7332. [7690] Other Fees

The County or District Attorney shall represent the state and county in all suits against delinquent taxpayers, and all sums collected shall be paid over immediately to the County Collector.

Before filing suits for recovery of delinquent taxes for any year, notice shall be given to the owner or owners of said property as is provided for in Article 7324 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 117, page 196, Acts of the 42nd Legislature, Regular Session, 1931. The fees herein provided for shall not accrue to nor shall the various officers herein named be entitled thereto in any suit unless it be

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proved that notice has been given to the owner for the time and in the manner provided by law.

In all cases, the compensation of said attorney shall be such reasonable attorneys fees as may be incurred not exceeding ten per cent (10%) of the amount sued for. And provided, that in any suit brought against any individual or corporate owner, all past due taxes for all previous years on such tract or tracts shall be included; and provided further, that where there are several lots in the same addition or subdivision delinquent, belonging to the same owner, all said delinquent lots shall be made the subject of a single suit.

All fees provided for the officers herein shall be treated as fees of office and accounted for as such, and said officers shall not receive nor retain said fees in excess of the maximum compensation allowed said officers under the laws of this State; and provided further, that the County Attorney, Criminal District Attorney or District Attorney shall not be entitled to the fees herein provided for in instances where such delinquent taxes are collected under contracts between the Commissioners Court and others for the collection of such taxes, and in such instances the fees herein provided for such officers shall not be assessed nor collected.

The sheriff or constable of the county in which the suit is pending shall receive such fees as are now allowed by law in other civil cases which will cover the service of all process, and the selling of the property and executing deeds for same. If, in any such suit, process is issued to be served in counties other than the one in which suit is pending, the sheriff or constable serving same shall receive a fee of Two Dollars and Fifty Cents (\$2.50) in each suit for his services.

The District Clerk and the County Clerk shall receive for their services the same scale of fees as allowed by law in other civil cases.

Provided that the fees herein provided for in connection with delinquent tax suits shall constitute the only fees that shall be charged by said officers for preparing, filing, instituting, and prosecuting suits on delinquent taxes and securing collection thereof, and all laws in conflict herewith are hereby repealed.

In suits by counties against any of the officers herein named to recover moneys or fees collected by any such officers, limitation of action shall not apply, and no such suit shall be barred by the Statute of Limitation. As amended Acts 1961, 57th Leg., p. 888, ch. 390, § 1; Acts 1965, 59th Leg., p. 992, ch. 479, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Art. 7336f. Remission of delinquent taxes, compilation of record of delinquent taxes not barred

Section 1. The collection of all delinquent ad valorem taxes due the State, county, municipality or other defined subdivisions that were delinquent prior to and including December 31, 1939, is forever barred. As amended Acts 1965, 59th Leg., p. 962, ch. 462, § 1, eff. July 1, 1966.

Sections 2 and 3 of the amendatory act of 1965 provided:

"Sec. 2. This Act shall be in force and effect on and after July 1, 1966.

"Sec. 3. The provisions of this Act shall not apply to any delinquent taxes, the collection of which is the subject matter of a suit filed prior to the effective date of this Act."

## TITLE 122A—TAXATION—GENERAL

Chapter	Article
14. Inheritance Tax and Federal Estate Tax Credit .....	14.00A
I. Basic Inheritance Tax	
II. Additional Inheritance Tax—Federal Estate Tax Credit	
III. Administration	

## CHAPTER 1—GENERAL PROVISIONS

Art.  
1.032 Deficiency determination and redetermination [New].

## Art. 1.032 Deficiency determination and redetermination

(A) Deficiency Determination. If the Comptroller is not satisfied with the return or returns of the tax or the amount of tax required to be paid to the State by any person, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his possession or which may come into his possession.

(B) Notice. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the taxpayer or other person at his address as it appears in the records of the Comptroller. Service by mail is complete at the time of deposit in the United States Post Office.

(C) Redetermination. Any person against whom a determination is made under Article 1.032, or any person directly interested, may petition for a redetermination within thirty (30) days after service upon the person of notice thereof. If a petition for redetermination is not filed within the thirty-day period, the determination becomes final at the expiration of the period.

(D) Oral Hearing. If a petition for redetermination is filed within the thirty-day period, the Comptroller shall reconsider the determination and, if the person has so requested in his petition, shall grant the person an oral hearing and shall give him twenty (20) days' notice of the time and place of the hearing.

(E) Finality of Order. The order or decision of the Comptroller upon a petition for redetermination becomes final thirty (30) days after service upon the petitioner of notice thereof. Added Acts 1965, 59th Leg., p. 830, ch. 402, § 8, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-7 amended various articles of chapter 14; section 9 was a savings clause; section 10 was a severability provision; section 11 repealed various articles of this Title and of the Penal Code; section 12 related to the effective date of the act and section 13 declared an emergency. See note under article 14.00A.

## Art. 1.11 Tax Credits

(1) This Article applies to any occupation, excise, gross receipts, franchise, license or other privilege tax or fee collected or administered by the Comptroller of Public Accounts. It does not apply to the state ad valorem tax.

(2) When the Comptroller determines that any person, firm or corporation has through mistake of law or fact overpaid the amount due the state on any tax collected or administered by the Comptroller, the Comptroller may with the consent of the taxpayer credit the person, firm or corporation overpaying the tax with the amount of such overpayment.

For Annotations and Historical Notes, see V.A.T.S.

(a) Consent by a person, firm or corporation to accept a tax credit under this Article constitutes an irrevocable election and a waiver of any further claim or cause of action for the overpayment credited.

(b) Overpayments shall be credited only to liability for the same tax overpaid, and for penalties and interest due the state for late or insufficient payments of the same tax.

(c) Credits shall not include any interest on the amount overpaid nor shall credits bear any interest after issuance.

(d) Credits for overpayment issued by the Comptroller may be assigned in their entirety only and under such rules and regulations as may be prescribed by the Comptroller.

(e) Credits issued expire at the end of ten (10) years from the date of issuance by the Comptroller. At the end of this ten (10) years any outstanding balance credited but not set off against tax liability including any penalties or interest is automatically cancelled. Cancellation extinguishes the outstanding balance as an obligation of the state and no suit may be brought under this or any other law to collect the outstanding balance.

(f) The Comptroller shall keep a public record of credits issued. He may prescribe rules and regulations for the administration of this Article.

(3) This Article is cumulative of all other laws concerning the payment of taxes, and does not affect the provisions of Acts, 1933, 43rd Legislature, Chapter 214, as amended (codified as Article 1.05 of this Chapter) concerning the payment of taxes under protest. As amended Acts 1965, 59th Leg., p. 1187, ch. 550, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER 6—MOTOR VEHICLE RETAIL SALES AND USE TAX

Art.

6.09 Exemption [New].

### Art. 6.09 Exemption

The taxes imposed by this Chapter do not apply to the sale or use of a motor vehicle owned by a motor vehicle dealer, as defined in Chapter 30, Section 1, Acts of the 58th Legislature, Regular Session, 1963,<sup>1</sup> which is purchased in this state and is loaned free of charge by such dealer to a public school for use in an approved standard driver training course. Added Acts 1965, 59th Leg., p. 367, ch. 174, § 1.

<sup>1</sup> Vernon's Ann.Civ.St. art. 6686.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER 7—CIGARETTE TAX LAW

### Art. 7.01 Definitions

\* \* \* \* \*

(13) "Distributor" shall mean and include every person in this State who manufactures or produces cigarettes or who ships, transports, or imports into this State or in any manner acquires or possesses cigarettes and makes a "first sale" of the same in this State; and said term shall also include every person in this State who is authorized to purchase an open account unstamped cigarettes direct from all those manufacturers who have general distribution of cigarettes in Texas and who sell to

qualified wholesalers or in any manner acquires or possesses unstamped cigarettes for the purpose of making a "first sale" of the same within this State. As amended Acts 1965, 59th Leg., p. 1262, ch. 580, § 1, emerg. eff. June 17, 1965.

\* \* \* \* \*

(15) "Retail Dealer" shall mean and include every person other than a distributor or wholesale dealer who shall sell, distribute, or offer for sale or distribution or possess for the purpose of sale or distribution, cigarettes, irrespective of quantity or amount or the number of sales or distributions; and it shall also mean and include every person other than a distributor or wholesale dealer who distributes or disposes of cigarettes in unbroken individual packages or in quantities of ten (10) or more as gifts or prizes or in any other manner of distribution or disposal where no sale is involved. Coin-operated cigarette or tobacco products vending machines shall be considered a retail dealer. As amended Acts 1965, 59th Leg., p. 1262, ch. 580, § 1, emerg. eff. June 17, 1965.

\* \* \* \* \*

Art. 7.06 Additional Tax

(1) In addition to the tax levied by Article 7.02 herein, there is hereby imposed a tax of Three Dollars and Fifty Cents (\$3.50) per thousand on cigarettes weighing not more than three (3) pounds per thousand and Three Dollars and Fifty Cents (\$3.50) per thousand on those weighing more than three (3) pounds per thousand on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The tax shall be paid only once by the person making the "first sale" in this State and shall become due and payable as soon as such cigarettes are subject to a "first sale" in Texas, it being intended to impose the tax as soon as such cigarettes are received by any person in Texas for the purpose of making a "first sale" of same. No person, however, shall be required to pay a tax on cigarettes brought into this State on or about his person in quantities of forty (40) cigarettes or less when such cigarettes have had the individual packages or the seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale.

(2) Payment of the tax shall be evidenced by stamps purchased from the Treasurer and securely affixed to each individual package of cigarettes covering the tax thereon as imposed by this Chapter; provided that such stamps may be purchased and affixed to such individual packages of cigarettes by a manufacturer of cigarettes outside this State, in which case no further payment of tax shall be required; provided, further, that such stamps shall not be required to be purchased and affixed to sample packages of cigarettes containing no more than five (5) cigarettes per package, when the manufacturer of the cigarettes reports and pays the tax thereon directly to the State.

(3) The net revenue derived from the tax levied under this Article shall be credited to the General Fund of this State. Provided, no portion of the revenues derived under this Article shall be set aside to any fund for the administration and enforcement of the cigarette tax law of this State. Provided, further, the net revenues collected under this Article may be credited daily to the Omnibus Clearance Fund hereafter referred to in this Act and on the first day of each month following the collection of the net revenues derived under this Article, the said net revenues shall be credited to the General Fund, except that the net revenues derived under this Article during the month of August of each year shall be credited to the General Fund on the thirty-first day of August of each year; it being specifically understood that no portion of the said net revenues of this Article shall remain or be distributed under the provisions governing the



For Annotations and Historical Notes, see V.A.T.S.

said Clearance Fund. As amended Acts 1965, 59th Leg., p. 828, ch. 401, § 1, eff. July 1, 1965.

Section 2 of the amendatory act of 1965 provided that the act should take effect on July 1, 1965.

#### Art. 7.09 Distributors, Wholesalers, Retail Dealers

(1) Every distributor, wholesale dealer and retail dealer in this State now engaged, or who desires to become engaged, in the sale or use of cigarettes upon which a tax is required to be paid, shall file with the Comptroller in accordance with the terms and conditions hereinafter set forth by this Article an application for a cigarette permit as a distributor, wholesale dealer or retail dealer, as the case may be, said application to be accompanied by a fee of Twenty-five Dollars (\$25) if for a distributor's permit, or a fee of Fifteen Dollars (\$15) if for a wholesale dealer's permit, or a fee of Five Dollars (\$5) if for a retail dealer's permit except that distributors, wholesalers, and retail dealers who hold valid permits at the effective date of this law may continue in business under such permits until the expiration thereof at which time renewal permits must be obtained under the terms and conditions set forth in this Article. No person subject to this Article, who is lawfully engaged in business as a distributor on the date of enactment of this law shall be denied the right to carry on such business pending reasonable opportunity to make application for permit and final action thereon. No other person shall engage in business as a distributor without first obtaining a permit to engage in such business.

(2) Every person, before commencing business as a distributor of tobacco products, and at such other time as the Comptroller or his duly appointed agent shall prescribe or direct, shall make application for the permit provided for in this Article. The application shall be in such form as the Comptroller or his duly appointed agent shall prescribe and shall set forth truthfully and accurately all of the information called for on and by the form. The Comptroller or his duly appointed agent may require upon or supplementary to such application all information pertaining to the applicant's financial standing, business experience, trade connections, previous business affiliation including prior employment, prior convictions for felonies and any and all other information, without regard to the rule of ejusdem generis, which he may deem necessary to determine whether the applicant is entitled to a permit provided that in the case of applicants which are corporations, associations, joint ventures, syndicates, partnerships, proprietorships or other similar entities all such information enumerated above may be required as to each officer, director, 10 per cent or more stockholder, partner, member, owner and managing employee or employees. Such application may be rejected and the permit denied if the Comptroller or his duly appointed agent after notice and opportunity for hearing finds that:

(a) The premises on which it is proposed to conduct the business are not adequate to protect the revenue; or

(b) The applicant or managing employee (including, in the case of a corporation, any officer, director, manager or any stockholder who holds directly or through family or partner relationship 10 per cent or more of the stock of such corporation and, in the case of a partnership, a partner or manager) is, by reason of his business experience, financial standing, trade connections, previous business affiliation, including prior employment, or prior conviction of a felony not likely to maintain operations in compliance with this Chapter, or has failed to disclose any material information required or made any material false statement in the application therefor.

(3) If the Comptroller or his duly appointed agent has reason to believe any person holding a permit has not in good faith complied with the provisions of this Article or rules and regulations or with any other provision of this Chapter involving intent to defraud, or has violated the conditions upon which such permit was issued, or has failed to maintain his premises in such manner as to protect the revenue or has failed to notify the Comptroller or his duly appointed agent of any change in the business affecting ownership, control or operation thereof, the Comptroller or his duly appointed agent shall issue an order stating the facts charged, citing such person to show cause why his permit should not be suspended or revoked.

(4) If after a hearing the Comptroller or his duly appointed agent finds that such person has not in good faith complied with this Article or rules and regulations or with any other provision of this Chapter involving intent to defraud, has violated the conditions of such permit, has failed to disclose any material information required or made any material false statement in application therefor, or has failed to maintain his premises in such manner as to protect the revenue, or has engaged in any activities which endanger the revenue, such permit shall be suspended for such period as the Comptroller or his duly appointed agent deems proper or shall be revoked.

(5) Applications for permits to conduct business as wholesalers or retail dealers shall be made on forms prescribed by the Comptroller, to be furnished upon written request, failure to furnish which shall be no excuse for the failure to file the same unless an absolute refusal is shown. Said forms shall set forth:

(a) The manner in which such wholesale dealer or retail dealer transacts or intends to transact such business as wholesale dealer or retail dealer;

(b) The principal office, residence and place of business in Texas for which the permit is to apply;

(c) And, if other than an individual, the principal officers or members thereof not to exceed three (3) and their addresses. The Comptroller may require any other information as he may desire in said applications.

(6) No distributor, wholesale dealer or retail dealer shall sell any cigarettes until such application has been filed and the fee prescribed paid for a permit and until such permit is obtained. Said permits shall expire on the last day of February of each year, but may be renewed upon like application and upon payment of another fee in the amount prescribed for the kind of permit desired. An application shall be filed and a permit obtained for each place of business owned or operated by a distributor, wholesale dealer or retail dealer. Provided, however, that any distributor manufacturing, importing, or acquiring in any manner, cigarettes for his own personal use or consumption and not to be disposed of by sale, gift, or otherwise shall not be required to obtain a distributor's permit but shall be required to make the report required herein of a distributor and to comply with all other provisions of this Act affecting a distributor; provided, further, that the Treasurer shall be authorized to sell stamps to such distributors acquiring cigarettes for their own personal use or consumption and not for sale or other disposal, in lesser quantities than unbroken sheets of one hundred (100) stamps.

(7) Upon receipt of the application and fee herein provided for, and if the applicant has, in the judgment of the Comptroller or his designated agent, complied with all conditions of issuance as enumerated above and the Comptroller or his designated agent has determined that

For Annotations and Historical Notes, see V.A.T.S.

issuance of the permit will not jeopardize the revenue, then the Comptroller shall issue to every distributor, wholesale dealer or retail dealer for the place of business designated, a nonassignable consecutively numbered permit, designating the kind of permit and authorizing the sale of cigarettes in this State. Said permit shall provide that the same is revocable and shall be forfeited or suspended if the conditions of issuance as set forth above are not complied with, upon any violation of provisions of this Act or any reasonable rule or regulation adopted by the Comptroller. If such permit is revoked or suspended said distributor, wholesale dealer or retail dealer shall not sell any cigarettes from such place of business until a new permit is granted or the suspension of the old permit removed. Provided, that the Treasurer may refuse to sell stamps to any person who has not obtained a permit to engage in business as a distributor or to any distributor whose permit has been revoked or suspended until such permit has been reinstated or a new permit issued.

(8) The permit shall at all times be publicly displayed by the distributor, wholesale dealer or retail dealer at his place of business so as to be easily seen by the public and the persons authorized to inspect the same. Provided, that any distributor, wholesale dealer, or retail dealer who is the legal owner and holder and is operating under any unexpired permit which has been issued by the Comptroller as provided by Chapter 241, Acts of the Regular Session of the Forty-fourth Legislature, as amended, shall not be required to make application for and obtain from the Comptroller a permit as required herein prior to the expiration of the twelve (12) months for which such permit was issued. Provided, further, that any person who operates both as a distributor and wholesale dealer in the same place of business shall only be required to obtain a distributor's permit for the particular place of business where such operation of said business is conducted, but if any distributor or wholesale dealer sells cigarettes at both wholesale and retail, an additional permit as a retail dealer shall be required. Any unexpired permit may be returned to the Comptroller for credit on the unexpired portion only upon the purchase of a permit of a higher classification.

(9) If the application is for a permit to sell cigarettes from or by means of a cigarette vending machine, train, automobile or other vehicle, the serial number of said vending machine, the make and motor number and State Highway license number of said automobile or other vehicle and the name of the railway company and number of said train shall be shown on the application. As amended Acts 1965, 59th Leg., p. 1262, ch. 580, § 3, emerg. eff. June 17, 1965.

#### Art. 7.21 Forfeiture or Suspension of Permits

If any distributing agent, distributor, wholesale dealer or retail dealer has violated any provision of this Act, or any rule and regulation promulgated hereunder, the Comptroller shall have the power and authority to forfeit or suspend the permit or permits of said distributing agent, distributor, wholesale dealer or retail dealer by giving written notice stating the reason justifying such forfeiture or suspension and the same shall be forfeited or suspended five (5) days from the date of said notice. Any notice required to be given by the Comptroller may be mailed to the distributing agent, distributor, wholesale dealer or the retail dealer, as the case may be, at any place designated as the place of business on the application for permit required herein. No new permit shall be issued within a period of one (1) year to anyone whose permit or permits have been forfeited, except at the discretion of the Comptroller. If any permit is forfeited or suspended no cigarettes shall be sold from the place of business for which said permit applied until a new permit is granted or the suspension of the old permit removed. As

amended Acts 1965, 59th Leg., p. 1262, ch. 580, § 4, emerg. eff. June 17, 1965.

**Art. 7.23 Distributing agents; paying taxes and affixing stamps; licensing**

(1) Every distributing agent who stores cigarettes in the State for delivery in this State, except to an exempt consignee, shall be treated as a "distributor" and shall be, except as in this Section provided, subject to the provisions of this Chapter regulating "distributors" and cigarettes stored in such a person's place of business for distribution in this State shall be considered possessed for the purposes of making a "first sale" in Texas within the meaning of this Chapter and such a person shall pay the taxes assessed by this Chapter and affix the stamps as for a "first sale" in the manner provided in this Chapter, except that such a person shall be required to affix said stamps only prior to the time that such cigarettes shall leave the warehouse of such a person for a delivery in this State except to an exempt consignee. Such a distributing agent shall be subject to the licensing provisions applicable to a distributor as provided in Article 7.09 of this Chapter, as amended, except that persons holding a valid permit as a distributing agent at the effective date of this law may continue in business under such permits, subject to the terms and regulations of this law, until the expiration thereof at which time such a distributing agent must obtain a distributor's permit under the terms and conditions set forth in Article 7.09 of this Chapter, as amended, and no persons subject to this Article who are lawfully engaged in the business as a distributing agent on the date of the enactment of this law shall be denied the right to carry on such business pending reasonable opportunity to make application for permit and final action thereon. As amended Acts 1965, 59th Leg., p. 1262, ch. 580, § 4A, emerg. eff. June 17, 1965.

(2). Repealed. Acts 1965, 59th Leg., p. 1262, ch. 580, § 4B.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**CHAPTER 9—MOTOR FUEL (GASOLINE) TAX**

**Art. 9.13 Claims for Refunds**

(6a) Allocation of unclaimed aircraft and motorboat fuel refunds to Available School Fund, Texas Aeronautics Commission Fund, and Land and Water Recreation and Safety Fund. Each month the Comptroller, after making the deductions for refund purposes as provided in Article 9.13, Section (13) of this Chapter, shall determine as accurately as possible the number of gallons of motor fuel used in aircraft and the number of gallons of motor fuel used in motorboats upon which the motor fuel tax has been paid to this State, and upon which refund of the tax thereon has not been made and against which a six (6) months' limitation has run for filing claim for refund of said tax (called 'unclaimed refunds'), and from the number of gallons so determined the Comptroller shall compute the amount of taxes that would have been refunded under the law had claims for same been filed in accordance with the law, and shall allocate and deposit such unclaimed refunds as follows:

(A) Twenty-five per cent (25%) of the revenues based on unclaimed refunds of taxes paid on motor fuel used in aircraft shall be allocated, deposited, and set aside in the State Treasury placed to the credit of the Available School Fund. The remaining seventy-five per cent (75%) of such revenues shall be allocated, deposited, and set aside

For Annotations and Historical Notes, see V.A.T.S.

in the State Treasury in a special fund to be called the Texas Aeronautics Commission Fund and the same shall be credited to, and is hereby appropriated to, the Texas Aeronautics Commission for the purposes set forth in this Section, and which said Texas Aeronautics Commission Fund shall be administered by the Texas Aeronautics Commission, together with any other funds appropriated by the Legislature, for the support, maintenance and operation of the Texas Aeronautics Commission in the performance of its safety and all of its other functions, duties and responsibilities as may be now or hereafter delegated to such Commission as prescribed by law, and also for the payment of the Commissioners, the director, assistant director, the staff, and for equipment and supplies, including aircraft and automotive equipment as authorized by law.

(B) Twenty-five per cent (25%) of the revenues based on unclaimed refunds of taxes paid on motor fuel used in motorboats shall be placed to the credit of the Available School Fund. The remaining seventy-five per cent (75%) of such revenues shall be allocated, deposited, and set aside in the State Treasury in a special fund to be called the Land and Water Recreation and Safety Fund, and the same shall be credited to, and is hereby appropriated to, the Parks and Wildlife Department for the purpose of acquiring land for recreational purposes and for enforcement of the Texas Water Safety Act.

Any unexpended portion of the Texas Aeronautics Commission Fund or the Land and Water Recreation and Safety Fund not used, and on hand, at the end of each fiscal year shall be returned to the Comptroller of Public Accounts and he shall place the same to the credit of these funds, respectively, to be used for the purposes stated herein. Added Acts 1961, 57th Leg., p. 817, ch. 371, § 2, as amended Acts 1965, 59th Leg., p. 1580, ch. 686, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

(13) All net moneys paid into the Treasury under the provisions of this Chapter, except the filing fees provided herein, and except the funds placed in the Available School Fund, the Texas Aeronautics Commission Fund and the Land and Water Recreation and Safety Fund as provided in Section (6a) of this Article, shall be set aside in a special fund to be known as the Highway Motor Fuel Tax Fund and no part of said fund shall be credited to the Available School Fund until a report is made by the Comptroller to the Treasurer showing the total maximum amount of refunds that may be required to be paid by the State out of such funds, or allocated to the Texas Aeronautics Commission Fund or the Land and Water Recreation and Safety Fund as provided in Section (6a) of this Article. The Comptroller shall on the 25th of each month, or as soon thereafter as is possible, compute and ascertain the maximum amount of funds that may be due by the State on the sale of motor fuel during the preceding month upon which a refund may be due, or which shall be allocated to the Available School Fund, the Texas Aeronautics Commission Fund, and the Land and Water Recreation and Safety Fund as provided in Section (6a) of this Article, and shall certify to the Treasurer the maximum amount, and the Treasurer shall reserve said amount each month out of which to pay refunds, or to allocate the unclaimed refunds as provided in said Section (6a), and shall not distribute that part of said fund until the expiration of the time in which a refund can be made as provided by law, but as soon as said report has been made by the Comptroller and the maximum amount of refunds, and unclaimed refunds provided in said Section (6a), shall have been determined, he shall deduct said maximum amount from the total taxes paid for the month, and apply the remainder as provided by law. If a claimant has lost or loses, or for any reason

fails to receive a warrant after the same has been issued by the Comptroller, then, upon satisfactory proof thereof, the Comptroller may issue such claimant a duplicate warrant as provided in Article 4365, Revised Civil Statutes of Texas, 1925 (as amended by Section 1, Chapter 219, Acts of the 53rd Legislature, Regular Session, 1953). As amended Acts 1961, 57th Leg., p. 817, ch. 371, § 3; Acts 1965, 59th Leg., p. 1580, ch. 686, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

(14) So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds, and to allocate and deposit the unclaimed refunds to the Available School Fund, the Texas Aeronautics Commission Fund, and the Land and Water Recreation and Safety Fund as provided in said Section (6a), and if a specific amount be necessary then there is hereby appropriated and set aside for said purposes the sum of Two Hundred Thousand Dollars (\$200,000), or so much thereof as may be necessary. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the one and one-half per cent (1½%) deducted originally by the distributor upon the first sale or distribution of the motor fuel shall be deducted in computing the refund if a refund is claimed, then the Comptroller shall deduct fifty cents (50¢) from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund, which said filing fee shall be set aside for the use and benefit of the Comptroller in the administration and enforcement of this Article, as well as for payment of expenses in furnishing the form of invoice of exemption and other forms provided for herein, and the same is hereby appropriated for such purpose. All such filing fees shall be paid into the State Treasury and shall be paid out on vouchers and warrants in such manner as may be prescribed by law. In the event the refund on motor fuel used in aircraft or motorboats is not claimed within six (6) months, as provided by this Chapter, the Comptroller shall deposit the remainder as provided in said Section (6a). As amended Acts 1961, 57th Leg., p. 817, ch. 371, § 4; Acts 1965, 59th Leg., p. 1580, ch. 686, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER 10—SPECIAL FUELS TAX

### Art. 10.02 Definitions

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

(1) "Special fuels" means all combustible gases and liquids suitable for the generation of power for the propulsion of motor vehicles, including "liquefied gas" and "distillate fuel" as defined in (2) and (3) hereinbelow, except that the term "special fuels" shall not include "motor fuel" as defined in the Motor Fuel Tax Law by Chapter 9, Article 9.01 of this Title.

(2) "Liquefied gas" means all combustible gases which exist in the gaseous state at sixty (60) degrees Fahrenheit and at a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute.

(3) "Distillate fuel" means diesel fuel, kerosene, and any other liquid suitable for the generation of power for the propulsion of motor vehicles, except liquefied gas as defined in (2) above and "motor fuel" as defined in Article 9.01 of Chapter 9 of this Title.

For Annotations and Historical Notes, see V.A.T.S.

(4) "Bulk." Except for deliveries into fuel supply tanks of motor vehicles, the term "bulk" means any quantity of distillate fuel in excess of five (5) gallons, and any quantity of liquefied gas other than in cylinders with a capacity of one hundred (100) pounds or less. Cylinders, as used in this paragraph, do not include containers especially designed for use as fuel supply tanks of motor vehicles.

(5) "Motor vehicle" means any automobile, truck, pickup, jeep, station wagon, bus or other self-propelled vehicle designed for use on or required to be licensed for operation upon the public highway. Tractors, combines, and other vehicles not required to be so licensed shall be deemed to be motor vehicles to the extent they are operated upon the public highway with special fuels on which the tax is required to be paid.

(6) "Public highway" means every way or place open to the use of the public as a matter of right for vehicular travel, including toll roads, notwithstanding that they may be temporarily closed or travel thereon restricted for any purpose.

(7) "Supplier" means any person (a) who sells or delivers special fuels to a service station or to any dealer or user required herein to be licensed, or (b) who is principally engaged in the business of selling or delivering special fuels in bulk quantities to consumers for non-highway use.

(8) "Dealer" means any person not licensed as a supplier who, as the operator of a service station or otherwise, delivers special fuels into the fuel supply tanks of motor vehicles owned or operated by others.

(9) "User" means any person not licensed as a supplier or dealer who delivers special fuels into the fuel supply tanks of motor vehicles owned or operated by him. "User" also means any person who as an import user brings special fuels into this State in the fuel supply tanks of motor vehicles owned or operated by him for use on the public highway.

(10) "Person" means natural persons, partnerships, firms, associations, corporations (public, private or municipal), trustees, and receivers.

(11) "Service station" means a place of business holding itself out to the public as engaging in the sale and delivery of special fuels into motor vehicles for their propulsion.

(12) "Comptroller" means the Comptroller of Public Accounts of the State of Texas. As amended Acts 1965, 59th Leg., p. 334, ch. 158, § 1, emerg. eff. May 17, 1965.

Acts 1965, 59th Leg., p. 334, ch. 158, §§ 1-9 amended articles 10.02, 10.03, 10.05, 10.06, 10.11 to 10.13 and 10.18 of this chapter. Section 10 of the amendatory act of 1965, a savings clause, provided that "All taxes penalties and interest incurred, and all liens created and bonds executed to secure their payment under any laws repealed or amended by this Act prior to its effective date, are hereby declared to be legal and

valid obligations to this State; and any offense committed or any fines or penalties incurred under any laws repealed or amended by this Act prior to the effective date of this Act, shall not be affected by the repeal or amendment of any such laws, but the punishment of such offense and recovery of such fines and penalties shall take place as if the laws repealed or amended had remained in force."

#### Art. 10.03 Levy of Tax

(3) Every supplier shall collect and remit the tax, except as herein-after provided to the contrary, upon each gallon of special fuels delivered by him to "dealers" or "users" who are required herein to be licensed, and upon each gallon of special fuels delivered by him into the fuel supply tanks of motor vehicles not operated by him, and shall pay the tax upon each gallon of special fuels delivered into the fuel supply tanks of motor vehicles owned or operated by him.

It is expressly provided, however, that deliveries of special fuels may be made without collecting the tax otherwise imposed, (a) when such deliveries are made by a licensed supplier to bonded users or bonded dealers

who have secured from the Comptroller and then and there hold valid permits authorizing them to purchase tax free special fuels which are predominantly for use or resale for use off the public highways of this State, or (b) when such deliveries are made by a licensed supplier into a storage facility of a service station from which special fuels will be resold and delivered to purchasers for non-highway use and not otherwise, providing such storage facility is maintained separate and apart from facilities servicing fuel supply tanks of motor vehicles and is prominently labeled "NOT FOR HIGHWAY USE" in a manner to be prescribed by the Comptroller, and in plain view of the public to indicate that non-tax paid products are contained therein, or (c) when deliveries of kerosene having a flash point not lower than 115° Fahrenheit, are made by a licensed supplier into a storage facility maintained by a store or mercantile establishment for the storage of kerosene for resale at retail to purchasers for illuminating, heating, cooking, and similar non-highway consumption and not otherwise, and providing such storage facility is prominently labeled as kerosene. As amended Acts 1965, 59th Leg., p. 334, ch. 158, § 2, emerg. eff. May 17, 1965.

(6) Every licensed supplier shall deduct the tax on one per cent (1%) of the taxable gallons of special fuels sold, delivered or used by him in the payment of taxes to the State of Texas, which deduction or allowance shall be apportioned among the supplier and dealers who purchase said taxable fuels as follows:

Every supplier who makes a bulk sale of special fuels to a dealer, upon which sale the tax is required to be collected, shall set out the tax separately on the invoice and deduct one half of one per cent ( $\frac{1}{2}$  of 1%) of the amount of such tax and the balance shall be the amount of tax the supplier is entitled to collect from such dealer; any dealer or user who is licensed to report and pay taxes directly to this State on special fuels sold or used by him shall be entitled to deduct one half of one per cent ( $\frac{1}{2}$  of 1%) of the taxes paid directly to the State of Texas by him.

The above deductions or allowances shall be for evaporation and handling losses, and for the expense of collecting taxes, making reports and tax remittances and keeping records.

It is also provided that every supplier who delivers the liquefied gas he sells in vehicle tanks, having a total capacity not exceeding 2,500 gallons per tank, which is unloaded by means of motor-powered pumping units operated by the same motor with liquefied gas fuel supplied from the same fuel tank which is used to propel the vehicle over the public highways shall, when he has issued or secured an invoice upon each delivery of liquefied gas into the fuel supply tanks of such motor vehicles, containing all the information required to be shown thereon, and has kept the other records required of a supplier, be allowed a deduction from the taxable gallons delivered into the fuel supply tanks of each motor vehicle during the month reported at the rate of  $1\frac{1}{2}$  gallons per 1,000 gallons of liquefied gas unloaded by such pumping operation. As amended Acts 1965, 59th Leg., p. 334, ch. 158, § 3, emerg. eff. May 17, 1965.

#### Art. 10.05 Unlawful Operations of Motor Vehicles

(2) It is unlawful to operate with special fuels any motor vehicle licensed for operation upon the public highway on which a speedometer is not kept at all times in good operating condition to measure and register correctly the miles traveled by such motor vehicle; it is provided, however, any device other than a speedometer which measures and registers correctly the miles traveled may be used on motor vehicles of motor carriers operating under the provisions of Article 911a and Article 911b of the Motor Carrier Act, provided the mileage recorded on such device is inserted in lieu of the speedometer reading on each invoice covering special fuels



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delivered into the fuel supply tanks of such motor vehicles; and a conviction or judgment secured in any criminal or civil action by the State against any person for wilful violation of or failure or refusal to comply with such provisions of law shall forfeit the right of such offender to purchase special fuels in this State without paying the tax thereon for a period of six (6) months from the date final judgment is entered. This provision shall not be construed as prohibiting such person from claiming refund of the tax paid on special fuels purchased and used off the public highways of this State. As amended Acts 1965, 59th Leg., p. 334, ch. 158, § 4, emerg. eff. May 17, 1965.

#### Art. 10.06 Unlawful Sales

Except in the case of tax free deliveries of special fuels authorized by Article 10.03(3) of this Chapter, it is unlawful to make bulk sales of special fuels to any person who (1) is not licensed as a supplier, or (2) is not licensed as a dealer or user of special fuels, or (3) does not furnish to the seller a signed statement that none of the special fuels purchased will be delivered by him or will be permitted by him to be delivered into the fuel supply tanks of motor vehicles. A taxable use of the special fuels so purchased without securing a user's permit shall, in addition to the penal provisions otherwise provided by law, forfeit the right of said person to purchase special fuels tax free for a period of one year from the date of such offense. Provided, however, the Comptroller may issue said person a non-bonded user's permit, to be effective for the period of the forfeiture, authorizing such person to file claims as a licensed user for refund of the tax paid on special fuels used for non-highway purposes by him. Except as otherwise prescribed by rule and regulation of the Comptroller, such statement when furnished to a licensed supplier shall be effective as long as said supplier sells and delivers special fuels to said purchaser under a supplier's permit, unless the statement is revoked in writing by the purchaser, or unless notification of a change in the status of the purchaser has been given to the supplier by the Comptroller. As amended Acts 1965, 59th Leg., p. 334, ch. 158, § 5, emerg. eff. May 17, 1965.

#### Art. 10.11 Permits

(1) Upon approval of an application and approval of bond if a bond is required, the Comptroller shall issue to the applicant a permit authorizing him to engage in the kind of business or other operations or to perform the functions set out in and authorized by the class of permit so issued. The permits shall be issued for each calendar year, or any unexpired part of a year, and shall be effective from the date of issue to the end of such calendar year, unless revoked or suspended for cause, as hereinafter provided. Such permits shall be of the kinds and classifications as set out hereinbelow:

##### NON-BONDED SUPPLIER PERMITS.

Authorizing persons who do not own or operate motor vehicles propelled with special fuels to engage in business as suppliers of special fuels to purchasers who are not required herein to be licensed as suppliers, dealers or users, and not otherwise.

##### BONDED SUPPLIER PERMITS.

Authorizing persons to engage in business as suppliers of special fuels to licensed dealers, users, and other suppliers, and to other authorized purchasers of special fuels.

##### NON-BONDED DEALER PERMITS.

Authorizing dealers whose purchases of special fuels are predominantly for sale and delivery into the fuel supply tanks of motor vehicles to operate as dealers who pay the tax imposed herein to the supplier of such

fuel and claim refund of the tax paid on any special fuels thereafter sold for non-highway use.

**BONDED DEALER PERMITS.**

Authorizing dealers whose purchases of special fuels are predominantly for resale for non-highway use to purchase special fuels tax free from their supplier and to report and pay taxes to this State on the part of such special fuels which is delivered into the fuel supply tanks of motor vehicles.

**NON-BONDED USER PERMITS.**

Authorizing users whose purchases of special fuels are predominantly for delivery by them into the fuel supply tanks of motor vehicles owned or operated by them, or users whose right to purchase special fuels tax free has been forfeited, to pay the tax imposed herein to the supplier and claim refund of the tax paid on any special fuels thereafter used by them off the public highways.

**BONDED USER PERMITS.**

Authorizing users whose purchases of special fuels are predominantly for non-highway use by them to purchase special fuels tax free from their supplier and to report and pay taxes to this State on the part of such special fuels which is delivered into the fuel supply tanks of motor vehicles owned or operated by them.

**BONDED IMPORT USER PERMITS.**

Authorizing users to import or bring special fuels into this State in the fuel supply tanks of motor vehicles owned or operated by them, and to report and pay the tax due thereon to this State, and to claim credit or a refund of the tax paid on special fuels which is thereafter used in other States.

Nothing herein shall be construed to permit any sale and delivery of special fuels directly into the fuel supply tanks of a motor vehicle without collecting the tax thereon from the purchaser of such special fuels.

The Comptroller shall determine from the information shown in the application or other investigation the kind and class of permit to be issued.

A supplier may operate under his supplier's permit as a dealer or as a user without securing a separate permit but he shall be subject to all other conditions, requirements, and liabilities imposed by this Chapter upon a dealer or a user. A licensed dealer may use special fuels in motor vehicles owned or operated by him without securing a separate permit as a user, subject to all conditions, requirements, and liabilities imposed herein upon a user.

All permits shall be posted in a conspicuous place or kept available for inspection at the principal place of business of the owner thereof. Permit holders shall reproduce the permit by photostat or other method and keep a copy on display at each additional place of business or other place of storage from which special fuels are sold, delivered or used by the permit holder. Persons holding import-user permits shall reproduce the permit and carry a photocopy thereof with each motor vehicle being operated into or from the State of Texas. As amended Acts 1965, 59th Leg., p. 334, ch. 158, § 6, emerg. eff. May 17, 1965.

Validity of taxes and penalties, interest incurred, liens created and bonds executed prior to and under laws repealed or amend-

ed by Acts 1965, 59th Leg., p. 334, ch. 158. see note under article 10.02.

**Art. 10.12 Records Required**

(2) Each bulk sale and delivery of special fuels shall be covered by an invoice with the name and address of the supplier or dealer and a serial

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number printed thereon, showing the complete information set out hereinabove for each such sale, one counterpart of which shall be delivered to the purchaser and another counterpart kept by the supplier or dealer for the period of time and purposes above provided. Every delivery of special fuels into the fuel supply tank of a motor vehicle shall be recorded upon a serially numbered invoice issued in not less than duplicate on which shall be printed, or stamped with a rubber stamp, the name and address of the supplier, dealer, or user making such delivery and on which shall be shown, the name and address or credit card identification of the purchaser, the date of delivery, the number of gallons and kind of special fuels so delivered, the total mileage recorded on the speedometer of the motor vehicle into which delivered, and the State highway license or unit number of said motor vehicle. The invoice shall be signed by the driver.

The invoice required above must be demanded by every person purchasing and receiving a delivery of special fuels into the fuel supply tank of a motor vehicle in Texas at the time of such delivery and such person shall carry the invoice with the vehicle until the fuel covered by same is consumed. The invoice shall show the tax rate or amount of tax paid or accounted for.

Every supplier, dealer or user making such sales or deliveries of special fuels and every person so receiving and purchasing special fuels must each retain one copy of each such invoice as part of his permanent records for the time and purposes above provided. As amended Acts 1965, 59th Leg., p. 334, ch. 158, § 7, emerg. eff. May 17, 1965.

Validity of taxes and penalties, interest incurred, liens created and bonds executed prior to and under laws repealed or amend- ed by Acts 1965, 59th Leg., p. 334, ch. 158, see note under article 10.02.

#### Art. 10.13 Tax Payments—Reports

(5a) When it shall appear to the Comptroller from evidence submitted by an import user that records of special fuels used by him for taxable purposes on the public highways of this State in motor vehicles operated in interstate travel cannot be secured from all drivers of such vehicles in time to file accurate reports and tax remittances within the time prescribed by law, the Comptroller may agree to accept monthly reports and tax remittances computed on a fixed mileage basis by which the miles traveled in Texas by said vehicles will be divided by a fixed mileage factor to determine the taxable gallons of special fuels used in such vehicles upon the public highways of this State. It is expressly provided, however, that whenever an audit made by the Comptroller from the records of the import user shows that more special fuels were consumed on the Texas highway on a basis of the average miles traveled per gallon of fuel consumed than was reported for tax purposes, the import user shall be liable for the tax on the additional gallons shown as used, and any penalties and interest due thereon. Added Acts 1965, 59th Leg., p. 334, ch. 158, § 8, emerg. eff. May 17, 1965.

Validity of taxes and penalties, interest incurred, liens created and bonds executed prior to and under laws repealed or amend- ed by Acts 1965, 59th Leg., p. 334, ch. 158, see note under article 10.02.

#### Art. 10.18 Civil and Statutory Penalties

(1) If any person affected by this Chapter shall fail or refuse to comply with any provision of this Chapter or shall violate the same, or shall fail or refuse to comply with any rule and regulation promulgated hereunder by the Comptroller or shall violate the same, he shall forfeit to the State of Texas as a penalty the sum of not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500). Such penalty, if not paid, shall be recovered in a suit by the Attorney General in a court of competent jurisdiction in Travis County, Texas, or any other court of

competent jurisdiction having venue under existing venue Statutes. Provided that in addition to such penalties, if any supplier, dealer or user does not make remittance for any taxes collected, or pay any taxes due the State of Texas by said supplier, dealer or user, within the time prescribed by law said supplier, dealer or user shall forfeit two per cent (2%) of the amount due; and if said taxes are not remitted or paid within ten (10) days from the date the Comptroller gives such supplier, dealer or user notice in writing directed to the address shown in the application for permit filed by said supplier, dealer or user that all taxes which appear to be due have not been paid, an additional eight per cent (8%) shall be forfeited. All past due taxes and penalties shall draw interest at the rate of six per cent (6%) per annum. As amended Acts 1965, 59th Leg., p. 334, ch. 158, § 9; emerg. eff. May 17, 1965.

Validity of taxes and penalties, interest incurred, liens created and bonds executed prior to and under laws repealed or amend-

ed by Acts 1965, 59th Leg., p. 334, ch. 158, see note under article 10.02.

## CHAPTER 12—FRANCHISE TAX

### Art. 12.03 Corporations Exempt

The franchise tax imposed by this Chapter shall not apply to any insurance company, surety, guaranty or fidelity company, transportation company or sleeping, palace car and dining car company now required to pay an annual tax measured by their gross receipts, or to any corporation organized as a railway terminal corporation and having no annual net income from the business done by it, or to corporations having no capital stock and organized for the exclusive purpose of promoting the public interest of any county, city, or town, or other area within the State or to corporations organized for the purpose of religious worship or for providing places of burial not for private profit, or to corporations organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits, or for strictly educational purposes, which includes non-profit corporations organized for the sole purpose of providing a student loan fund, or for purely public charity, or to state-chartered building and loan associations; or to any mutual investment company registered under the Federal Investment Company Act of 1940, as from time to time amended, which holds stocks, bonds or other securities of other companies solely for mutual investment purposes, or for non-profit corporations having no capital stock organized for the purpose of the education of the public in the protection and conservation of fish, game and other wildlife, grasslands and forests, or to nonprofit water supply or sewer service corporations organized on behalf of cities or towns pursuant to Acts of 1933, 43rd Legislature, 1st Called Session, Chapter 76, as amended.<sup>1</sup> As amended Acts 1961, 57th Leg., p. 41, ch. 27, § 1; Acts 1965, 59th Leg., p. 1450, ch. 637, § 1, emerg. eff. June 17, 1965.

<sup>1</sup> Vernon's Ann.Civ.St. art. 1434a.

### Art. 12.17 Forfeiture of charter and bill of review

Upon the rendition by the district court of any judgment of forfeiture under the provisions of this Chapter, the clerk of that court shall forthwith mail to the Secretary of State a certified copy of such judgment; and, upon receipt thereof, he shall endorse upon the record of such charter in his office the words, "Judgment of Forfeiture," and the date of such judgment. In the event of an appeal from such judgment by writ of error or otherwise, the clerk of the court from which such appeal is taken shall forthwith certify to the Secretary of State the fact that such appeal has been perfected, and he shall endorse upon the record of such

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charter in his office the word, "Appealed," and the date upon which such appeal was perfected. When final disposition of such appeal shall be made, the clerk of the court making such disposition thereof shall forthwith certify such disposition and the date thereof to the Secretary of State, who shall briefly note same upon the record of such charter in his office and the date of such final disposition.

Upon determination by the Secretary of State that any domestic corporation whose right to do business has been previously forfeited by that officer, and which corporation has failed and refused to have its right to do business revived pursuant to the provisions of this Chapter, and which corporation fails to revive its right to do business prior to the first day of January next succeeding the date of forfeiture of its right to do business, and which corporation has no assets from which a judgment for the franchise tax, penalties, and court costs may be satisfied, and approval of such determination by the Attorney General, the charter of any such corporation may be forfeited, which forfeiture shall be consummated without judicial ascertainment by the Secretary of State entering upon the charter of such corporation filed in his office, the words, "Charter forfeited," giving the date thereof and citing this Act as authority therefor.

In the event of the forfeiture of the charter of a corporation, either by the Secretary of State or by judicial ascertainment, as provided by this Title, the right to do business and the charter may be revived by the following procedure:

"The corporation shall first file all delinquent franchise tax returns as required by law and also pay all franchise taxes, penalties and interest due by said corporation at the time of filing the suit hereinafter mentioned. Any stockholder or director of the corporation at the time of the forfeiture of the right to do business, or of the charter, may, in the name of the corporation, bring suit in the District Court of Travis County, Texas, in the nature of a bill of review to set aside such forfeiture. The Secretary of State and Attorney General shall be made defendants in said suit. In the event judgment is rendered setting aside the charter forfeiture, the Secretary of State shall endorse on the charter of said corporation the words "Charter Revived by Court Judgment" and state the cause and date on which such judgment was entered, and shall administratively revive the corporation's right to do business in accordance with the provisions of Article 12.15 of this Title. If the forfeited corporation's charter is revived, it shall ascertain from the Secretary of State whether the name of the forfeited corporation is available, and, if not available, file an amendment to its charter changing the name of the corporation. It is further provided that nothing in this Act shall affect the liability of the officers and directors of such corporation for any debts, obligations or liabilities incurred between the date of the forfeiture of the right to do business and the revival as herein provided. As amended Acts 1965, 59th Leg., p. 1268, ch. 582, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**CHAPTER 14—INHERITANCE TAX AND FEDERAL ESTATE  
TAX CREDIT**

Art.  
14.00A Definitions [New].

**I. BASIC INHERITANCE TAX**

14.015 Exempt transfers [New].

**III. ADMINISTRATION**

Art.  
14.28 Repealed.

*Title of Chapter 14 changed to "Inheritance Tax and Federal  
Estate Tax Credit" by Acts 1965, 59th Leg., p. 830, ch. 403, § 1.*

**Art. 14.00A Definitions**

The following words when used in this Chapter, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this Section.

(a) "Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas.

(b) "Date of Death" means the actual date of death except in the case of a presumed decedent, when it means the date on which the court enters its final decree establishing the fact of death, regardless of the date which is found by such decree to be the presumed date of the absentee's death.

(c) "Market Value" means the price property will bring when offered for sale by one who desires to sell but is not obligated to sell and is bought by one who desires to buy but is under no necessity of buying.

(d) "Person" includes natural persons and corporations.

(e) "Personal Representative" or "Representative" includes executor, independent executor, administrator, temporary administrator, and trustee together with their successors or any other person administering or handling the affairs of a decedent's estate.

(f) "Property" shall include real or personal property, corporeal or incorporeal property, and any interest therein, whether belonging to inhabitants of this State or to persons who are not inhabitants, regardless of whether such property is located within or without this State.

(g) "Revenue Act of 1926" includes amendments and revisions thereto.

(h) "State" means any state, territory, or possession of the United States and the District of Columbia.

(i) "Territories" include the District of Columbia and possessions of the United States.

(j) "Will" includes codicil; it also includes a testamentary instrument which merely appoints an executor and a testamentary instrument which merely revokes another will. Added Acts 1965, 59th Leg., p. 830, ch. 402, § 2, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-8, added and amended various articles in Chapter 14, Inheritance Tax and Federal Estate Tax Credit, of this Title, and added article 1.032 to Chapter 1, General Provisions. Sections 9-13 of the Act of 1965 provided:

"Sec. 9. Savings Clause. The repeal of any law by this Act shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such obligation, right, license, permit or penalty.

Taxes incurred under any law repealed by this Act are an obligation within the meaning of this Section. In addition, any permit or license obtained under any law repealed by this Act shall remain effective for the term and under the conditions prescribed by the repealed law under which the permit or license was granted or issued.

"Sec. 10. Severability. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

For Annotations and Historical Notes, see V.A.T.S.

"Sec. 11. Repealer.

"(a) Wherever used in this Section, "Article" numbers are references to Vernon's Annotated Civil Statutes of Texas, 1925, or Vernon's Annotated Penal Code of Texas.

"(b) The following Statutes and Acts, together with all laws or parts of laws in conflict with this Act, are hereby repealed:

"That part of Chapter 1, Acts of the 56th Legislature, Third Called Session, 1959, as amended, Chapter 14, as amended, (Inheritance Tax), being Articles 14.23, 14.24, 14.25, 14.26, 14.27, and 14.28 of said Chapter 14;

"That part of Chapter 1, Acts of the 56th Legislature, Third Called Session, 1959, as amended, Chapter 15, (Additional Inheritance Tax) being all of said Chapter 15;

"And further, that part of Chapter 192, Acts of the 43rd Legislature, Regular Session, 1933, as amended, being Article 107a and Article 107b, Vernon's Annotated Penal Code of Texas (Inheritance Tax Reports) and Acts 1923, Second Called Session, page 67, being Article 140, Vernon's Annotated

Penal Code of Texas (Inheritance Tax Reports).

"Sec. 12. This Act shall be effective July 1, 1965. In the case of an estate in which the decedent died prior to July 1, 1965, the dates provided in Articles 14.14, 14.16, and 14.17, as amended, for filing reports, paying taxes, and accumulating interest shall be July 1, 1965, instead of the specified number of months from date of death, unless the date determined by the specified number of months after the date of death shall occur later.

"Sec. 13. Emergency. The fact that there is an urgent need for clarification and strengthening the tax administration procedures of this State and the further fact that there is great need to finance adequately the government of this State create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect in accordance with its provisions and it is so enacted."

## I. BASIC INHERITANCE TAX

*Subject heading, "I. Basic Inheritance Tax," was inserted by Acts 1965, 59th Leg., p. 830, ch. 402, § 3.*

### Art. 14.015 Exempt transfers

The inheritance tax imposed by Article 14.01 shall not apply to the following transfers of property:

(1) Exemption for Non-Residents. Money on deposit in any bank doing business in Texas or to shares or share accounts in any savings and loan association doing business in Texas owned by non-residents of Texas who are citizens of a foreign country and who are not engaged in business in Texas, or owned by non-resident citizens of the United States who reside in a foreign country and who are not engaged in business in Texas.

(2) Religious, Charitable, and Educational Organizations. Property passing to or for the use of charitable, educational, or religious societies or institutions, incorporated, unincorporated, or in the form of a trust, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

For the purposes of this Subsection, a religious, educational, or charitable organization shall include, but not be limited to, a youth program of physical fitness, character development, and citizenship training or like program.

(3) Public Use. Property transferred to or for the use of this State or any town therein for public purposes. Added Acts 1965, 59th Leg., p. 830, ch. 402, § 4, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-8 amended and added various articles to this chapter and added article 1.032 to chapter one. Sections 9-13 of the act of 1965 contained a savings clause, a severability pro-

vision, a repealer provision, an effective date provision and an emergency declaration and are set out in a note under article 14.00A.

## Art. 14.06 Class E—Other bequests

If passing to any other person, organization, or institution not included in any of the classes mentioned in the preceding Articles or unless specifically exempted, the tax shall be:

5% on any value in excess of \$500 and not exceeding \$10,000

6% on any value in excess of \$10,000 and not exceeding \$25,000

8% on any value in excess of \$25,000 and not exceeding \$50,000

10% on any value in excess of \$50,000 and not exceeding \$100,000

12% on any value in excess of \$100,000 and not exceeding \$500,000

15% on any value in excess of \$500,000 and not exceeding \$1,000,000

20% on any value in excess of \$1,000,000.

As amended Acts 1963, 58th Leg., p. 130, ch. 77, § 1; Acts 1965, 59th Leg., p. 830, ch. 402, § 5, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-8 amended and added various articles to this chapter and added article 1.032 to chapter one. Sections 9-13 of the act of 1965 contained a savings clause, a severability pro-

vision, a repealer provision, an effective date provision and an emergency declaration and are set out in a note under article 14.00A.

## Art. 14.07 Tax imposed if share partly in Texas

(1) Non-resident Decedent. The inheritance tax imposed upon every beneficiary's share of the estate of a non-resident decedent shall be a tax which, in amount, bears the same ratio to the entire tax for which the beneficiary's interest would be liable if the entire estate were situated in Texas, as the total value of the beneficiary's share of the decedent's estate which is situated in Texas, before allowable beneficiary deductions are made, bears to the total value of the beneficiary's entire share in the estate of the non-resident decedent wherever situated, before allowable beneficiary deductions are made.

(2) Resident Decedent. In the event a resident of this State dies, leaving any estate subject to an inheritance tax, situated partly within and partly without this State, the inheritance tax imposed upon the share of any beneficiary of said estate situated in Texas shall be a tax which shall bear the same ratio to the amount such tax would be if his entire share and interest were situated in Texas, before allowable beneficiary deductions, bears to the total value of such beneficiary's share in such decedent's estate, wherever situated, before allowable beneficiary deductions are made. As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 6, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-8 amended and added various articles to this chapter and added article 1.032 to chapter one. Sections 9-13 of the act of 1965 contained a savings clause, a severability pro-

vision, a repealer provision, an effective date provision and an emergency declaration and are set out in a note under article 14.00A.

## Art. 14.11 Value of property transferred

(A) The inheritance tax imposed by Article 14.01 shall be imposed upon the actual market value of taxable property transferred, if it has a market value, and in case it has none, then its real value.

(B) Date of Valuation. Property shall be valued at the time of the death of the decedent, provided that if the personal representative so elects, property may be valued as follows:

(1) In the case of property distributed, sold, exchanged, or otherwise disposed of, within one (1) year after the decedent's death such property shall be valued as of the date of distribution, sale, exchange, or other disposition.

(2) In the case of property not distributed, sold, exchanged, or otherwise disposed of, within one (1) year after the decedent's death, such



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property shall be valued as of the date one (1) year after the decedent's death.

(3) Any interest or estate which is affected by mere lapse of time shall be included at its value as of the time of death (instead of the later date) with adjustment for any difference in its value as of the later date not due to mere lapse of time.

(C) Determining Value. (1) If the Comptroller shall deem the value of any property reported by the personal representative to be incorrect, he may appraise the property or have it appraised to determine the correct value.

(2) The Comptroller may take into consideration the Federal valuation of any property for Federal estate tax purposes and may value or revalue any or all property in an estate for a determination of the tax levied by this Chapter.

(3) The personal representative, a beneficiary, or any other interested person may petition the Comptroller for a redetermination of the value of any or all property.

(4) If the interested person is dissatisfied with the value set by the Comptroller after a redetermination hearing, said party shall have the right to appeal the same to the District Court of the county wherein the administration of the estate is being held, or if there is no administration, or if it be a non-resident estate, then in the county wherein the principal part of the estate is located, within twenty (20) days by giving notice of appeal. The District Court shall hear and try the same de novo, and enter its judgment on the matter in controversy accordingly. As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-8 amended and added various articles to this chapter and added article 1.032 to chapter one. Sections 9-13 of the act of 1965 contained a savings clause, a sever-

ability provision, a repealer provision, an effective date provision and an emergency declaration and are set out in a note under article 14.00A.

## II. ADDITIONAL INHERITANCE TAX—FEDERAL ESTATE TAX CREDIT

*Subject heading, "II. Additional Inheritance Tax—Federal Estate Tax Credit," was inserted by Acts 1965, 59th Leg., p. 830, ch. 402, § 7.*

### Art. 14.12 Additional inheritance and transfer tax

(A) Impose Additional Tax. In addition to the inheritance tax already levied by this State under existing laws, an inheritance and transfer tax is hereby levied upon the net estate of every decedent dying after this Act shall take effect, and whose estate, or any portion thereof, is, or hereafter shall be, made taxable under the inheritance tax laws of this State, or that may be subject to such taxes under any law of this State that may be hereinafter enacted. Said tax shall be, and is, levied upon the entire net value of the taxable estate of the decedent situated and taxable in the State of Texas, and the tax on each such estate shall be equal to the difference between the sum of such taxes due this State as inheritance or transfer taxes and eighty per cent (80%) of the total sum of the estate and transfer taxes imposed on such estate by the United States Government under the Revenue Act of 1926, by reason of the property of such estate which is situated in this State and taxable under the laws of this State.

(B) When No Tax Due. In the event the amount of inheritance and transfer taxes assessed against any certain estate under the in-

heritance tax laws of this State shall equal or exceed eighty per cent (80%) of the estate or transfer taxes assessed and computed by the United States under the Revenue Act of 1926, against said estate or property belonging thereto and situated within the State of Texas, then no additional taxes shall be collected hereunder, it being the purpose and intention of this Article to collect only a sufficient additional tax when necessary, for the State to get the full benefit of the eighty per cent (80%) credit to the States provided for by Section 301, Chapter 27, of the Federal Revenue Act of 1926.

(C) Tax on Estate Subject to Federal Tax But on Which No State Tax Is Due. Where no inheritance tax is imposed on an estate, which is situated in this State, under the laws of this State, by reason of its value not exceeding in value the amount of exemptions, and an estate tax is imposed on such estate by the Federal Government, then there shall be, and is hereby levied and shall be collected from such estate, an inheritance or transfer tax sufficient in amount to equal eighty per cent (80%) of said tax imposed by the Federal Government under the Revenue Act of 1926, on that portion of said estate which is situated in the State of Texas.

In computing and determining the rate of the tax in such cases named in this Section, the State Comptroller shall compute the same upon the net valuations of said estate as determined and used by the United States in computing the amount of the Federal Government tax due upon said estate, and said tax shall be paid from the whole of such estate before partition and distribution among the joint or several owners of same.

(D) Computation of Tax. In determining what is eighty per cent (80%) of the United States estate tax mentioned in the preceding Sections, the same shall be computed as eighty per cent (80%) of such taxes actually assessed and determined by the Federal Government under the Revenue Act of 1926, against every estate situated wholly in this State, or in case an estate is situated partly in this State and partly outside of this State, then such eighty per cent (80%) shall be computed as eighty per cent (80%) of the total amount of the Federal taxes finally determined and assessed by the Federal Government under the Revenue Act of 1926, on and against that part of the estate situated in the State of Texas, and said amount of Federal tax shall be determined by multiplying the total Federal estate tax on the entire estate by a percentage which shall be the same percentage as the percentage of the net estate located in Texas is to the total net estate of the decedent, wherever located, before deducting specific exemptions.

(E) Act Not to Increase Combined Tax Due to State and Federal Government. This Article shall always be construed so as not to increase the total amount of taxes payable to the State and the Federal Government combined upon the estates of decedents, the only purpose of said additional tax being to take full advantage of the eighty per cent (80%) credit allowed by the Federal Revenue Act of 1926, to those who have paid any estate, inheritance, legacy, or succession tax to any state or territory, or the District of Columbia, in respect to any property included in the decedent's gross estate. As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-3 amended and added various articles to this chapter and added article 1.032 to chapter one. Sections 9-13 of the act of 1965 contained a savings clause, a severability

provision, a repealer provision, an effective date provision and an emergency declaration and are set out in a note under article 14.00A.

## III. ADMINISTRATION

*Subject heading, "III. Administration," was inserted by Acts 1965, 59th Leg., p. 830, ch. 402, § 7.*

## Art. 14.13 Powers and duties of Comptroller

(A) The State Comptroller of Public Accounts is hereby charged with the duty of administering and enforcing this Chapter and of collecting all revenues levied by this Chapter. The Comptroller shall promulgate and publish rules and regulations not inconsistent with this Chapter, or the laws or Constitution of this State, for the enforcement of this Chapter and the collection of the revenues levied thereunder.

(B) The Comptroller is authorized to examine any books, records, documents, or property that might be necessary for the proper enforcement of this Chapter. The Comptroller may bring suit in the name of the State of Texas through the Attorney General for the collection of any revenue levied by this Chapter or for the execution of the lien for such revenues. The Comptroller shall prescribe forms requiring whatever information he deems necessary and shall furnish all forms necessary in making the reports and collecting the tax provided for by this Chapter.

(C) Exchange Information. The State Comptroller is authorized and directed to confer with the Internal Revenue Service of the United States to ascertain the value of estates in Texas which have been assessed or valued for taxes by the Federal Government, and he shall cooperate with and may enter into an exchange of information agreement with the Internal Revenue Service, furnishing to said Service all available information concerning estates of decedents in Texas which said Service may request.

(D) Compromise Agreement. When the Comptroller claims that a decedent was domiciled in this State at the time of his death and the taxing authorities of another state or states make a like claim on behalf of their state or states, the Comptroller may with the approval of the Attorney General, make a written agreement of compromise with the other taxing authorities and the personal representative of the estate that a certain sum shall be accepted in full satisfaction of any and all death taxes imposed by this State, including any interest or penalties to the date of filing the agreement. The agreement shall also fix the amounts to be accepted by the other states in full satisfaction of death taxes. As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-8 amended and added various articles to this chapter and added article 1.032 to chapter one. Sections 9-13 of the act of 1965 contained a savings clause, a severability pro-

vision, a repealer provision, an effective date provision and an emergency declaration and are set out in a note under article 14.00A.

## Art. 14.14 Returns and reports

(A) Preliminary Report. Every personal representative or other person coming into possession of any portion of an estate shall file a preliminary report within two (2) months after coming into possession of any such property or within ninety (90) days of the date of death of the decedent, whichever date shall occur first. Such preliminary report shall provide such information as the Comptroller deems necessary.

(B) Inventory and Appraisalment. Within twenty (20) days after an inventory and appraisalment and a list of claims shall have been filed and approved by the County or Probate Court, in the estate of a decedent, it shall be the duty of the Clerk of said Court to furnish the Comptroller a written report setting forth such information as the Comptroller deems necessary; provided, however, that a certified copy of the inventory and appraisalment and list of claims may be filed with the Comptroller in lieu. Said Clerk shall also give the Comptroller any other information which that official may call for in reference to any such estate, such information shall be furnished within ten (10) days after being called for. The Clerk shall be entitled to a fee of One Dollar (\$1) for making the reports herein required on each such estate, which shall be taxed against said estate as Court costs, and be accounted for as fees of office.

(C) Final Return. A final tax return must be filed within fifteen (15) months of the date of death of the decedent giving such information as the Comptroller deems necessary for the enforcement of this Chapter, unless the Comptroller has determined on the basis of the preliminary report that no tax is due. If complete information is not available at the time the final return is due, the Comptroller shall provide for an additional period of time for the filing of a supplementary report.

(D) Report of Determination of Federal Tax. Within thirty (30) days after receiving notice or information of the final assessment and determination of the value of the estate assessed and determined by the Federal Government for the purpose of fixing Federal estate taxes thereon, the personal representative shall make to the Comptroller a report of the value of said estate as so fixed and determined. Said report shall be made in such form and contain such information as the Comptroller directs.

(E) Failure to File Reports—Civil Penalty. A penalty of Ten Dollars (\$10) shall be assessed for failure to file any report or return required by this Article within the period provided. As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965.

Dates for filing reports provided in this article in cases of estates in which decedents die prior to July 1, 1965, the effective date of the 1965 amendatory act, see note under art. 14.00A.

#### Art. 14.15 Criminal penalties

(A) The fines imposed by this Article shall be collected by the County Attorney, or District Attorney, in the name of this State by suit in the county in which the administration is pending, or if there be no administration, or if it be a non-resident estate, then in the county wherein the principal part of the estate is located.

(B) Any administrator, executor, or trustee of the estate of a decedent leaving property subject to taxation under the statutes relating to inheritance taxes who fails or refuses to file within the time prescribed by law a report with the Comptroller giving the information required by law as to such estate, shall be guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000).

(C) If any County or Probate Clerk shall fail or refuse to file within the time prescribed by the inheritance tax law a report with the Comptroller giving the information concerning property subject to taxation under the statutes relating to inheritance taxes, he shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than Fifty Dollars (\$50) nor more than Two Hundred and Fifty Dol-

For Annotations and Historical Notes, see V.A.T.S.

lars (\$250). As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-8 amended and added various articles to this chapter and added article 1.032 to chapter one. Sections 9-13 of the act of 1965 contained a savings clause, a severability pro-

vision, a repealer provision, an effective date provision and an emergency declaration and are set out in a note under article 14.00A.

#### Art. 14.16 Payment of the tax

(A) Date Due. The inheritance taxes levied by this Chapter shall be due and payable fifteen (15) months after the date of death of the decedent.

(B) Extension of Time. In case of a redetermination hearing or litigation which affects the amount of tax due, the Comptroller shall extend the date for payment of the amount of tax under question for a period not to exceed thirty (30) days from the date of termination of said hearing or litigation.

(C) Payment. All taxes received and/or due under this Chapter by any personal representative shall be paid by him to the Treasurer of the State of Texas through the Comptroller. Upon receipt of such payment, the Comptroller shall issue proper receipt therefor, and shall deliver one to the party making payment or to his attorney of record. All taxes, penalties, and interest imposed by this Chapter shall be deposited to the General Revenue Fund.

(D) Partial Payment. Nothing in this Chapter shall prevent any part-owner or coparcener of property, against which taxes have been assessed under the provisions of this Chapter, from paying his pro rata of such taxes and thus relieving his property from any lien, interest, or penalties after such payment.

(E) Refunds. When it shall appear that a taxpayer to whom the provisions of this Chapter shall apply has erroneously paid more taxes than were due on account of a mistake of fact or law, the State Comptroller may refund such overpayment by warrant on the State Treasury from any funds appropriated for such purpose. As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965.

Dates for paying taxes provided in this article in cases of estates in which decedents die prior to July 1, 1965, the effective date of the 1965 amendatory act, see note under art. 14.00A.

#### Art. 14.17 Interest

Interest at the rate of six per cent (6%) per annum shall be added to any tax imposed by this Chapter that is not paid within fifteen (15) months from the date of death of the decedent, unless the computed interest would be less than One Dollar (\$1). As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965.

Date for accumulating interest provided in this article in cases of estates in which decedents die prior to July 1, 1965, the effective date of the 1965 amendatory act, see note under art. 14.00A.

#### Art. 14.18 Lien

(A) General Lien. All taxes, penalties, interest, and costs levied by this Chapter shall be a general lien upon the entire estate of the deceased and collectible out of said entire estate, or any part thereof, regardless of exemptions and deductions in force from the date of death of the decedent until released by the Comptroller.

(B) Specific Lien. Upon the filing of an inventory and appraisal with the County Clerk, the general lien provided by Section (A)

of this Article shall become a specific lien on such property as is listed on the inventory and appraisal, provided that the general lien provided by Section (A) of this Article shall remain in force on any property of the estate not listed on the inventory and appraisal. Said specific lien on property listed on the inventory and appraisal shall remain in force until three (3) years after the date of death of the decedent unless sooner released by the Comptroller.

(C) Extension of Specific Lien. Before the expiration of the three (3) year period, the Comptroller may extend the lien provided by Section (B) of this Article by recording the lien for inheritance taxes, penalties, interest, and costs in each county where property is located under the provisions of Articles 1.07, 1.07A, and 1.07B of this Title.

(D) Exemption. The lien provided by this Article shall not attach to the stock of goods of a business firm, but shall attach to the proceeds from the sale of such goods. "Stock of Goods" includes such tangible personal property as is normally sold in the operation of the business.

(E) Priority. The lien provided by this Article shall have such priority as is provided for in Article 1.07 of this Title, but shall not be valid or effective against such claimants or interests in property as are enumerated in said Article 1.07 that are recorded before the date of death of the decedent.

(F) Notice. All persons acquiring any portion of an estate subject to taxation under this Chapter shall be charged with notice of the existence of all such unpaid taxes, penalties, interest, and costs, and of the lien securing their payment.

(G) Enforcement. The lien provided by this Article may be enforced in any suit brought for the collection of said taxes, penalties, interest, and costs or otherwise enforced under the laws of this State. As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-8 amended and added various articles to this chapter and added article 1.032 to chapter one. Sections 9-13 of the act of 1965 contained a savings clause, a severability provision, a repealer provision, an effective date provision and an emergency declaration and are set out in a note under article 14.00A.

#### Art. 14.19 Release of lien

(A) Tax Paid. When all known taxes, penalties, interest and costs have been paid, the Comptroller shall notify the County Clerk that the tax lien upon property listed on the inventory and appraisal is released.

If any part-owner or coparcener of property shall pay his pro rata share of taxes as provided in Article 14.16(D), the Comptroller shall release the tax lien for such property or share of property.

(B) Before Tax Paid. Subject to such rules and regulations as the Comptroller may prescribe, the Comptroller may authorize the transfer of property and the release of the tax lien on specific properties before the taxes imposed by this Chapter are fully paid provided that:

(1) Such sale or transfer is necessary to pay the tax imposed by this Chapter or the Federal estate tax or such sale or transfer is necessary to preserve the estate; and

(2) Such sale or transfer is made for adequate and full consideration; and

(3) The remaining property of the estate is sufficient to assure payment of the taxes levied by this Chapter and any prior claims or liens or sufficient surety is made to guarantee payment.

For Annotations and Historical Notes, see V.A.T.S.

The lien for taxes, penalties, or interest shall attach to the proceeds of any sale or exchange authorized by this Article. As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-8 amended and added various articles to this chapter and added article 1.032 to chapter one. Sections 9-13 of the act of 1965 contained a savings clause, a severability pro-

vision, a repealer provision, an effective date provision and an emergency declaration and are set out in a note under article 14.00A.

#### Art. 14.20 Liability for tax

(A) Liability for Unauthorized Transfer. Should any domestic corporation or association transfer to any legatee or heir, or should an administrator, executor or trustee deliver to any legatee or heir, the stocks or bonds of any domestic corporation or association, or deliver any other property, before the inheritance tax thereon due this State is paid or a release of the tax lien is secured from the Comptroller, the corporation or association, or the administrator, executor, trustee and their bondsmen shall be liable for said tax, penalty, interest, and all cost of collection.

(B) Approval of Final Account. No final account of any executor or administrator shall be approved, and no estate of a decedent shall be closed, unless the final account shows, and the court finds, that all inheritance taxes due and owing to the State of Texas with respect to all interests and properties passing through the hands of the representative have been paid. If no inheritance tax is due, such fact must be shown by an instrument in writing approved by the State Comptroller of Public Accounts, and filed with the final papers closing the estate.

(C) Release of Personal Liability. If the personal representative of an estate makes written application to the Comptroller for determination of the amount of the tax and discharge from personal liability thereof, the Comptroller (as soon as possible, and in any event within one (1) year after the making of such application, or, if the application is made before the return is filed, then within one (1) year after all returns required by this Chapter have been filed), shall notify the personal representative of the estate of the amount of taxes, interest, and penalties, if any. Upon payment of the amount determined by the Comptroller, the personal representative shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt in writing showing such discharge. As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-8 amended and added various articles to this chapter and added article 1.032 to chapter one. Sections 9-13 of the act of 1965 contained a savings clause, a severability pro-

vision, a repealer provision, an effective date provision and an emergency declaration and are set out in a note under article 14.00A.

#### Art. 14.21 Safe deposits, etc.—Delivery to executor, etc.—Notice to Comptroller

No safe deposit company, trust company, corporation, bank or other institution, person or persons, having in possession or under control securities, deposits, or other assets belonging to a decedent, who was a resident or non-resident, or belonging to such a decedent and one or more persons, shall deliver the same to the executors, administrators, heirs, or legal representatives of said decedent, or to the survivor or survivors when held in the joint names of a decedent and one or more other persons, or upon their order or request, unless notice of the time and place of such intended delivery or transfer be served upon the Comptroller at least ten (10) days prior to said delivery or transfer, and delivery to be made only in the presence of the Comptroller or his duly authorized agent, who may be the County Judge of the

county in which said transfer transpires, unless the Comptroller, in writing, consents to the transfer without his presence. And it shall be lawful for the said Comptroller, or his representative, to examine all of said securities, deposits, or assets at the time of such delivery or transfer. Failure to serve such notice or failure to allow such examination shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons liable to the payment of the amount of the tax or interest due or thereafter to become due upon said securities, deposits, or other assets delivered or transferred, and in addition thereto, a penalty of not less than One Thousand Dollars (\$1,000) or more than Five Thousand Dollars (\$5,000); and the payment of such tax and interest thereon, or the penalty above-described, or both, may be enforced in an action brought by the Comptroller in any court of competent jurisdiction. As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 7, eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-8 amended and added various articles to this chapter and added article 1.032 to chapter one. Sections 9-13 of the act of 1965 contained a savings clause, a severability pro-

vision, a repealer provision, an effective date provision and an emergency declaration and are set out in a note under article 14.00A.

#### Art. 14.22 County judge—order to safe deposit company, etc., to turn over property

When it is made to appear to a County Judge in this State that a safe deposit company, trust company, bank, person, or corporation has in its possession or under its control, papers of a decedent of whose estate such court has jurisdiction, or that the decedent has leased from such a corporation a safe deposit box, and that such papers or such safe deposit box may contain a will of the decedent, or a deed to a burial plot in which the decedent is to be interred, or a policy of insurance issued in the name of the decedent and payable to a named beneficiary, he may make an order directing such deposit company, trust company, bank, person, or corporation to permit a person named in the order to examine such papers or safe deposit box in the presence of himself, or his duly authorized representative, or a representative of the Comptroller, and an officer of such safe deposit company, trust company, bank or corporation, or agent of such person, and if such documents are found among such papers, or in such box, to deliver said will to the clerk of the probate court of such county, or said deed to such persons as may be designated in such order, or said policy of insurance to the beneficiary named therein. The Clerk of said court shall furnish a receipt upon the delivery of the will to him. As amended Acts 1965, 59th Leg., p. 830, ch. 402, § 7; eff. July 1, 1965.

Acts 1965, 59th Leg., p. 830, ch. 402, §§ 1-8 amended and added various articles to this chapter and added article 1.032 to chapter one. Sections 9-13 of the act of 1965 contained a savings clause, a severability pro-

vision, a repealer provision, an effective date provision and an emergency declaration and are set out in a note under article 14.00A.

#### Arts. 14.23 to 14.28. Repealed. Acts 1965, 59th Leg., p. 830, ch. 402, § 11. Eff. July 1, 1965

Former article 14.28, derived from Acts 1963, 58th Leg., p. 445, ch. 158, § 1, provided: "The provisions of this Chapter shall not apply to money on deposit in any bank doing business in Texas or to shares or share accounts in any savings and loan association doing business in Texas owned by non-residents of Texas who are citizens of a foreign country and who are not engaged in business in Texas, or owned by non-resident citizens of the United States who reside in a foreign country and who are not engaged in business in Texas."

Acts 1963, 58th Leg., p. 445, ch. 158, § 2, provided: "The provisions of this Act shall apply in respect to a decedent dying before the effective date of this Act if the tax imposed by Chapter 14 of Title 122A, Taxation-General, Vernon's Texas Civil Statutes, has not been paid prior to the effective date of this Act, and shall also apply in respect to a decedent dying after the effective date of this Act."

See, now, articles 14.13 to 14.22. For text of repealing statute, see note under art. 14.00A.



## CHAPTER 15—ADDITIONAL INHERITANCE TAX

*Chapter 15, Additional Inheritance Tax, was repealed by Acts 1965, 59th Leg., p. 830, ch. 402, § 11.*

Arts. 15.01 to 15.16. Repealed. Acts 1965, 59th Leg., p. 830, ch. 402, § 11. Eff. July 1, 1965

See, now, article 14.12 et seq. For text of repealing statute, see note under art. 14.00A.

## CHAPTER 16—STOCK TRANSFER TAX

Art.

16.10 Alternative methods for paying tax  
[New].

## Art. 16.10 Alternative methods for paying tax

Notwithstanding any provision to the contrary in this Chapter, any person, firm, company, association, corporation, or business which is registered as a securities dealer pursuant to the Securities Act, Chapter 269, page 575, Acts of the Fifty-fifth Legislature, Regular Session, 1957, as amended,<sup>1</sup> may, upon application, be authorized by the Comptroller to pay the taxes provided in this Chapter by alternative methods as the Comptroller may from time to time prescribe. This alternative method may include, but is not limited to, a procedure for remitting taxes upon specified intervals as are shown to be due from the books and records of the dealer without reference to or need for the procuring, affixing, or cancelling of any stamps. Added Acts 1965, 59th Leg., p. 806, ch. 391, § 1.

<sup>1</sup> Vernon's Ann.Civ.St. art. 581—1 et seq.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**TITLE 125A—TRUSTS AND TRUSTEES****Art. 7425b—12. Trustee buying from or selling to self**

A trustee shall not buy or sell, either directly or indirectly, any property owned by or belonging to the trust estate, from or to itself or an affiliate; or from or to a director, officer, or employee of such trustee, or of an affiliate; or from or to himself, a relative, employer, partner or other business associate; provided a national banking association, or a state chartered bank and trust company, or a state chartered trust company, or a state chartered bank having trust powers, or any other state chartered corporation having the right to exercise trust powers, when acting or serving as executor, administrator, guardian, trustee, or receiver, may sell shares of the capital stock of itself so owned or held by itself, for any estate, to one or more of its officers, stockholders or directors, upon a court of competent jurisdiction finding that any such sale will be to the best interest of the estate owning such shares; fixing or approving the price to be paid therefor, and the terms of sale, and upon entering an order, decree or judgment, authorizing, approving and directing such sale to be made; and provided further, that a corporate trustee, executor, administrator, or guardian, when authorized by will, trust agreement, other trust instrument, or judicial order to retain its own capital stock in trust, may exercise rights to purchase its own stock when increases in its capital stock are offered pro rata to stockholders; and, when the exercise of rights or the receipt of a stock dividend results in a fractional share holding, may purchase an additional fractional share (or shares) to round out the fractional share so acquired into one full share; provided, moreover, that such exercise of rights, or purchase of fractional shares, in the circumstances then prevailing, shall be consistent with the judgment and care which men of ordinary prudence exercise in the management of their own affairs. As amended Acts 1965, 59th Leg., p. 560, ch. 284, § 1, emerg. eff. May 31, 1965.

**Art. 7425b—14. Corporate trustee buying its own stock**

A corporate trustee shall not purchase for a trust, shares of its own stock, or its bonds, obligations, or other securities, or the stock, bonds, obligations, or other securities of an affiliate (as defined herein). A noncorporate trustee shall not purchase for a trust the stock, bonds, obligations, or other securities of a corporation with which such trustee is connected as director, owner, manager, or in an executive or official capacity.

This Section shall not prohibit the retention of shares of stock already owned by the trust estate if such retention satisfies the provisions of Section 46 hereof, nor the exercise of stock rights, nor purchase of fractional shares, as permitted by Section 12 hereof, as amended from time to time. As amended Acts 1965, 59th Leg., p. 560, ch. 284, § 2, emerg. eff. May 31, 1965.

**Art. 7425b—25. Powers, duties, and responsibilities of trustees**

M. In the event that any property which is or may become a part of the assets of a trust is situated in a state or states other than the State of Texas, or in a foreign country, the Texas trustee is empowered to name an individual or corporate trustee qualified to act in any such state or foreign country in connection with the property situated therein as ancillary trustee of such property and require such security as may be designated by the Texas trustee. The ancillary trustee so appointed shall have all rights, powers, discretions, responsibilities and

For Annotations and Historical Notes, see V.A.T.S.

duties as are delegated to it by the Texas trustee, within the limits of the authority possessed by the Texas trustee, but shall exercise and discharge same subject to such limitations or directions of the Texas trustee as shall be specified in the instrument evidencing the appointment. The ancillary trustee shall be answerable to the Texas trustee for all monies, assets or other property entrusted to it or received by it in connection with the administration of the trust. The Texas trustee may remove such ancillary trustee and may or may not appoint a successor at any time or from time to time as to any or all of the assets. Provided, however, that if the ancillary trustee is to be appointed in any jurisdiction that requires any kind of procedure or judicial order for the appointment of such an ancillary trustee or to authorize it to act, the Texas trustee and the ancillary trustee must conform to all such requirements. Added Acts 1965, 59th Leg., p. 557, ch. 281, § 1, emerg. eff. May 29, 1965.

N. Whenever an instrument containing a trust reserves unto the trustor, or vests in an advisory or investment committee, or in any other person or persons (including a co-trustee), to the exclusion of the trustee or to the exclusion of one or more of several trustees, authority to direct the making or retention of investments, or of any investment, or the performance of any other act in the management and administration of the trust, the excluded trustee or co-trustee shall not be liable as trustee or co-trustee for any loss resulting from the making or retention of any investment pursuant to such authorized direction, or from the doing of any act in the management and administration of the trust in accordance with such authorized direction. This Subsection shall not be applicable if the terms of the trust instrument contain contrary provisions with respect to the liability of the excluded trustee or co-trustee. Added Acts 1965, 59th Leg., p. 556, ch. 280, § 1, emerg. eff. May 29, 1965.

#### **Art. 7425b—36. Expenses—trust estate**

A. All ordinary expenses incurred in connection with the trust estate or with its administration and management, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the estates of both tenant and remainderman, interest on mortgages on the principal, ordinary repairs, compensation of assistants, fees, and court costs on regular accountings, shall be chargeable against income; provided, however, that the trustee's compensation or commissions, as defined in Subsection K of Section 4 of this Act, and attorney's fees may be chargeable against income or principal or partially against income and partially against principal as the trustee shall determine in its discretion to be just and equitable.

B. All other expenses, including cost of investing or reinvesting principal, attorney's fees and other costs incurred in maintaining or defending any action to protect the trust or the property or assure the title thereof, unless due to the fault or cause of the tenant, and costs of, or assessments for, improvements to property forming part of the principal, shall be paid out of principal. Any tax levied by any authority, federal, state, or foreign, upon profit or gain defined as principal under the terms of Subsection B of Section 27 of this Act, shall be paid out of principal, notwithstanding said tax may be denominated a tax upon income by the taxing authority.

C. Expenses paid out of income according to Subsection A of this Section which represents regularly recurring charges shall be considered to have accrued from day to day, and shall be apportioned on that basis whenever the right of the tenant begins or ends at some date other than the payment date of the expenses. Where the expenses to

be paid out of the income are of unusual amount the trustee may distribute them throughout an entire year or part thereof, or throughout a series of years. After such distribution, where the right of the tenant ends during the period, the expense shall be apportioned between tenant and remainderman on the basis of such distribution.

D. Where the costs of, or special taxes or assessments for, an improvement representing an addition of value to property held by the trustee as part of principal are paid out of principal, as provided in Subsection B, the trustee shall reserve out of income and add to the principal each year a sum equal to the cost of the improvement divided by the number of years of the reasonably expected duration of the improvement. As amended Acts 1965, 59th Leg., p. 559, ch. 283, § 1, emerg. eff. May 31, 1965.

## **TITLE 127—VETERINARY MEDICINE AND SURGERY**

### **Art. 7465a. Veterinary licensing act**

#### **Injunction proceedings; venue**

Sec. 17. The Attorney General or any District or County Attorney may institute any injunction proceeding or any such other proceeding incident to such injunction proceeding as to enforce the provisions of this Act and to enjoin any person from the practice of veterinary medicine, as defined in this Act, without such person having complied with the other provisions of this Act. The venue for such injunction proceedings shall be in the county of the residence of the person against whom such injunction proceedings are instituted. As amended Acts 1965, 59th Leg., p. 417, ch. 205, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

For Annotations and Historical Notes, see V.A.T.S.

## TITLE 128—WATER

### I. IRRIGATION AND WATER RIGHTS

#### CHAPTER ONE—USE OF STATE WATER

##### 2. BOARD OF WATER ENGINEERS

Art.  
7477b. Withdrawal of underground water  
for use in another state [New].

##### 4. POLLUTION

Art.  
7621c. Repealed.  
7621e. Water Well Drillers Act [New].  
7621f. Sale or disposal of salt water for  
pollution control [New].

#### 1. PUBLIC RIGHTS

##### Art. 7466f. Pecos River Compact of 1948

Sec. 2. The Governor shall, with the advice and consent of the Senate, appoint a Commissioner, who shall represent the State of Texas on the Commission provided for by Article V of the Pecos River Compact and who shall be charged with the administration of the provisions of said Compact, and who shall have the powers and discharge the duties prescribed by the terms of said Compact. Such Commissioner shall serve for a term of two (2) years from and after the date of his appointment and until his successor, who shall serve for a like term, is appointed and qualified. He shall take oath of office as prescribed by the Constitution and, in addition thereto, he shall take oath to perform faithfully the duties incumbent upon him as such Commissioner. He shall receive a salary in such an amount as may be provided by the Legislature in the General Appropriations Act. He shall be allowed his actual expenses when traveling in the discharge of his duties. The Commissioner shall have authority to meet and confer with the New Mexico member of the Commission at such points within the States of Texas and New Mexico, and elsewhere, as the Commission may see fit. He may make such investigations and appoint such engineering, legal and clerical aid as may be necessary to protect the interest of the State of Texas and to carry out and enforce the terms of said Compact. He may incur necessary office expenses and other expenses incident to the proper performance of his duties and the proper administration of the provisions of the Pecos River Compact. But such Commissioner shall incur no financial obligation on behalf of the State of Texas until the Legislature shall have provided and appropriated money therefor. As amended Acts 1965, 59th Leg., p. 422, ch. 208, § 1.

Effective Aug. 30, 1965, 90 days after  
date of adjournment.

#### 2. TEXAS WATER RIGHTS COMMISSION

##### CHANGE OF NAME

*The name of the Texas Water Commission, created and constituted by Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, was changed to the Texas Water Rights Commission by Acts 1965, 59th Leg., p. 583, ch. 296. See article 7477.*

**Art. 7472d—1. Water Planning Act of 1957**

**EXERCISE OF POWERS**

*The Texas Water Development Board was authorized to exercise all powers and duties exercised by the Board of Water Engineers and its successor, the Texas Water Commission under the Texas Water Planning Act of 1957 by Acts 1965, 59th Leg., p. 587, ch. 297 § 2. See article 8280-9, § 3(c).*

**Art. 7477. Texas Water Rights Commission Act**

**Short title**

Section 1. This Act may be cited as the 'Texas Water Rights Commission Act.'

**Definitions**

Sec. 2. As used in this Act:

- (a) "Commission" means the Texas Water Rights Commission.
- (b) "Board" means the Texas Water Development Board.

**The Texas water rights commission**

Sec. 3. The name of the Texas Water Commission, created and constituted by Acts 1962, 57th Legislature, 3rd Called Session, Chapter 4, is hereby changed to the Texas Water Rights Commission, and the members constituting the Texas Water Commission shall continue in office for the respective terms for which they were appointed, and until their successors are appointed and have qualified. Said Commission shall be composed of three (3) members with some knowledge of water law appointed by the Governor by and with the advice and consent of the Senate, and each shall hold office for a term of six (6) years, and until his successor is appointed and has qualified. Provided, that the person appointed for the term beginning in August, 1963, shall serve for a period ending February 1, 1969; the person appointed to the term beginning in August, 1965, shall serve for a period ending February 1, 1971, and the person appointed to the term beginning August, 1967, shall serve for a period ending February 1, 1973. Each member of the Commission is an officer of the state as defined by the Constitution and shall qualify by taking the official oath of office as prescribed by law, and by executing an official bond payable to the State of Texas in the sum of Ten Thousand Dollars (\$10,000) in accordance with the provisions of the State Employee Bonding Act. Members of the Commission shall serve on a full-time basis and each member shall be from a different section of the state.

The Governor shall designate the Chairman of the Commission who shall serve as Chairman until a new Chairman is designated.

The Chairman shall preside at all meetings of the Commission and shall cause to be issued notices of public hearings authorized by the Commission or held under its authority. The Chairman may designate another member of the Commission to act temporarily for him in his absence.

The Commission shall hold regular meetings on dates specified by order of the Commission entered upon its minutes. Special meetings after reasonable notice by the Chairman or Acting Chairman to the members of the Commission may be held at such times and places within the state as said Commission may deem necessary and proper in the performance of its duties. A majority of the Commission shall constitute a quorum.

**Organization, rules and regulations**

Sec. 4. The Commission is authorized to organize and reorganize its administrative divisions and services for the most efficient dispatch of its powers and duties, and issue rules and regulations for the conduct of its affairs including the mode and manner of all procedures and hearings held under its authority.

**Reports**

Sec. 5. The Commission shall make biennial reports in writing to the Governor in which shall be included data on the activities of the Commission and such suggestions as to the amendment of existing laws and the enactment of new laws as the information and experience of the Commission may suggest.

**Executive director**

Sec. 6. The Commission shall employ an Executive Director to serve at the pleasure of the Commission. The Executive Director shall, under the direction of the Commission, be the Chief Administrative Officer of the Commission, and shall appoint such employees and assistants and other personnel, including hydrologists and other specialists in the field of water rights administration, on a full or part-time basis, as the Commission feels necessary to assist it in carrying out the powers, duties, and functions required of it by law. The Executive Director shall receive necessary travel expenses in the same manner as a member of the Commission, and shall receive from any funds appropriated to the Texas Water Rights Commission an annual salary for the biennium beginning September 1, 1965, of \$15,000 and thereafter shall receive such annual salary as may be set by the Legislature in the General Appropriations Act.

**Records, equipment**

Sec. 7. All of the files, records, equipment and property formerly the property of the Texas Water Commission needed to perform the duties of the Texas Water Rights Commission shall be transferred to the Commission. Details of property transfer and adjustment of property records shall be agreed upon by the Commission and the Board and the Commission and the Board are directed to consult with the State Auditor and the Comptroller of Public Accounts in order that the transfers of property and records may be made in an orderly manner. Funds appropriated to either agency in the biennium beginning September 1, 1965, may be transferred to the other agency by agreement of the Board and the Commission, and upon approval by the Governor and the Legislative Budget Board.

**Permits, cancellation**

Sec. 8. (a) The Commission shall have the duty of receiving, administering, and acting upon all applications for permits, or amendments thereto made by any person, political subdivision or by the Board to appropriate public waters for beneficial use or storage or to construct works for the impoundment, storage, diversion or transportation of public waters. The Commission may issue permits for storage solely for the purpose of optimum development of projects, and such permits for storage may be converted into permits for beneficial use by further application therefor to the Commission.

(b) The Commission shall have the duty of administering proceedings for the cancellation and forfeiture, in whole or in part, of permits and certified filings for the appropriation of public waters as provided in

Articles 7474, 7519, 7544 of the Revised Civil Statutes of Texas, and Acts 1957, 55th Legislature, Chapter 39 (compiled as Articles 7519a and 7519b, Revised Civil Statutes).

(c) It is the intent and desire of the Legislature that the Commission shall undertake an orderly, active and continuing evaluation of outstanding permits and certified filings and initiate and carry forward measures to cancel in whole or in part those certified filings and permits that are subject to cancellation in whole or in part.

#### **Duties of commission**

Sec. 9. All of the rights, powers, and duties delegated by law to the Board of Water Engineers and the Texas Water Commission not expressly transferred or redelegated to another agency by Act of the Legislature shall hereafter be exercised by the Texas Water Rights Commission.

#### **Attorney general**

Sec. 10. The Attorney General shall be the legal advisor of the Commission and shall represent the Commission in litigation to which they may be a party; provided, that in addition, the Chairman of the Commission, subject to the written consent of the Attorney General of this state, may employ other legal counsel regularly, or may engage their services temporarily.

#### **Agency cooperation**

Sec. 11. The Commission, in performing the duties prescribed by this Chapter, may cooperate with agencies of the United States, with other agencies of this state or of any other state, with political subdivisions and municipal corporations of the state and with persons and corporations.

#### **Appeals**

Sec. 12. (a) Any person affected by the ruling, order, decision, or other act of the Commission, may, within thirty (30) days after the date on which such act is performed, or, in case of a ruling, order, or decision, within thirty (30) days after the effective date thereof, file a petition in an action to review, set aside, modify, or suspend such ruling, order, decision, or other act. Or any party affected by the failure of the Commission to act in a reasonable time upon an application to appropriate water, or to perform with reasonable promptness any other duty imposed by this Chapter, may file a petition in an action to compel the Commission to show cause why it should not be directed by the court to take immediate action. The venue in any or all such actions is hereby fixed exclusively in the District Court of Travis County, Texas.

“(b) Any party aggrieved by any judgment or order of a district court in any suit or judicial proceeding brought under the provisions of this Chapter shall have the right to a review on appeal to the Court of Civil Appeals, and by appeal or writ of error to the Supreme Court, as in other civil cases in which the district court has original jurisdiction, and subject to the statutes and rules of practice and procedure in civil cases.

#### **Records**

Sec. 13. Upon the application of any person and upon payment of the fees prescribed therefor in the Rules and Regulations of the Commission, the Commission shall furnish certified copies of any proceedings or any other official act of record, or of any paper, map, or document filed in the office of the Commission, in connection with the appropriation of water, determination of water rights, or administration of water rights. Such certified copies, when signed by the Chairman, the Executive Di-



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rector, or such person as the Chairman may designate, and under the seal of the Commission shall be admissible as evidence in any court or administrative proceeding. As amended Acts 1962, 57th Leg., 3rd C.S. p. 10, ch. 4, § 1; Acts 1965, 59th Leg., p. 583, ch. 296, § 1, eff. Sept. 1, 1965.

Section 2 of the amendatory act of 1965 amended article 7880—3c; section 3 thereof provided: "Savings Clause. The repeal of any law by this Act shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning

any such obligation, right, license, permit or penalty. No action or proceeding commenced prior to the effective date of this Act shall be affected by its enactment."

Section 4 of the amendatory act of 1965 was a severability clause; section 5 thereof repealed all conflicting laws and parts of laws, and section 6 provided that the act should become effective on September 1, 1965.

#### Art. 7477b. Withdrawal of underground water for use in another state

Section 1. It is hereby declared to be the public policy of this State, in the interest of domestic, municipal, industrial, agricultural and other beneficial uses and the health and welfare of this State and its people, to conserve and protect all water resources both public and private and prevent waste of such water resources of the State and for that purpose to provide reasonable regulations for withdrawal and transporting underground water outside the boundaries of this State.

Sec. 2. No one shall withdraw water from any underground source in this State for use in any other state by drilling a well in Texas and transporting the water outside the boundaries of the State unless the same be specifically authorized by an Act of the Texas Legislature and thereafter as approved by it.

Sec. 3. Notwithstanding the generality of the foregoing, the provisions of this Act shall not apply to any city or town in this State the boundaries of which extend into any other state and the municipal water supply is provided by a common distribution system or to any underground water containing more than one thousand, two hundred (1,200) parts per million chlorides or two thousand (2,000) parts per million total dissolved solids.

Sec. 4. This Act does not apply to any city which, before the effective date of this Act, had one or more contracts to supply water to users outside the State.

Sec. 5. This Act does not apply to any individual who transports his own underground water across the boundaries of this State for his own use for irrigation, manufacturing, mining or domestic use as long as no sale is involved.

Sec. 6. If any provision of this Act or the application thereof to any person or circumstance is held to be unconstitutional, the remainder of the Act or the application of its provision to other persons or circumstances shall not be affected.

Sec. 7. The ownership and rights of the owner of the land, his lessees and assigns, in underground water are hereby recognized, and nothing in this Act shall be construed as depriving or divesting such owner, his assigns or lessees, of such ownership or rights, subject, however, to the rules and regulations promulgated pursuant to Article 7880—3c, Section D. Acts 1965, 59th Leg., p. 1245, ch. 568.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act regulating withdrawal of underground water for use in another state by drilling a well in Texas; requiring legislative consent; providing exceptions; re-

lating to rights of ownership in underground water; containing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1245, ch. 568.

**3. REGULATION OF USE**

**Art. 7589b. Water master; appointment and authority; diversion of waters of surface streams; suits**

**Application of act; water master; appointment and authority**

Section 1. The provisions of this Act shall apply in any suit to which the State of Texas is a party and the purpose of which suit is to determine the rights of parties to divert or use the waters of a surface stream in which suit rights are asserted to divert or use such waters in not more than four (4) counties, the Court having jurisdiction over such suit is authorized to appoint a water master with power to allocate and distribute the waters taken into judicial custody under the supervision and direction of the Court. In no event shall the Court be authorized to appoint a water master as herein provided to act both upstream and downstream from any reservoir constructed on any surface stream of this State existing at the time of such original appointment, but once a water master has been appointed as herein authorized, the construction of a new reservoir on that portion of a stream over which a water master has heretofore been, or may hereafter be, appointed, shall not void such appointment nor restrict the authority of such water master to act both upstream and downstream from such new reservoir within that portion of the stream contemplated by the original order of appointment.

**Jurisdiction during appeal; administration, allocation and distribution of waters**

Sec. 9. In any such case where the Trial Court has taken such waters into judicial custody and has appointed a water master and has entered final judgment adjudicating and determining the asserted rights of the parties to divert or use such waters from which judgment an appeal is prosecuted by one or more parties, the Trial Court shall have and is hereby vested with, jurisdiction to retain all waters so taken into judicial custody in such custody until the entry of final judgment in the case and until such time shall have exclusive jurisdiction to administer, allocate and distribute such waters in accordance with its final judgment or as otherwise herein provided in Section 10 and such retention of jurisdiction for such purposes shall not render the judgment of the Trial Court nonappealable and neither the Court of Civil Appeals nor the Supreme Court shall have jurisdiction over the allocation and distribution of such waters so remaining in the judicial custody of the Trial Court prior to the entry of final judgment in the case.

**Manner of allocation of waters during appeal; supersedeas bond; effect; adjustment in allocation**

Sec. 10. The allocation and distribution of such waters during the pendency of appeal and until final judgment or decree in such case shall be limited to those parties adjudicated by the final judgment of the Trial Court to have a valid right to divert or use such waters upon the land, and in the amount, as provided by such judgment and to no other parties: provided, however, that if any party or parties prosecuting an appeal from such final judgment of the Trial Court files a supersedeas bond as provided by law or the Rules of Civil Procedure, there shall continue to be allocated to such party or parties so filing such supersedeas bond or bonds the same amount of water, for the same acreage, for which they received an allotment during the pendency of the case in the Trial Court and before the entry of final judgment by the Trial Court, in which event all necessary adjustments in the

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allocation and distribution of waters among those parties adjudicated by the final judgment of the Trial Court to have a valid right to divert or use the same shall be made in order to provide for allocation and distribution to both such parties and the parties filing a supersedeas bond on appeal. Save as so limited, the enforcement of the judgment of the Trial Court shall not be suspended during any such appeal and the filing of any such supersedeas bond shall only have the effect of suspending the enforcement of such judgment against the party filing the same.

**Violation of court orders; use of water in excess of allocation; withdrawal of allocation; notice and hearing; punishment**

Sec. 11. During the prosecution of appeal and until the entry of final judgment in the case the Trial Court shall have, and is hereby granted, power and authority, after notice and hearing, to withdraw or limit allocations of water in the judicial custody of the Court to any party who violates any order of the Court or who uses water in excess of the amount allocated to such party or upon land other than that for which the allocation of water is made as provided by the final judgment or as hereinabove provided until such violation has been corrected to the satisfaction of the Trial Court or the water so used made good and in addition thereto shall have the power to punish any such party for contempt for violation of any injunction contained in the judgment of the Trial Court.

**Continuation of water master during appeal**

Sec. 12. During the prosecution of such appeal and until the entry of final judgment in the case, the Trial Court is authorized to continue the appointment of the water master with power to allocate and distribute the waters in the judicial custody of the Trial Court as provided in Section 10 of the Act, under the supervision and direction of such Court.

**Deputies and assistants during appeal; powers and duties; expenses**

Sec. 13. During the pendency of such appeal and until the entry of final judgment in the case the water master shall, under such terms and conditions as the Court may order, have authority to appoint such necessary deputies and assistants and to perform such duties and assume such responsibility as may be delegated to him by the Trial Court, including the power to police the stream and advise the Court of violations of the Court's allocation of any waters within the judicial custody of the Court, as provided by the final judgment of the Trial Court or as hereinabove provided, and to incur such expenses as the Trial Court may deem reasonable and necessary.

**Compensation during appeal; assessment of costs**

Sec. 14. The compensation of the water master and his staff during the prosecution of appeal and until the entry of final judgment in the case shall be fixed by the Trial Court, and the cost and expense of the water master and his office including all salaries and expenses authorized and approved by the Court shall be assessed by the Court monthly, or at such time intervals as may be ordered by the Court against all persons receiving an allocation of the waters in the judicial custody of the Trial Court. Such assessment of cost shall be based either on an acreage basis, an acre foot of allocated water basis, a per capita basis or such other basis as the Trial Court after notice and hearing may determine to be the most equitable distribution of costs and the Trial Court may within its discretion assess costs on one such basis against various parties receiving an allocation of water and against other parties on a different basis.

Determination of distribution of costs and expenses during appeal

Sec. 15. In determining the distribution of cost and expenses provided for in Section 14, the costs are not to be considered as ordinary Court costs to be taxed in the manner otherwise provided by law, but are to be considered as costs necessary to protect the rights and privileges of the parties receiving allocations of water during the pendency of the appeal and until final judgment or decree in such case and shall be borne by such parties. If the costs assessed pursuant to the provisions of Section 14 of this Act are not paid within the time prescribed by the Trial Court, the Trial Court may after notice and hearing withdraw or limit allocations of water to any party failing or refusing to pay its share of such cost until all costs assessed against such party are paid in full. Acts 1957, 55th Leg., p. 1347, ch. 458 as amended Acts 1965, 59th Leg., p. 51, ch. 18, §§ 1, 2.

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

"The provisions of this Act shall be cumulative of all other laws or parts of law, general or special."

Acts 1965, 59th Leg., p. 51, ch. 18, § 1 amended section 1 of this article; section 2 of the 1965 act added sections 9-15 to the article; section 3 of the act provided:

Section 4 of the 1965 act was a severability provision.

4. POLLUTION

Art. 7621b. Injection wells for industrial and municipal waste

Definitions

Section 1. For the purposes of this Act, the term

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(e) "Industrial and municipal waste" is any liquid, gaseous, solid or other waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources, or resulting from the disposal of sewage, or other wastes of cities, towns, villages, communities, water districts and other municipal corporations, which may cause or might reasonably be expected to cause pollution of fresh water. Municipal waste shall also include waste resulting from the disposal of sewage of natural persons who may live outside the boundaries of any city, town, village, community, or other municipal corporation. As amended Acts 1965, 59th Leg., p. 1369, ch. 615, § 1.

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Amendment effective Aug. 30, 1965, 90 days after date of adjournment.

Art. 7621c. Repealed. Acts 1965, 59th Leg., p. 509, ch. 264, § 19. Eff. Aug. 30, 1965, 90 days after date of adjournment

Former article 7621c, derived from Acts 1961, 57th Leg., p. 1035, ch. 458, related to the prevention of pollution of underground water and required the registration of well drillers. See, now, art. 7621e.

Art. 7621d. State water pollution control

Creation and organization of Water Pollution Control Board; duties and responsibilities

Sec. 3. (a) There is hereby created and established a State Water Pollution Control Board which shall be composed of seven (7) members. The Board is directed to carry out the functions and duties conferred on it by this Act. The Governor shall appoint by and with the advice and consent of the Senate of Texas, three (3) members to the State Water Pollution Control Board. One (1) shall be appointed for a two-year term,

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one (1) for a four-year term, and one (1) for a six-year term. Thereafter, all appointments by the Governor to fill a vacancy at the end of a term shall be for a full six-year term. The appointments by the Governor shall be made as follows: One (1) member shall represent the agriculture and soil conservation interests; one (1) member, the manufacturing industry; and one (1) member, the general public interests. The present members of the Board appointed by the Governor shall continue to serve the unexpired portions of their respective terms of office, or until their successors are appointed and have qualified.

(b) Vacancies occurring in any such office on the Board filled by appointment by the Governor during any term shall, with the advice and consent of the Senate, be filled by appointment by the Governor, which appointment shall extend only to the end of the unexpired term.

(c) The seven (7) members of the Board shall receive no fixed salary for duties performed as members of the Board, but each member, excepting those representing the specified State agencies, shall be allowed, for each and every day in attending meetings of the Board, the sum of Twenty Dollars (\$20) including time spent in travel to and from such meetings, and all members shall be allowed traveling and other necessary expenses while in the performance of official duty to be evidenced by vouchers approved by the Executive Secretary. The members of the Board appointed by the Governor and confirmed by the Senate shall qualify by taking the Constitutional Oath of Office before an officer authorized to administer an oath within this State, and, upon presentation of such oath, together with the certificate of appointment, the Secretary of State shall issue commissions to them, which shall be evidence of their authority to act as such. In addition to the three (3) members appointed by the Governor as provided herein, the Board shall also consist of the following State officers, each of whom shall be a member of said Board during the time that he is serving in such other official capacity, to wit: the Executive Director of the Texas Water Development Board, the State Commissioner of Health, the Executive Director of the Texas Parks and Wildlife Department, and the Chairman of the Railroad Commission of Texas, each of whom shall perform the duties required of a member of the Board by this Act in addition to those duties required of him in said other official capacities.

(d) Each ex officio member of the Board listed in subsection (c) above, is authorized to delegate to a personal representative from his office the authority and duty to represent him on the Board, but by such delegation a member shall not be relieved of responsibility for the acts and decisions of his representative. The designated personal representative, while engaged in the discharge of official Board duties on behalf of and as authorized by such member, stands in the place and stead of such member for purposes of attending Board meetings, and for purposes of participating in and voting on matters arising at Board meetings and hearings. The designated personal representative may exercise all of the powers, duties and responsibilities of the ex officio member, including the taking of testimony in any hearing called by the Board under the provisions of Section 4(d), paragraph (2); may receive reimbursement for traveling and other necessary expenses, while engaged in the performance of official Board business in the same manner as the one he represents, under the provisions of subsection (c) above; and may serve as either chairman or vice-chairman of the Board under the provisions of Section 3(f).

(e) Actual and necessary travel and other expenses incurred by the four (4) ex officio members, or their designated personal representatives, in the discharge of their official duties as members of the Board shall be paid out of any funds made available to the agency of such ex officio member or his designated personal representative for the purposes of this Act.

Employees of the Board shall receive such traveling expenses as may be authorized by the Legislature.

(f) The Board shall elect a chairman and a vice-chairman from its members whose terms of office shall be for two (2) years commencing on February 1st of each odd-numbered year hereafter. At the first meeting of the Board, the chairman and vice-chairman shall be elected to serve until February 1, 1967. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board and perform the other duties hereinafter prescribed. The Board shall meet at regular intervals as may be decided upon by majority vote of the Board. Special meetings may be called by the chairman upon his own motion and must be called by him upon receipt of a written request therefor signed by two (2) or more members of the Board. A majority of said Board shall constitute a quorum to transact business. The Board shall have the power to make all necessary rules for its procedure and shall have a seal, the form of which it shall prescribe.

(g) After consultation with the Board, the State Commissioner of Health shall designate an employee of the Texas State Department of Health in the Water Pollution Control Division to serve as Executive Secretary of the Board. When so designated, such employee shall act as Executive Secretary. The Executive Secretary shall keep full and accurate minutes of all transactions and proceedings of said Board and perform such duties as may be required by the Board, and he shall be the custodian of all files and records of the Board. The Executive Secretary shall be the administrator of water pollution control activities for the Board.

(h) Technical, scientific, legal or other services shall be performed by personnel of other State agencies when requested by the Board, but the Board may employ and compensate with funds available therefor professional consultants, assistants and employees that may be necessary to carry out the provisions hereof and prescribe their powers and duties. The Board may request and shall receive the assistance of any State educational institution, experimental station, or other State agency.

(i) To carry out the provisions of this Act, any agency of this State with responsibilities under the laws of this State for water pollution control, and for which appropriations are made in the biennial Appropriation Act, is hereby authorized to transfer to the Board out of such appropriations such annual amounts as may be mutually agreed upon by such an agency and by the Board, subject only to the concurrence of the Governor. In the event such transfers are insufficient to finance adequately the necessary activities of the Board, the Governor is authorized to transfer to the Board from the appropriations made to the Governor such amounts as he may determine. It is further provided that said Board is authorized to request, solicit, contract for, receive or accept money from any Federal or State agency, political subdivision or other legal entity to carry out the duties required of it by this Act. Such moneys as may be transferred under the provisions of this Subsection, and such gifts and grants as may be received by said Board, shall be deposited in the State Treasury in a special fund. Such moneys are hereby appropriated to said Board for any of the purposes set forth in this Act, including salaries, professional fees, wages, travel expenses, equipment, and other necessary expenses.

(j) The Board shall make biennial reports in writing to the Governor and the Legislature, in which shall be included statements of its activities. All data collected by the Board shall be the property of the State of Texas.

(k) Upon application of any person and upon payment of the fees prescribed therefor in the rules and regulations of the Board, the Board shall furnish certified copies of any of its proceedings or other official

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acts of record, or of any paper, map or document filed in the office of the Board. Such certified copies over the hand of the chairman or the Executive Secretary and the seal of the Board shall be admissible in evidence in any court or administrative proceeding, in the same manner and with like effect as the original would be. As amended Acts 1965, 59th Leg., p. 795, ch. 382, § 1, eff. Sept. 1, 1965.

#### Enforcement

##### Sec. 10.

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(c) The Texas Water Development Board, the Texas Parks and Wildlife Department, the Texas State Department of Health, and the Railroad Commission of Texas are charged with the following specific duties in addition to any other duties imposed on such agencies elsewhere in this Act:

(1) It shall be the duty of the Texas Water Development Board to investigate and ascertain those situations in which the underground waters of the State are being polluted or are threatened with pollution, and it shall report all findings to the Board together with its recommendations in regard thereto.

(2) It shall be the duty of the Texas Parks and Wildlife Department and the employees thereof duly authorized by such Department to enforce the provisions of this Act insofar as any violation hereof occurs which affects aquatic life, birds and animals.

(3) The Texas State Department of Health shall continue to perform the research, training, planning and other functions presently being conducted by it in matters concerning pollution in cooperation with, or as a State agency contributing its services to, the Board.

(4) The Railroad Commission of Texas shall be solely responsible for the control and disposition of waste and the abatement and prevention of pollution of water, both surface and subsurface, resulting from activities associated with the exploration, development or production of oil or gas. Said Commission may issue permits for the discharge of waste resulting from such activities. As amended Acts 1965, 59th Leg., p. 795, ch. 382, § 2, eff. Sept. 1, 1965.

(d) Notwithstanding any provision of this Act, the Railroad Commission of Texas and the Texas Water Development Board shall respectively continue to exercise the authority granted to them in Chapter 82, Acts of the 57th Legislature, Regular Session, 1961, codified as Article 7621b, Vernon's Annotated Civil Statutes; and the Railroad Commission of Texas shall continue to and be solely responsible for the exercise of the authority granted it in Chapter 406, Acts of the 54th Legislature, Regular Session, 1955, codified as Article 6029a. Added Acts 1965, 59th Leg., p. 795, ch. 382, § 3, eff. Sept. 1, 1965.

#### Art. 7621e. Water Well Drillers Act

##### Short title

Section 1. This Act shall be known and may be cited as "The Water Well Drillers Act."

##### Definitions

Sec. 2. The following words and phrases as used in this Act shall have the following meanings unless a different meaning clearly appears from the context. The singular form shall also mean plural form and the masculine gender shall also include the feminine and neuter genders.

(a) "Person" shall mean any individual, whether or not connected with a firm, partnership, association, corporation, or any other group or combination acting as a unit.

(b) "Commission" shall mean the Texas Water Commission or its successor.

(c) "Board" shall mean the Texas Water Well Drillers Board.

(d) "Water well" shall mean any artificial excavation constructed for the purpose of producing ground water. The term, however, shall not include any test or blast holes in quarries or mines, or any well or excavation for the purpose of exploring for, or producing oil, gas, or any other minerals.

(e) "Water well driller" shall mean any person (including owner, operator, and drilling supervisor) who engages for compensation in the drilling, boring, coring, or construction of any water well in this State. The term, however, shall not include any person who drills, bores, cores, or constructs a water well on his own property for his own use or a person who assists in the construction of a water well under the direct supervision of a registered water well driller and is not primarily responsible for the drilling operations.

(f) "Registered water well driller" shall mean any person who holds a certificate issued by the State of Texas pursuant to the provisions of this Act.

(g) "Pollution" shall mean an impairment of the physical, chemical, or biological properties of water by the acts or instrumentalities of man to a degree which results in a material and adverse effect upon the quality as to destroy possible consumptive or beneficial use of such waters.

(h) "Well log" shall mean a log accurately kept, at the time of drilling, showing the depth, thickness, character of the different strata penetrated, location of water-bearing strata, depth, size and character of casing installed, together with any other data or information required by the Board, on forms prescribed by the Board.

(i) "Water Well Drillers Board" shall mean an examining board consisting of nine (9) members, three of whom shall be ex officio nonvoting members and six of whom shall be voting members appointed by the Governor with the advice and consent of the Senate as hereinafter provided.

(j) "Registration fee" shall mean the initial fee to be paid by a driller under this Act which shall be, unless otherwise provided herein, \$25.00.

(k) "Renewal fee" shall mean that fee paid by a previously registered driller which shall be \$25.00 per annum.

(l) "Examination fee" shall mean that \$10.00 non-refundable fee required of each applicant for each examination.

#### Registration required

Sec. 3. (a) It shall be unlawful for any person to act as or to offer to perform services as a water well driller without first obtaining a certificate of registration in the manner prescribed herein and pursuant to the rules of Water Well Drillers Board.

(b) Applications shall contain the name of the applicant, his business address, his permanent mailing address, and such other relevant information as the Board may require.

(c) At the time of making application, each applicant shall pay to the Commission the required examination fee which shall be non-refundable; and the successful candidates upon notification of eligibility shall pay to the Commission the registration fee.



For Annotations and Historical Notes, see V.A.T.S.

(d) All certificates of registration issued under this Act shall expire on August 31 of each year; and on or before that day, each person holding a certificate of registration shall pay to the Commission the sum of \$25.00 as an annual renewal fee. Provided further, however, any driller who allows his license to lapse shall be given a one-year grace period in which to renew his certificate by paying the accrued renewal fee, without the need of taking the drillers examination.

(e) A certificate of registration shall not be transferable or assignable.

(f) A duplicate certificate of registration to replace a lost or destroyed certificate shall be issued by the Commission upon proper application and payment of a \$1.00 fee.

(g) Any water well driller in this State on the effective date of this Act shall be entitled to a certificate of registration upon the filing of an application no later than August 31, 1966, and the payment of a \$25.00 registration or renewal fee.

(h) Each applicant shall have been a resident of the State of Texas for not less than 90 days prior to making application for registration as a water well driller.

#### Reciprocity

Sec. 4. The Commission, upon application therefor and upon the payment of the proper registration fee, may issue a certificate of registration as a registered water well driller to any person who holds a certificate of qualification or registration issued to him by proper authority in any state or territory or possession of the United States, or of any other country, if the registration standard under which said certificate was issued is of a standard not lower than that specified by the provisions of this Act, and the rules of the Water Well Drillers Board promulgated pursuant to the provisions hereof, and if that particular state, territory, or possession of the United States, or country extends similar privileges to the persons registered under the provisions of this Act; provided, however, that before such applicant may be registered, he must show compliance with the residency requirements of Section 3, subsection (h) hereof. The Board shall keep the Commission informed of what states, territories, possessions, and countries fulfill these reciprocal requirements.

#### Reporting of well logs

Sec. 5. Every registered water well driller drilling, deepening or otherwise altering a water well within this State shall make and keep, or cause to be made and kept, a legible and accurate well log, and within sixty (60) days from the completion or cessation of drilling, deepening or otherwise altering such a water well, shall deliver or transmit by certified mail a copy of such well log to the Commission, and the owner thereof or the person having had such well drilled. The well log required herein shall at the request in writing to the Commission, by certified mail, by the owner or the person having such well drilled be held as confidential matter and not made of public record.

#### Water well drillers board

Sec. 6. The Water Well Drillers Board shall be composed of nine (9) members, three ex officio and six appointed as follows, to wit:

(a) One (1) member of the Board shall be the chairman of the Texas Water Commission or a representative from his staff appointed by him who shall be a nonvoting member and shall serve in an advisory capacity only. In the event that the functions of the Texas Water Commission are transferred to the Texas Water Development Board, then the member appointed hereby shall be the Executive Director of the Texas Water Development Board or a representative from his staff appointed by him.

(b) One (1) member shall be the Executive Secretary of the State Water Pollution Control Board or a representative from his staff appointed by him and shall also be a nonvoting member and shall serve in advisory capacity only.

(c) One (1) member shall be the chairman of the State Board of Health or a representative from his staff appointed by him and shall also be a nonvoting member and shall serve in an advisory capacity only.

(d) Six (6) members shall be water well drillers appointed by the Governor with the advice and consent of the Senate, under the following conditions, to wit:

(1) Each such driller shall be a citizen of the State of Texas.

(2) Each such driller shall have a minimum of ten years' experience in the water well drilling business prior to his appointment.

(3) Each such driller shall be conversant in water well drilling, completion and plugging methods and techniques.

(4) Each such driller shall be a registered water well driller.

(5) One driller shall be selected from the State at large and one of each such drillers shall be selected from the following geographic areas of the State of Texas:

A. Gulf Coast Area.

B. Trans-Pecos Area.

C. Central Texas Area.

D. North-East Texas Area.

E. Panhandle-South Plains Area.

(e) It is further provided that no more than one (1) Board member may be employed by or own an interest in the same company, firm or business association which is engaged in any phase of the water well drilling business.

(f) The first six (6) Board members shall be appointed for the following terms: two (2) for two (2) years; two (2) for four (4) years; and two (2) for six (6) years.

(g) All terms shall expire on September 15 and all regular appointments shall be for terms of six (6) years.

(h) The initial appointments of the six (6) members shall be made immediately following the effective date of this Act.

(i) The six (6) appointed Board members shall receive compensation and travel allowance as the Legislature may provide in the General Appropriation Act.

(j) The Board shall hold a regular annual meeting; it may hold special meetings at the call of the chairman or at the request of three Board members.

(k) A majority of the Board is a quorum for conducting business.

(l) The Board shall elect a chairman, who shall be presiding officer, and who shall not vote except when there shall be a tie vote, by a majority vote at the first regular meeting each year.

(m) The Board shall prepare and grade examinations and pass upon qualifications of applicants for licenses and cause to be issued licenses to those who qualify.

(n) The Board shall design written examinations in such a manner as to disqualify any person lacking in the necessary knowledge of drilling, completion and plugging methods and techniques and of ground water formations to the extent that the performance by such person of services as a water well driller would create a serious risk of polluting fresh water.

For Annotations and Historical Notes, see V.A.T.S.

Provided, however, that each applicant shall have the right to have such examination given him orally, in lieu of in writing.

(o) A person who passes the examination given by the Board is entitled to be licensed under this Act.

(p) Administration of examination:

(1) The Commission shall offer examinations prepared by the Board at least once a year and more frequently if more than 10 persons petition the Commission for an additional examination, or the Board should so provide.

(2) The examination shall be so administered so that the one who grades an examination does not know whose paper he is grading.

(3) The Commission shall maintain files of examination papers. A person, at any time within six months of the date that he is notified of the results of an examination, is entitled to inspect his examination paper during normal business hours at the Commission's office for the purpose of challenging the propriety of the questions, the method of grading, and the accuracy of grading.

(4) All successful applicants who pass the examination may pay the \$25.00 registration fee to the Commission and obtain a drillers registration certificate.

(q) The person who fails an examination may apply for a subsequent examination, but must pay the application fee each time he applies. He may not, however, be counted among the ten (10) applicants necessary to petition for an additional examination.

#### Rules and regulations

Sec. 7. (a) The Water Well Drillers Board shall constitute an Examining Board which shall certify applicants eligible for registration to the Commission and, under certain conditions set out below, suspend or revoke the license of a registered water well driller. The Board shall promulgate and adopt procedural rules describing how a person applies for and takes an examination under this Act and the procedure to be followed in public hearings pursuant to the provisions of this Act. It shall also promulgate and adopt substantive rules defining standards of conduct governing registered water well drillers. The Board shall promulgate regulations necessary to implement the vehicle and equipment marking requirements of Section 14 of this Act. Be it further provided, however, that before the Board may adopt any substantive rule under this Act, it must mail a copy of the proposed rule or amendment together with an informative summary of the rule or amendment to each person licensed under this Act at least twenty (20) days prior to the proposed effective date of such a proposed rule. The procedural rules adopted by the Board shall be filed with the Secretary of State and shall become effective thirty (30) days thereafter.

(b) Full authority is given the Board to enforce by injunction or other appropriate remedy, in courts of competent jurisdiction, any and all reasonable rules, regulations, decisions, determinations and orders promulgated by it which do not conflict with any law. It shall be the duty of the Attorney General to represent the Board when requested to do so.

(c) All rules and regulations proposed to be adopted and promulgated by the Board shall be approved in writing by the Attorney General and placed on file in the office of the Secretary of State for public inspection for at least thirty (30) days prior to their effective date. Any changes, alterations or revocations of such rules and regulations shall be likewise approved in writing by the Attorney General and which changes, alterations or revocations shall be filed in the office of Secretary of State prior to their effective date.

**Revocation of certificates of registration**

Sec. 8. (a) The certificate of registration of any registered water well driller who violates any provision of this Act or any substantive rule or regulation of the Board promulgated under the authority of this Act may be revoked or suspended by the Board. Grounds for revocation or suspension of a driller's certificate shall include intentional misstatement or misrepresentation of fact on an application or well log; failure to keep and transmit water well logs as provided herein; failure to advise a person for whom a well is being drilled that injurious water has been encountered; is a pollution hazard, and must be forthwith plugged in an acceptable manner; or being found to be an incompetent water well driller.

(b) The Board shall, before suspending or revoking any certificate of registration, notify the holder in writing of any changes made in order to afford such holder an opportunity to be heard, which notification shall be given at least ten (10) days prior to the date set for hearing, and which shall prescribe the time and place of the hearing. Such written notice may be served by mailing same by registered mail to the last known business address of such person. At such hearing such person and all persons complaining against him, as well as any other witness whose testimony is relied upon to substantiate the charges made, shall be entitled to be present. He shall also be entitled to present evidence, oral and written as may be relevant to the inquiry. In such hearing all witnesses shall be duly sworn and a record of the proceedings shall be taken. Any party to the proceedings desiring it shall be furnished with a copy of the record upon the payment to the Board of a fee not to exceed fifty cents (50¢) per page.

(c) Every decision and order in a revocation or suspension hearing rendered by the Board shall be in writing and shall set forth briefly the findings of fact and Board's conclusions. Parties to the proceedings shall be notified of the decision or order in person or by mail and forwarded a copy of same; such orders or decisions shall be transmitted no later than thirty (30) days of conclusion of the hearing.

**Appeal**

Sec. 9. In all appeals prosecuted in any of the courts of this State pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts to county courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act. The Legislature hereby specifically declares that the provisions of this Section shall not be severable from the balance of this Act, and further specifically declares that this Act would not have been passed without the inclusion of this Section. If this Section, or any part thereof, is for any reason ever held by any court to be invalid, unconstitutional or inoperative in any way, such holding shall apply to this entire Act, and in such event this entire Act shall be null, void and of no force and effect. Venue of all appeals shall be in the county of the residence of the aggrieved person who files the appeal.

**Duties of the commission**

Sec. 10. (a) The Commission shall furnish the Board with necessary administrative services, including space for holding examinations; procuring examinations; printing examinations; printing and mailing licenses; sending notices, before August 1 of each year that license must be renewed; collecting fees and issuing receipts; keeping a current register of licensees; employing secretarial assistance; replying to routine requests for information; printing forms and information; typing all letters to be reproduced; maintaining records and completed examinations; and keeping records of receipts and disbursements; providing necessary legal services; and providing necessary investigative services, and the Commission shall promulgate procedures and standards for plugging wells under Section 15 of this Act.

(b) The Board shall have access to information kept by the Commission under this Act.

(c) The Commission shall adopt the necessary procedural rules in order to carry out the imposed duties under this Section of this Act.

(d) Full authority is given the Commission to enforce by injunction or other appropriate remedy, in courts of competent jurisdiction, any and all rules, regulations, decisions, determinations and orders promulgated by it which do not conflict with any law.

**Exception of drought disaster areas**

Sec. 11. Upon petition of the commissioners court of any county the Governor may proclaim the county a drought disaster area. If the Governor issues the proclamation that the county is a drought disaster area, the terms and provisions of this Act are suspended in such a county for the length of time specified in the proclamation, except insofar as said Act applies to the plugging of water wells.

**Disposition of revenues**

Sec. 12. All money collected by the Commission under the provisions of this Act shall be placed in the General Revenue Fund.

**Penal provisions**

Sec. 13. (a) Any person not holding a certificate of registration as a registered water well driller who drills, bores, cores or constructs any water well in this State for compensation shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than \$25.00 nor more than \$200.00 or to punishment by confinement in jail for a period of not to exceed 120 days or by both such fine and jail confinement for first conviction; and may be punished for each subsequent conviction by fine of not less than \$200.00 or more than \$1,000.00 or by confinement in jail for not less than 120 days or more than one year or both by such fine and jail confinement.

(b) Any person who is a registered water well driller under this Act who fails to mark his equipment as provided herein is guilty of a misdemeanor and may be fined not less than \$25.00 nor more than \$200.00.

(c) Any person who wilfully violates any of the duties imposed by Section 15 of this Act by failing to give timely notice to the landowner or person having a well drilled that a well must be plugged, or anyone who fails to plug such a well properly as soon as is reasonably possible, or anyone who fails to submit the required plugging report to the Commission within thirty (30) days is guilty of a misdemeanor and may be fined not less than \$200.00 or more than \$500.00.

(d) Any violator of these provisions may be arrested by any sheriff, constable or other lawful peace officer of this State or any political subdivision thereof. Such violations shall be tried in the county court of the county in which such offense occurred.

#### Marking of vehicles and equipment

Sec. 14. It is the duty of all registered water well drillers to see that all vehicles, trailers, and rigs used by them or their employees in the water well drilling business are marked with legible identification numbers at all times; the "identification number" to be used on vehicles and equipment shall be the "license number" which appears on the drillers registration certificate; the Board shall set out in detail in its rules the specific method and manner for marking said vehicles and equipment. The driller shall furnish a sworn statement that he has complied with this provision of the Act with his annual renewal fee each year. Any licensed driller has one hundred eighty (180) days to comply with the regulations provided in Section 14.

#### Plugging of wells

Sec. 15. (a) It shall be the duty of each driller registered under this Act to inform forthwith the landowner or person having a well drilled when water is injurious to vegetation, to land or to fresh water has been encountered and such well must be plugged in order to avoid injury or pollution.

(b) It shall be the duty of the landowner or person having a well drilled, upon being so informed, to see that such a well is forthwith plugged under standards set by the Texas Water Commission.

(c) It shall be the duty of whoever shall plug such a well to complete a plugging report within thirty (30) days and submit it to the Commission; appropriate forms shall be furnished by the Commission upon request.

#### Bond required

Sec. 16. After September 1, 1965, immediately upon approval of his application, the applicant shall be notified and before a registration certificate shall be issued, a bond executed by the applicant, as principal, and a surety company authorized to do business in this State as surety, shall be furnished the Commission in the principal sum of \$2,000.00 for the use and benefit of any injured party and conditioned that the applicant will pay any judgment recovered by any person in any suit for damages or injury caused by a violation of this Act. Every registered water well driller shall in like manner furnish and maintain such a bond on or before September 1, 1965, as a condition to the continued validity of his registration certificate.

#### Construction

Sec. 17. Nothing in this Act shall be construed as affecting the ownership, or the rights of owners of the land, in underground water.

#### Severability clause

Sec. 18. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without defeating the purpose or objective of the provision, and to this end, the provisions of this Act are declared to be severable.

#### Repealer clause

Sec. 19. Chapter 458, Acts of the 57th Legislature, Regular Session, 1961 (Article 7621c, Vernon's Texas Civil Statutes), is repealed;<sup>13</sup> oth-

For Annotations and Historical Notes, see V.A.T.S.

erwise, this Act shall be cumulative of all laws or parts of laws relating to this subject.

#### Transfer of functions

Sec. 20. In the event that the functions of the Texas Water Commission necessary to the proper implementation of its duties under this Act are transferred to the Texas Water Development Board or any other agency, the authority given herein to the Texas Water Commission shall be transferred to the Texas Water Development Board or such other agency. Acts 1965, 59th Leg., p. 509, ch. 264.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act designed to aid in the prevention of pollution of the State's underground water by providing minimum water well driller qualifications and standards of conduct to be administered by the herein created Texas Water Well Drillers Board; Board rules, examinations, and hearings; duties of

Texas Water Commission hereunder; penal provisions for violation and provisions for enforcement, jurisdiction, and venue; repealing Chapter 458, Acts of the 57th Legislature, Regular Session, 1961; and declaring an emergency. Acts 1965, 59th Leg., p. 509, ch. 264.

### Art. 7621f. Sale or disposal of salt water for pollution control

#### Contracts for pollution control; terms

Section 1. Any water power control district heretofore organized or hereafter organized is authorized to enter into contracts with any person, firm or corporation or one or more of either, for the sale or disposal of salt water. Provided, no such contract shall be entered into unless it is determined by the Board of Directors of such District that such contract is needed for the purpose of pollution control and unless any such contract in the opinion of such Board of Directors is reasonably calculated to achieve such purpose. If it is determined by the Board of Directors of any such District that in order to effect the sale or disposal of salt water that it is necessary to guarantee a constant flow of water under any such contract, then fresh water may be included, but only to the extent it is necessary in order to achieve pollution control through disposing of salt water. Such contracts may be for a period of time and on such terms as may be deemed necessary by any such Board of Directors.

#### Revenue bonds; purposes; sale; form, conditions and details

Sec. 2. Any water power control district is authorized to issue revenue bonds, without an election, for the purpose of the construction and acquisition of pipe lines, pumps and all facilities necessary for the sale or disposal of salt water for pollution control. Any such bonds shall be authorized by such Board of Directors, from time to time, and in such amounts as it shall consider necessary. All such bonds shall be fully negotiable and may be made redeemable before maturity, at the option of the Board of Directors of any such District, at such price or prices and under such terms and conditions as may be fixed by such Board of Directors prior to the issuance of such bonds. Such Board of Directors may sell such bonds in such manner, either at public or at private sale, and for such price as it may determine to be for the best interest of the District, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six (6%) per cent per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity. Subject to the restrictions contained in this Act each such Board of Directors is given complete discretion in fixing the form, conditions and details of such bonds, and such

bonds may be refunded or otherwise refinanced whenever said Board of Directors deems such action to be appropriate or necessary.

Any such bonds may be secured by a pledge of the revenues to be received by the District from one or more contracts entered into between the District and any person, firm or corporation, in the manner and to the extent provided in the order of the Board of Directors authorizing such bonds. Any such bonds shall be special obligations of the District issuing same, payable solely from the revenues pledged to their payment. Any such bonds shall contain the following statement:

"The holder hereof shall never have the right to demand payment hereof from funds raised or to be raised by taxation."

**Contracts with non-profit corporations; acceptance of works or facilities**

Sec. 3. If any water power control district enters into a contract with a non-profit corporation whereby such non-profit corporation obligates itself to provide works or facilities to accomplish pollution control and issues its bonds to secure funds to accomplish same, the District is hereby authorized to accept all such works or facilities from such non-profit corporation at the time and in the manner provided in the contract and in the indenture securing such non-profit corporation's obligations.

**Bond issues involving federal funds; approval**

Sec. 3—a. Approval must be acquired from the Texas Water Commission pursuant to Article 7880—139, Vernon's Civil Statutes, as amended, when issuing bonds involving Federal funds.

**Examination, approval and registration of bonds**

Sec. 4. Prior to delivery thereof, all bonds authorized to be issued hereunder and the record relating to their issuance shall be submitted to the Attorney General of Texas for examination; and if he finds that they have been issued in accordance with the Constitution and this Act, and that they will be binding special obligations of the District authorizing their issuance, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration they shall be incontestable. Acts 1965, 59th Leg., p. 1509, ch. 655.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing any water power control district heretofore or hereafter organized to enter into contracts with any person, firm or corporation for the sale or disposal of salt water for pollution control; authorizing any water power control district to accept works and facilities for pollution control from a non-profit corporation; authorizing the issuance of revenue

bonds without an election for the construction and acquisition of pipe lines, pumps, and facilities necessary for the sale or disposal of salt water for pollution control and providing for the payment and security thereof; authorizing the issuance of refunding bonds; enacting other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 1509, ch. 655.

**CHAPTER TWO—WATER IMPROVEMENT DISTRICTS**

Art. 7652a. Rules and regulations as to recreational and business privileges; reservoirs

**Reservoirs having recreational facilities**

Sub-Sec. 6. (a) The Legislature finds that the construction of new reservoirs having recreational facilities will be of benefit to the contracting parties and the inhabitants of the State of Texas and will be in keeping with the policy of the State of Texas in attracting out-of-



For Annotations and Historical Notes, see V.A.T.S.

state tourists, and it is the legislative policy to encourage the construction of such new facilities which might not be accomplished by the sole efforts of the District due to financial limitations.

(b) The Board of Directors of the Zavala-Dimmit Counties Water Improvement District No. 1 and an agency of the State or of the United States, a political subdivision, incorporated city, private corporation, or person may contract with each other to provide for the cooperative financing of the construction of reservoirs which will provide recreational facilities that will be of benefit to the contracting parties and to provide for the proportionate distribution of income from recreational and business privileges upon any body of water so created so as to liquidate any bonds issued by the District and the other contracting party for the construction of the reservoir. The management and control of all recreational and business privileges shall be under the exclusive control of the District and governed by the rules and regulations adopted and promulgated by the District. The District may authorize other persons to manage and operate recreational and business facilities by contract if it is in the best interest of the District to do so. The District shall collect all revenues and shall make distribution of income to the other contracting party under such terms and conditions as may be agreed upon, but distribution must be made at least annually so as to facilitate retirement of bonds issued for construction. After all construction bonds issued by the other contracting party have been liquidated, or after the private corporation or persons have recovered contributions plus reasonable interest not to exceed six per cent (6%) per annum for the construction of the reservoir, all rights of the contracting parties shall terminate and thereafter all income shall remain with the District.

(c) The District may acquire by purchase or condemnation any land within 300 feet around the perimeter of the reservoir, measured from the maximum storage level, in order to maintain properly the purity of the impounded waters and to safeguard their proper preservation and use; to safeguard the lives of persons who may desire to go on, over, or across said waters; to insure the safety of all persons lawfully using the waters; to maintain proper sanitation; and to enforce the rules and regulations adopted and promulgated by the District. The District shall not transfer in any manner any freehold interest in any real estate which the District acquired by condemnation for ten (10) years after the property was condemned. The District may, however, lease the property if it is in the best interest of the District to do so.

(d) In the event the District in the exercise of the power of eminent domain or police power, or any other power, requires the relocation, raising, lowering, re-routing, or change in grade or alteration in the construction of any public road, railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties or facilities, or pipelines, all such relocation, raising, lowering, re-routing, or changes in grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Provided that Paragraph (d) shall not be applicable to those projects under construction or financed or for which bonds have been voted and approved by the acts of any district on the effective date of this Act, unless the provisions hereinabove are contained in the acts of the district authorizing said construction or financing. Provided that no reservoir shall be constructed on lands located within the boundaries of Dimmit County, nor shall the provisions hereinabove be construed as permitting the

taking of any lands in Dimmit County. Added Acts 1965, 59th Leg., p. 1629, ch. 699, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 7807d. Water Improvement Districts and Water Power Control Districts; organization and powers; provisions to govern**

**Borrowing money from agencies of Federal Government and others**

Sec. 21. Water Power Control Districts may borrow money from any agency created by the Laws enacted by the Congress of the United States and/or from any person and corporation for any purpose incident to its powers and functions. Such debts may be evidenced by contracts, agreements, notes, bonds, or warrants payable at any term of years, but not to exceed 40 years if the lender is a person or corporation other than an agency created under the Laws of the United States, with interest thereon not to exceed six per centum (6%) per annum and may pledge its properties, revenues, income, and source of revenues and income to the payment thereof together with interest thereon and the expense incident to the enforced collection thereof, and its revenue, income, and source of income so pledged shall be used exclusively for the purpose pledged until such debts are fully repaid and after being so pledged shall not be used for any other purpose unless released for such purpose. As amended Acts 1965, 59th Leg., p. 1290, ch. 594, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**CHAPTER THREE A—WATER CONTROL AND IMPROVEMENT DISTRICTS**

**Art.**  
7880—147c11. Validating orders excluding and annexing land to district [New].

**Art. 7880—3c. Underground water conservation districts**

**Underground water reservoirs**

I. The authority heretofore vested in the State Board of Water Engineers and its successors to designate "underground water reservoirs" or "subdivision of an underground reservoir" shall hereafter be exercised by the Texas Water Rights Commission acting upon evidence and testimony from the Texas Water Development Board and other evidence adduced at a hearing held for the purpose of making such designation. The said Board shall upon the request of any person interested in such application for designation or at the request of the Texas Water Rights Commission prepare evidence and testimony available to it relating to the existence, area and characteristics of any such reservoir or subdivision thereof. All other duties with regard to Underground Water Districts imposed on the State Board of Water Engineers by this Act shall be performed by the Texas Water Rights Commission. Added Acts 1965, 59th Leg., p. 583, ch. 296, § 2, eff. Sept. 1, 1965.

Section 1 of the amendatory act of 1965 amended article 7477; section 3 thereof was a savings clause noted thereunder; section 4 was a severability clause; section 5 repealed all conflicting laws and parts of laws and section 6 provided that the act should become effective on September 1, 1965.

**Art. 7880—38a. Election of directors in large districts including two or more counties**

**Consolidated districts diverting waters from international stream**

Sec. 1A. Any two or more water control and improvement districts diverting waters from an international stream, regardless of size and regardless of whether they lie in one or more counties, may upon consolidation in the manner provided by law, adopt the precinct method of election of directors by agreement defining such precincts with particularity. When the consolidation agreement includes adoption of the precinct method of election, the proposition submitted to the voters in the districts to be consolidated shall include a description of the precincts. If such proposition is adopted by the voters in each district to be consolidated, the consolidated district shall be deemed a district of the class mentioned in Section 1 of this Act. Added Acts 1965, 59th Leg., p. 662, ch. 318, § 1, emerg. eff. June 1, 1965.

<sup>1</sup> Article 7880-37.

**Art. 7880—147c11. Validating orders excluding and annexing land to district**

Section 1. This Act shall be applicable to any water control and improvement district which has passed an order excluding land from the district pursuant to Chapter 336, Acts of the 51st Legislature, Regular Session, 1949,<sup>1</sup> and which has passed an order annexing land to the district pursuant to Chapter 25, Acts of the 39th Legislature, Regular Session, 1925.<sup>2</sup>

Sec. 2. Any orders of the board of directors in such district excluding land from the district and orders annexing land to the district, are hereby in all things validated.

Sec. 3. This Act shall not be construed as validating any order excluding land from the district and annexing land to the district, if at the time this Act becomes effective said order was the subject of litigation pending in a court of competent jurisdiction. Acts 1965, 59th Leg., p. 877, ch. 434, emerg. eff. June 14, 1965.

<sup>1</sup> Article 8280—3.

<sup>2</sup> Article 7880—1 et seq.

**Title of Act:**

An Act validating orders passed by certain water control and improvement districts excluding land from the district and annexing land to the district; and declaring an emergency. Acts 1965, 59th Leg., p. 877, ch. 434.

## II. LEVEES

### CHAPTER FIVE—STATE RECLAMATION ENGINEER

#### TRANSFER OF POWERS

*Powers and duties formerly vested in the State Board of Water Engineers and its successor, the Texas Water Commission, under the provisions of Chapter 5 of Title 128, were transferred and vested in the Texas Water Development Board by Acts 1965, 59th Leg., p. 587, ch. 297, § 2. See article 8280—9, § 3(d).*

## CHAPTER SIX—LEVEE IMPROVEMENT DISTRICTS

## TRANSFER OF POWERS

*Powers and duties formerly vested in the State Board of Water Engineers and its successor, the Texas Water Commission, under the provisions of Chapter 6 of Title 128, were transferred and vested in the Texas Water Development Board by Acts 1965, 59th Leg., p. 587, ch. 297, § 2. See art. 8280-9, § 3(d).*

## IV. CONSERVATION AND RECLAMATION

## CHAPTER EIGHT—CREATION OF DISTRICTS

Art.  
8197g. Facilities for disposal of sewage  
and industrial waste [New].

## Art. 8197g. Facilities for disposal of sewage and industrial waste

## Authority of districts; negotiable bonds; contracts; definitions

Section 1. In addition to other purposes heretofore authorized by law, any conservation and reclamation district of the State of Texas created under Article 16, Section 59 of the Constitution and having within its boundaries at least 80 percent of the Texas land drained by any single river system is authorized to purchase, construct, improve, repair, operate and maintain works and facilities necessary for the transportation, treatment and disposal of sewage and industrial waste and effluent and to issue negotiable bonds for such purposes, and any such conservation and reclamation district may make contracts with cities and others under which the district will transport, treat and dispose of sewage from such cities or other entities. The term "river system," as used in the preceding sentence, means a river draining into the Gulf of Mexico and the tributaries of such a river; and the term "Texas land," as used in such sentence, means land located in Texas. Any such district may also make contracts with any city for the use of any sewage transportation, treatment or disposal facilities owned by such city or by the district.

## Payment of bonds; form

Sec. 2. The bonds which may be issued under Section 1 shall be payable only from revenues under any contract or contracts described in Section 1 or from other income of the issuing district. Said bonds shall be in the form and shall be issued in the manner prescribed by law for other revenue bonds of the issuing district.

## Approval of bonds and contracts; registration; validation by suit; interest rate; sales price

Sec. 3. After any bonds are authorized to be issued by any conservation and reclamation district pursuant to the power provided in this Act, such bonds and the record relating to their issuance may be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by pledge of the proceeds of a contract or contracts, between such district and any city, or other political subdivision of the State of Texas, a copy of such contract and the proceedings of the city or political subdivision authorizing same may also be submitted to the Attorney General. If such bonds have been authorized and if the contracts have been made in accordance with the Constitution and laws of the State of Texas, he shall approve the bonds and such contracts, and the bonds shall be registered by the Comptroller of Public Accounts.

For Annotations and Historical Notes, see V.A.T.S.

Thereafter the bonds and contracts, if any, shall be valid and binding and shall be incontestable for any cause. In lieu of, or in addition to, such approval by the Attorney General, the board of directors of any such district may have any such bonds validated by suit in the District Court in the manner and with the effect provided in Chapter 316, Acts of the 56th Legislature<sup>1</sup>, or may have the bonds and contracts validated by suit and approved. The interest rate and sales price of the bonds need not be fixed until after the termination of the validation proceedings or suit. If the proposed bonds recite that they are secured by the proceeds of a contract or contracts made by the issuing district and one or more cities or other political subdivisions of the State of Texas, the petition shall so allege and the notice of the suit shall mention such allegation and the city or political subdivision fund or revenues from which such contract or contracts are payable. Such suits shall be in the nature of a proceeding in rem. The judgment shall be *res adjudicata* as to the validity of such contract or contracts and the pledge of revenues thereof.

<sup>1</sup> Article 717m.

#### Legal and authorized investments

Sec. 4. All bonds issued under this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees and for the sinking fund of cities, towns, villages, school districts, or any other political corporation or subdivision of the State of Texas. Such bonds shall be eligible to secure the deposits of any and all public funds of the State of Texas, and of any political subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

#### Eminent domain

Sec. 5. Any such conservation and reclamation district shall have the power and right of eminent domain for the purpose of acquiring by condemnation any and all property of any kind, real, personal or mixed, or any interest therein, within or without the boundaries of such district, necessary or needed for the purposes authorized by this Act.

#### Changing or altering highways, railroads, transmission lines, telephone facilities or pipelines; expenses

Sec. 6. In the event that any such conservation and reclamation district, in the exercise of the powers granted hereunder, whether it be the power of eminent domain, the power of relocation, or any other power, makes necessary the relocation, raising, rerouting, or changing the grade of or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of such district. The term "sole expense" shall mean the actual cost of such relocation, raising, rerouting or change in grade or alteration of construction and providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from such facilities.

#### Grant of powers; effect

Sec. 7. The powers granted under this Act shall be in addition to and not in derogation of any and all existing powers of each conservation and reclamation district subject to the provisions of this Act, and this Act shall not be deemed to repeal, expressly or by implication, any power or

right otherwise granted to any such district. Acts 1965, 59th Leg., p. 507, ch. 263.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing conservation and reclamation districts created under Article 16, Section 59 of the Constitution, the boundaries of which include at least 80 percent of the land drained by any single river system, to purchase, construct, im-

prove, repair, operate and maintain works and facilities for the transportation, treatment and disposal of sewage and industrial waste and effluent and to issue bonds for such purposes pursuant to said Act; and declaring an emergency. Acts 1965, 59th Leg., p. 507, ch. 263.

## V. NAVIGATION

### CHAPTER NINE—NAVIGATION DISTRICTS

#### 2. SPECIAL POWERS

##### A. PORT FACILITIES

#### Art. 8247b—1. Ordinances, rules, and regulations to protect properties and promote health, safety and general welfare

##### Powers granted and enumerated

Section 1. The Board of Navigation and Canal Commissioners of any Navigation District heretofore or hereafter organized and operating in the State of Texas which owns, operates and maintains wharves, docks, piers, sheds, warehouses and other similar terminal facilities not situated within the boundaries of any incorporated city, town or village of this state, for the purpose of protecting the said properties so situated and of promoting the health, safety and general welfare of that portion of the general community using said properties and facilities, shall be and they are hereby empowered to pass, publish, amend or repeal all ordinances, rules and police regulations not contrary to the constitution or laws of this state that may be necessary or proper to carry into effect the powers vested by this Act in said Navigation Districts for such purposes; such powers that may be exercised by any such Navigation District for such purposes and with respect to any of its properties not situated within the corporate limits of any city, town or village of this state shall include:

(a) To control the operation of all character of vehicles using the roads maintained by said Navigation Districts other than such roads that have been or may be hereafter dedicated to public use by formal dedication but not otherwise and to prescribe the speed, lighting, and other requirements of the same.

(b) To prohibit loitering on its docks, wharves, piers, warehouses, sheds or other properties.

(c) To control the operation of all character of vessels using their harbors, turning basins, basins or navigable channels, and to prescribe the speed, lighting, and other requirements of same.

(d) To prohibit smoking, the use of flares, open fires, and inflammable, highly combustible, or explosive substance and materials on their docks, wharves, piers, warehouses, sheds and other properties, or on such parts of such properties and at such times or during such periods as may, in the judgment of the governing body of any of such Navigation Districts, be determined to be dangerous to any of such properties or inimical to the safety or general welfare of that portion of the general community using such properties or parts thereof.

For Annotations and Historical Notes, see V.A.T.S.

(e) To prevent on any of said properties all trespasses, breaches of the peace and good order, assaults and batteries, fighting, quarrels, using abusive, profane or insulting language, all disorderly conduct, and all misdemeanor theft and to punish all persons thus offending.

(f) To suppress and prevent any riot, affray, disturbance or disorderly assembly on any of said properties.

(g) To license and regulate or suppress and prevent hawkers and peddlers utilizing or attempting to utilize said roads and other properties of any of said Navigation Districts. Acts 1961, 57th Leg., p. 1084, ch. 486, as amended Acts 1965, 59th Leg., p. 278, ch. 118, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER TEN—PILOTS

Art. 8276. [6311] [3802] Consignee responsible for pilotage

The consignee of any vessel shall be held responsible for the pilotage of said vessel. For the purposes of this Article, "consignee" shall include (i) the master, (ii) the owner, (iii) the agent, (iv) the sub-agent, and (v) any person, firm or corporation who enters or clears said vessel at the Collector of Customs. The pilot who serves said vessel, or who lawfully offers to serve said vessel, shall be entitled to recover lawful pilot fees, in any court of competent jurisdiction, jointly and severally from any one or more of said persons, firms, or corporations. As amended Acts 1965, 59th Leg., p. 1191, ch. 552, § 1, emerg. eff. June 17, 1965.

## VI. GENERAL PROVISIONS

### CHAPTER ELEVEN—IN GENERAL

Art.  
8280—9a. Texas Water Development Bonds  
[New].

Art. 8280—9. Texas Water Development Board

#### Definitions

Sec. 2. For the purpose of this Act the term:

\* \* \* \* \*

(c) "Development Fund Manager" means the fiscal administrator of the Texas Water Development Fund. As amended Acts 1965, 59th Leg., p. 587, ch. 297, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

\* \* \* \* \*

(f) "Project" means any engineering undertaking or work for the purpose of the conservation and development of the surface or subsurface water resources in the State of Texas, including the control, storing, and preservation of its storm and floodwaters and the waters of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, and other water storage projects (including underground storage projects), filtration and water treatment plants including any system necessary for the transportation of water from storage to points of distribution, or from storage to filtration and treatment plants, including facilities for transporting water therefrom to wholesale purchasers, by the acquisition, by purchase of rights in underground water, by the drilling of wells,

or for any one or more of such purposes or methods. As amended Acts 1965, 59th Leg., p. 1246, ch. 569, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

\* \* \* \* \*

(i) "Executive Director" means the Executive Director of the Texas Water Development Board. Added Acts 1965, 59th Leg., p. 587, ch. 297, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Creation; members; chairman; organization; quorum; powers and duties**

Sec. 3. (a) The Texas Water Development Board is hereby created and declared to be a State Agency for performing the governmental functions authorized by this Act and the Constitution of this state and such other duties as the Legislature may prescribe. The Texas Water Development Board shall consist of six (6) members appointed by the Governor, with the advice and consent of the Senate. Each of the members of the Board shall have at least ten (10) years of successful business or professional experience and shall be selected from the following groups: one (1) each from the fields of engineering, law, public or private finance, and a farmer or rancher, and two (2) members from the public at large, and each member shall be from a different section of the state. Of the members first appointed under this Act as it was originally enacted in 1957, two (2) shall serve for a term of two (2) years, two (2) for terms of four (4) years, and two (2) for terms of six (6) years. Thereafter, each member shall serve for a term of six (6) years and until his successor is appointed and has qualified. In case of the death or resignation of any member, his unexpired term shall be filled by appointment in the same manner. Each of the six (6) members of the Board is hereby declared to be an officer of the state as defined by the Texas Constitution and each shall qualify by taking the official oath of office prescribed by law.

The members of the Texas Water Development Board shall receive a per diem of not more than Twenty-Five Dollars (\$25.00) for each day served in the performance of their duties, together with traveling and other necessary expenses.

The Governor shall designate the Chairman of the Board who shall serve as Chairman at the will of the Governor. A Vice-Chairman shall be elected who shall serve for a term of two (2) years from the effective date of this Act; thereafter, a Vice-Chairman shall be elected every two (2) years by the members of the Board. Vacancies in the office of Vice-Chairman shall be filled by the Board for the remainder of the unexpired term. The Chairman, or in his absence, the Vice-Chairman, shall preside at all meetings of the Board and perform the other duties required by this Act. A majority of the members of the Board shall constitute a quorum to transact business.

b) The Board is specifically charged with the following duty: the preparation, development, and formulation of a comprehensive State Water Plan for this state, including a definition and designation of river basins and watersheds as separate units for purposes of water development and inter-watershed transfers. However, the Board shall not prepare or formulate any plan which contemplates or results in the removal from the basin of origin of any surface water to some other river basin or area outside of such basin of origin if the water supply involved in such plan or project will be required to supply the reasonably foreseeable future water supply requirements for the next ensuing fifty-year period within the river basin of origin, except on a temporary, interim basis. The Board shall be governed in its preparation of said plan by



For Annotations and Historical Notes, see V.A.T.S.

a regard for the public interest of the entire state, and shall direct its efforts to plan for the orderly development and management of water resources in order that sufficient water will be available at reasonable cost to further the economic development of the entire state. After the Board has completed its preliminary planning of the water resources development within a river basin, the Board or at the direction of the Board, the Executive Director, after notice, shall hold a public hearing at some central location within such river basin, at which hearing the proposed plan of development shall be presented and evidence for or against the plan shall be heard; and thereafter in preparing its plan the Board shall give consideration to the effect such plan will have on the present and future development, economy, general welfare, and water requirements of the areas of such river basin. Consideration shall also be given in the plan to the effect of upstream development upon the bays, estuaries, and arms of the Gulf of Mexico and to the effect upon navigation. If the proposed plan shall entail the diversion or transportation of water from the watershed of any stream, river, or watercourse for use in some other area of Texas outside of such watershed, the Board or at the direction of the Board, the Executive Director, after notice, shall hold a public hearing at some location convenient to the areas affected, at which hearing the proposed plan of development shall be presented and evidence for or against the plan shall be heard; and thereafter in preparing its plan the Board shall give consideration to the effect such plan will have on the present and future development, economy, general welfare, and water requirements of the areas affected. When the Board has prepared and examined the completed Plan, the Texas Water Commission or its successors shall, upon request of the Board, hold a public hearing on said Plan to determine whether or not said Plan gives adequate consideration to the protection of existing water rights in this state and to determine whether or not said Plan takes into account modes and procedures for the equitable adjustment of water rights affected by said Plan. After such public hearing and upon notification by the Texas Water Commission or its successors that the Plan appears to give adequate consideration to the protection of existing water rights and does take into account the equitable adjustment of water rights affected by said Plan, the Board shall formally adopt the State Water Plan. A majority vote shall be necessary for adoption.

When formally adopted by the Board, the State Water Plan shall be a flexible guide to state policy for the development of water resources in this state. The Texas Water Commission or its successors shall take the Texas Water Plan into consideration in matters coming before the Commission but need not be bound thereby. Nothing in the State Water Plan or any modifications and amendments thereto shall be construed so as to increase or diminish any water right existing at the effective date of this Act.

The Board shall also make such modifications and amendments to said State Water Plan as experience and changed conditions make advisable and the Texas Water Commission or its successors shall, when requested by the Board, hold a public hearing in the same manner and for the same purposes as specified herein on the original State Water Plan. Any modifications and amendments so adopted by the Board shall become a part of the said Plan.

The Board may take all necessary action to qualify for federal assistance in financing the development and improvement of the Plan.

(c) The Board is authorized to exercise all of the powers and duties heretofore exercised by the Board of Water Engineers and its successor, the Texas Water Commission, under Acts 1957, 55th Legislature, 1st

Called Session, Chapter 11 (compiled as Article 7472d—1, Revised Civil Statutes, cited as "The Texas Water Planning Act of 1957") and any powers and duties contained in said Act shall be held and possessed by the Board in addition to the other powers and duties imposed on said Board. In the exercise of its powers and duties under the Texas Water Planning Act of 1957, as well as all other duties imposed on it by this Act and any other law, the Board may organize and reorganize its administrative sections and divisions in the manner most efficient for the orderly dispatch of its duties under this Act or any other law.

(d) All powers and duties formally vested by law in the State Board of Water Engineers and its successor, the Texas Water Commission under the provisions of Chapters 5 and 6, Title 128, Revised Civil Statutes of Texas, 1925, as amended, are transferred and vested in the Texas Water Development Board. And all such powers and duties shall hereafter be executed and performed by the Texas Water Development Board or its authorized agents and employees. All of the books, papers, records, and property used or acquired by the Texas Water Commission in the exercise of the authority of the former State Reclamation Engineer shall be transferred to and become the responsibility of the Texas Water Development Board. As amended Acts 1965, 59th Leg., p. 587, ch. 297, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Bond issue; interest rate; form; registration and approval**

Sec. 4. The Board by appropriate action is hereby authorized from time to time to provide by resolution for the issuance of negotiable bonds in a total aggregate amount not exceeding One Hundred Million Dollars (\$100,000,000.00) and the Board may, upon two-thirds ( $\frac{2}{3}$ ) vote of the elected members of each House at a subsequent Legislature, be given the power to issue additional negotiable bonds in an amount not to exceed One Hundred Million Dollars (\$100,000,000.00). All such bonds shall be on a parity and shall be called the "Texas Water Development Bonds." The proceeds from the sale of any bond, or bonds shall be used for the purpose of creating the Texas Water Development Fund provided for by the Constitution. To assure the orderly and economical marketing of bonds and reasonable availability of money in the Texas Water Development Fund, the Board may sell bonds from time to time; provided that bonds may not be sold in excess of Twenty-Five Million Dollars (\$25,000,000.00) during any six (6) month period. At the option of the Board, said bonds may be issued in one (1) or several installments. The bonds of each issue shall be dated, and shall bear interest at a rate not exceeding four per cent (4%) per annum, which interest may, at the option of the Board, be payable annually or semi-annually; shall mature serially or otherwise, not later than forty (40) years from their date; and may be redeemable before maturity, at the option of the Board, at such price or prices, and under such terms and conditions as may be fixed by the Board in the resolution providing for the issuance of the bonds. The Board shall determine the form of the bonds, including the form of any interest coupon to be attached thereto, and shall fix the denomination or denominations of said bonds and the place or places of the payment of the principal and interest thereon. Said bonds shall be executed on behalf of the Texas Water Development Board as general obligations of the State of Texas in the following manner: they shall be signed by the Chairman and the Development Fund Manager respectively of the Board, and the seal of the Board shall be impressed thereon, and they shall be signed by the Governor and attested by the Secretary of State of the State of Texas with the Seal of the State of Texas impressed thereon. The resolution authorizing the issuance of any installment or series of bonds may prescribe the extent to which facsimile signatures and facsimile seals in lieu

For Annotations and Historical Notes, see V.A.T.S.

of manual signatures and manually impressed seals may be used in executing such bonds and appurtenant coupons. Interest coupons may be signed by the facsimile signatures of the Chairman of the Board and the Development Fund Manager. In the event any officer whose manual or facsimile signature appears on any bond, or whose facsimile signature shall appear on any coupon, shall cease to be such officer before the delivery of the bonds, the signatures shall, nevertheless, be valid and sufficient for all purposes the same as if he had remained in office until such delivery had been made. The resolution may provide for registration of the bonds as to ownership and for successive conversion and reconversion from registered to bearer bonds and vice versa. Before any such bonds so issued are delivered to the purchasers, the record pertaining thereto shall have been examined by the Attorney General of Texas and said records and bonds shall be approved by him. After such approval, the bonds shall be registered in the office of the Comptroller of Public Accounts of Texas. All bonds issued hereunder shall, after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas. The performance of official duties prescribed by Article III, Section 49-c of the Constitution and by the original Act as amended in reference to the provisions for the payment and the payment of such bonds may be enforced in any court of competent jurisdiction through mandamus or other appropriate proceedings. All bonds issued in accordance with and under the provisions of this Act shall be, and are hereby declared to be negotiable instruments under the laws of this state. The Board is fully authorized to provide for the replacement of any bond which might have become mutilated, lost or destroyed. As amended Acts 1959, 55th Leg., p. 333, ch. 164, § 1; Acts 1965, 59th Leg., p. 587, ch. 297, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### **Publication of notice of sale of bonds; requirements of bidders**

Sec. 7. When the Board shall have authorized the issuance of a series of said bonds and shall have determined to call for bids therefor, it shall be the duty of the Board to publish at least one (1) time not less than ten (10) days before the date of said sale an appropriate notice thereof. Such publication shall be made in a daily newspaper of general state-wide circulation which is published not less than seven (7) times weekly. Said notice shall also be published for such number of times as the Board may determine in one or more recognized financial publications of general circulation published within the state and one or more such publications published outside the state. The Board shall demand of bidders, other than the administrators of the state funds, that their bids be accompanied by exchange or bank cashier's check for such sum as it may consider adequate to be a forfeit guaranteeing the acceptance and payment for all bonds covered by such bids, and accepted by the Board. As amended Acts 1965, 59th Leg., p. 587, ch. 297, § 4.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### **Use of Water Development Fund; purposes; sale of reservoirs and associated system; lease of reservoir lands; prices; conditions precedent to sales, transfers or leases; use of proceeds; storage of unappropriated waters; Combined Facilities Operation and Maintenance Fund**

Sec. 12. In the event that Article III, Section 49-d of the Constitution of the State of Texas is amended to permit use of the Texas Water Development Fund for any of the purposes set forth under the definition of "project" contained in that portion of Acts 1957, 55th Legislature, Chapter 425, compiled as Subsection (f) of Section 2 of Article

8280—9, Revised Civil Statutes, the Board is hereby authorized to use funds of the Texas Water Development Fund for such purposes under Article III, Section 49-d, but may not use funds under said Section 49-d or this Act for retail distribution or for transportation of water solely to retail purchasers. The Board shall obtain permits for storage of water and/or permits for transportation of water and/or permits to apply water to beneficial use with regard to water in reservoirs and associated works constructed by the Board under this Act.

The Texas Water Development Board, after having used funds from the Texas Water Development Fund for the construction, reconstruction or enlargement of reservoirs and associated systems or works and facilities under Article III, Section 49-d of the Constitution of the State of Texas, is authorized to sell, transfer or lease, in whole or in part, any reservoir and associated systems or works provided that the applicant to buy or lease such facilities shall have first secured a valid permit for water use from the Texas Water Commission or its successor, which permit may be for a term of years if the facilities are leased.

If the application for a permit to use water involves a proposed use of water either within or outside of the watershed of the impoundment, the Texas Water Commission or its successor shall give paramount consideration to recouping the state's investment in granting any permit in order to protect the public interest and promote the general welfare. Before the permit for water use shall be issued by the Texas Water Commission or its successor, the applicant shall have completed contractual negotiations with the Water Development Board for the acquisition of such facilities and all terms, conditions and provisions of such contract shall have been agreed upon by the parties thereto. Reservoir lands which may have been acquired may be leased by the Board prior to completion of construction of any dam without the necessity of a permit being issued by the Texas Water Commission or its successor. It is further provided that such sale, transfer or lease shall be at a cost not less than the direct cost of the Board in acquiring same. "Direct cost" of such facilities shall mean the principal amount the Board pays or agrees to pay for such facilities. "Direct cost of the Board in acquiring same" shall mean the amount theretofore paid by the Board on the "direct cost" of such facilities.

In selling or transferring the state's interest in such facilities acquired from the proceeds of Texas Water Development Board Bonds, the price shall be the sum of the 'direct cost of the Board in acquiring same,' as such term is defined above, plus an interest charge computed at a rate of one-half of one per cent ( $\frac{1}{2}$  of 1%) per annum from the date of acquisition by the Board, plus interest annually at the cumulative average effective rate on all Texas Water Development Board Bonds sold up to the date of the sale of the facilities, plus the Board's cost of operating and maintaining the facilities being sold or transferred from the date of acquisition to the date of transfer, less any payments received by the Board from the lease of such facilities or the sale of water therefrom.

In selling or transferring the state's interest in such facilities acquired under long-term contracts with the Federal Government, the price shall be the sum of the "direct cost of the Board in acquiring same," as the term is defined above, plus an interest charge thereon of one-half of one per cent ( $\frac{1}{2}$  of 1%) per annum from the date of acquisition of such facilities by the Board, plus interest at the cumulative average effective rate on all Texas Water Development Board Bonds sold up to the date of the sale of such facilities for each of those years or portions of years in which the Board paid interest to the Federal Government, plus the Board's cost of operating and maintaining the facilities being sold or transferred from the date of acquisition to the date of

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transfer, less any payments received by the Board from the lease of such facilities or the sale of water therefrom. If the Board in transferring any contract between it and the Federal Government, remains in any way directly, conditionally or contingently liable or responsible for the performance of any part of the contract assigned or transferred, then the assignee or purchaser shall, in addition to the payments above set forth, pay to the Board annually one-half of one per cent ( $\frac{1}{2}$  of 1%) of the remaining amount owing to the Federal Government and such payment shall continue until the Board is fully and completely released from such contract.

In leasing such facilities for a term of years, each annual payment which shall be made by the lessee shall be not less than the annual principal and interest requirements applicable to the indebtedness incurred by the state allocated to acquisition of the facilities being leased, plus the state's annual cost for the project's operation, maintenance and rehabilitation, if the project has been rehabilitated.

As a condition precedent to selling, transferring or leasing, in whole or in part, any such facilities or the right to use such facilities, the Texas Water Development Board shall affirmatively find:

- (a) That the applicant therefor has a valid permit for water use from the Texas Water Commission or its successor;
- (b) That such sale, transfer or lease will contribute to the conservation and development of the water resources of Texas; and
- (c) That the consideration for same is fair, just and reasonable and in full compliance with all requirements of law.

The money received from any sale, transfer or lease of any such facilities shall be used to pay principal and interest on state bonds issued or to meet contractual obligations incurred by the Texas Water Development Board. Such moneys shall be collected, deposited in, and transferred to the appropriate statutory fund of the Board in the same manner as other moneys received in payment of principal and interest on loans to political subdivisions made by the Board for water supply projects, taking into consideration the manner in which such facilities involved were acquired; that is, either by use of bonds proceeds or by contract, as the case may be. When the moneys are sufficient to pay the full amount of indebtedness then outstanding (which shall include state bonds issued and the principal on contractual obligations incurred) and the full amount of interest to accrue thereon, any further sums received from the sale, transfer or lease of such facilities may be used by the Board for the acquisition of additional such facilities or for providing financial assistance to political subdivisions for water supply projects.

The Texas Water Development Board is hereby authorized and empowered to store unappropriated public waters of the state in such facilities. The Board is further authorized and empowered to sell any unappropriated public waters of the state that might be stored in any such facilities acquired by the Board and under the Board's control. The price for water sold shall be fixed and determined at an amount not less than a sum determined by taking into account the same costs prescribed in Subsection 5 of Section 21-a for selling the state's interest in storage facilities acquired. As a prerequisite to the purchase of such water, the applicant therefor shall have secured a valid permit from the Texas Water Commission authorizing the appropriation and use of the water impounded in such facilities, and the rights of the applicant in such water and its use shall be governed by the terms and conditions of such permit. The permit may be for a term of years. If the application for a permit involves a proposed use of water either within or outside the watershed of the impoundment, the Texas

Water Commission or its successor shall give paramount consideration to recouping the state's investment in granting any permit in order to protect the public interest and promote the general welfare. Before the permit shall be issued by the Texas Water Commission or its successor, the applicant shall have completed contractual negotiations with the Water Development Board for the sale of water and all terms, conditions and provisions of such contract shall have been agreed upon by the parties thereto. The permit shall be conditioned upon continued payment of the obligations assumed under the contract with the Board and may provide for cancellation at any time upon contract default. The Texas Water Development Board is authorized to determine the consideration, terms, provisions and conditions to be included in contracts for the sale of water or its use, but such consideration, terms, provisions and conditions shall be fair, reasonable and without discrimination. Included in the services for which the Board may make charges is that of standby service, which is hereby defined to mean holding water and conservation storage space available for use, as well as for the actual delivery of water. The Board shall not compete with political subdivisions of the state and municipalities in the sale of water when such competition will jeopardize the ability of a political subdivision or municipality to meet obligations incurred to finance its own water supply projects. The Board will make the same determinations with respect to the sale of water as are required to be made in paragraph (6) Section 21-a relating to selling, transferring or leasing storage facilities. Money received from the sale of water and standby service needed for operation and maintenance of such facilities shall be deposited in the Combined Facilities Operation and Maintenance Fund, which Fund is hereby created as a special fund in the State Treasury, and such Fund may be used by the Board for the operation and maintenance of such facilities, and the Legislature may also appropriate available state funds for such purpose. Money received from the sale of water not needed for operation and maintenance of such facilities may be used for the payment of principal and interest on state bonds issued or contractual obligations incurred by the Board in acquiring such facilities. Unappropriated public waters stored in any such facilities acquired by the Board and under the Board's control may be released without charge to relieve any emergency condition that may arise due to drought, severe water shortage or public calamity, provided, that the Texas Water Commission or its successor shall have first determined the existence of such emergency and requested the Board to make releases of water.

Political subdivisions as that term is defined in Section 2(e) of this Act, (Article 8280—9, Revised Civil Statutes) as amended, shall have the same preferential, but not exclusive, right to buy, lease or obtain transfer of such facilities as such political subdivisions have to purchase, lease or acquire storage facilities or to purchase water in storage from the Board as accorded to the said political subdivision in Subsection (9) of Section 21-a of this Act.

The provisions of this Section 12 as set forth in the foregoing provisions of this Act shall be operative and effective only upon condition that the resolution proposing Amendment of Article III, Section 49-d of the Constitution of the State of Texas<sup>1</sup> is adopted at the General Election to be held the first Tuesday after the first Monday in November, 1966; provided, that whether said resolution is adopted or not, no application for financial assistance shall be granted until the political subdivision making application therefor shall have furnished to the Board a resolution adopted by the Texas Water Commission or its successor certifying that the applicant is possessed of the necessary permit or certified filing, authorizing it to impound, or otherwise appropriate

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and use the waters to be made available by the project. As amended Acts 1965, 59th Leg., p. 587, ch. 297, § 5.

<sup>1</sup> Proposed by Senate Joint Resolution No. 19, Acts 1965, 59th Leg., p. 2195. Effective Aug. 30, 1965, 90 days after date of adjournment.

*Amendment of § 12 by Acts 1965, 59th Leg., p. 1246, ch. 569, § 2, see art. 8280—9, post*

#### Conditional Enactment

*The provisions of section 12 of this article, as enacted by Acts 1965, 59th Leg., p. 587, ch. 297, § 5, are to become operative and effective on condition that proposed amendment to Const. art. 3, § 49-d is adopted at the General Election to be held on the first Tuesday after the first Monday in November, 1966. See concluding paragraph of article 8280—9, § 12.*

#### Certificate by applicant

Sec. 12. No application for financial assistance shall be granted until the political subdivision shall have furnished to the Board a resolution adopted by the Texas Water Commission certifying:

(1) The feasibility of the project based on preliminary investigations and studies, including the estimated cost of construction, operation, and maintenance, and the quantity and quality of water;

(2) That there is an existing need or bona fide future need within a reasonable time, or both, for the water to be provided by the project;

(3) That the applicant

(A) For surface water development, is possessed of the necessary permit, or certified filing, authorizing it to impound, or otherwise appropriate and use, the waters to be made available by the project, or

(B) For underground water development, has obtained the right to use the waters to be made available by the project; and

(4) That if a dam is to be constructed or enlarged, the project contemplates the optimum development of the site of the project which is reasonably required under all existing circumstances. As amended Acts 1965, 59th Leg., p. 1246, ch. 569, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

*Amendment of § 12 by Acts 1965, 59th Leg., p. 587, ch. 297, § 5, see art. 8280—9, ante*

#### Hearing and determination on application; form of application; approval

Sec. 14. In passing upon such applications, the Board shall consider the needs and benefits to the area to be served by the project in relation to the needs and benefits appertaining to other projects requiring state assistance in any manner as well as the availability of revenues from all sources of the political subdivision for the ultimate repayment of the costs of such project, including interest, and whether the project can be reasonably financed without assistance of the state. The Board shall specifically consider the relationship of the project contained in such application with the overall, state-wide water needs of Texas and the relationship of the project contained in such application with the State Water Plan for water resource development. If after consideration of the foregoing, and the consideration of any other relevant factors, the Board finds that the public interest requires state participation in the project; that the project cannot be reasonably financed without state assistance in the amount finally approved by the Board; and if the Board makes the further finding that in its

opinion the revenues or taxes or both pledged by the political subdivision will be sufficient to meet all of the obligations assumed by the political subdivision within not more than forty (40) years, the Board may approve the application within the limits of this Act.

Application for financial assistance shall be in such form as prescribed herein and by regulations of the Board and shall not be accepted by the Board unless submitted in affidavit form by the officials of the political subdivisions as prescribed by the regulations of the Board. Nothing in such regulations shall restrict or prohibit the Board from requiring additional factual material of any applicant. As amended Acts 1961, 57th Leg., p. 13, ch. 8, § 1; Acts 1965, 59th Leg., p. 587, ch. 297, § 6.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Contracts for construction of projects

Sec. 18. The governing body of every political subdivision receiving state financial assistance from the Texas Water Development Fund shall, in all contracts for the construction of a project, require that the contract shall be paid for in partial payments as the work progresses and such payments shall not exceed ninety per cent (90%) of the amount due at the time of such payment as shown by the engineer of the project. Such contract shall also require that upon completion of said contract, the remaining ten per cent (10%) due thereunder may be paid only after approval by the engineer for the political subdivision as may be required under the bond proceedings and in addition upon obtaining from the Texas Water Development Board a certificate that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices. The Texas Water Development Board shall have the privilege of inspecting the construction of any project at any time to assure itself that the engineering plans of a project, as submitted when approval of the feasibility of the project was sought, are being substantially complied with and that the works are being constructed in accordance with sound engineering principles, but such inspection shall never subject the State of Texas to any action for damages. No substantial or material alteration in the engineering plans of a project shall be made after approval of eligibility unless and until authorization to make such alteration has been given by the Texas Water Development Board. Failure to construct the project according to the plans as approved by or altered with approval of the Board, failure to construct the works in accordance with sound engineering principles, or failure to comply with any term or terms of a construction contract, may be considered by the Board as grounds for refusal to give a certificate of approval for any construction contract. A certified copy of every construction contract entered into and executed by the political subdivision for the construction of the project in whole or in part shall be filed in the office of the Board. All such contracts shall contain or have attached thereto the specifications for all work included in the contract and the plans and details thereof and all such work shall be done in accordance with plans and specifications. As amended Acts 1965, 59th Leg., p. 587, ch. 297, § 7.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Meetings of board; seal; Executive Director; Development Fund Manager; salaries; duties of Executive Director

Sec. 21. The Board shall meet once each month on a day and at a place selected by it, subject to recesses at the discretion of the Board. The Chairman of the Board may call a special meeting of



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same at any time he thinks necessary, by giving the other members notice thereof.

The Board shall procure and adopt a seal bearing the words "Texas Water Development Board" encircling the oak and olive branches common to other official seals.

The Board shall employ an Executive Director to serve at the pleasure of the Board. The Executive Director shall, under the policies of the Board, manage the administrative affairs of the Board, serve as the chief administrative officer for the Board, and appoint such employees and assistants and other personnel as are necessary. The Executive Director shall select a Development Fund Manager with the approval of the Board who shall perform all duties required by this Act and said Board. The Executive Director, Chief Engineer and the Development Fund Manager shall receive necessary travel expenses in the same manner as a member of the Board. From any funds appropriated to the Texas Water Development Board for the biennium beginning September 1, 1965, the Executive Director shall receive an annual salary of \$17,500.00, the Chief Engineer \$16,000.00, the Assistant Chief Engineer \$12,500.00, and the Development Fund Manager \$12,500.00; thereafter each shall receive such annual salary as may be set by the Legislature in the General Appropriations Act.

The Executive Director shall be responsible to the Board for the performance by the staff of the following in addition to any other duties or assignments made under the policies of the Board:

(a) Making investigations and studies and collecting data and information on the occurrence, quantity, quality and availability of the surface waters and ground waters within the state, including particularly the technical duties and functions set forth in Articles 7472(d), 7524, 7527, 7528, 7537(a), 7537(b), 7621(b), 7621(c), and 7621(d), Vernon's Annotated Texas Civil Statutes;

(b) After consultation with and approval by the Board, negotiating and executing agreements with other state agencies, political subdivisions and municipal corporations of the state, federal agencies, and private persons and corporations for cooperative or joint studies and investigations of the occurrence, quantity and quality of the surface and ground waters of the state, the topographical mapping of the state, and the collection, processing and analysis of other basic data relating to the development of the water resources of the state, and the administration and performance of such agreements;

(c) Collecting, receiving, analyzing and processing basic data concerning the water resources of the state; provided all data collected by the Board shall be the property of the State of Texas;

(d) Carrying on the program for topographic and geologic mapping of the state;

(e) Reviewing, analyzing and making recommendations to the Board in regard to the approval of master plans and other reports of conservation districts, river authorities and other state agencies in all cases where approval of the Board is required by law or requested by said districts, authorities or agencies;

(f) Evaluating, preparing for publication, publishing and reproducing engineering, hydrologic and geologic data, information and reports relating to the water resources of the state;

(g) Determining the silt load of streams and making investigations and studies of the duty of water and surveys to determine the water needs of the distinct regional divisions of the watershed areas of the state;

(h) Aiding, advising and assisting the Board in regard to other engineering, hydrologic and geologic matters. It is specifically provided that the designated employees of the Board shall appear and present evidence at public hearings held by the Texas Water Commission or its successors or any other agency, state, local or federal, for any purpose involving matters affecting the public interest. The Board shall receive and examine all engineering plans and proposals involved in matters coming before the Texas Water Commission or its successors and may appear before the Commission in any hearing concerning such plans or proposals; and

(i) Performing other technical engineering, hydrologic and geologic functions in the administration of the water resources of the state. As amended Acts 1965, 59th Leg., p. 587, ch. 297, § 8.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Acquisition and development of storage facilities; contracts with federal government; limitation on authority to acquire facilities; findings; sale, transfer or lease of facilities; prices, conditions precedent and priorities; use of proceeds; storage of unappropriated waters; operation and maintenance of facilities; duties of attorney general; rules and regulations**

Sec. 21-a. (1) The proceeds from the sale of state bonds deposited in the Texas Water Development Fund as provided in Article III, Section 49-c of the Constitution of Texas may be used by the Texas Water Development Board for the additional purposes of acquiring and developing storage facilities, for the conservation and development of water for useful purposes in and from reservoirs constructed or to be constructed or enlarged within the State of Texas or on any stream constituting a boundary of the State of Texas, by any one or more of the following governments or governmental agencies; by the United States of America or any agency, department or instrumentality thereof; by political subdivisions or bodies politic and corporate of the state; by interstate compact commissions to which the State of Texas is a party; and by municipal corporations. As used herein the term 'storage facilities' shall include any one or more of the following: (a) the whole or any definable part or portion of a dam and reservoir, whether existing or planned, in which water may be stored for conservation and development for useful purposes; or (b) the right to use any such dam and reservoir, whether existing or planned, or a definable part or portion thereof for storage of water and development thereof for useful purposes, provided a valid permit for either the use or storage of water had been granted by the Texas Water Commission or its successor.

(2) The Texas Water Development Board may also execute long-term contracts with the United States or any of its agencies for the acquisition and development of storage facilities in reservoirs constructed or to be constructed by the Federal Government. Such contracts when executed shall constitute general obligations of the State of Texas in the same manner and with the same effect as state bonds issued under the authority of Article III, Section 49-c of the Constitution of Texas, and the provisions in said Section 49-c with respect to payment of principal and interest on state bonds issued shall likewise apply with respect to payment of principal and interest required to be paid by such contracts. The Texas Water Development Board shall determine the terms, provisions and conditions of such contracts; subject, however, to the limitations and directions contained in this Act and in Article III, Section 49-d of the Texas Constitution. It is expressly provided that no contract shall be executed by the Board with the United States or any of its agencies wherein storage facilities or their use are acquired for a term of years only, and each of such contracts shall contain provisions and conditions to the effect that when the state has fulfilled its obligations under such

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contract, the state shall have a permanent right in such storage facilities or in their use, so long as such storage facilities may be physically available, subject only, if the project of which such storage facilities are a part is then operated by the United States, to payment by the state of reasonable operation, maintenance and administrative charges allocable to such acquired storage facilities; and, in addition, such contract may provide for the state to bear its share of the cost of any necessary reconstruction, rehabilitation or replacement of project features which may be required to continue satisfactory operation of the project. It is further provided that no contract between the Board and the United States or any of its agencies for the acquisition and development of storage facilities in reservoirs constructed or to be constructed by the Federal Government shall be executed unless such contract shall reserve unto the State of Texas the right of development and control of recreational facilities by the State of Texas or its political subdivisions, except for reservoir recreation areas of national significance which the United States proposes to develop and administer for the public use and benefit.

(3) The authority of the Texas Water Development Board to acquire storage facilities shall be limited to a maximum total amount as to principal obligations which may be incurred of One Hundred Million Dollars (\$100,000,000.00) and not to exceed Twenty-Five Million Dollars (\$25,000,000.00) for storage facilities in any single project. State funds shall not be expended for the purposes herein authorized when, and to the extent that, any political subdivision of the state is willing and able reasonably to finance, or assume the obligation of repaying, the costs of providing or acquiring such storage facilities, provided such political subdivision has qualified by obtaining any permit required under the laws of Texas to provide or acquire such storage facilities, and provided the proposals of the political subdivision are consistent with the objectives of the State Water Plan.

(4) The Texas Water Development Board, before acquiring storage facilities in any reservoir in any manner shall affirmatively find:

(a) That it is reasonable to expect the state to recover its investment in such facilities;

(b) That the cost of such storage facilities to be acquired exceeds current financing capabilities of the area involved and that such facilities cannot be reasonably financed otherwise by local interests without state participation; and

(c) That the public interest will be served thereby.

The Texas Water Development Board shall obtain permits for storage of water with regard to storage facilities acquired in any reservoir, and the issuance of such permit or permits by the Texas Water Commission or its successor shall be the approval required by Article III, Section 49-d of the Constitution of Texas.

(5) The Texas Water Development Board, after having acquired storage facilities in any reservoir, is hereby authorized and empowered to sell, transfer or lease, in whole or in part, any acquired storage facilities or the right to use such storage facilities, provided that the applicant therefor shall have first secured a valid permit from the Texas Water Commission or its successor authorizing the acquisition or right of use of such storage facilities, which permit may be for a term of years if the facilities are leased. If the application for a permit involves a proposed use of water either within or outside of the watershed of the impoundment, the Texas Water Commission or its successor shall give paramount consideration to recouping the state's investment in granting any permit in order to protect the public interest and promote the general welfare. Before the permit shall be issued by the Texas Water Commission or its successor, the applicant shall have completed contractual ne-

gotiations with the Texas Water Development Board for the acquisition of such facilities and all terms, conditions and provisions of such contract shall have been agreed upon by the parties thereto. Reservoir lands which may have been acquired may be leased by the Board prior to completion of construction of any dam without the necessity of a permit being issued by the Texas Water Commission or its successor. It is further provided that such sale, transfer or lease shall be at a price not less than the direct cost of the Board in acquiring same. "Direct cost" of such storage facilities shall mean the principal amount the Board pays or agrees to pay for such storage facilities. "Direct cost of the Board in acquiring same" shall mean the amount theretofore paid by the Board on the "direct cost" of such storage facilities.

In selling or transferring the state's interest in storage facilities in reservoirs acquired from the proceeds of Texas Water Development Board Bonds, the price shall be the sum of the "direct cost of the Board in acquiring same," as such term is defined above, plus an interest charge computed at a rate of one-half of one per cent ( $\frac{1}{2}$  of 1%) per annum from the date of purchase of the storage space by the Board, plus interest annually at the cumulative average effective rate on all Texas Water Development Board Bonds sold up to the date of the sale of the storage space, plus the Board's cost of operating and maintaining the facilities being sold or transferred from the date of acquisition to the date of transfer, less any payments received by the Board from the lease of such storage facilities or the sale of water therefrom.

In selling or transferring the state's interest in storage facilities acquired under long term contracts with the Federal Government, the price shall be the sum of the 'direct cost of the Board in acquiring same,' as such term is defined above, plus an interest charge thereon of one-half of one per cent ( $\frac{1}{2}$  of 1%) per annum from the date of purchase of the storage space by the Board, plus interest at the cumulative average effective rate on all Texas Water Development Board Bonds sold up to the date of the sale of the storage space for each of those years or portions of years in which the Board paid interest to the Federal Government, plus the Board's cost of operating and maintaining the facilities being sold or transferred from the date of acquisition to the date of transfer, less any payments received by the Board from the lease of such storage facilities or the sale of water therefrom. If the Board in transferring any contract between it and the Federal Government, remains in any way directly, conditionally or contingently liable or responsible for the performance of any part of the contract assigned or transferred, then the assignee or purchaser shall in addition to the payments above set forth pay to the Board annually one-half of one per cent ( $\frac{1}{2}$  of 1%) of the remaining amount owing to the Federal Government and such payment shall continue until the Board is fully and completely released from such contract.

In leasing such storage facilities for a term of years, each annual payment which shall be made by the lessee shall be not less than the annual principal and interest requirements applicable to the indebtedness incurred by the state allocated to acquisition of the facilities being leased, plus the state's annual cost for the project's operation, maintenance and rehabilitation, if the project has been rehabilitated.

(6) As a condition precedent to selling, transferring or leasing, in whole or in part, any acquired storage facilities or the right to use such storage facilities, the Texas Water Development Board shall affirmatively find:

(a) That the applicant therefor has a valid permit from the Texas Water Commission or its successor;

(b) That such sale, transfer or lease will contribute to the conservation and development of the water resources of Texas; and

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(c) That the consideration for same is fair, just and reasonable and in full compliance with all requirements of law.

(7) The money received from any sale, transfer or lease of any acquired storage facilities shall be used to pay principal and interest on state bonds issued or to meet contractual obligations incurred by the Texas Water Development Board. Such money shall be collected, deposited in, and transferred to the appropriate statutory fund of the Board in the same manner as other moneys received in payment of principal and interest on loans to political subdivisions made by the Board for water supply projects, taking into consideration the manner in which the storage facilities involved were acquired; that is, either by use of bond proceeds or by contract, as the case may be. When the moneys are sufficient to pay the full amount of indebtedness then outstanding (which shall include state bonds issued and the principal on contractual obligations incurred) and the full amount of interest to accrue thereon, any further sums received from the sale, transfer or lease of acquired storage facilities may be used by the Board for the acquisition of additional storage facilities or for providing financial assistance to political subdivisions for water supply projects.

(8) The Texas Water Development Board is hereby authorized and empowered to store unappropriated public waters of the state in the storage facilities that have been acquired and shall obtain a permit to store such waters from the Texas Water Commission or its successor. The Board is further authorized and empowered to sell any unappropriated public waters of the state that might be stored in any storage facilities acquired by the Board and under the Board's control. The price for water sold shall be fixed and determined at an amount not less than a sum determined by taking into account the same costs prescribed in Subsection (5) hereof for selling the state's interest in storage facilities acquired hereunder. As a prerequisite to the purchase of such water, the applicant therefor shall have secured a valid permit from the Texas Water Commission or its successor authorizing the appropriation and use of the water impounded in such storage facilities, and the rights of the applicant in such water and its use shall be governed by the terms and conditions of such permit. The permit may be for a term of years. If the application for a permit involves a proposed use of water either within or outside of the watershed of the impoundment, the Texas Water Commission or its successor shall give paramount consideration to recouping the state's investment in granting any permit in order to protect the public interest and promote the general welfare. Before the permit shall be issued by the Texas Water Commission or its successor, the applicant shall have completed contractual negotiations with the Texas Water Development Board for the sale of water and all terms, conditions and provisions of such contract shall have been agreed upon by the parties thereto. The permit shall be conditioned upon continued payment of the obligations assumed under the contract with the Board and may provide for cancellation at any time upon contract default. The Texas Water Development Board is authorized to determine the consideration, terms, provisions and conditions to be included in contracts for sale of water or its use, but such consideration, terms, provisions and conditions shall be fair, reasonable and without discrimination. Included in the services for which the Board may make charges is that of standby service, which is hereby defined to mean holding water and conservation storage space available for use, as well as for the actual delivery of water. The Board shall not compete with political subdivisions of the state or municipalities in the sale of water when such competition will jeopardize the ability of a political subdivision or municipality to meet obligations incurred to finance its own water supply projects. The Board will make the same determinations with respect to the sale of water as are required to be made in paragraph

(6) hereof relating to selling, transferring or leasing storage facilities. Money received from the sale of water and standby service needed for operation and maintenance of acquired facilities shall be deposited in the Storage Facilities Operation and Maintenance Fund, which Fund is hereby created as a special fund in the State Treasury, and such Fund may be used by the Board for the operation and maintenance of acquired facilities, and the Legislature may also appropriate available state funds for such purpose. Money received from the sale of water not needed for operation and maintenance of storage facilities may be used for the payment of principal and interest on state bonds issued or contractual obligations incurred by the Board in acquiring storage facilities. Unappropriated public waters stored in any storage facilities acquired by the Board and under the Board's control may be released without charge to relieve any emergency condition that may arise due to drought, severe water shortage or public calamity provided, that the Texas Water Commission or its successor shall have first determined the existence of such emergency and requested the Board to make such releases of water.

(9) Political subdivisions (as that term is defined in Section 2 of Chapter 425, Acts of the 55th Legislature, Regular Session, 1957) shall be accorded a preferential right, but not an exclusive right, to purchase, acquire or lease storage facilities, or to purchase water in storage, from the Board. Priority in the sale, transfer or lease of storage facilities, or in the sale of water, shall also be accorded in the manner established by Article 7471 and Article 7472(c), Revised Civil Statutes of Texas, 1925, as amended, or as may be hereafter amended, relating to priorities and preferences in the appropriation and use of public waters. The Texas Water Development Board and the Texas Water Commission or its successor shall coordinate their efforts to meet these objectives and to assure that the public waters of the state, which waters are held in trust for the use and benefit of the public, will be conserved, developed and utilized in the greatest practicable measure for the public welfare.

(10) The Texas Water Development Board is authorized to enter into contracts under the terms of which those owning facilities in the same reservoir may operate and maintain the state's storage facilities in such reservoir and under which the state, acting by and through the Board, may agree to pay reasonable operation and maintenance charges allocable to such state storage facilities. The Board may enter into contracts with political subdivisions of the state, with agencies of the state, and with the United States and its agencies for the development and operation of recreational facilities at reservoirs in which the state has acquired storage facilities. Income received by the Board from contracts for the development and operation of recreational facilities may be used by the Board for the same purposes as income from the sale of water may be used. The Legislature may make appropriations of available state funds for developing and operating recreational facilities at reservoirs in which the state has acquired storage facilities.

(11) The Attorney General of Texas shall approve as to legality: (a) the resolution of the Board authorizing the acquisition and development of storage facilities as authorized in paragraph (1) of this Section 21-a; (b) all contracts between the Board and the United States or any of its agencies for the acquisition and development of storage facilities constructed or to be constructed by the Federal Government; (c) all contracts or agreements by the Board for the sale, lease or transfer of acquired storage facilities, in whole or in part; (d) all contracts by the Board for the sale of water impounded in acquired storage facilities; and (e) all contracts by the Board for the development and operation of recreational facilities.

(12) The Texas Water Development Board and the Texas Water Commission or its successor are hereby authorized to promulgate reasonable

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and necessary rules and regulations, separately or jointly, to implement and effectuate the provisions of this Act. Such rules and regulations and amendments thereto shall not be inconsistent with the provisions hereof and shall be approved by the Attorney General of Texas and filed with the Secretary of State. Added Acts 1963, 58th Leg., p. 69, ch. 49, § 2, as amended Acts 1965, 59th Leg., p. 587, ch. 297, § 9.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Biennial reports to Governor

Sec. 23. The Board shall make biennial reports in writing to the Governor in which shall be included data on the activities of the Board and such suggestions as to the amendment of existing laws and the enactment of new laws as the information and experience of the Board may suggest. Added Acts 1965, 59th Leg., p. 587, ch. 297, § 10.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Cooperation with federal agencies; designation as cooperating local sponsor of project; application

Sec. 24. (a) The Board shall be the state agency to cooperate with the Corps of Engineers of the United States Army and the Bureau of Reclamation of the United States Department of the Interior in the planning of water resource development projects in this state.

(b) When a project is proposed for planning or development by the Texas Water Development Board, the Corps of Engineers of the United States Army, or the Bureau of Reclamation of the United States Department of the Interior, any political subdivision of Texas government may make application to the Commission for designation as the cooperating local sponsor of the project.

The application shall describe the purposes of the project, state the reasons for the application, the contemplated use of any water supplies the applicant might derive from the project in the event a valid permit for such use is subsequently granted by the Commission, and cite the contributions which the applicant is prepared to make to the planning or development of the project.

The Commission shall prescribe the form to be used in applications for designation as cooperating local sponsor. Before accepting the application for designation, the Commission may require that the applicant complete the prescribed forms. Before making any designation of local sponsorship, the Commission shall set the application for hearing and give public notice of such hearing. Any interested party may appear and be heard for or against the designation of the applicant as project sponsor at the hearing.

More than one cooperating local sponsor may be designated for each project, but each applicant must comply with the provisions stated herein. No application for designation as local sponsor shall cover more than one proposed project.

After a public hearing, the Commission shall designate a local sponsor in accordance with the application or reject the application in a formal order stating the reasons for acceptance or rejection. The Commission may set a reasonable time period for any sponsorship designation.

The Commission, in granting any future permit for the beneficial use of water supplies stored in a project for which it has designated a local sponsor, shall give full cognizance to that sponsor's contributions to the planning and development of the project.

(c) To the extent that no local cooperator is prepared to undertake the sponsorship of a federal project in whole or in part, the Board may

serve as state sponsor of the project. Added Acts 1965, 59th Leg., p. 587, ch. 297, § 11.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Acts 1965, 59th Leg., p. 1246, ch. 569 amended sections 2(f) and 12 of this article; section 3 of the act provided: "Sec. 3. The ownership and rights of the owner of the land, his lessees and assigns, in underground water are hereby recognized, and nothing in this Act shall be construed as depriving or divesting such owner, his assigns or lessees, of such ownership or rights, subject, however, to the rules and regulations promulgated pursuant to Article 7880—3c, Vernon's Texas Civil Statutes."

Acts 1965, 59th Leg., p. 587, ch. 297 amended various sections of this article; sections 12-14 of this act provided:

"Sec. 12. Savings Clause. The repeal of any law by this Act shall not affect or impair any act done or right, obligation or penalty existing or accrued under the authority of the law repealed; and such law shall be treated as still remaining in

force for the purpose of sustaining any proper action concerning any such act, right, obligation or penalty.

"Sec. 13. Severability Clause. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared severable.

"Sec. 14. Applicability Clause. The amendment to Section 3, Chapter 425, Acts of the 55th Legislature, Regular Session, 1957, contained in Section 2 of this Act, does not affect the terms of office of persons who were appointed to the Texas Water Development Board before the effective date of this Act."

#### Art. 8280—9a. Texas Water Development Bonds

Section 1. The Texas Water Development Board is hereby authorized to provide for, issue and sell Texas Water Development Bonds in the further amount of One Hundred Million Dollars (\$100,000,000.00). The bonds issued under this Act shall be issued in the form, denominations and terms as prescribed by law, and the total of the Texas Water Development Bonds initially authorized by Article III, Section 49-c of the Constitution of Texas and by this Act shall not exceed Two Hundred Million Dollars (\$200,000,000.00).

Sec. 2. All of the proceeds from the sale of the additional One Hundred Million Dollars (\$100,000,000.00) of Texas Water Development Bonds authorized by this Act may be used for the purposes set forth in Section 49-c and Section 49-d of Article III of the Constitution of Texas as those Sections and enabling legislation now provide or may provide.

Sec. 3. Any proceeds from the sale of Texas Water Development Bonds initially authorized by Section 49-c, Article III of the Constitution of Texas may also be used for the purposes set forth in Section 49-d of Article III of the Constitution of the State of Texas, as that Section and enabling legislation now provides or may provide.

Sec. 4. This Act shall be enacted by a record vote of each House of the Legislature, at which time it shall receive an affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the members elected to each House; otherwise it shall have no force or effect. Acts 1965, 59th Leg., p. 434, ch. 221, emerg. eff. May 21, 1965.

##### Title of Act:

An Act authorizing the further issuance of One Hundred Million Dollars (\$100,000,000.00) in Texas Water Development

Bonds; providing for the use of the proceeds from the sale of such bonds; and declaring an emergency. Acts 1965, 59th Leg., p. 434, ch. 221.



## VII. PARTICULAR WATER SUPPLY AND CONTROL DISTRICTS

## CHAPTER TWELVE—CREATION, POWERS AND OBLIGATIONS

Art.  
8280—120b. Harris County Flood Control  
District; flood hazard areas  
[New].

## Art. 8280—107. Lower Colorado River Authority

Sec. 10. The District shall have the power and is hereby authorized to issue bonds from time to time as authorized by this Act, provided that the aggregate principal amount of such bonds outstanding at any one time shall not exceed One Hundred Twenty Million Dollars (\$120,000,000.00). Provided, however, that in the event that any outstanding bonds shall be paid at maturity, other than through the application of the proceeds of other bonds or through the issuance of other bonds in exchange therefor; or shall be retired prior to the stated maturity thereof by operation of any sinking fund provided for the bonds so retired and in the proceedings authorizing the same, or from the proceeds of the sale of property, the aggregate principal amounts of bonds herein authorized to be outstanding at any one time shall be reduced by the principal amount of the bonds so paid or retired. Any additional amount of bonds must be authorized by an Act of the Legislature. Such bonds: (1) shall be sold for cash at public sale to the highest and best bidder, as determined by the Board of Directors with the advice and approval of the Attorney General of Texas, provided, however, that the interest cost of the money received therefor, computed to maturity in accordance with standard bond tables in general use by banks and insurance companies, shall not exceed five per centum (5%) per annum, or (2) may be issued in exchange for like principal amounts of other obligations of the District, matured or unmatured, or (3) may be sold to the United States of America, or to any agency or corporation created or designated by the United States of America, in exchange for cash equal in amount to the principal amount of the bonds so sold, provided, however, that the interest cost of the money received therefor, computed to maturity in accordance with standard bond tables in general use by banks and insurance companies, shall not exceed five per centum (5%) per annum. The proceeds of the sale of such bonds shall be deposited in such bank or banks or trust company or trust companies, and shall be paid out pursuant to such terms and conditions, not in conflict with the provisions of this Act, as may be agreed upon between the District and the purchasers of such bonds. The proceeds of such bonds and any net operating revenues, derived from the sale of electric power or water, which may be available after paying the interest on outstanding bonds and the principal amount of such bonds, and setting aside sufficient funds for working capital, including a reasonable sum for contingencies and setting aside funds for reserves to secure payment of principal of and interest on outstanding bonds, shall be used: (1) to build and construct dams within the District, on the Colorado River and its tributaries for the impounding and storage of flood and surface water; (2) to purchase and install in the dams on the Colorado River hydroelectric generators and other related facilities for the generation of hydroelectric power; and (3) for the construction of such additional lines and the purchase and installation of such additional equipment as the Board of Directors of the District may deem necessary or expedient to enable the District to continue to meet the demand for electric power in the area now served by its transmission lines and distribution systems, provided that no steam generating capacity shall be installed by the District, except

that the District may acquire, install, construct, and enlarge and make additions to, and to operate a single steam generating plant having a total capacity of not more than 565,000 kilowatts, to be located within the boundaries of the District, and to be utilized for the sole purpose of serving the area served by the District's transmission lines and distribution systems on January 1, 1962; and (4) for the purpose of building levees or such other flood control structures between the City of Austin and the mouth of the Colorado River as may be deemed necessary and desirable by the Board of Directors and installing such facilities as may be necessary to supply water for irrigation and other useful purposes within the counties composing the Colorado River District; and (5) in aid of any soil conservation or soil reclamation projects within the District which the Board of Directors may deem to be in the public interest, provided, however, that any such soil conservation or soil reclamation project shall be approved by the Extension Department of Texas A & M University, providing that nothing herein shall be construed as establishing priorities as to the uses of water contrary to the present General Laws of this state or those hereinafter enacted with reference thereto. Any proceeds of bonds sold by the District to the extent not required by an outstanding trust indenture to be used to redeem outstanding bonds, and any net operating revenues not needed to carry out the projects set out in phrases (1), (2) and (3) of the preceding sentence shall be placed in a separate fund to be designated 'The Irrigation, Conservation and Reclamation Fund of the District' and used only for carrying out the projects and purposes authorized in phrases (4) and (5) of the preceding sentence, unless and until otherwise directed by the Legislature of the State of Texas. Such dams as may be built on the tributaries of the Colorado River shall be used for the purpose of impounding and storing flood and surface waters to be used during emergencies created by subnormal rainfall in the drainage basin of the Colorado River watershed. All such bonds shall be authorized by resolution or resolutions of the Board of Directors concurred in by at least six (6) of the members thereof, and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates (not exceeding five per centum (5%) per annum) payable annually or semi-annually, be in such denominations, be in such form either coupon or registered, carry such registration privileges as to principal only or as to both principal and interest, and as to exchange of coupon bonds for registered bonds or vice versa, and exchange of bonds of one denomination for bonds of other denominations, be executed in such manner and be payable at such place or places within or without the State of Texas, as such resolution or resolutions may provide. Any resolution or resolutions authorizing any bonds may contain provisions, which shall be part of the contract between the District and the holder thereof from time to time: (a) reserving the right to redeem such bonds at such time or times, in such amounts and at such prices, not exceeding one hundred and five per centum (105%) of the principal amount thereof, plus accrued interest, as may be provided; (b) providing for the setting aside of sinking funds or reserve funds and the regulation and disposition thereof; (c) pledging to secure the payment of the principal of, and interest on such bonds and of the sinking fund or reserve fund payments agreed to be made in respect of such bonds, all or any part of the gross or net revenues thereafter received by the District in respect of the property, real, personal or mixed, to be acquired and/or constructed with such bonds or the proceed thereof, or all or any part of the gross or net revenues theretofore or thereafter received by the District from whatever source derived; (d) prescribing the purposes to which such bonds or any bonds thereafter to be applied; (e) agreeing to fix and collect rates and charges sufficient to produce revenues adequate to pay the items specified in subdivisions (a), (b), (c), and (d) of Section 8 hereof, and prescribing the use and disposition of all revenues; (f) prescribing limitations upon the issuance of

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additional bonds and upon the agreements which may be made with the purchasers and successive holders thereof; (g) with regard to the construction, extension, improvement, reconstruction, operation, maintenance, and repair of the properties of the District and carrying of insurance upon all or any part of said properties covering loss or damage or loss of use and occupancy resulting from specified risks; (h) fixing the procedure, if any, by which, if the District shall so desire, the terms of any contract with the holders of such bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; (i) for the execution and delivery by the District to a bank or trust company authorized by law to accept trusts, of indentures and agreements for the benefit of the holders of such bonds setting forth any or all of the agreements herein authorized to be made with or for the benefit of the holders of such bonds and such other provisions as may be customary in such indentures or agreements; and (j) such other provisions, not inconsistent with the provisions of this Act, as the Board may approve, provided that no agreement, contract or commitment shall ever be made which, under any contingency, could or would result in the Government of the United States or any of its agencies or bureaus claiming the right or privilege of controlling or managing the properties and facilities of the District or the control or disposition of the water of the Colorado River or its tributaries; provided nothing herein shall be construed as limiting or restricting the rights or powers as set out hereinbelow in the event of any default on the part of the District. Nothing herein provided is intended to prohibit compliance with existing federal regulations, provided compliance therewith is done upon the advice and approval of the Attorney General of the State of Texas.

Any such resolution and any indenture or agreement entered into pursuant thereto may provide that in the event that:

(a) default shall be made in the payment of the interest on any or all bonds when and as the same shall become due and payable; or

(b) default shall be made in the payment of the principal of any or all bonds when and as the same shall become due and payable, whether at the maturity thereof, by call for redemption or otherwise; or

(c) default shall be made in the performance of any agreement made with the purchasers or successive holders of any bonds, and such default shall have continued such period, if any, as may be prescribed by said resolution in respect thereof, the trustee under the indenture or indentures entered into in respect of the bonds authorized thereby, or, if there shall be no such indenture, a trustee appointed in the manner provided in such resolution or resolutions by the holders of twenty-five per centum (25%) in aggregate principal amount of the bonds authorized by such resolution or resolutions at the time outstanding, shall, in his or its own name, but for the equal and proportionate benefit of the holders of all such bonds; and with or without having possession thereof;

(1) by mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the holders of such bonds;

(2) bring suit upon such bonds and/or the appurtenant coupons;

(3) by action or suit in equity, require the District to account as if it were the trustee of an express trust for the bondholders;

(4) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds, and/or;

(5) after such notice to the District as such resolution may provide, declare the principal of all of such bonds due and payable, and if all defaults shall have been made good, then with the written consent of the holders of twenty-five per centum (25%) in aggregate principal amount of such bonds at the time outstanding, annul such declaration and its con-

sequences; provided, however, that the holders of more than a majority in principal amounts of the bonds authorized thereby and at the time outstanding, shall by instrument or instruments in writing, delivered to such trustee, have the right to direct and control any and all action taken or to be taken by such trustee under this paragraph. Any such resolution, indenture, or agreement may provide that in any such suit, action or proceeding, any such trustee, whether or not all of such bonds shall have been declared due and payable, and with or without possession of any thereof, shall be entitled as of right to the appointment of a receiver who may enter and take possession of all or any part of the properties of the District and operate and maintain the same and fix, collect and receive rates and charges sufficient to provide revenues adequate to pay the items set forth in subparagraphs (a), (b), (c), and (d) of Section 8 hereof and the costs and disbursements of such suit, action or proceeding, and to apply such revenues in conformity with the provisions of this Act and the resolution or resolutions authorizing such bonds. In any suit, action or proceeding by any such trustee, the reasonable fees, counsel fees and expenses of such trustee or the receiver or receivers, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge upon any revenues pledged to secure the payment of such bonds. Subject to the provisions of the Constitution of the State of Texas, the courts of the County of Travis shall have jurisdiction of any suit, action or proceeding by any such trustee on behalf of the bondholders and of all property involved therein. In addition to the powers hereinabove specifically provided for, each such trustee shall have and possess all powers necessary or appropriate for the exercise of any thereof, or incident to the general representation of the bondholders in the enforcement of their rights.

Before any bonds shall be sold by the District, a certified copy of the proceedings for the issuance thereof, including the form of such bonds, together with any other information which the Attorney General of the State of Texas may require shall be submitted to the Attorney General, and if he shall find that such bonds have been issued in accordance with law he shall approve such bonds and he shall execute a certificate to the effect which shall be filed in the office of the Comptroller of the State of Texas and be recorded in a record kept for that purpose. No bond shall be issued until the same shall have been registered by the Comptroller, who shall so register the same if the Attorney General shall have filed with the Comptroller his certificate approving the bonds and the proceedings for the issuance thereof as hereinabove provided.

All bonds approved by the Attorney General as aforesaid, and registered by the Comptroller as aforesaid and issued in accordance with the proceedings so approved shall be valid and binding obligations on the revenues of the District and shall be incontestable for any cause from and after the time of such registration.

Annually hereafter the State Auditor shall audit the books and accounts of the District in such manner as to enable him to report to the Legislature as to the manner and purpose of the expenditure of all funds of the District. Such audit shall cover the fiscal year from July the first to June the thirtieth, and a report thereof shall be made before the first day of January of each year, a copy of which shall be filed with the Governor of Texas, the Attorney General of Texas, the Lieutenant Governor of Texas and the Speaker of the House of Representatives. The State Auditor, after completing such report, shall prepare a detailed statement showing the actual cost of such audit and certifying such account to the Governor of the State of Texas for his approval, and when approved by the Governor, the State Auditor shall deliver an official copy thereof to the manager of the District, and the District shall forthwith deposit such sum of money with the State Treasurer, which sum shall be placed in the

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General Fund of the State of Texas. Nothing herein contained shall prohibit an independent audit as required under any bond indenture.

It is hereby declared to be the policy of this state that the District shall so manage and use its facilities, the water impounded by its dams on the Colorado River or its tributaries and the net operating revenues which may be available, to accomplish as nearly as possible, such of the purposes included in Section 59a, Article XVI of the Constitution of the State of Texas as are enumerated in the provisions of this Act, and the District shall market such electric power (as in the opinion of the Board will not be immediately needed by the District) under such contracts and on such conditions as will best enable the District to pay its operating expenses, meet its outstanding financial obligations as they mature, supply the increasing demand for electric power in the area now dependent upon its transmission lines and distribution systems for electric service and assure, as nearly as possible, an adequate supply of water for irrigation and other useful purposes, when and as it may be needed in the various counties comprising the District. As amended Acts 1955, 54th Leg., p. 532, ch. 165; Acts 1959, 56th Leg., p. 708, ch. 327, § 1; Acts 1962, 57th Leg., 3rd C. S., p. 27, ch. 11, § 1; Acts 1965, 59th Leg., p. 287, ch. 124, § 1, emerg. eff. May 6, 1965.

**Art. 8280—120b. Harris County Flood Control District; flood hazard areas**

Section 1. For the purpose of promoting the public health, safety and general welfare, and accomplishing the purposes of Section 59 of Article XVI of the Constitution of the State of Texas, as amended, the governing body of the Harris County Flood Control District is hereby authorized to designate areas within the boundaries of the Harris County Flood Control District as flood hazard areas.

Sec. 2. Whenever the governing body of the Harris County Flood Control District deems that the public health, safety and general welfare, and the purposes of Section 59 of Article XVI of the Constitution of the State of Texas, as amended, will be promoted thereby, it shall, by resolution, designate flood hazard areas. Such resolution or resolutions shall contain a description of the area included within such flood hazard areas by either field notes or by map or by both. The governing body of the Harris County Flood Control District is further authorized to change and amend by resolution the designation of such flood hazard areas thereafter as in its discretion it may determine necessary.

Sec. 3. Before passing any resolution designating flood hazard areas within the boundaries of the Harris County Flood Control District, the governing body of the Harris County Flood Control District shall hold at least one public hearing related thereto after having given at least fifteen (15) days' notice of the time and place of such hearing by the publication thereof in the English language in a daily newspaper published within and having general circulation within the Harris County Flood Control District, such publication being at least fifteen (15) days prior to the date of the hearing. Any hearing so set by the governing body of the Harris County Flood Control District may be continued from time to time until within the discretion of said governing body all interested persons shall have had an opportunity to be heard. After the governing body of the Harris County Flood Control District has heard all interested persons and shall have found that the designation of such flood hazard areas is for the public health, safety and general welfare of the Harris County Flood Control District, and for the accomplishment of the purposes of Section 59 of Article XVI of the Constitution of the State of Texas, as amended, said governing body shall pass its resolution designating such flood hazard areas. Thereafter the governing body of the Harris County Flood Control

District may, upon public hearing with like notice thereof, change and amend the designated flood hazard areas so established as in its discretion it may determine necessary.

Sec. 4. Upon written request by any person, the Harris County Flood Control District will prepare and furnish to said person a report as to whether or not a particular lot or tract of land, or any part thereof, lies within a designated flood hazard area. The governing body of the Harris County Flood Control District may charge a reasonable fee for such reports. The amount of such fee, if any, shall be fixed by a resolution of the governing body of the Harris County Flood Control District. The governing body of the Harris County Flood Control District is further authorized to change, by resolution, the amount of such fee thereafter as in its discretion it may determine proper. Acts 1965, 59th Leg., p. 813, ch. 394, emerg. eff. June 9, 1965.

<p><b>Title of Act:</b> An Act to authorize the governing body of the Harris County Flood Control District to designate flood hazard areas; providing for the notice of hearing thereon and the procedure; providing for the dissemination</p>	<p>of information concerning flood hazard areas; authorizing the charge of a reasonable fee for such information; enacting other provisions related to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 813, ch. 394.</p>
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**Art. 8280—122. Upper Red River Flood Control and Irrigation District**

Section 1. There is hereby created within the State of Texas, in addition to the districts into which the state has heretofore been divided, a conservation and reclamation district to be known as the "Upper Red River Flood Control and Irrigation District" (hereinafter called the District) and consisting of that part of the State of Texas which lies west of the 100th Meridian and which is included in the Red River watershed. Such District shall be and is hereby declared to be a governmental agency and body politic and corporate, with the powers, rights, privileges, and functions hereafter specified, and the creation of such District is hereby declared to be essential to the accomplishment of the purposes of Section 59 of Article 16 of the Constitution of the State of Texas, including (to the extent hereafter authorized) the control, storing, preservation, and distribution of waters of the Red River and its tributaries lying west of the 100th Meridian and which are included in the Red River watershed, for the purpose of protecting the lives and property of the inhabitants of the territory affected by the Red River, its tributaries, and the streams to which it is a tributary, lying west of the 100th Meridian and within the Red River watershed, and in addition the reclamation, conservation, draining, and irrigation of lands within the District. Nothing in this Act or in any other Act or law contained, however, shall be construed as authorizing the District to levy or collect taxes or assessments, or in any way to pledge the credit of the state.

Sec. 2. In accordance with the limitations and provisions of this Act, the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions:

- (a) to control, store, and preserve, within the boundaries of the District, the waters of the Red River and its tributaries lying west of the 100th Meridian and within the Red River watershed, for the reclamation and irrigation of the lands of the District, and to use, distribute, and sell the same, within the boundaries of the District for any such purpose;
- (b) to prevent or aid in the prevention of damage to person or property from the waters of the Red River and its tributaries lying west of the 100th Meridian and within the Red River watershed;
- (c) to forest and reforest, and to aid in the foresting and reforesting of the watershed area of the Red River and its tributaries lying west of the 100th Meridian and within the Red River watershed, and to prevent and to aid in the prevention of soil erosion and floods within said area;

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(d) to acquire by purchase, lease, gift, or in any other manner (otherwise than by condemnation) and to maintain, use, and operate any and all property of any kind, real, personal, or mixed, or any interest therein, within the boundaries of the District, necessary to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act;

(e) to acquire by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within the boundaries of the District necessary to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation, or, at option of the District, in the manner provided by the Statutes relative to condemnation by Districts organized under the General Law to Section 59 of Article 16 of the Constitution of the State of Texas;

(f) subject to the provisions of this Act from time to time sell or otherwise dispose of any property of any kind, real, personal, or mixed, or any interest therein, which shall not be necessary to the carrying on of the business of the District;

(g) to overflow and inundate any public lands and public property and to require the relocation of roads and highways in the manner and to the extent permitted to District organized under General Law pursuant to Section 59 of Article 16 of the Constitution of the State of Texas;

(h) to construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate, any and all facilities of any kind necessary to the exercise of such powers, rights, privileges and functions;

(i) to sue and be sued in its corporate name;

(j) to adopt, use, and alter a corporate seal;

(k) to make bylaws for the management and regulation of its affairs;

(l) to appoint officers, agents and employees, to prescribe their duties, and to fix their compensation;

(m) to make contracts and to execute instruments necessary to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act;

(n) to apply for and accept grants from the United States of America, or from any corporation or agency created or designated by the United States of America, and to ratify and accept applications heretofore made by voluntary associations to such agencies for grants to construct, maintain or operate any project or projects which hereafter may be undertaken or contemplated by said District;

(o) to do any and all other acts or things necessary to the exercising of the powers, rights, privileges, or functions conferred upon it by this Act or any other Act or law.

Sec. 3. The powers, rights, privileges, and functions of the District shall be vested in and exercised by a Board of nine Directors (hereafter called the Board), all of whom shall be residents of and freehold property taxpayers in the State of Texas. The members of the Board shall come from the counties which lie west of the 100th Meridian and which are included within the Red River watershed. Not more than two Directors may be residents of any one county. Each of the Directors shall be appointed by the Governor, by and with the consent of the Senate, and shall hold office for a term of six years. Each Director shall qualify by taking the official oath of office prescribed by law. As amended Acts 1965, 59th Leg., p. 1207, ch. 557, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sections 2 and 3 of the amendatory act of 1965 provided:

"Sec. 2. The amendment to Section 3, Chapter 454, Acts of the 45th Legislature, Regular Session, 1937, contained in Section 1 of this Act, does not affect the terms of

Office of Directors of the Upper Red River Flood Control and Irrigation District appointed before the effective date of this Act. The initial terms of office of the two additional Directors authorized by the

amendment are such that, at the expiration of their terms, the terms of three Directors expire every two years.

"Sec. 3. None of the provisions of this Act shall apply to Collingsworth County."

**Art. 8280—124. Upper Guadalupe River Authority**

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Kerr County, Texas, to be known as Upper Guadalupe River Authority hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within and have the same boundaries as Kerr County, Texas.

Sec. 3. The District is empowered to accept grants or to contract with the United States Government or the State of Texas or any agency, arm, branch, department, or political subdivision thereof, or any municipality, city, town, or any public or private corporation, or firm or person in connection with the exercise of any right, power, privilege, function or authority of this District or in aid thereof.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of nine (9) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of Kerr County and owns land therein. Each Director shall subscribe to the oath of office and shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be borne by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of Kerr County and



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own land therein, shall be the Directors of the District and shall constitute the Board of Directors of the District:

- (1) Dr. J. L. Bullard
- (2) Darrell Lochte
- (3) Fred Junkin
- (4) Clyde Parker
- (5) Jasper Moore
- (6) Arthur Lochte
- (7) Gene Lehmann
- (8) Fred Miller
- (9) Raymond Mosty

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the Governor of Texas shall appoint a successor or successors. Succeeding Directors shall be appointed as provided for in this Act. The terms of office of the first three Directors named above expire on November 1, 1966; of the second three, on November 1, 1968; and of the last three, on November 1, 1970. On November 1, 1966, and every two years thereafter, the Governor shall appoint successors to Directors whose terms expire. Except as provided above, all Directors have six-year terms of office. The Governor shall fill a vacancy on the Board by appointment for the unexpired term. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors, and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended (Article 7880—139, Vernon's Texas Civil Statutes); and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended (Article 7880—139, Vernon's Texas Civil Statutes).

Sec. 10(a). [Omitted by amendment.]

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. In the event that the District, in the exercise of the power of eminent domain or police power, or any other power, requires the relocation, raising, lowering, re-routing, or change in grade or alteration

in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties or facilities, or pipelines, all such relocation, raising, lowering, re-routing, or changes in grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Chapter 160, Acts of the 58th Legislature, 1963 (Article 970a, Vernon's Texas Civil Statutes), as amended, and said Municipal Annexation Act shall have no application to this District.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Kerr County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Without limiting the powers granted to the District by this Act, the District shall specifically have the right, power, privilege, function, and authority to control, develop, store and preserve the waters and flood waters of the Upper Guadalupe River and its tributaries within Kerr County and to distribute same within or without the boundaries of the District for any beneficial or useful purpose and to purchase, acquire, build, construct, improve, extend, reconstruct, repair and maintain any and all dams, structures, waterworks systems, sanitary or storm sewer or drainage or irrigation systems, buildings, waterways, pipelines, distribution systems, ditches, lakes, ponds, reservoirs, plants, and facilities and any and all other facilities or equipment in aid thereof, and to purchase or acquire the necessary sites, easements, rights-of-way, land or other properties necessary therefor and to do any and all acts and things which may be necessary to the exercise of any or all of the rights, powers, privileges, functions and authority of the District, and same may be accomplished by any and all practical means, and the District may sell water and other services.

Sec. 17. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts created under Article 16, Section 59 of the Constitution of Texas, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 18. Any kind of bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District, and may be sold at a private or public sale, but none of said bonds or refunding bonds shall be sold for less than ninety-five per cent of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety-five per cent of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified.

Sec. 19. The provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as added (Article 7880—77b, Vernon's Texas Civil Statutes), or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to the District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of thirty days from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto. As amended Acts 1957, 55th Leg., p. 185, ch. 83, § 1; Acts 1965, 59th Leg., p. 1439, ch. 632, § 1, emerg. eff. June 17, 1965.

#### Art. 8280—155. Wise County Water Supply District

Sec. 2. The District shall be situated in Wise County, Texas, and the boundaries thereof shall be as follows:

BEGINNING At a point in the original South Boundary Line of said City of Decatur, Texas, which point is 1 mile South of the center of the Public Square in Decatur, Texas, an iron pipe about 2 feet long,

about 6 inches above the ground, a mesquite tree bears North  $50\frac{1}{2}^{\circ}$  West 82';

THENCE East with the original South line of the City Limits of Decatur, Texas to the East Boundary Line of the Samuel Perrin Survey, Abstract No. 684, and the West Boundary Line of the A. J. Walker Survey, Abst. No. 860;

THENCE South  $1^{\circ} 31'$  West of the West Boundary Line of said Walker Survey and East Boundary Line of said Perrin Survey to the Northeast Right of Way Line of U.S. Highway 81-287 as now located;

THENCE Southeasterly with said Right of Way to the South Boundary Line of said A. J. Walker Survey;

THENCE West with the South Boundary Line of said A. J. Walker Survey to its intersection with the East Right of Way Line of State Highway F.M. 730 as now located;

THENCE Southerly with the East Right of Way Line of said Highway F.M. 730 to its intersection with the East Boundary Line of the A. G. Harris Survey, Abstract No. 375;

THENCE South with the East Boundary Line of said A. G. Harris Survey to the South Boundary Line of same, being the South Boundary Line of the Valley View Acres Subdivision according to the recorded plat thereof;

THENCE West with the South Boundary Line of said Valley View Acres Subdivision and said A. G. Harris Survey, to the Southwest corner of said Subdivision, in the center of a creek;

THENCE with the meanderings of said creek as follows:

North  $6^{\circ} 7'$  West 87.3 feet;

North  $46^{\circ} 55'$  East 189 feet;

North  $53^{\circ} 55'$  East 230.4 feet;

South  $88^{\circ} 44'$  East 176.3 feet;

North  $63^{\circ} 42'$  East 187.1 feet;

North  $62^{\circ}$  East 182 feet;

THENCE South  $38^{\circ} 58'$  East 69.5 feet to a corner;

THENCE South  $81^{\circ} 04'$  East 30' to a 2" iron stake in old fence line;

THENCE North  $34^{\circ} 04'$  West 151.2 feet to a stake on the bank of a creek;

THENCE North  $13^{\circ} 19'$  East 53 feet to a stake on the bank of a creek;

THENCE North  $50^{\circ} 55'$  East 275 feet to the North corner of a 1.88 acre tract in said Harris Survey in the West Right of Way Line of State Highway F M 730;

THENCE North with said Right of Way Line 64' to the Southeast corner of a 1 acre tract conveyed to E. H. McDaniel by deed recorded in Volume 208, Page 256, Deed Records of Wise County, Texas;

THENCE West with the South Line of said 1 acre tract 100' to its Southwest corner, a stake in the East Bank of a creek;

THENCE Northeasterly with the meanderings of said creek to the North Boundary Line of said 1 acre tract;

THENCE East 49' to the Northeast corner of said 1 acre tract, in the West Right of Way Line of State Highway FM 730;

THENCE Northerly with the West Right of Way Line of said State Highway FM 730 to its intersection with the South Boundary Line of the A. J. Walker Survey, Abstract No. 860;

THENCE West with the South Boundary Line of said Walker Survey to its Southwest corner, being the Southeast corner of the Samuel Perrin Survey, Abstract No. 684;

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THENCE North 1° 31' East with the East Boundary Line of said Perrin Survey and West Boundary Line of said Walker Survey to the Southwest Right of Way Line of said U. S. Highway 81-287;

THENCE Northwesterly with said Right of Way to its intersection with the original South City Limits Line of said City of Decatur;

THENCE West with the original South City Limits Line of said City of Decatur to the East Right of Way Line of State Highway FM 51, as now located;

THENCE Southwesterly with said Right of Way Line to its intersection with the North Boundary Line of a 310 acre tract out of the Samuel Isaacs Survey Abst. No. 454, conveyed to Wise County, Texas, by deed of record in Volume 6, Page 4, of the Deed Records of Wise County, Texas;

THENCE East with the North Boundary Line of said 310 acre tract to its Northeast corner, being the Northeast corner of said Isaacs Survey;

THENCE South 1645 varas with the East Line of said 310 acre tract to its Southeast corner;

THENCE West with the South Line of said 310 acre tract 1066 varas to its Southwest corner, a stake from which a B. J. bears North 10° West 7½ varas;

THENCE North with the East Boundary Line of said 310 acre tract to the Southwest corner of a 76 acre tract in said Isaacs Survey conveyed to G. R. Lipsey, Sr., by deed of record in Volume 214, Page 566, Deed Records of Wise County, Texas;

THENCE North 85° East, 42 varas to a corner in the West Right of Way Line of said State Highway FM 51;

THENCE Northeasterly with the West Right of Way Line of said State Highway FM 51 to its intersection with the original South City Limits Line of said City of Decatur;

THENCE West with said original South City Limits Line to the original Southwest corner of said City of Decatur;

THENCE North with the original West City Limits Line of the City of Decatur to its intersection with the South Line of a 100 acre tract in the D. Moses Survey, Abstract No. 537 described in deed to Coke L. Gage recorded in Volume 204, Page 244, of the Deed Records of Wise County, Texas;

THENCE West with the South Line of said Coke L. Gage 100 acre tract 747 varas to its Southwest corner;

THENCE North 950 varas to the Northwest corner of said 100 acre tract in the South Right of Way Line of said State Highway No. 24;

THENCE West with the South Right of Way Line of said State Highway No. 24 to a point due South of the most Easterly Southwest corner of an 84 acre tract in the J. H. Moore Survey, Abstract No. 538, described as FIRST TRACT in deed to C. L. Gage recorded in Volume 208, Page 354, Deed Records of Wise County, Texas;

THENCE North crossing said State Highway No. 24, continuing with the most Easterly West Line of said 84 acre tract to an inward corner of same, said point being 225 varas North of the North Right of Way Line of said Highway;

THENCE West 150 varas to the most Westerly Southwest corner of said 84 acre tract;

THENCE North 682 varas to the Northwest corner of the said 84 acre tract;

THENCE East with the North Line of said 84 acre tract and continuing East along the North Line of a 72 acre tract described as SECOND TRACT in Deed to C. L. Gage recorded in Volume 208, Page 354, Deed;

Records of Wise County, Texas, to the Northeast corner of said 72 acre tract on the West boundary line of the G. M. Vigil Survey, Abst. No. 857;

THENCE South with the West Boundary Line of said G. M. Vigil Survey to the Northwest corner of a 29.5 acre tract in said survey, described as THIRD TRACT in deed to C. L. Gage recorded in Volume 208, Page 354, Deed Records of Wise County, Texas, a corner in center of a branch;

THENCE Easterly with the meanderings of said branch to the Northeast corner of said 29.5 acre tract, in the West Boundary Line of the J. B. Williams Survey, Abst. No. 880;

THENCE Easterly continuing with the meanderings of said branch to the Northeast corner of a 15.5 acre tract described as the FOURTH TRACT in deed to C. L. Gage, recorded in Volume 208, Page 354, Deed Records of Wise County, Texas, being a point in the West Boundary Line of a 40 acre tract in said J. B. Williams Survey conveyed to J. H. Valcik by deed of record in Volume 170, Page 142, Deed Records of Wise County, Texas;

THENCE North 40.0 varas to the Northwest corner of said J. H. Valcik 40 acre tract;

THENCE East 171.47 varas to the Most Westerly Northeast corner of said 40 acre tract;

THENCE South at 100 varas a branch at 133.2 varas an inward corner in said 40 acre tract;

THENCE South  $76^{\circ} 39'$  East 254.52 varas to the Most Easterly Northeast corner of said 40 acre tract;

THENCE South 217.6 varas to the Northwest corner of a 7 acre tract in said J. B. Williams Survey conveyed to T. F. Cook by deed of record in Volume 224, Page 419, Deed Records of Wise County, Texas;

THENCE East with the North Line of said 7 acre tract and the North Line of a 2.5 acre tract in said Williams Survey conveyed to J. Sherman by deed of record in Vo. 242, Page 431, Deed Records of Wise County, Texas, a total distance of 239 varas to the Northeast corner of said 2.5 acre;

THENCE North to the Northwest corner of a 9 acre tract in said J. B. Williams Survey conveyed to L. P. Cole by deed of record in Volume 208, Page 596, Deed Records of Wise County, Texas;

THENCE East with the North Line of said 9 acre tract a distance of about 3 feet to the Original West City Limits Line of the City of Decatur;

THENCE North with said Original West City Limits Line to the original Northwest corner of said City of Decatur, an iron pipe for corner, an elm tree bears South  $75^{\circ}$  West  $30\frac{1}{2}$  feet;

THENCE East with the original North City Limits Line of said City of Decatur, to its intersection with the center of the Decatur-Forestburg road, being now designated as State Highway FM 730;

THENCE Northerly with the center of said Highway to the Southwest corner of a 19.6 acre tract conveyed to J. N. Hinkle by deed of record in Volume 158, Page 317, Deed Records of Wise County, Texas;

THENCE North  $76^{\circ} 39'$  East with South Line of said 19.6 acre tract 613.2 feet to a fence corner;

THENCE North  $2^{\circ} 2'$  West 329.3 feet to a fence corner;

THENCE South  $79^{\circ} 53'$  East 654.4 feet to a fence corner;

THENCE North  $12^{\circ} 28'$  West 543.7 feet to the North line of a 121.16 acre tract conveyed to the City of Decatur by deed of record in Volume 156, Page 24, Deed Records of Wise County, Texas;

THENCE North 300' to a fence corner;

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THENCE East 280' to a fence corner;

THENCE North 14° 20' East 751.3 feet to a corner in the South Boundary Line of the J. M. Birdwell Survey, Abst. No. 68, being in the South Boundary Line of the 80 acre Decatur Golf Club tract;

THENCE West with the South Boundary Line of said J. M. Birdwell Survey to its Southwest corner;

THENCE North 475 varas to the Northwest corner of said Decatur Golf Club 80 acre tract;

THENCE East 950 varas to the Northeast corner of said Decatur Golf Club tract, in the East Boundary Line of said J. M. Birdwell Survey;

THENCE South with the East Boundary Line of said J. M. Birdwell Survey 475 varas to its Southeast corner;

THENCE West with the South Boundary Line of said J. M. Birdwell Survey, to the most Northerly Northeast corner of the Decatur Municipal Airport;

THENCE South 1028' with the East Boundary Line of said Decatur Airport tract to an inward corner of same;

THENCE East 364.2 feet to the Northeast corner of a 121.16 acre tract conveyed to the City of Decatur by deed of record in Volume 156, Page 24, Deed Records of Wise County, Texas;

THENCE South 1597.2 feet to the North Boundary Line of the R. J. Lindley Survey, Abst. No. 1201, and the South Boundary Line of the J. M. Birdwell Survey, Abst. No. 67;

THENCE East 18' to the center of the Decatur Cemetery Road;

THENCE With the center of said road South 33° West 450' to a corner;

THENCE West 333.3 feet to a fence corner;

THENCE South 133.3 feet with fence line to the Northeast corner of the N. H. Munger Survey, Abst. No. 581;

THENCE West with the North Boundary Line of said N. H. Munger Survey to its intersection of the East Right of Way Line of State Highway FM 730;

THENCE South with said Right of Way Line to the original North City Limits Line of said City of Decatur;

THENCE East with said original North City Limits Line to the original Northeast corner of said City of Decatur;

THENCE South with the original East City Limits Line of said City of Decatur 10560 feet to an iron pipe for the original Southeast corner of said City of Decatur, a railroad crossing sign bears South 7° West 247 feet;

THENCE West with the original South City Limits Line of the City of Decatur to the place of beginning.

It is hereby found that all land thus included in said District will be benefited by the improvements to be acquired and constructed by said District. As amended Acts 1965, 59th Leg., p. 184, ch. 76, § 1, emerg. eff. April 13, 1965.

Sec. 3. (a) All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for a term of two (2) years with such term expiring on the first Tuesday of May in the year of expiration of such term, and thereafter until his successor shall be appointed and qualified, provided that the initial terms of office for the Directors named in subsection (b) of this Section shall be as set forth therein. No person shall be appointed a Director unless he resides in and owns taxable property in the District. No member of a governing body of any city or town, and no employee of a city or

town shall be a Director. Such Directors shall subscribe the constitutional oath of office, and each shall give bond in the amount of Five Thousand Dollars (\$5,000.00) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority shall constitute a quorum.

(b) The appointment of the initial Board of Directors of said District and the designation of the terms of office of said Board by action of the City Council of the City of Decatur on the 14th day of July, 1964, said Directors and the expiration dates of their terms of office, being as follows:

Jo Ann Cocanougher	First Tuesday in May, 1965
Nolen L. Sewell	First Tuesday in May, 1965
Carl Christian	First Tuesday in May, 1965
Oscar Cox, Jr.	First Tuesday in May, 1966
Ben C. Merritt, Jr., M.D.	First Tuesday in May, 1966,

are hereby in all things validated.

(c) During the month of April of each year beginning with the year 1965, the governing body of the City of Decatur shall appoint Directors to succeed Directors whose terms expire during the following May. Any vacancy shall be filled for an unexpired term by the governing body of such city. As amended Acts 1965, 59th Leg., p. 184, ch. 76, § 2, emerg. eff. April 13, 1965.

Sec. 5. Other territory, whether contiguous to the District or not, and within Wise County, may be annexed to the District in the following manner:

(a) A petition praying for such annexation signed by fifty (50) or a majority of the qualified voters of the territory to be annexed who own taxable property therein and who have duly rendered the same to the county for taxation shall be filed with the Board of Directors of the District. The petition shall describe the territory by metes and bounds.

(b) If the Board of Directors finds that the petition complies with, and is signed by the number of qualified persons required by the foregoing subsection, that the annexation would be to the interest of the District, and that the District will be able to supply water to the territory, it shall adopt a resolution declaring its intention to call an election in the territory for the purpose of submitting the proposition of whether or not such territory shall be annexed to the District, and fix a time and place when and where a hearing shall be held by said Board on the question of whether the territory proposed to be annexed will be benefited by the improvements, works, and facilities then owned or operated or contemplated to be owned or operated by the District.

(c) Notice of the adoption of such resolution stating the time and place of such hearing, addressed to the citizens and owners of property in such territory shall be published one (1) time in a newspaper of general circulation in the territory to be annexed at least ten (10) days prior to the date of such hearing. The notice shall describe the territory proposed to be annexed in the same manner as required for the petition. If no newspaper of general circulation is in the territory to be annexed, the notices shall be posted in three (3) public places therein.

(d) All persons interested may appear at such hearing and offer evidence for or against the intended annexation. Such hearing may proceed in such order and under such rules as may be prescribed by the Board of Directors, and the hearing may be recessed from time to time. If, at the conclusion of the hearing, the Board of Directors finds that all of the land in the territory proposed to be annexed will be benefited



For Annotations and Historical Notes, see V.A.T.S.

by the present or contemplated improvements, works or facilities of the District, the Board shall adopt a resolution calling an election in the territory to be annexed stating therein the date of the election, the place or places of holding the same, and appointing a presiding judge for each voting place who shall appoint the necessary assistant judges and clerks to assist in holding the election. Railroad right-of-way, transmission lines and other property of electric and gas utilities which are not situated within the defined limits of an incorporated city or town will not be benefited by improvements, works and facilities which the District is authorized to construct; therefore, no railroad right-of-way or transmission lines or other property of electric and gas utilities shall hereafter be annexed to the District except such right-of-way, transmission lines and other property of electric and gas utilities as are contained within the limits of an incorporated city or town then or thereafter annexed to the District.

(e) Notice of such election, stating the date thereof, the proposition to be voted upon and the condition under which the territory may be annexed, or making reference to the resolution of the Board of Directors for that purpose, and the place or places of holding the same, shall be published one (1) time in a newspaper of general circulation in the District at least ten (10) days before the day set for the election.

(f) Only constitutionally qualified electors who reside in such territory shall be qualified, to vote in said election. Returns of said election shall be made to the Board of Directors of Wise County Water Supply District.

(g) The Board of Directors shall canvass the returns of the election and pass an order declaring the results thereof. If such order shows that a majority of the votes cast are in favor of annexation said Board shall annex said territory to the District, and such annexation shall thereafter be incontestable except within the time for contesting elections under the General Election Law. A certified copy of said order shall be recorded in the deed records of the county in which the territory is situated.

(h) Territory heretofore or hereafter annexed to any city contained in the District may be annexed to the District in the following manner:

(1) At any time after final passage of an ordinance or resolution annexing territory to the city, the Board of Directors of the District may issue a notice of hearing on the question of annexing said territory or any part thereof. Such notice shall be sufficient if it states the date and place of the hearing, a description of the area proposed to be annexed, but in lieu of such description the notice may make reference to the annexation ordinance of the city.

(2) The notice shall be published one (1) time in a newspaper having general circulation in the city which made the annexation, such publication to be at least ten (10) days before the date set for the hearing.

(3) If, pursuant to such hearing, the Board of Directors finds that the territory proposed to be annexed will be benefited by the water supply afforded or to be afforded by the District, the Board shall adopt resolution annexing said territory to the District.

(i) After territory is added to the District, the Board of Directors of the District may call an election over the entire District for the purpose of determining whether the entire District as enlarged shall assume the tax-supported bonds then outstanding and those theretofore voted but not yet sold and whether an ad valorem tax shall be levied upon all taxable property within the District as enlarged for the payment thereof unless such proposition is voted along with the annexation election and becomes lawfully binding upon the territory annexed. Such election shall be called and held in the same manner as elections for the issuance of

bonds as provided in this Act. As amended Acts 1965, 59th Leg., p. 184, ch. 76, § 3, emerg. eff. April 13, 1965.

Sec. 6a. The District is empowered, within or without the District, to construct or otherwise acquire all works, plants, and other facilities necessary for the purpose of receiving and treating water purchased from others, and to transport such water to cities and others for municipal, domestic and industrial purposes. Added Acts 1965, 59th Leg., p. 184, ch. 76, § 4, emerg. eff. April 13, 1965.

Sec. 14. The District is authorized to enter into contracts with cities and others for supplying water to them. The District is also authorized to contract with any city for the rental or leasing of, or for the operation of the water production, water supply, and water supply facilities of such city upon such consideration as the District and the city may agree, and to contract with the City of Decatur for the operation of the District's facilities by said city upon such consideration as the District and said city may agree. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of such bonds are paid. As amended Acts 1965, 59th Leg., p. 184, ch. 76, § 5, emerg. eff. April 13, 1965.

Sec. 16. The District is authorized to acquire water appropriation permits directly from the Texas Water Commission; or from owners of permits. The District is also authorized to purchase water or a water supply from any person, firm, corporation or public agency. All contracts heretofore made by the District with other public agencies for the purchase of water are hereby in all things validated. As amended Acts 1965, 59th Leg., p. 184, ch. 76, § 6, emerg. eff. April 13, 1965.

Sec. 20. (a) The tax rolls of the City of Decatur shall constitute the tax rolls of the District. All taxes levied by the Board of Directors of the District shall be placed on the city rolls and collected by the city. Laws relating to the assessment of property for taxation, equalization of assessed values, collection and enforced collection of taxes applicable to the city shall be applicable to the District. If territory is added to the District which is not contained in the city, the taxable property in such territory shall be added to the city rolls.

(b) The District and the said city may enter into a contract under which city employees, including the tax collector and assessor of the city, will perform certain or all administrative duties which might otherwise require the employment of personnel by the District. As amended Acts 1965, 59th Leg., p. 184, ch. 76, § 7, emerg. eff. April 13, 1965.

Acts 1965, 59th Leg., p. 184, ch. 76, §§ 1-7 amended various sections of this article and added section 6a; section 8 of the 1965 amendatory act provided: "Proof of Publication of the Constitutional notice required in the enactment hereof under the provisions of paragraph (d) of Section 59 of Article XVI of the Texas Constitution has been made in the manner pro-

vided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements."

#### **Art. 8280—160. Green Belt Municipal and Industrial Water Authority**

Section 1. By virtue of Article XVI, Section 59 of the Texas Constitution, there is hereby created a conservation and reclamation district to be known as "Greenbelt Municipal and Industrial Water Authority," (hereinafter called "Authority") which shall be a governmental agency and a body politic and corporate. As amended Acts 1965, 59th Leg., p. 1198, ch. 555, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 2. The Authority shall comprise all of the territory which was contained within the Cities of Childress, Clarendon, Hedley, Memphis, and Quanah, on March 1, 1954; and Crowell (the territory contained in the City of Crowell was annexed to the Authority by action of the Texas Water Commission on October 21, 1963); provided, however, that no defect in the definition of the boundaries of any of said cities or in any past or future proceedings for the annexation of territory to any of said cities shall affect the validity of the Authority hereby created or any of its powers or duties. It is hereby found that all of the land thus included in said Authority will be benefited by the improvements to be acquired and constructed by said Authority. As amended Acts 1965, 59th Leg., p. 1198, ch. 555, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sec. 3. (a) All powers of the Authority shall be exercised by a Board of Directors. Such Directors shall be appointed by majority vote of the governing body of each of the cities contained in the Authority. In appointing the first Directors, the governing body of each city shall appoint one (1) Director who shall serve to and including May 31, 1955. On or before April 1, 1955, the then members of the Board of Directors shall by lot determine which of four (4) such members shall be appointed by the governing body of his city to serve until May 31, 1956, and which of four (4) shall be appointed by the governing body of his city to serve until May 31, 1957. In May, 1956, the governing body of the city, whose members' term expires May 31, 1956, shall appoint a Director for the two (2) year term beginning on June 1 of that year. Thereafter in May of each year the governing body of each city whose Director's term expires on the succeeding May 31, shall appoint a Director to serve for a two (2) year term beginning on June 1 of that year. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be appointed and qualified. No person shall be appointed a Director unless he resides in and owns taxable property in the city from which he is appointed. No member of a governing body of a city, and no employee of a city shall be appointed as Director. Such Directors shall subscribe the Constitutional oath of office, and each shall give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000), the cost of which shall be paid by the Authority.

(b) Each Director may receive a fee of Twenty Dollars (\$20.00), for attending each meeting of the Board, provided that not more than Forty Dollars (\$40.00) shall be paid to any Director for meetings held in any one calendar month. Each Director may receive not exceeding Twenty Dollars (\$20.00) per day devoted to the business of the Authority and shall be entitled to reimbursement for actual expenses incurred in attending to Authority business provided that such service and expense are expressly approved by the Board.

(c) A Director shall be entitled to vote only if, at the time of voting, (1) the city which appointed him to the Board has a contract with the Authority for any water supply; or (2) a water district has a contract with the Authority for any water supply and distributes water obtained under the contract in the city. A majority of the voting members shall constitute a quorum.

(d) A Director who is not entitled to vote, by virtue of Subsection (c) of this Section above, shall receive no fee, compensation, or reimbursement from the Authority

(e) No city shall be liable financially for any action taken by the Board of Directors at a time when the city's directors were not entitled

to vote; as provided in subsection (c) above. As amended Acts 1965, 59th Leg., p. 1198, ch. 555, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sec. 8. In addition to those herein otherwise mentioned, the Authority shall be and is hereby authorized to exercise the following powers, rights, privileges, and functions:

(a) To store, control, conserve, protect, distribute and utilize storm and flood waters and to prevent the escape of any such waters without first obtaining therefrom a maximum of public benefit by the construction of a dam or dams, or otherwise by complying with Chapter 1, Title 128, Revised Civil Statutes of Texas, as amended. The Authority is also empowered to provide by purchase, contract, lease, gift, or in any other lawful manner, and to develop all facilities deemed necessary or useful for the purpose of storing, controlling, conserving, protecting, distributing, processing and utilizing surface and limited amounts of underground water as set forth under subsection (b) of this Section and the transportation and sale thereof to the cities and other water users within and without the Authority for municipal, domestic, industrial and other useful purposes permitted by law.

(b) To acquire and develop any other available surface water and to construct, acquire, and develop all facilities deemed necessary with respect thereto. The Authority is authorized to acquire, develop, use and maintain the underground water facilities and underground water rights presently owned by any cities located in Donley, Hall, Childress, Hardeman and Foard Counties, to the extent of the present yield which is 3,500 acre feet per annum. The Authority is authorized to acquire, develop, enlarge, use and maintain the underground water facilities presently owned by the cities for emergency use and peaking, as determined by the Board of Directors of the Authority, to the extent of an additional 1,500 acre feet of underground water per annum until December 31, 1971, at which time the maximum allowable withdrawal shall revert to each respective city's present yield. The Authority is authorized to purchase water from any city within or without the Authority, any other water authority or district, or any governmental agency.

(c) To acquire by purchase, construction, lease, gift, or in any other lawful manner, and to maintain, use and operate any and all property of any kind, real, personal, or mixed, or any interest therein, within the boundaries of the Authority, necessary to the exercise of the powers, rights, privileges, and functions possessed by the Authority under this Act.

(d) To sell or otherwise dispose of any surplus property of any kind, real, personal, or mixed, or any interest therein, which shall not be necessary to the operation of the Authority.

(e) To require the relocation of roads and highways in the manner and to the extent permitted to Districts organized under Section 59 of Article XVI of the Texas Constitution; the cost of relocation of any roads, highways or railroads or telephone or telegraph properties or facilities made necessary by this Act and any reasonable actual damage incurred in changing and adjusting the lines and grades of railroads or such highways or roads or telephone or telegraph properties or facilities shall be paid by the Authority.

(f) To make contracts and to execute all instruments necessary or convenient to the exercise of the powers, rights, privileges and functions of the Authority.

(g) To make or cause to be made surveys and engineering investigations for the information of the Authority, to facilitate the accomplishment of the purposes for which it is created.

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(h) To make such contracts in the issuance of bonds as may be considered necessary to insure the marketability thereof.

(i) To sue or be sued in its corporate name.

(j) To adopt, use and alter a corporate seal.

(k) To make bylaws for the management and regulation of its affairs.

(l) To fix and collect charges and rates for water services furnished by it and to impose penalties for failure to pay such charges and rates when due.

(m) To operate and maintain with the consent of the governing body of any city or town located within the Authority, any works, plants or facilities of any such city deemed necessary or convenient to the accomplishment of the purposes for which the Authority is created.

(n) To do any and all acts and things necessary to the exercise of the powers, rights, privileges, or functions conferred upon or permitted the Authority by any other law, except that the Authority shall not have the right of eminent domain outside of the counties in which the Authority is located and the Authority shall not condemn or have condemned for its benefit any property outside of the counties in which the Authority is located. As amended Acts 1965, 59th Leg., p. 1198, ch. 555, § 4.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sec. 15. The Authority is authorized to enter into contracts with cities, corporations, Districts, public agencies and others for supplying water to them. The Authority is also authorized to contract with any city, corporation or public agency for the rental, leasing or purchase of, or for the operation of the water production, water supply, water filtration or purification, water supply and distribution facilities of such city, corporation or public agency upon such consideration as the Authority and such entity may agree. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of such bonds are paid. If the Authority makes or has made a contract with Texas Water Development Board under which said Board or the state will acquire water storage facilities (as provided in Chapter 49, Acts of the 58th Legislature) in a reservoir to be constructed by the Authority, it shall be the duty of the Authority to make provision for the accumulation of a fund for purchase by the Authority of such storage space by fixing and maintaining adequate rates and charges which shall be paid by cities heretofore and hereafter contracting to buy water from the Authority. As amended Acts 1965, 59th Leg., p. 1198, ch. 555, § 5.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sec. 17. The Authority is authorized to acquire water appropriation permits directly from the Texas Water Commission of the State of Texas, or from owners of permits. As amended Acts 1965, 59th Leg., p. 1198, ch. 555, § 6.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sec. 23. Repealed. Acts 1965, 59th Leg., p. 1198, ch. 555, § 7. Eff. Aug. 30, 1965, 90 days after date of adjournment.

VII. PARTICULAR WATER SUPPLY AND CONTROL DISTRICTS

CHAPTER TWELVE—CREATION, POWERS AND OBLIGATIONS

Art. 8280—163. Benbrook Sewer and Water Authority

Sec. 21. Upon the adoption of a resolution by the governing body of the City of Benbrook evidencing the desire of and binding such city to purchase the property and assets of, assume the debts, liabilities and obligations, and discharge the services and functions of such district, the Board of Directors of such district shall make and publish an order calling an election within and for such district for the purpose of determining whether or not such district shall be abolished and such sale of the district's properties and assets shall be made to such city in consideration of the assumption by such city of the debts, liabilities and obligations of such district. Said election shall be ordered within 60 days after the adoption by such city of the aforesaid resolution and if municipal elections of such city are to be held from 30 to 60 days after the adoption of said resolution, then such election shall be held on the same date as such municipal elections, and shall be ordered, held and conducted in accordance with the laws of this State for the holding of bond elections in Water Control and Improvement Districts, except as herein otherwise provided. The ballots for such election shall contain substantially the following proposition:

“FOR the sale by Benbrook Water and Sewer Authority to the City of Benbrook of its property and assets in consideration of the assumption by such city of the debts, liabilities and obligations of such district, the discharge of its services and functions by such city and the abolishment of said district; and

“AGAINST the sale by Benbrook Water and Sewer Authority to the City of Benbrook of its property and assets in consideration of the assumption by such city of the debts, liabilities and obligations of such district, the discharge of its services and functions by such city and the abolishment of said district.”

If a majority of the qualified voters of such district voting at such election vote in favor of such proposition, the Board of Directors of such district shall sell, transfer and convey to such city all of the properties and assets of such district for and in consideration of the assumption by such city of the debts, liabilities and obligations of such district. The governing body of such city shall, by ordinance, designate the date upon which such sale shall be effective and the city take over, but in no event later than 90 days after the canvass of the returns of the aforesaid election.

If a majority of the qualified voters of such district voting at such election vote against such proposition, no other election shall be held in said district under the provisions of this Act and for the purpose of again submitting said proposition until the expiration of two (2) years from and after the date of said election. Added Acts 1965, 59th Leg., p. 40, ch. 15, § 1, emerg. eff. March 5, 1965.

Art. 8280—177. City of McAllen Water and Sewer Authority

Sec. 3.

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(c) A regular election for the election of Directors shall be held on the first Tuesday after the first Monday in April of each odd-numbered

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year after the effective date of this Act until the 1967 regular election. There shall be five (5) Directors who shall serve for terms of four (4) years each, (except that at the 1963 election two (2) of the five (5) Directors elected shall serve for two-year terms and three (3) of the Directors elected shall serve for four-year terms, to be determined by lot). Such term shall begin immediately after the official canvass of the election returns and the newly elected Directors shall be sworn in and qualified as soon thereafter as is reasonable and practical. Regular elections shall be called by the Board of Directors. The Board shall appoint the presiding judge, who shall appoint an assistant judge and such clerks as are necessary. Notice of the election shall be published in a newspaper published in the City of McAllen one time, at least thirty (30) days prior to the election. The five (5) candidates receiving the highest number of votes in the 1963 election shall be declared elected. In the event of a tie, the candidates who are tied shall determine by lot which one is to be elected and serve. Beginning with the regular election held in 1967, the date on which regular elections for the election of Directors shall be held is the first Tuesday in April of each odd-numbered year. As amended Acts 1961, 57th Leg., 1st C.S. p. 181, ch. 49, § 3; Acts 1965, 59th Leg., p. 385, ch. 187, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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#### Art. 8280—188. Trinity River Authority of Texas

Sec. 8-B. The Authority is authorized to invest any of its funds, including proceeds from the sale of Bonds, in direct obligations of, or obligations, the principal of and interest on which are guaranteed by, the United States of America, and to invest such funds in direct obligations of the Federal Intermediate Credit Bank, the Federal Home Loan Bank, Federal Land Bank, or banks for cooperatives, and to place its funds on interest bearing time deposits with banks if such deposits are secured with a pledge of securities of the kind just specified, to the extent not otherwise provided in the Resolution or the Trust Indenture under which its Bonds are issued. Income and profits on such investments shall be applied as provided in such Resolution or Trust Indenture. Added Acts 1965, 59th Leg., p. 366, ch. 173, § 1, emerg. eff. May 15, 1965.

Sec. 8-C. The Authority is authorized to trade bonds issued by it for land which is required for the purposes of the Authority. If, prior to the passage of this Amendatory Act, the Authority has entered into a water supply contract with a city, the Authority may trade bonds for land if the governing body of the city passes an ordinance so authorizing. Added Acts 1965, 59th Leg., p. 366, ch. 173, § 1, emerg. eff. May 15, 1965.

Acts 1965, 59th Leg., p. 366, ch. 173, § 1 amended this article by adding sections 8-A and 8-B thereto. Section 2 of the amendatory act of 1965 provided: "It is hereby found that notice of intention to introduce this bill has been published at least thirty (30) days and not more than ninety (90) days prior to its introduction in newspapers having general circulation in counties in which said Authority is

situated and in the manner provided by Article XVI, Section 59(d) of the Constitution, that a copy of said notice and of this bill as introduced were delivered to the Governor, and the time, form and manner of giving said notice is hereby approved and ratified. The evidence of the foregoing was exhibited in the Legislature before the passage of this Act."

#### Art. 8280—202. Pond Creek Watershed Authority

Sec. 1. There is hereby created within the State of Texas, a conservation and reclamation district to be known as Pond Creek Watershed Authority which shall include and consist of portions of the Counties of Milam and Falls described and contained within the metes and bounds set forth in Section 2 of this Act. The Authority is hereby declared to be

a governmental agency and body politic with the power to exercise the rights, privileges and functions hereinafter specified and the creation of this Authority is hereby declared to be essential to the accomplishment of the purposes set forth in Article XVI, Section 59, of the Constitution of Texas. As amended Acts 1965, 59th Leg., p. 1106, ch. 530, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sec. 2. It is expressly determined and found that all of the land and other property included within the area and boundaries of the Authority (Pond Creek Watershed Authority) will be benefited by the works and projects which are to be accomplished by the Authority pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas, and that said Authority was and is created to serve a public use and benefit. The Authority shall be all of the territory enclosed within the following metes and bounds description, to wit:

A tract of approximately 29,600 acres, being approximately 9,050 acres in Falls County and approximately 20,550 acres in Milam County, Texas, more particularly described as follows:

BEGINNING at the most southerly corner of the Newsom Gwatney Survey being the most easterly corner of the Thos. Barnes Survey, and being a point on the northerly boundary line of the Alexander Frazier Survey all in Milam County, Texas;

THENCE, northerly along the line between said Gwatney and Barnes Survey to the northeasterly corner of the A. R. Knipp tract, being the southeasterly corner of the F. P. Folschinsky 100 acre tract;

THENCE, westerly along the northerly boundary line of said Knipp tract and the southerly boundary line of said Folschinsky tract to the most southerly corner of said Folschinsky tract;

THENCE, northerly along the westerly boundary line of the said Folschinsky tract and the easterly boundary line of the F. H. Becker 89 acre tract to the northwesterly corner of said Folschinsky tract;

THENCE, along the northerly and northwesterly boundary lines of the F. H. Becker 14-acre tract to the most easterly corner of the Fred Folschinsky 20 acre tract;

THENCE, along the northeasterly boundary line of the said Fred Folschinsky 20 acre tract and of the Fred Folschinsky 5 acre tract to a point on the westerly boundary line of the Jno. W. Porter Survey;

THENCE, northerly along the westerly boundary line of said Porter Survey to an intersection with the southerly boundary line of the A. Vogelsang, Jr. 90 acre tract;

THENCE, northwesterly to the most easterly corner of the Otto Juergens 102 acre tract, being a point on the southerly boundary line of the Joseph A. Tivey Survey;

THENCE, northerly along the easterly boundary line of said Juergens tract to its northeasterly corner;

THENCE, westerly along the northerly boundary line of said Juergens tract, and the southerly boundary line of the Ervin Vogelsang 178¾ acre tract to a point on the westerly boundary line of said Tivey Survey;

THENCE, northerly along the westerly boundary line of said Tivey Survey to a northerly boundary line of said Ervin Vogelsang 178¾ acre tract;

THENCE, easterly along the northerly boundary line of said Ervin Vogelsang 178¾ acre tract to the most southerly corner of the Fred Haggard 41¾ acre tract;

THENCE, northerly along the westerly boundary line of the said Fred Haggard 41¾ acre tract and the westerly boundary line of the Fred Hag-



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gard 153 acre tract to a point on the northerly boundary line of the Geo. B. Erath Survey, B-97;

THENCE, easterly along the northerly boundary line of said Erath Survey B-97 to the most southerly corner of the P. T. Driscoll 344 acre tract;

THENCE, northerly along the westerly boundary line of said Driscoll 344 acre tract to its most westerly corner, a point on the southerly boundary line of the Geo. B. Erath Survey B-67;

THENCE, westerly along the southerly boundary line of said Geo. B. Erath Survey B-67 to its most westerly corner;

THENCE, northerly along the westerly boundary line of said Geo. B. Erath Survey B-67, crossing the line between Milam and Falls counties, to the most westerly corner of said Geo. B. Erath Survey B-67, being a point on the southerly boundary line of the O. A. Cooke Survey in Falls county;

THENCE, westerly along the southerly boundary line of said Cooke Survey to the corner between the Fritz Wied 69 acre and 82.2 acre tract;

THENCE, northerly along the easterly boundary line of said Wied 82.2 acre tract to its most northerly corner;

THENCE, westerly along the northerly boundary line of said Wied 82.2 acre tract to its most westerly corner, a point on the westerly boundary line of said Cooke Survey;

THENCE, northerly along the westerly boundary line of said Cooke Survey to an intersection with the boundary line between the Edwin G. Hoff 50 acre and 100 acre tracts;

THENCE, westerly and on a prolongation of the boundary line between said Hoff 50 acre and 100 acre tracts to the westerly boundary line of the Ella P. Tyson 404.11 acre tract;

THENCE, northwesterly across the Pearl M. Alexander 401.25 acre tract to the most westerly corner of the Joe Kolovsky 50.45 acre tract;

THENCE, northerly along the westerly boundary line of said Kolovsky tract to its most westerly corner, a point on the southerly boundary line of the Jas. R. Childress Survey;

THENCE, westerly along the southerly boundary line of said Childress Survey to its most southerly corner;

THENCE, northerly along the westerly boundary line of said Childress Survey to the most easterly corner of the F. Bruggeman 117 acre tract;

THENCE, westerly along the southerly boundary line of said Bruggeman tract to its most southerly corner;

THENCE, northerly along the westerly boundary line of said Bruggeman tract to its most westerly corner, being the most easterly corner of the John Nussbaum 118 $\frac{7}{8}$  acre tract;

THENCE, westerly along the southerly boundary line of said Nussbaum tract, 660 feet;

THENCE, northerly and parallel to the easterly boundary line of said Nussbaum tract, to the northerly boundary line of said Nussbaum tract, being a point on the southerly boundary line of the J. R. Cockrill Survey;

THENCE, westerly along the southerly boundary line of said Cockrill Survey to the most southerly corner of the E. B. Yeager 248.54 acre tract;

THENCE, northerly along the westerly boundary line of said Yeager tract to its most westerly corner;

THENCE, westerly along the southerly boundary line of the John Voltin 176.4 acre tract to its most southerly corner;

THENCE, northwesterly across the Erwin H. C. Fientge 216.2 acre tract to its most westerly corner, a point on the westerly boundary line of said Cockrill Survey;

THENCE, northerly along the westerly boundary line of said Cockrill Survey, and the westerly boundary line of the Wm. D. Walker Survey to the most southerly corner of the Isadore Kessler 46 acre tract;

THENCE, easterly along the southerly boundary line of said Kessler tract to its most easterly corner;

THENCE, northerly along the easterly boundary line of said Kessler tract to its most northerly corner a point on the northerly boundary line of said Walker Survey;

THENCE, westerly along the northerly boundary line of said Kessler tract and of said Walker Survey to the most westerly corner of said Kessler tract and of said Walker Survey;

THENCE, northerly along the westerly boundary line of the George Alexander Survey and of the Green & Smetana 133.67 acre tract 300 varas;

THENCE, easterly, and parallel to the southerly boundary line of said Alexander Survey, 400 varas;

THENCE, northerly, and parallel to the westerly boundary line of said Alexander Survey, approximately 550 varas to a point on the northerly boundary line of said Green & Smetana 133.67 acre tract;

THENCE, easterly along the northerly boundary line of said Green & Smetana 133.67 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Green & Smetana tract to its most easterly corner, a point on the northerly boundary line of said Walker Survey;

THENCE, easterly along the northerly boundary line of said Walker Survey to the most northerly corner of the Otto Eixmans 13.92 acre tract;

THENCE, southeasterly along the northeasterly boundary line of said Eixmans tract to its most easterly corner;

THENCE, southeasterly along the northeasterly boundary line of the Kathleen Stock 55.56 acre tract to its most easterly corner;

THENCE, westerly along the southerly boundary line of said Stock tract to the most northerly corner of the Minnie Baron 110 acre tract;

THENCE, southerly along the easterly boundary line of said Minnie Baron tract to its most easterly corner;

THENCE, easterly along the northerly boundary line of the Stock and Lorenz 66.1 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Stock and Lorenz tract, the Joe Pelzel tract and the Ewald Frei tract to a point on the southerly boundary line of said Walker Survey;

THENCE, easterly along the southerly boundary line of said Walker Survey to the most northerly corner of the John Voltin 176.4 acre tract;

THENCE, southerly along the easterly boundary line of said John Voltin tract to its most southerly corner;

THENCE, easterly along the northerly boundary line of the E. B. Yeager 248.54 acre tract to its most easterly corner, a point on the easterly boundary line of said Cockrill Survey;

THENCE, southerly along the easterly boundary line of said Cockrill Survey to its most easterly corner;

THENCE, easterly along the northerly boundary line of the J. Wilson Survey to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Wilson Survey and the westerly boundary line of said Childress Survey to the most westerly corner of the C. A. Munson 200 acre tract;

THENCE, easterly along the northerly boundary line of said Munson tract to its most northerly corner;

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THENCE, southerly along the easterly boundary line of said Munson tract to the most westerly corner of the L. J. Bruggman 101 acre tract;

THENCE, easterly along the northerly boundary line of said Bruggman tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Bruggman tract and of the Ben Marburger 93.4 acre tract to the most westerly corner of the Mary E. Talent 36.8 acre tract;

THENCE, easterly along the northerly boundary line of said Talent tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Talent tract to its most easterly corner, a point on the northerly boundary line of the T. D. Beauchamp Survey;

THENCE, easterly along the northerly boundary line of said Beauchamp Survey to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Beauchamp Survey to the most westerly corner of the Edwin G. Hoff 100 acre tract;

THENCE, easterly along the northerly boundary line of said Hoff 100 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Hoff 100 acre tract and the Edwin Hoff 50 acre tract to the most easterly corner of said Hoff 50 acre tract;

THENCE, westerly along the southerly boundary line of said Hoff 50 acre tract to the most northerly corner of the Hoff Bros. 119.6 acre tract;

THENCE, southerly along the easterly boundary line of said Hoff Bros. 119.6 acre tract to its most easterly corner;

THENCE, easterly along the northerly boundary line of the Charlie Skupin 42.48 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Skupin tract, and an extension thereof, crossing the Southern Pacific Railroad to a point on the northerly boundary line of the Ollie Ernst 121.75 acre tract;

THENCE, easterly to a point on the southerly boundary line of said O. A. Cooke Survey, which point is 1700 feet westerly along this southerly boundary line from the center line of U. S. Highway 77 and continuing on the same course to the boundary line between Falls and Milam counties;

THENCE, easterly along said county line approximately 1900 feet to the center line of a public road;

THENCE, southerly or southeasterly along said center line of a public road to the most easterly corner of the V. D. Nicholson 130 acre tract, a point on the southerly boundary line of the Geo. B. Erath Survey B-67;

THENCE, westerly along the southerly boundary line of said Geo. B. Erath Survey B-67 to the most northerly corner of the P. T. Driscoll 344 acre tract;

THENCE, southerly along the easterly boundary line of said Driscoll tract to its most easterly corner;

THENCE, easterly along the southerly boundary line of the John Benson Survey to the center line of a public road at the most easterly corner of the Mrs. Willie Rogers 246 acre tract;

THENCE, southerly and on a prolongation of the centerline of such public road to a point on the southerly boundary line of the Geo. B. Erath Survey B-97;

THENCE, easterly along the southerly boundary line of said Geo. B. Erath Survey B-97 to its most easterly corner;

THENCE, southerly along the easterly boundary line of the Joseph A. Tivey Survey to its most easterly corner;

THENCE, easterly along the northerly boundary line of the J. W. Porter Survey to the most northerly corner of the Otto F. Schulz 70 acre tract;

THENCE, southeasterly to the most easterly corner of said Schulz tract;

THENCE, easterly along the northerly boundary line of the Jessie H. Cox 150 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of the said Porter Survey to a point which point is on a prolongation westerly of the northerly boundary line of the B. P. Atkinson 110 acre tract;

THENCE, easterly across the H. Schwarting 206 acre tract to the most westerly corner of said Atkinson tract;

THENCE, southerly along the westerly boundary line of said Atkinson tract and an easterly boundary line of said Schwarting tract, to the most southerly corner of said Atkinson tract;

THENCE, easterly along the southerly boundary line of said Atkinson tract to its most easterly corner;

THENCE, northerly along the easterly boundary line of said Atkinson tract to the most westerly corner of the Anna F. Bass 110 acre tract;

THENCE, easterly along the northerly boundary line of said Anna F. Bass 110 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Anna F. Bass 110 acre tract to the most westerly corner of the Anna F. Bass 120 acre tract;

THENCE, easterly along the northerly boundary line of said Anna F. Bass 120 acre tract to its most northerly corner;

THENCE, northerly along the westerly boundary line of the Mrs. Roxie Fontaine 303 acre tract to its most westerly corner;

THENCE, easterly along the northerly boundary line of said Fontaine tract and along the northerly boundary line of the Dick Young 303.5 acre tract to the most northerly corner of said Young tract;

THENCE, northerly along the westerly boundary line of the W. P. McKinney 101 acre tract to its most westerly corner;

THENCE, northeasterly along the northerly boundary line of said McKinney tract and of the Mrs. E. D. King 98.5 acre tract, and a prolongation thereof to a point on the easterly boundary line of the S. P. Skinner 200 acre tract;

THENCE, northerly along the easterly boundary line of said Skinner 200 acre tract to its most northerly corner;

THENCE, westerly along the northerly boundary line of said Skinner 200 acre tract and of the P. H. McKinney 114 acre tract to the most southerly corner of the S. P. Skinner 661 acre tract;

THENCE, northerly along the westerly boundary line of said Skinner 661 acre tract to its most westerly corner, a point on the northerly boundary line of the J. J. Whitesides Survey;

THENCE, westerly along the northerly boundary line of said Whitesides Survey and of said Gwatney Survey to the most southerly corner of the Frank Sukup 60½ acre tract;

THENCE, northerly along the westerly boundary line of said Sukup tract to its most westerly corner;

THENCE, westerly along the southerly boundary line of the Marion Mitchell 220 acre tract to its most southerly corner;

THENCE, southerly along the easterly boundary line of the Marion Mitchell 100 acre tract to the point on the northerly boundary line of said Gwatney Survey;

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THENCE, westerly along the southerly boundary line of said Mitchell tract to its most southerly corner;

THENCE, northerly along the westerly boundary line of said Mitchell tract to the most northerly corner of the Marion Mitchell 50 acre tract;

THENCE, westerly along the northerly boundary line of said Mitchell 50 acre tract to its most westerly corner;

THENCE, northerly along the westerly boundary line of the Jno. L. Ward 72½ acre tract to the most easterly corner of the A. N. Green 120 acre tract;

THENCE, westerly along the southerly boundary line of the said Green 120 acre tract to its most southerly corner;

THENCE, northerly along the westerly boundary line of said Green 120 acre tract to the most northerly corner of the E. Rotan 150 acre tract;

THENCE, westerly along the northerly boundary line of said Rotan 150 acre tract to a point which is in the southerly prolongation of the easterly boundary line of the Citizens National Bank of Waco 149 acre tract;

THENCE, northerly on such prolongation and along said easterly boundary line of said Citizens National Bank of Waco 149 acre tract to its most northerly corner, a point on the southerly boundary line of the W. L. Hannum Survey;

THENCE, westerly along the southerly boundary line of said Hannum Survey to its most southerly corner;

THENCE, northerly along the westerly boundary line of said Hannum Survey to an intersection with the line between Milam and Falls Counties;

THENCE, westerly along said line between Milam and Falls Counties to an intersection with a prolongation of the westerly boundary line of the Neil McLennan Survey;

THENCE, northerly along such prolongation and along the westerly boundary line of said Neil McLennan Survey and of the L. McLennan Survey to the most easterly corner of the Lena Kaulfus 115½ acre tract;

THENCE, westerly along the southerly boundary line of said Lena Kaulfus 115½ acre tract to its most southerly corner;

THENCE, northerly along the westerly boundary line of said Lena Kaulfus 115½ acre tract to its most westerly corner, a point on the northerly boundary line of the Jas. Duncan Survey;

THENCE, northerly along the easterly boundary line of the W. E. Lewis 13 acre tract to its most northerly corner;

THENCE, westerly along the northerly boundary line of said Lewis 13 acre tract to its most westerly corner, a point on the westerly boundary line of the N. K. Robinson Survey;

THENCE, northerly along the westerly boundary line of said N. K. Robinson Survey and the Wm. Ragan Survey to a point on the southerly boundary line of the Jas. W. Harvey Survey;

THENCE, westerly along the southerly boundary line of said Jas. W. Harvey Survey to the most southerly corner of the Mrs. M. K. Lingow 70 acre tract;

THENCE, northerly along the westerly boundary line of said Lingow 70 acre tract and of the F. J. Buckholt 82 acre tract to a point on the southerly boundary line of the Will Rollwitz 113 acre tract;

THENCE, westerly along the southerly boundary line of said Rollwitz 113 acre tract to its most southerly corner, a point on the westerly boundary line of said Jas. W. Harvey Survey;

THENCE, northerly along the westerly boundary line of said Jas. W. Harvey Survey to the most easterly corner of the J. H. Harvey Survey;

THENCE, westerly along the southerly boundary line of said J. H. Harvey Survey to the most westerly corner of the Mrs. S. Hodges 200 acre tract;

THENCE, northerly across the L. P. Doree 158 acre tract to the most easterly corner of the L. Moeller 50 acre tract;

THENCE, westerly along the southerly boundary line of said Moeller 50 acre tract to its most southerly corner;

THENCE, northerly along the westerly boundary line of said Moeller 50 acre tract to its most westerly corner;

THENCE, westerly to the most northerly corner of the H. Pelzl 173 acre tract;

THENCE, westerly along the northerly boundary line of said Pelzl 173 acre tract to its most westerly corner, a point on the westerly boundary line of said J. H. Harvey Survey;

THENCE, northerly along the westerly boundary line of said J. H. Harvey Survey to its most westerly corner;

THENCE, westerly along the southerly boundary line of the C. Rainey Survey to its most southerly corner;

THENCE, northerly along the westerly boundary line of said C. Rainey Survey and of the B. Burchard Survey to the most easterly corner of the M. Mata Survey;

THENCE, westerly along the southerly boundary line of said Mata Survey to the most southerly corner of the S. D. Flanders 95 acre tract;

THENCE, northerly along the westerly boundary line of said Flanders 95 acre tract to its most westerly corner;

THENCE, westerly along the southerly boundary line of the A. H. Hudgins 220 acre tract to its most southerly corner, a point on the westerly boundary line of said Mata Survey;

THENCE, northerly along the westerly boundary line of said Mata Survey to its most westerly corner;

THENCE, westerly along the southerly boundary line of the Wm. Kibbe Survey to the most southerly corner of the C. D. Stringer 72 acre tract;

THENCE, northerly along the westerly boundary line of said Stringer 72 acre tract and of Mrs. A. Pierce and Mrs. A. Lacy 77 acre tract to the most easterly corner of the T. D. Rector 72 acre tract;

THENCE, westerly along the southerly boundary line of said Rector 72 acre tract to a point on the line between Falls and Bell counties;

THENCE, northerly along the Bell-Falls County line 500 varas;

THENCE, easterly and parallel to the southerly boundary line of said Kibbe Survey, 600 varas;

THENCE, northerly and parallel to said Bell-Falls county line 800 varas;

THENCE, westerly and parallel to the southerly boundary line of said Kibbe Survey, 600 varas to a point on said Bell-Falls county line;

THENCE, northerly along said Bell-Falls county line approximately 550 varas to a point on the northerly boundary line of said Kibbe Survey and the G. A. Montgomery 130 acre tract;

THENCE, easterly along the northerly boundary line of said Kibbe Survey to the most northerly corner of the G. A. Montgomery 130 acre tract;

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THENCE, southerly along the easterly boundary line of said Montgomery 130 acre tract to its most easterly corner;

THENCE, easterly along the southerly boundary line of the Mrs. M. A. King 200 acre tract to its most easterly corner;

THENCE, southerly along a prolongation of the easterly boundary line of said King 200 acre tract, across the Julius Rector 260 acre tract to a point on the northerly boundary line of the W. C. Weaver 200 acre tract;

THENCE, easterly along the northerly boundary line of said Weaver 200 acre tract to its most northerly corner, a point on the westerly boundary line of the Wm. Toomey Survey;

THENCE, northerly along the westerly boundary line of said Toomey Survey to the most westerly corner of the Z. H. Booth 110 acre tract;

THENCE, easterly along the northerly boundary line of said Booth 110 acre tract, the H. A. Stuart 127 acre tract, and the Mrs. A. M. White tract to the most northerly corner of said White tract;

THENCE, southerly along the easterly boundary line of said White tract to a point on the northerly boundary line of said Mata Survey;

THENCE, easterly along the northerly boundary line of said Mata Survey and of the J. Montgomery Survey to the most northerly corner of said Montgomery Survey;

THENCE, southerly along the easterly boundary line of said Montgomery Survey to its most easterly corner;

THENCE, westerly along the southerly boundary line of said Montgomery Survey to an intersection with the westerly boundary line of the J. A. Storey 96 acre tract;

THENCE, southerly along the westerly boundary line of said Storey tract to its most southerly corner;

THENCE, easterly along the southerly boundary line of said Storey 96 acre tract to the most westerly corner of the A. Greger 64 acre tract;

THENCE, southerly along the westerly boundary line of said Greger 64 acre tract to its most southerly corner;

THENCE, easterly along the southerly boundary line of said Greger 64 acre tract to its most easterly corner, a point on the easterly boundary line of said Burchard Survey;

THENCE, southerly along the easterly boundary line of said Burchard Survey and of said Rainey Survey to the most easterly corner of said Rainey Survey, a point in the northerly line of said J. H. Harvey Survey;

THENCE, easterly along the northerly boundary line of said J. H. Harvey Survey to the most northerly corner of the W. W. Walker 50 acre tract;

THENCE, southerly along the easterly boundary line of said W. W. Walker 50 acre tract to its most southerly corner;

THENCE, easterly along the northerly boundary line of the Ben Foehner 58 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Foehner 58 acre tract to its most easterly corner;

THENCE, easterly along the southerly boundary line of the P. A. Kuhn 119 acre tract to its most easterly corner, a point on the easterly boundary line of said J. H. Harvey Survey;

THENCE, southerly along the easterly boundary line of said J. H. Harvey Survey to the most westerly corner of the Jas. W. Harvey Survey;

THENCE, easterly along the northerly boundary line of the said Jas. W. Harvey Survey to the most northerly corner of the Ben Hasse 91 acre tract;

THENCE, southerly along the easterly boundary line of said Hasse 91 acre tract to its most easterly corner;

THENCE, easterly along the northerly boundary line of the L. M. Wunsch 113 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Wunsch 113 acre tract to the most southerly corner of the W. C. Shilling 94 acre tract;

THENCE, easterly along the southerly boundary line of the said Schilling 94 acre tract to its most easterly corner, being the most northerly corner of the J. A. Tarver 109 acre tract;

THENCE, southerly along the easterly boundary line of said Tarver 109 acre tract to its most easterly corner, a point in an unnamed branch, such branch being the northwesterly boundary line of the Mrs. A. Buckholt 23 acre tract;

THENCE, northeasterly with said branch to the most northerly corner of said Buckholt 23 acre tract;

THENCE, southerly with the westerly boundary line of the C. L. Trice 80 acre tract to a point on the southerly boundary line of said Jas. W. Harvey Survey;

THENCE, easterly along the southerly boundary line of said Jas. W. Harvey Survey and of the W. H. Grand Survey to an intersection with the northerly prolongation of the boundary line between the Wallace & Stuckey 100 acre tract and the R. J. Adams 80.65 acre tract;

THENCE, southerly along the last mentioned prolongation, crossing the northerly boundary line of the N. K. Robinson Survey, and along the line between said Wallace & Stuckey 100 acre tract and said Adams 80.65 acre tract, and continuing along the same course to a point on the southerly boundary line of the J. A. Ferguson 301 acre tract;

THENCE, westerly along the southerly boundary line of said Ferguson 301 acre tract to the most northerly corner of the Hoelscher Bros. 109 $\frac{7}{8}$  acre tract;

THENCE, southerly along the easterly boundary line of said Hoelscher Bros. 109 $\frac{7}{8}$  acre tract and of the Willie Fabianke 53 $\frac{1}{2}$  acre tract to the most southerly corner of the Mrs. Duff Wells Estate 522.8 acre tract, a point on the northerly boundary line of the Willie Fabianke 25 acre tract;

THENCE, easterly along the northerly boundary line of said Fabianke 25 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Fabianke 25 acre tract to its most easterly corner;

THENCE, easterly along the northerly boundary line of the Mrs. T. T. Sneed 131 $\frac{2}{3}$  acre tract and of the Claude Vaughn 80 $\frac{4}{5}$  acre tract to the most northerly corner of said Vaughn tract;

THENCE, southerly along the easterly boundary line of said Vaughn 80 $\frac{4}{5}$  acre tract, of the Claude Vaughn 16 $\frac{2}{3}$  acre tract and of the J. H. Chatham 80 acre tract to the most easterly corner of said Chatham 80 acre tract, a point on the southerly boundary line of said N. K. Robinson Survey;

THENCE, westerly along the southerly boundary line of said N. K. Robinson Survey to the most northerly corner of the Sam G. Henslee Jr. (now the Patton W. Peeler tract) 316.425 acre tract;

THENCE, southerly along the easterly boundary line of said Henslee (now Peeler) 316.425 acre tract to its most easterly corner;

THENCE, southerly, crossing the Mrs. Horace Atkins 250 acre and 258 acre tracts, the Larry Wieser 95.4 acre tract, the Charlie O. and Joe C.



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Watkins 95.4 acre tract, the Charlie O. Watkins 84.4 acre tract and the C. J. Watkins 84.4 acre tract to the most northerly corner of the A. T. Garrett (formerly the C. C. Parker tract) 138½ acre tract;

THENCE, easterly along the northerly boundary line of the A. T. Garrett 200 acre tract, crossing the Southern Pacific Railroad to the most southerly corner of the Mrs. D. D. Tindel 100 acre tract;

THENCE, northerly along the westerly boundary line of said Tindel 100 acre tract to its most westerly corner;

THENCE, easterly along the northerly boundary line of said Tindel 100 acre tract and a prolongation thereof, to a point on the westerly boundary line of the A. Morrison Survey;

THENCE, northerly along the westerly boundary line of said Morrison Survey to its most westerly corner;

THENCE, easterly along the northerly boundary line of said Morrison Survey to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Morrison Survey to the most easterly corner of the Rexford Wells 124.62 acre tract;

THENCE, westerly along the southerly boundary line of said Wells 124.62 acre tract to its most southerly corner, a point on the easterly boundary line of said L. McLennan Survey;

THENCE, southerly along the easterly boundary line of said L. McLennan Survey to the most easterly corner of the J. E. King 113 acre tract;

THENCE, westerly along the southerly boundary line of said King 113 acre tract to the most northerly corner of the Mrs. C. P. Nevill 57.6 acre tract;

THENCE, southerly along the easterly boundary line of said Nevill 57.6 acre tract to its most easterly corner, a point on the southerly boundary line of said L. McLennan Survey;

THENCE, westerly along the southerly boundary line of said L. McLennan Survey, crossing the Southern Pacific Railroad to the most northerly corner of the A. T. Garrett 73 acre tract;

THENCE, southerly along the westerly right of way line of said Railroad and along the easterly boundary line of said Garrett 73 acre tract to the most easterly corner of said Garrett 73 acre tract;

THENCE, westerly along the southerly boundary line of said Garrett 73 acre tract and of the A. T. Garrett 160 acre tract to the most northerly corner of the Raymond Stock 65 acre tract;

THENCE, southerly along the easterly boundary line of said Stock 65 acre tract and of the J. A. Cobb 206 acre tract, to the most easterly corner of said Cobb 206 acre tract;

THENCE, westerly along the southerly boundary line of said Stock 65 acre tract and of the J. A. Cobb 206 acre tract, to the most easterly corner of said Cobb 206 acre tract;

THENCE, westerly along the southerly boundary line of said Cobb 206 acre tract to the most northerly corner of the C. F. Brown 39.6 acre tract;

THENCE, southerly along the easterly boundary line of said Brown 39.6 acre tract to its most easterly corner, and continuing on the same course across State Highway 53 to a point on the northerly boundary line of the tract of 106.37 acres conveyed to J. R. Killgore by deed recorded in Volume 223, page 218 of the Falls County Deed Records;

THENCE, easterly along the southerly right of way of said State Highway 53 to the most northerly corner of said Killgore 106.37 acre tract;

THENCE, along the easterly boundary line of said Killgore 106.37 acre tract by the following three courses:

1. S. 30° E. 77.5 varas,
2. N. 60° E. 27. varas,

3. S. 30° E. 247.6 varas to its most easterly corner, and continuing on the last mentioned course to the northwesterly right of way line of the Southern Pacific Railroad;

THENCE, southwestery along the northwesterly right of way line of said Railroad to an intersection with a westerly prolongation of the northerly boundary line of W. J. Plocek 78.5 acre tract;

THENCE, easterly along the prolongation of and along the northerly boundary line of said Plocek 78.5 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Plocek 78.5 acre tract to its most easterly corner;

THENCE, easterly along the northerly boundary line of the Chas. W. Henson 67 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Henson 67 acre tract to its most easterly corner, a point on the southerly boundary line of the Neil McLennan Survey;

THENCE, southerly along the easterly boundary line of the Charles Henson 251 acre tract to its most easterly corner;

THENCE, easterly along the northerly boundary line of the Z. A. Booth, Jr. 416.18 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Booth 416.18 acre tract, of the Miss Eulalah Brown 343.5 acre tract to a point on the Falls-Milam County line;

THENCE, southerly along the easterly boundary line of the Rosebud State Bank 200 acre tract and of the J. E. Anding 458 acre tract to the most easterly corner of said Anding 458 acre tract;

THENCE, westerly along the southerly boundary line of said Anding 458 acre tract to the most northerly corner of the V. A. Kubeka 94 acre tract;

THENCE, southerly along the easterly boundary line of said Kubeka 94 acre tract to its most easterly corner;

THENCE, easterly along the northerly boundary line of the P. T. Driscoll 511.5 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Driscoll 511.5 acre tract to the most westerly corner of the Mrs. S. E. Threadgill 253.5 acre tract;

THENCE, southerly along the westerly boundary line of said Threadgill tract to its most southerly corner, being the most westerly corner of the Mrs. K. W. LeBaume 220 acre tract;

THENCE, easterly along the northerly boundary line of said LeBaume tract to its most northerly corner;

THENCE, southerly along an easterly boundary line of said LeBaume tract to an easterly corner thereof being a point on the northerly boundary line of the W. T. Williams 159 acre tract;

THENCE, easterly along the northerly boundary line of said Williams 159 acre tract to its most northerly corner, the most westerly corner of the Thomas Dillard Survey;

THENCE, southerly along the westerly boundary line of said Dillard Survey and of the L. Mitchell 30 acre tract to the most southerly corner of said Mitchell 30 acre tract;

THENCE, easterly along the southerly boundary line of said Mitchell 30 acre tract and of the R. E. Mitchell 50 acre tract to the most easterly corner of said R. E. Mitchell 50 acre tract;

THENCE, northerly along the easterly boundary line of said R. E. Mitchell 50 acre tract to its most northerly corner, a point on the northerly boundary line of said Dillard Survey;

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THENCE, easterly along the northerly boundary line of said Dillard Survey to the most westerly corner of the R. K. Wimberly 40 acre tract;

THENCE, southerly, easterly and southerly along the westerly boundary line of said Wimberly 40 acre tract to its most southerly corner;

THENCE, easterly along the southerly boundary line of said Wimberly 40 acre tract, and the southerly boundary line of the L. J. White 70 acre tract, the R. K. Wimberly 33 acre tract, the Mrs. A. W. Harris 33 acre tract, and the J. P. and Paul Wimberly 37.5 acre tract to a point on the easterly boundary line of said Dillard Survey;

THENCE, northerly along the easterly boundary line of said Dillard Survey to its most northerly corner;

THENCE, westerly along the northerly boundary line of said Dillard Survey to the most southerly corner of the easterly S. G. Henslee 50 acre tract;

THENCE, northerly along the westerly boundary line of said Henslee 50 acre tract to its most westerly corner;

THENCE, westerly along the southerly boundary line of the Mrs. Lillie Avant 92 acre tract to its most southerly corner;

THENCE, northerly along the westerly boundary line of said Avant 92 acre tract and of the J. B. Muldrow 110 acre tract to the most westerly corner of said Muldrow 110 acre tract;

THENCE, easterly along the northerly boundary line of said Muldrow 110 acre tract to its most northerly corner, a point in the easterly boundary line of the N. M. Valdez Survey;

THENCE, southerly along the easterly boundary line of said Valdez Survey and of said Muldrow 110 acre tract 200 varas to a point;

THENCE, westerly and at right angles to the easterly boundary line of said Valdez Survey, 150 varas;

THENCE, southerly and parallel to the easterly boundary line of said Valdez Survey, 500 varas;

THENCE, easterly and at right angles to the easterly boundary line of said Valdez Survey, 150 varas to its easterly boundary line;

THENCE, southerly and along the easterly boundary line of said Valdez survey to its most easterly corner;

THENCE, southerly across the Gilbert Cribbs Survey to the most westerly corner of the Reuben Fisher Survey;

THENCE, easterly along the northerly boundary line of said Fisher Survey to the most northerly corner of the Frank Lesovsky 221 acre tract;

THENCE, southerly along the easterly boundary line of said Lesovsky 221 acre tract to an intersection with the westerly prolongation of the northerly boundary line of the W. J. Smilie 300 acre tract;

THENCE, easterly along such prolongation and along the northerly boundary line of said Smilie 300 acre tract to the most northerly corner of said Smilie 300 acre tract;

THENCE, northerly to the most westerly corner of the Tarver Henslee Co. 105 acre tract, a point on the southerly boundary line of said Gilbert Cribbs Survey;

THENCE, westerly along the southerly boundary line of said Cribbs Survey to the most southerly corner of the Ellison 66.67 acre tract;

THENCE, northerly along the westerly boundary line of said Ellison 66.67 acre tract, of the Ellison 134 acre tract and of the W. H. Askew 67 acre tract to a point in the southerly boundary line of the Mollie C. Askew 576.5 acre tract;

THENCE, westerly along the southerly boundary line of said Askew 576.5 acre tract approximately 600 varas to the center line of a public road;

THENCE, northerly along the centerline of such public road to the most westerly corner of the R. W. Ellison 360.5 acre tract, being a point on the northerly boundary of said Cribbs Survey;

THENCE, easterly along the northerly boundary line of said Cribbs Survey to the most southerly corner of the Chas. Judie 116 acre tract;

THENCE, northerly along the westerly boundary line of said Judie 116 acre tract and along a prolongation thereof to a point on the southerly boundary line of the S. T. Souther 200 acre tract;

THENCE, easterly along the southerly boundary line of said Souther 200 acre tract and of the Mrs. S. J. Ward 78 acre tract to the most southerly corner of the Mrs. Beulah Powers Ward 50 acre tract;

THENCE, northerly along the westerly boundary line of said Ward 50 acre tract to the centerline of a public road;

THENCE, along said centerline of a public road, westerly, northerly, westerly and northerly along the westerly boundary line of the Mrs. Carrie Watson Lewis 126 acre tract and the easterly boundary line of the Will Kaak 60 acre tract to the most northerly corner of said Kaak 60 acre tract;

THENCE, westerly along said centerline of a public road and along the northerly boundary line of said Kaak 60 acre tract to its most westerly corner;

THENCE, continuing along said centerline of a public road northerly on a prolongation of the westerly boundary line of said Kaak 60 acre tract, crossing the W. P. Gilstrap 335 acre tract to a point on the southerly boundary line of the Samuel Frost Survey;

THENCE, westerly along the southerly boundary line of said Frost Survey to an intersection with the center line of a public road to the most southerly corner of the C. H. Morris 50.5 acre tract;

THENCE, northerly with the centerline of such public road and along the westerly boundary line of said C. H. Morris 50.5 acre tract, of the Robert Smilie 74 acre tract, the C. H. Morris 91 acre tract, and continuing on the same course to a point on the northerly boundary line of the said Frost Survey;

THENCE, easterly along the northerly boundary line of said Frost Survey to the most northerly corner of the Mrs. Walter Scarbrough 237 acre tract;

THENCE, southerly along the easterly boundary line of said Scarbrough 237 acre tract to its most easterly corner;

THENCE, easterly along the northerly boundary line of the Albert Morgan 40 acre tract to its most northerly corner;

THENCE, southerly along the easterly boundary line of said Morgan 40 acre tract and of a R. W. Ellison 100 acre tract to a point on the southerly boundary line of said Frost Survey;

THENCE, easterly along the southerly boundary line of said Frost Survey to an intersection with the center line of a public road at the most northerly corner of the Henry Barnett 93 acre tract;

THENCE, southerly along the easterly boundary line of said Barnett 93 acre tract to its most easterly corner;

THENCE, westerly along the southerly boundary line of said Barnett 93 acre tract to the most northerly corner of the Mrs. Beulah P. Ward 100 acre tract;

THENCE, southerly along the easterly boundary line of said Ward 100 acre tract to its most easterly corner;

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THENCE, westerly along the southerly boundary line of the said Ward 100 acre tract to the most northerly corner of the Ora Caudle 81.75 acre tract;

THENCE, southerly along the easterly boundary line of said Caudle 81.75 acre tract, of the C. G. Gentry 37.5 acre tract, and the B. P. Bozeman 135 acre tract to a point on the northerly boundary line of said Cribbs Survey;

THENCE, westerly along the northerly boundary line of said Cribbs Survey to the most northerly corner of the Minnie Johnston 130 acre tract;

THENCE, southerly along the easterly boundary line of said Johnston 130 acre tract to its most easterly corner;

THENCE, easterly along the southerly boundary line of the D. B. Bozeman 198 acre tract approximately 658 varas to an intersection with the centerline of a public road;

THENCE, southerly with the centerline of such public road, crossing the said Cribbs Survey to a point on the northerly boundary line of the Reuben Fisher Survey;

THENCE, westerly along the northerly boundary line of said Fisher Survey to the most westerly corner of the B. P. Bozeman 110 acre tract;

THENCE, southerly to the most westerly corner of the T. A. Ford 140 acre tract;

THENCE, easterly along the northerly boundary line of said Ford 140 acre tract and of the T. A. Ford 97 acre tract to the centerline of a public road at the most northerly corner of said Ford 97 acre tract;

THENCE, southerly along the easterly boundary line of said Ford 97 acre tract to a point on the northerly boundary line of the Byrum Wickson Survey;

THENCE, easterly along the northerly boundary line of said Wickson Survey to the most northerly corner of the C. B. & J. B. Woodall 475 acre tract;

THENCE, southerly along the easterly boundary line of said Woodall 475 acre tract to the most southerly corner of the Woodall Bros. 206 acre tract;

THENCE, easterly along the southerly boundary line of said Woodall Bros. 206 acre tract to the most westerly corner of the Woodall Bros. 166 acre tract;

THENCE, southerly along the westerly boundary line of said Woodall Bros. 166 acre tract to its most southerly corner;

THENCE, easterly along the southerly boundary line of said Woodall Bros. 166 acre tract to the westerly bank of the Brazos River;

THENCE, southerly or downstream with said westerly bank of the Brazos River to an intersection with the southerly boundary line of the Jesse Smith 420 acre tract;

THENCE, westerly along the southerly boundary line of said Smith 420 acre tract, 1650 varas to a point;

THENCE, northerly and at right angles to the southerly boundary line of said Smith 420 acre tract, to a point on the southerly boundary line of said Wickson Survey;

THENCE, westerly along the southerly boundary lines of said Wickson Survey to the most easterly corner of the J. E. Schwart 85 acre tract;

THENCE, northerly along the easterly boundary line of said Schwart 85 acre tract to its most northerly corner;

THENCE, westerly along a northerly boundary line of said Schwart 85 acre tract to its most westerly corner;

THENCE, westerly, crossing the E. W. Massengale 170.5 acre tract to the most northerly corner of the J. E. Stewart 178 acre tract;

THENCE, westerly along the northerly boundary line of said Stewart 178 acre tract to its most westerly corner;

THENCE, westerly, crossing the Joe P. Marek, Jr. 160 acre tract and the H. C. White 180 acre tract to the most easterly corner of the John L. Hill 195 acre tract;

THENCE, westerly along the southerly boundary line of said Hill 195 acre tract to its most southerly corner;

THENCE, northerly, westerly and northerly along the westerly boundary line of said Hill 195 acre tract to an intersection with an eastern prolongation of the northerly boundary line of the J. H. Smilie southern 86 acre tract;

THENCE, westerly along such prolongation and along the northerly boundary line of said Smilie southern 86 acre tract to the most westerly corner of said Smilie southern 86 acre tract, the most southerly corner of the J. H. Smilie northern 86 acre tract;

THENCE, northerly along the westerly boundary line of said Smilie northern 86 acre tract to an intersection with the easterly prolongation of the northerly boundary line of the E. A. Flinn 105 acre tract;

THENCE, westerly along such prolongation, along the northerly boundary line of said Flinn 105 acre tract, and along a westerly prolongation thereof to a point on the easterly boundary line of the Jno. Watson 240 acre tract;

THENCE, southerly along the easterly boundary line of said Watson 240 acre tract to its most easterly corner;

THENCE, westerly along the southerly boundary line of said Watson 240 acre tract to its most southerly corner;

THENCE, southerly along the easterly boundary line of the Mrs. S. J. McKinney 140 acre tract to its most easterly corner;

THENCE, westerly along the southerly boundary line of said McKinney 140 acre tract and of the W. P. McKinney 140 acre tract to the most southerly corner of said W. P. McKinney 140 acre tract;

THENCE, southerly along the easterly boundary line of the A. C. Black 96 acre tract to its most easterly corner;

THENCE, westerly along the southerly boundary line of said Black 96 acre tract, and of the P. L. Bergum 177 acre tract to the most southerly corner of said Bergum 177 acre tract;

THENCE, southerly along the easterly boundary line of the P. L. Bergum 161 acre tract to its most easterly corner;

THENCE, westerly along the southerly boundary line of said Bergum 161 acre tract and along a westerly prolongation thereof crossing the Mrs. Rosie Fontaine 303.5 acre tract to a point on the easterly boundary line of the Alexander Frazier Survey;

THENCE, northerly along the easterly boundary line of said Frazier Survey to the most easterly corner of the R. K. Anderson 31 acre tract;

THENCE, westerly along the southerly boundary line of said Anderson 31 acre tract and of the Hy Black eastern 50 acre tract to the most southerly corner of said Black eastern 50 acre tract;

THENCE, northerly along the westerly boundary line of said Black eastern 50 acre tract to a point on the southerly boundary line of the Newsom Gwatney Survey;

THENCE, westerly along the southerly boundary line of said Gwatney Survey to the point of beginning, containing 29,600 acres, more or less.

If any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no

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way or manner affect the organization, existence and validity of said Authority, and the right of said Authority to issue bonds or refunding bonds, or to pay the principal and/or interest thereon, and the right to assess, levy and collect taxes, or in any manner affect the legality or operation of said Authority or its governing body. As amended Acts 1965, 59th Leg., p. 1106, ch. 530, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sec. 3. The Authority shall be empowered to cooperate with the Federal government, its agencies and departments and representatives thereof in getting assistance, help, aid, benefits, grants, credits and money as provided in Public Law 566 of the 83rd Congress, Chapter 656, 2nd Session, H. R. 6788, and any amendments thereto. It is the intention of the Legislature to grant to the Authority all of the powers necessary to fully comply, qualify and gain the full benefits of said Public Law, including, but not limited to, the power to cooperate with any city, town or village in connection with its water supply and in the construction of structures, dams and facilities in connection therewith. The provisions of said Public Law that are applicable to the Authority and are not in conflict with the laws controlling same are hereby enacted into this law by reference and made applicable to the Authority.

The Authority shall have the right and power within or without the boundaries of the Authority but limited to Milam and Falls Counties, to purchase or otherwise acquire, including the acquisition by the exercise of the right of eminent domain, any and all lands, easements or rights-of-way necessary for any of its structures, works or projects and to accomplish any and all of the purposes for which the Authority was created. As amended Acts 1965, 59th Leg., p. 1106, ch. 530, § 3.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sec. 6. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the Authority in carrying out the purpose of this Act will be performing an essential public function under the Constitution and the Authority shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State. As amended Acts 1965, 59th Leg., p. 1106, ch. 530, § 4.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sec. 9. No election shall be necessary for the purpose of confirming the organization of the Authority.

The ad valorem plan of taxation is hereby adopted for the Authority and all taxes hereafter levied by the Authority shall be on an ad valorem basis and no hearing shall be required on a plan of taxation.

All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their par value, when accompanied by

all unmatured interest coupons appurtenant thereto. As amended Acts 1965, 59th Leg., p. 1106, ch. 530, § 5.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Sec. 14. The Board of Directors of the Authority shall be comprised of six (6) persons. Immediately after this Act becomes effective, the following named persons shall constitute the Board of Directors of said Authority:

Thomas J. Hickerson  
Sam Ed. Duncan  
Ira L. Burns  
John Raabe  
Marion Mitchell  
A. T. Garrett

Each director shall serve until his successor has been duly elected or appointed and has duly qualified. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining directors. The first three (3) directors named above shall serve until the second Tuesday in January, 1966, and the last three (3) directors named above shall serve until the second Tuesday in January, 1967. An election for directors shall be held on the second Tuesday in January of each year and as herein provided for the election of three (3) directors. Directors of the Authority shall subscribe to the Constitutional Oath of office, and each shall give bond in the amount of One Thousand Dollars (\$1,000) for the faithful performance of his duties, the cost of which shall be paid by the Authority. A majority of the directors shall constitute a quorum. Directors of the Authority must own land within the boundaries of the Authority but do not have to reside within the Authority but must reside within Milam or Falls Counties.

The provisions of Article 7880—77b, Vernon's Civil Statutes, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of an authority where a bond election has failed shall be inapplicable to this Authority, and this Authority shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election.

The Authority is authorized to expend funds collected as maintenance taxes for easements and rights-of-way and for any of the purposes for which an Authority could expend bond proceeds as well as for maintenance purposes, and the Authority is authorized to place surplus maintenance funds not needed for maintenance purposes into the sinking funds for any outstanding bonds of the Authority. The determination by the Board of Directors of the expenditure of maintenance funds of the Authority shall be final except on the grounds of fraud, palpable error, or gross abuse of discretion.

If the plans for works and improvements or amendments thereto contemplated by the Authority are prepared by the Soil Conservation Service, United States Department of Agriculture, and approved by the Authority's Directors, it shall not be necessary for an engineer's report covering the plans and improvements to be constructed, together with maps, plats, profiles and data fully showing and explaining same be filed in the office of the Authority before an election is held to authorize the issuance of bonds in connection with such works and improvements, and it shall not be necessary for such plans and specifications, engineering reports, profiles, maps and other data, or subsequent amendments thereto, to be approved by the Texas Water Commission prior to the issuance of such bonds; provided, however, that before the expenditure of any funds for the construction of any works and improvements, the approval of the Texas Water Commission shall be secured for that portion of the works



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and improvements to be constructed, and it shall not be necessary for advance approval to be given for the entire project contemplated by the Authority, but approval may be secured or given on a separate or individual basis for that portion of the entire project or works and improvements to be constructed at any particular time and on which plans and specifications of the Soil Conservation Service, United States Department of Agriculture, have been prepared and submitted by the Authority to the Texas Water Commission.

When bonds have been issued by the Authority and said bonds have been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, said bonds shall be incontestable for any cause save fraud, forgery and unconstitutionality. As amended Acts 1965, 59th Leg., p. 1106, ch. 530, § 6.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 8280—207. Tarrant County Water Control and Improvement District No. 1**

Sec. 2. Any territory situated within Tarrant or Johnson County, either contiguous to the District or not, may be annexed to the District in the following manner:

(a) A petition praying for such annexation signed by fifty (50) or a majority, whichever number is smaller, of the qualified voters of the territory shall be filed with the Board of Directors of the District. The petition shall describe the territory by metes and bounds or otherwise unless such territory is the same as that contained in a city or town, in which event it shall be sufficient to state that the territory to be annexed is that which is contained within such city or town or that portion of the city or town which is not then contained in the District.

(b) If the Board of Directors finds that the petition complies with, and is signed by the number of qualified persons required by, the foregoing Subsection, that the annexation would be to the interest of the territory and the District, and that the District will be able to supply water to the territory, or cause water to be supplied to the territory, it shall adopt a resolution stating the conditions, if any, under which territory may be annexed to the District, and requesting the Commissioners Court of Tarrant or Johnson County to annex said territory to the District, and such resolution shall be conclusive of the legal sufficiency of the petition and the qualifications of the signers thereof. A certified copy of such resolution and of the petition shall be filed with the Commissioners Court.

“(c) The Commissioners Court shall adopt a resolution declaring its intention to call an election in the territory for the purpose of submitting the proposition of whether or not such territory shall be annexed to the District, and fix a time and place when and where a hearing shall be held by the Commissioners Court on the question of whether the territory will be benefited by the improvements, works, and facilities then owned or operated or contemplated to be owned or operated by the District, or by the other functions of the District. Railroad right-of-way which is not situated within the defined limits of an incorporated city or town will not be benefited by improvements, works and facilities which the District is authorized to construct, therefore, it is provided that no railroad right-of-way shall hereafter be annexed to the District except such right-of-way as is contained within the limit of an incorporated city or town then or theretofore annexed to the District.

(d) Notice of the adoption of such resolution stating the time and place of such hearing, addressed to the citizens and owners of property

in such territory shall be published one (1) time in a newspaper designated by the Commissioners Court at least ten (10) days prior to the date of such hearing. The notice shall describe the territory in the same manner in which it is required or permitted by this Act to be described in the petition.

(e) All persons interested may appear at such hearing and offer evidence for or against the intended annexation. Such hearing may proceed in such order and under such rules as may be prescribed by the Commissioners Court, and the hearing may be recessed from time to time. If, at the conclusion of the hearing, the Commissioners Court finds that all of the lands in such territory will be benefited by the present or contemplated improvements, works or facilities of the District, the Commissioners Court shall adopt a resolution calling an election in the territory to be annexed stating therein the date of the election, the place or places of holding the same, and appointing a presiding judge for each voting place who shall appoint the necessary assistant judges and clerks to assist in holding the election.

(f) Notice of such election, stating the date thereof, the proposition to be voted upon and the conditions under which the territory may be annexed, or making reference to the resolution of the Board of Directors for that purpose, and the place or places of holding the same, shall be published one (1) time in a newspaper designated by the Commissioners Court at least ten (10) days before the day set for the election.

(g) Only qualified electors who reside in the territory sought to be annexed shall be qualified to vote in said election. Returns of said election shall be made to the Commissioners Court.

(h) The Commissioners Court shall canvass the returns of the election and adopt an order declaring the results thereof. If the Commissioners Court finds from the returns that a majority of the votes cast are in favor of annexation the Commissioners Court shall annex said territory to the District, and such annexation shall thereafter be incontestable except in the manner and within the time for contesting elections under the General Election Law. A certified copy of said order shall be recorded in the deed records of the County in which the territory is situated.

(i) The Commissioners Court in calling the election on the proposition for annexation of territory, may also submit a proposition for the assumption of its part of the tax-supported bonds of the District then outstanding and those theretofore voted but not yet sold, and for the levy of an ad valorem tax on taxable property in said territory along with the tax in the rest of the District for the payment thereof.

(j) After territory is added to the District, the Board of Directors of the District may call an election over the entire District for the purpose of determining whether the entire District as enlarged shall assume the tax-supported bonds then outstanding and those theretofore voted but not yet sold and whether an ad valorem tax shall be levied upon all taxable property within the District as enlarged for the payment thereof, unless such proposition had been voted along with the annexation election and becomes lawfully binding upon the territory annexed. Such election shall be called and held in the same manner as elections for the issuance of bonds as provided in this Act.

(k) If the territory of more than one city is proposed to be annexed to the District, separate elections shall be held in each city and only the territory of the city or cities in which a majority vote favors annexation shall be annexed. If two (2) or more areas which are not contiguous to each other are proposed to be annexed to the District, separate elections

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shall be held in each area, and only the area or areas in which a majority vote favors annexation shall be annexed.

(l) If the election for the assumption of indebtedness fails, the Commissioners Court shall, upon request of the Board of Directors, enter an order detaching the territory from the District.

(m) All expenses of hearings and elections held under this Act shall be paid by the District. As amended Acts 1965, 59th Leg., p. 1311, ch. 601, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Art. 8280—215. Darr's Creek Watershed Authority

Sec. 2. It is expressly determined and found that all of the territory included with the area of the District will be benefited by the works and projects which are to be accomplished by the Authority pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas. The area of the Authority shall be all of that territory in Bell County, Texas, enclosed within the following metes and bounds description, to wit:

BEGINNING at upper N E corner of the Donahoe Creek Watershed Authority now being formed, a point in the Little River where the west line of Milam County and the east line of Bell County, Texas, crosses said Little River.

THENCE, up the River in a Westerly direction to the North or N W corner of the Michael Reed Survey, Abst. #689.

THENCE, S 20 W with the West line of the Michael Reed Survey, to the N E corner of the 158 acre tract owned by the W. S. Reed Est., in the John Fulcher Survey, Abst. #10.

THENCE, About N 56 W with the North line of the said 158 acre tract, about 0.3 miles to the N W corner of same.

THENCE, N 20 E with the East line of a tract owned by W. V. Robinson to the N E corner of same.

THENCE, N 70 W with the North line of the Robinson Land, about 0.6 miles to a corner of same.

THENCE, S 20 W about 0.1 miles to another corner of same.

THENCE, N 70 W about 0.15 miles to another corner of the Robinson tract.

THENCE, S 20 W about 0.2 miles to another corner of same.

THENCE, N 70 W about 0.3 miles to another corner of the Robinson, land on the West line of the Fulcher Survey, on the East line of the William C. Sparks Survey, Abst. #19.

THENCE, N 20 E about 0.3 miles to the N E Corner of a 186 acre tract also owned by Robinson.

THENCE, N 70 W about 0.2 miles to the N W corner of the Robinson tract, in the East line of a tract of 185 acres owned by E. Karkoska.

THENCE, S W to the S E corner of the Karkoska tract.

THENCE, N W to the S W corner of the Karkoska tract, in the East line of the Louis Martinet 125.4 acre tract.

THENCE, S 20 W with East line of the Martinet tract to the S E corner of same.

THENCE, N 70 W with the South line of the Martinet land and the North line of a tract of 46 acres owned by the W. S. Reed Est., about 0.25 miles to the East R O W line of the M. K. & T. Railroad.

THENCE, in a Southwesterly direction with the R O W line to the point where said R O W line crosses the North line of the John Reed Survey, Abst. #705.

- THENCE, N 70 W to the N W corner of the Reed Survey.
- THENCE, S 20 W with the West line of the said Reed Survey, to the N E corner of the M. W. Damron Survey, Abst. #255.
- THENCE, N 70 W with the North line of the Damron Survey to the N W corner of same.
- THENCE, Westerly across a small neck of the J. D. Sholl Survey, Abst. #780 (lying mostly to the North) to the N E corner of the L. S. Simpson Survey, Abst. #776.
- THENCE, N 70 W with the North line of the Simpson Survey to the N W corner of same, on the East line of the Antonio Manchaca Survey, Abst. #12.
- THENCE, N 20 E with the East line of the Manchaca Survey approximately 500 varas to the N E corner of Cassen's farm which is also the S E corner of a 75 acre tract owned by Smelser in the Manchaca Survey.
- THENCE, N 70 W approximately 4750 varas to a County Road, being a paved road which joins the Holland-Salado Farm Road #2268 with the Holland-Belton Farm Road #1123 and crosses Salado River at Armstrong Crossing.
- THENCE, S 20 W with said County Road to the point where said County Road intersects the Holland-Salado Farm Road #2268.
- THENCE, in a westerly direction with the said Holland-Salado Farm Road #2268, passing out of the Joseph Atkin Survey and crossing the Squire Haggard Survey, Abst. #424, about 1.5 miles, a point on the West line of the said Haggard Survey.
- THENCE, S 20 W with the Survey line to an Ell corner of the Survey.
- THENCE, N 70 W with the Lower North line of the Haggard Survey, to the Lower N W corner.
- THENCE, S 20 W to the S W corner of the Haggard Survey.
- THENCE, S 70 E with the South line of the Haggard Survey to the East corner of the Alexander McKenzie Survey, Abst. #542.
- THENCE, S 71 W with the South line of the McKenzie Survey to the S W corner of same, the N W corner of the William Landrum Survey, Abst. #73.
- THENCE, S 19 E with West line of the Landrum Survey to the S W corner of said Landrum Survey.
- THENCE, S W along the Southern line of the F. Sackman Survey, Abst. #766 to the Eastern Boundary of the Burk Trammel Survey, Abst. #829.
- THENCE, N W along Eastern line of the said Burk Trammel Survey to the N E corner of same.
- THENCE, S W along the upper Southeastern line of said F. Sackman Survey to the S W corner of said Survey.
- THENCE, N 19 W with the East line of the James W. Baldrige Survey, Abst. #96 to the N E corner of same.
- THENCE, S W along the N W line of said James W. Baldrige Survey, Abst. #96 to the N W corner of said Baldrige Survey.
- THENCE, S 19 E with the West line of the Baldrige and the West line of the Rueben Plummer Survey, Abst. #655 to the S W corner of the Plummer Survey, here joining the North line of the Donahoe Creek Watershed Authority.
- THENCE, with the North line of the Donahoe Creek Watershed Authority, as follows:
- THENCE, N 71 E with the North line of the Josiah Chalk Survey and the North line of the H. Barney Survey, Abst. #1064, and the South

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line of the Rueben Plummer Survey, to the S E corner of the Plummer Survey and the N E corner of the H. Barney Survey.

THENCE, S 18° E with the upper East line of the H. Barney Survey, to Ell corner of the Barney Survey.

THENCE, N 71° E with the lower North line of the Barney Survey, to the Eastmost N E corner, at the N W corner of the Amos Pollard Survey, Abst. #667, and at the S W corner of the Henry Barney Survey, Abst. #950.

THENCE, S 70° E with the South line of the Henry Barney Survey to the S E corner of the Survey.

THENCE, N 20° E with the East line of the Henry Barney Survey to the N W corner of the John L. Christoph Survey, Abst. #190.

THENCE, S 70° E with the North line of the Christoph Survey to the point where (about 0.6 miles distant) a county road crosses the Survey line.

THENCE, in a Northerly direction about 0.5 miles, with the road and crossing a part of the M. F. DeGraffenreid Survey, Abst. #275, to the S W corner of the John Laise Survey, Abst. #515, also an Ell corner of the DeGraffenreid Survey.

THENCE, N 71° E with the South line of the Laise Survey and the line of the DeGraffenreid Survey, to the point where another County road intersects said lines, about the upper N W corner of the DeGraffenreid Survey.

THENCE, in an E SE direction with the County road, along or near the North line of this DeGraffenreid Survey and the North line of another M. F. DeGraffenreid Survey, Abst. #274, to a bend in the road.

THENCE, S 20° W with the road, about 0.4 miles to a fork in the road.

THENCE, S 70° E with the road, about 0.6 miles to another bend in the road, on or Near the East line of the DeGraffenreid Survey, in the West line of the Joseph Branham Survey, Abst. #123.

THENCE, N 20° E with the road and Survey lines, about 0.1 miles to another bend in the road.

THENCE, S 70° E about 0.6 miles with the road to a bend.

THENCE, N 20° E about 0.1 miles with the road, to another bend.

THENCE, S 70° E about 1.0 miles to a crossroad.

THENCE, S 20° W about 0.1 miles to a crossroad.

THENCE, S 70° E at about 0.6 miles cross the East line of the J. Branham Survey and the West line of the William Newland Survey, Abst. #626, in all about 0.9 miles to a bend.

THENCE, N 20° E with the road about 0.6 miles to a bend.

THENCE, S 70° E with the road about 0.1 miles to the East R. O. W. line of the M K & T Railroad running between Bartlett and Holland, Texas.

THENCE, Northerly with the said R. O. W. line across the Newland Survey and across the Lucian Barney Survey, Abst. #949, to the point where said R. O. W. line crosses the North line of the Barney Survey and the South line of the James B. Wills Survey.

THENCE, S 70° E with the South line of the J. B. Wills Survey, Abst. #984, and the George Allen Survey, Abst. #42, to the S E corner of the George Allen Survey.

THENCE, N 20° E with the East lines of the George Allen and the J. D. Sholl Survey, Abst. #781, to the point where the center of Farm Road running from just South of Holland thru Vilas, crosses the East line of the said Sholl Survey.

THENCE, in an Easterly direction with Farm Road #2270, through Vilas, to the point where the Farm Road crosses the Bell-Milam County line.

THENCE, N 20° E with the Bell-Milam County line to the center of Little River, the POINT OF BEGINNING, and containing approximately 38,144 acres. As amended Acts 1965, 59th Leg., p. 1415, ch. 627, § 1, emerg. eff. June 17, 1965.

Sections 2 and 3 of the amendatory act of 1965 provided:

"Sec. 2. That the creation, establishment, organization, maintenance, and operation of the watershed authority in Bell County, known as the Darr's Creek Watershed Authority, and the establishment and organization of the Board of Directors thereof, are hereby validated in all respects as though they had been duly and lawfully accomplished in the first instance; and all taxes voted in said District, and all elections held to authorize same, are hereby

validated in all respects, as though they had been duly and lawfully conducted in the first instance; and all acts and proceedings performed, had, or attempted pursuant to this Act are hereby validated in all respects, as though they had been duly and lawfully accomplished in the first instance.

"Sec. 3. The provisions of this Act shall not apply to any such acts and proceedings hereby validated, the validity of which has been contested or attacked in any pending suit or litigation."

### Art. 8280—238. Valley Creek Water Control District

Sec. 5. In exercising the power for which the District is created, it shall have all of the authority conferred by general law upon water control and improvement districts, including, but not limited to, the power to construct, acquire, improve, maintain and repair dams or other structures and the acquisition, by eminent domain or otherwise, of land, easements, properties, or equipment which may be needed to utilize, control, and distribute any waters that may be impounded, diverted, or controlled by the District.

In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. As amended Acts 1965, 59th Leg., p. 485, ch. 247, § 1, emerg. eff. May 21, 1965.

## VII. PARTICULAR WATER SUPPLY AND CONTROL DISTRICTS

### CHAPTER TWELVE—CREATION, POWERS AND OBLIGATIONS

Art. 8280-297. Evergreen Underground Water Conservation District [New].	Art. 8280-305. Plateau Underground Water Conservation and Supply District [New].
8280-298. Mackenzie Municipal Water Authority [New].	8280-306. Treeline Improvement District [New].
8280-299. Deep East Texas Interbasin Navigation District [New].	8280-307. Gulf Freeway Municipal Utility District [New].
8280-300. South China Improvement District [New].	8280-308. San Leon Municipal Utility District [New].
8280-301. Cardinal Meadows Improvement District [New].	8280-309. Timberlake Improvement District [New].
8280-302. North Nome Improvement District [New].	8280-310. Pineview Water Supply District [New].
8280-303. Three Rivers Water District [New].	8280-311. Clear Creek Basin Authority [New].
8280-304. Turkey Creek Improvement District [New].	8280-312. Blue Water Municipal Utility District [New].

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Art.		Art.	
8280-313.	Treasure Island Municipal Utility District [New].	8280-328.	South Concho River Flood Control District [New].
8280-314.	Folletts Island Water Supply District [New].	8280-329.	Acres Homes Improvement District [New].
8280-315.	Crosby Municipal Utility District [New].	8280-330.	Wilcrest Improvement District [New].
8280-316.	Comanche Hills Utility District [New].	8280-331.	Briarwick Improvement District [New].
8280-317.	Harbor Improvement District of Galveston County [New].	8280-332.	Bender Road Improvement District [New].
8280-318.	Pirate's Cove Municipal Utility District [New].	8280-333.	West Road Improvement District [New].
8280-319.	Village of San Luis Municipal Utility District [New].	8280-334.	Bordersville Improvement District [New].
8280-320.	Lazy River Improvement District [New].	8280-335.	Lipan Creek Flood Control District [New].
8280-321.	Rayburn Improvement District [New].	8280-336.	Mason County River Authority [New].
8280-322.	Commodore Cove Improvement District [New].	8280-337.	Newton County Navigation District [New].
8280-323.	Lakeside Beach Improvement District [New].	8280-338.	Braeburn West Utility District [New].
8280-324.	Clear Woods Improvement District [New].	8280-339.	Galveston County Water Authority [New].
8280-325.	Inverness Forest Improvement District [New].	8280-340.	Cypress Valley Navigation District [New].
8280-326.	Sequoia Improvement District [New].	8280-341.	Franklin County Water District [New].
8280-327.	Flamingo Isles Municipal Utility District [New].		

#### Art. 8280—254. Rio Grande Palms Water District

Section 1. Under and pursuant to the provisions of Article XVI, Section 59, of the Constitution, a conservation and reclamation district within Cameron County, Texas, is hereby created and incorporated, to be known as "Rio Grande Palms Water District," hereinafter sometimes referred to as the "District." Said District is situated within the Espiritu Santo and San Pedro de Carricitos Grants of land in said County. The boundaries thereof are as follows:

BEGINNING at the Northeast corner of what is commonly known as Noriega Tract out of Share No. One, Espiritu Santo Grant, Cameron County, Texas, said corner being the intersection of the East line of the said Share No. One with the centerline of 80.0 feet Iowa Gardens County Road, for the Northeast corner of the tract herein described;

THENCE, with the North line of said Noriega Tract and the said centerline of Iowa Gardens Road, N 80 deg 41 min 30 sec W 4037.9 feet to the Northwest corner of said Noriega Tract and the Northeast corner of Lot 1, Block 1, Barreda Gardens Subdivision;

THENCE, along the centerline of said Iowa Gardens Road, along the North line of said Block 1, N 80 deg 44 min W 2811.1 feet to the Northwest corner of said Block 1 and the Northeast corner of Block 2, Barreda Gardens Subdivision;

THENCE, along the centerline of said Iowa Gardens Road, along the North line of said Block 2, N 80 deg 44 min W 3731.3 feet (recorded map shows 3735.3 feet) to the Northwest corner of said Block 2 and the Northeast corner of Block 3, Barreda Gardens Subdivision;

THENCE, along the centerline of said Iowa Gardens Road, along the North line of said Block 3, N 80 deg 33 min W 5110.1 feet (recorded map call for 5113.2 feet) to the Northwest corner of Block 3 and the Northeast corner of a 196.8 acre tract out of the Northern part of what is commonly called the Sams-Porter Tract in San Pedro de Carricitos Grant, Cameron County, Texas;

THENCE, along the centerline of said Iowa Gardens Road, along the North line of the Sams-Porter Tract, N 80 deg 52 min W 2343.8 feet to

the Northwest corner of the said 196.8 acre tract, for the Northwest corner of this tract;

THENCE, along the West line of said Sams-Porter Tract, along the West line of said 196.8 acre Tract, S 9 deg 41 min W 2711.5 feet to an intersection with the centerline of 100 ft. State Highway No. 4 for a corner;

THENCE, running 100 feet perpendicularly distance from and parallel to the centerline of the St. Louis, Brownsville and Mexico railroad with the centerline of 100 ft State Highway No. 4, S 45 deg 30 min E 2045.8 feet to the beginning of a curve to the right having a radius of 5830.0 feet and a central angle of  $10^{\circ}-03\frac{1}{2}'$  and whose chord is S  $40^{\circ} 28' 15''$  East 1022.1 ft.;

THENCE, with said curve 1023.5 feet to the intersection with west line of Barreda Gardens Subdivision, same being the division line between the San Pedro de Carricitos and the Espiritu Santos Grants;

THENCE, along the west line of the Barreda Gardens Subdivision, N 8 deg 10 min 30 sec E 73.3 feet to a point on the Northeast right of way of the 100 ft State Highway No. 4 for a corner;

THENCE, along the Northeast right of way line of 100 ft. State Highway No. 4, S 35 deg 00 min E 3692.2 feet to the northwest corner of the Barreda Townsite;

THENCE, along the northeast right of way line of 100 ft. State Highway No. 4, S 35 deg 00 min E 3833.2 feet to the beginning of a curve to the right with a central angle of 3 deg 05 min and a radius of 5879.5 feet and whose chord is S  $33^{\circ} 27' 30''$  East 316.3 feet;

THENCE, with said curve a distance of 316.4 feet to end of said curve;

THENCE, along the northeast right of way line of 100 ft State Highway No. 4, S 31 deg 55 min E 2123.8 feet to the Westernmost corner of Lot 35, Block 9, Barreda Gardens Subdivision;

THENCE, along the Northeast right of way line of 100 ft State Highway No. 4, along the Southwest line of Lots 35, 37, 38, 39, 40, and 41, Block 9, Barreda Gardens Subdivision, S 31 deg 55 min E 669.0 feet to a point for a corner, said point being N 31 deg 55 min W 45.0 feet from the Southernmost corner of Lot 41;

THENCE, crossing State Highway No. 4 and said railroad, S 58 deg 05 min W 200.0 ft. to a point on the southwest right of way line of said railroad, 50.0 feet perpendicularly from its centerline, said point being N 31 deg 55 min W 45.0 feet from the easternmost corner of Lot 52, Block 10, Barreda Gardens Subdivision;

THENCE, along the northeast line of Lots 52 and 51, Block 10, N 31 deg 55 min W 155.0 feet to the northernmost corner of Lot 51;

THENCE, along the line between Lots 51 and 50, S 58 deg 05 min W 217.8 feet;

THENCE, S 31 deg 55 min E 800.0 feet to a point on the line between Lots 58 and 59, Block 10;

THENCE, along the line between Lots 58 and 59, S 58 deg 05 min W 217.8 feet to the southernmost corner of Lot 58 and the westernmost corner of Lot 59;

THENCE, along the northeast line of Lot 1, Block 10, N 31 deg 55 min W 66.3 feet to a point for a corner;

THENCE, 150 feet perpendicularly from the southeast and south lines of Lot 1, Block 10, S 58 deg 05 min W 673.2 feet and N 82 deg 30 min W 342.7 feet to a point on the line between Lot 1 and Lot 38, Block 10;

THENCE, along the line between Lot 1 and Lot 38, S 31 deg 55 min E 135.9 feet to a point for a corner;



For Annotations and Historical Notes, see V.A.T.S.

THENCE, 45.0 feet perpendicularly north of and parallel to the south line of Lot 38, N 82 deg 30 min W 965.0 feet to a point for a corner;

THENCE, 45.0 feet perpendicularly east of and parallel to the west line of Lot 38, N 7 deg 30 min E 45.0 feet to a point for a corner;

THENCE, 90.0 feet perpendicularly north of and parallel to the south line of Lot 38, Block 10, Lots 16 and 15, Block 11, N 82 deg 30 min W, at 45.0 feet the east line of Lot 16, a total distance of 1980.0 feet to a point for a corner;

THENCE, 45.0 feet perpendicularly east of and parallel to the west line of Lot 15, N 7 deg 30 min E 615.0 feet to a point for a corner;

THENCE, N 82 deg 30 min W 9.9 feet to a point on the line between Lots 15 and 7 to a point for a corner;

THENCE, along the line between Lots 15 and 7, N 45 deg 27 min E 101.4 feet to a point for a corner;

THENCE, 125.0 feet perpendicularly north of and parallel to the south line of Lots 7, 8 and 9, Block 11, Barreda Gardens Subdivision, N 82 deg 30 min W, at 757.5 feet the west line of Lot 7, a total distance of 2077.5 feet to a point on the west line of Lot 9 and the east line of Lot 10;

THENCE, along the line between Lots 9 and 10, S 7 deg 30 min W 80.0 feet to a point for a corner;

THENCE, 45.0 feet perpendicularly north of and parallel to the south line of Lots 10 and 71, N 82 deg 30 min W 1066.5 feet to a point on the west line of Lot 71, Block 11, for a corner;

THENCE, along the west line of Lot 71, S 24 deg 13 min W 47.0 feet to the southwest corner of Lot 71 and the northwest corner of Lot 70;

THENCE, along the west lines of Lot 70, S 37 deg 16 min W 460.8 feet and S 8 deg 10 min 30 sec W 260.0 feet to the southwest corner of Lot 70 and the northwest corner of Lot 69;

THENCE, along the West line of Barreda Gardens Subdivision, S 8 deg 10 min 30 sec W, at 6600.4 the southwest corner of Block 11 and the northwest corner of Block 12 of said subdivision, at 14,520.8 the southwest corner of Lot 42, Block 12 and the northwest corner of Lot 66, Block 12, a total distance of 16,368.5 feet to the southwest corner of Lot 66, Block 12;

THENCE, along the south lines of Lot 66, and Lot 65C Block 12, S 21 deg 02 min E 196.7 feet, S 51 deg 00 min 30 sec E 152.0 feet and S 63 deg 25 min 30 sec E 349.0 feet to a point that is 100.0 feet from the centerline of the Main Canal on the north bank of the Resaca del Rancho Viejo;

THENCE, crossing said resaca, 100.0 feet perpendicularly west of the centerline of the Main Canal flume, S 8 deg 03 min W 132.9 feet to the northwest corner of Lot 8, Block 15, Barreda Gardens Subdivision;

THENCE, along the west line of Lot 8, Block 15, 100.0 feet perpendicularly west of the centerline of the Main Canal, S 7 deg 57 min 30 sec W 1496.4 feet to the Southwest corner of Lot 8 and the northwest corner of Lot 9, Block 15;

THENCE, along the west line of Lots 9, 10, 23 and 24, Block 15, S 8 deg 10 min 06 sec W, 2435.2 feet to the westernmost corner of said Lot 24;

THENCE, along the northeast right of way line of an abandoned railroad, along the southwest lines of Lot 24, Block 15, Lots 25, 3, 4, 9, 8, 19, 20, 29, 28, and 35, Block 16 S 10 deg 44 min 31 sec E a distance of 6670.2 to a point for a corner;

THENCE, S 79 deg 15 min 29 sec W, at 100.0 feet the east line of Lot 36, Block 16, and continuing 200.0 feet perpendicularly south of and parallel to the north line of Lot 36, a total distance of 866.0 feet to a point on the west line of Lot 36;

THENCE, along the west line of Lot 36, S 10 deg 31 min 07 sec E 209.2 feet to the southwest corner of Lot 36;

THENCE, along the south line of Lot 36, and the south line of Lot 35, S 82 deg 30 min E at 814.0 feet the southeast corner of Lot 36, at 920.5 feet the southwest corner of Lot 35, a total distance of 1154.7 feet to a point for a corner;

THENCE, in Santander Townsite, 100.0 ft. perpendicularly West of the centerline of Main Canal S 15 deg 27 min E 71.2 feet to the beginning of a curve to the left with a central angle of 15 deg 12 min and a radius of 1532.5 feet and whose chord is S 23° 03' East 405.4 feet;

THENCE, along the arc of said curve, a distance of 406.5 feet to the end of said curve;

THENCE, S 30 deg 39 min E, 100.0 feet perpendicularly from the centerline of Main Canal, a distance of 1216.8 feet to a point for a corner;

THENCE, 100.0 feet perpendicularly west of the Main Canal siphon, S 9 deg 01 min E, at 17.8 feet the south line of Santander Townsite and the North line of the Cameron County Floodway, a total distance of 622.4 feet to a point for a corner;

THENCE, S 30 deg 10 min E, at 17.6 feet the Northwest corner of Lot 5, Block 18, Barreda Gardens Subdivision, along the east line of Lots 5, 6, 9, 10, 13, 14, 15, 16 and 17, Block 18, a total distance of 5784.0 feet to the beginning of a curve to the right with a central angle of 90 deg and a radius of 711.3 feet and whose chord is S 14° 50' west 1005.9 feet;

THENCE, along the arc of said curve, along the east line of Lot 17 and the south line of Lot 18, a distance of 1117.3 feet to the end of said curve;

THENCE, along the south line of Lot 18, S 59 deg 50 min W at 996.6 feet the southwest corner of Lot 18, and the east line of the Military Highway, a total distance of 1079.1 feet to the west line of the Military Highway;

THENCE, along the West line of the Military Highway, in a northerly direction along the arc of a curve to the right with a radius of 995.4 feet and whose chord is North 15° 18' 05" West 47.6 feet, a distance of 47.6 feet to the northernmost corner of the Settling Basin tract as shown on the Barreda Gardens Subdivision;

THENCE, S 52 deg 37 min W 816.6 feet, S 54 deg 17 min W 1046.8 feet, S 31 deg 09 min E 1513.6 feet, S 39 deg 20 min 30 sec E 727.5 feet and S 7 deg 36 min W 1228.5 feet to a point on the bank of the Rio Grande River;

THENCE, along the bank of the Rio Grande, N 70 deg 43 min E, at 224.2 feet the southwest corner of a 1.36 acre tract, at 504.5 feet the south corner of Lot 28, Block 18, a total distance of 692.6 feet and N 65 deg 23 min E 605.4 feet to a point for a corner;

THENCE, N 7 deg 28 min E 741.5 feet, N 87 deg 54 min E 548.0 feet and N 8 deg 10 min E 124.8 feet to a point in the south line of Lot 23, Block 18, for a corner;

THENCE, along the south line of Lots 23 and 24, Block 18, S 86 deg 50 min 30 sec W 1495.8 feet to the southwest corner of Lot 24;

THENCE, along the southwest lines of Lots 25, 26, and 27, N 39 deg 20 min 30 sec W 800.0 feet, N 31 deg 09 min W 760.9 feet to the beginning of a curve to the right with a central angle of 87 deg 09 min and a radius of 600.1 feet and whose chord is North 12 deg 25 min 30 sec East 827.2 feet;

THENCE, along the arc of said curve, along the west line of Lot 27, a distance of 912.8 feet to the end of said curve;

THENCE, along the north line of Lot 27, N 56 deg 00 min E 1042.0 feet to the northernmost corner of Lot 27 on the west line of the Military Highway;

For Annotations and Historical Notes, see V.A.T.S.

THENCE, along the west line of the Military Highway, in a northerly direction along an arc of a curve to the right with a radius of 995.4 feet and whose chord is north 28 deg 42 min 56 sec west 13.4 feet, a distance of 13.4 feet to a point for a corner;

THENCE, crossing the Military Highway, N 59 deg 50 min E, at 80.1 feet the east line of the Military Highway and the westernmost corner of Lot 19, Block 18, a total distance of 1106.3 feet to the northernmost corner of Lot 19;

THENCE, S 30 deg 10 min E 200.0 feet to a point that is the beginning of a curve to the left with a central angle of 90 deg and a radius of 1111.3 feet, and whose tangents are North 59 deg, 50 min East 1111.3 feet and North 30 deg 10 min W 1111.3 ft.;

THENCE, along the arc of said curve in a northeasterly and northerly direction, a distance of 1745.6 feet to the end of said curve;

THENCE, 400.0 feet perpendicularly east of the east lines of Lots 17 and 16, N 30 deg 10 min W 514.5 feet to a point for a corner;

THENCE, N 82 deg 25 min 30 sec W 126.5 feet to a point for a corner;

THENCE, 300.0 feet perpendicularly east of the east line of Lots 16, 15, 14, 13, 10, 9, 6 and 5, N 30 deg 10 min W, at approx 1200 ft the south line of Lot 12, and then 100.0 feet perpendicularly east of the west line of Lots 12, 11, 8, 7, 4, Block 18, a total distance of 5171.0 feet to a point on the north line of Lot 4 and the south line of the Cameron County Floodway;

THENCE, along the north line of Lot 4 and the south line of the floodway, S 60 deg 29 min W 93.2 feet to a point for a corner;

THENCE, crossing said floodway, 100 feet perpendicularly east of the siphon on the Main Canal, N 9 deg 01 min W, at 544.7 feet the south line of the Santander Townsite and the north line of said floodway, a total distance of 604.5 feet;

THENCE, 100.0 feet perpendicularly east of the centerline of the Main Canal, in Santander, N 30 deg 39 min W a distance of 1255.0 feet to the beginning of a curve to the right with a radius of 1332.5 feet and a central angle of 14 deg 37 min and whose chord is North 23 deg 20 min 30 sec west 339.0 feet;

THENCE, along the arc of said curve, a distance of 339.9 feet to a point on the south line of Lot 35, Block 16, for a corner;

THENCE along the south line of Lot 35, S 82 deg 30 min E 108.6 feet to a point for a corner;

THENCE, 200.0 feet perpendicularly from the centerline of the main canal, N 15 deg 27 min W 403.3 feet to the beginning of a curve to the left with a central angle of 20 deg 03 min and a radius of 518.4 feet and whose chord is north 25 deg 28 min 30 sec west 180.4 feet;

THENCE, along the arc of said curve 200 feet from the centerline of the canal, a distance of 181.2 feet to the end of said curve;

THENCE, N 35 deg 30 min W 219.4 feet to the beginning of a curve to the right with a central angle of 24 deg 45 min and a radius of 755.4 feet and whose chord is North 23 deg 07 min 30 sec west 323.8 feet;

THENCE, along the arc of said curve 200 feet from the centerline of the main canal, a distance of 326.4 feet to the end of said curve;

THENCE, 300.0 feet perpendicularly east of the west line of Lots 28, 29, 20, 19, 8, 9, 4, 3, and 25, Block 16 and Lot 24, Block 15, N 10 deg 44 min 31 sec W, at 2462.6 feet the north line of Lot 19 and the south line of Lot 8, at 5937.2 feet the north line of Lot 25, Block 16 and the south line of Lot 24, Block 15, a total distance of 6044.7 feet to the beginning of a curve to the right with a central angle of 18 deg 54 min 37 sec and a radius of 946 feet and whose chord is north 01 deg 17 min 13 sec west 310.8 feet;

THENCE, along the arc of said curve a distance of 312.2 feet to the end of said curve;

THENCE, 300.0 feet perpendicularly east of the west line of Lots 24, 23, 10 and 9, Block 15, N 08 deg 10 min 06 sec E a distance of 2231.0 feet to a point on the north line of Lot 9 and the south line of Lot 8;

THENCE, 300.0 feet perpendicularly east of the west line of Lot 8, Block 15, N 7 deg 57 min 30 sec E 1394.6 feet to a point on the north line of Lot 8;

THENCE, along the north line of Lot 8, N 79 deg 39 min W 89.7 feet, and N 57 deg 02 min W 11.4 feet to a point that is 100.0 feet perpendicularly east of the centerline of the canal siphon;

THENCE, 100.0 feet perpendicularly east of the centerline of the canal siphon, crossing the Resaca del Rancho Viejo, N 8 deg 03 min E 170.8 feet to a point in the south line of Lot 65, Block 12, on the north bank of said resaca;

THENCE, S 69 deg 11 min E 43.0 feet and S 77 deg 54 min 30 sec E 8.0 feet to a point that is 150 feet from the centerline of the Main Canal;

THENCE, N 8 deg 03 min E 85.0 feet to the beginning of a curve to the left with a central angle of 69 deg 24 min and a radius of 250.0 feet and whose chord is north 26 deg 39 min west 284.6 feet;

THENCE, with the arc of said curve, a distance of 302.8 feet to the end of said curve;

THENCE, continuing 150 feet from the centerline of the canal, N 61 deg 21 min W 365.5 feet to an angle point;

THENCE, continuing 150 feet from the centerline of the canal, N 8 deg 09 min E, at 1818.5 feet the North line of Lot 66 and the south line of Lot 42, Block 12, a total distance of 11,592.2 feet to an angle point in Lot 63, Block 11;

THENCE, continuing 150 feet from the centerline of said canal, N 7 deg 24 min 30 sec E 2108.9 feet to the north line of Lot 64 and the south line of Lot 66, Block 11;

THENCE, along the north line of Lot 64 and the south line of Lot 66, N 82 deg 30 min W 50.0 feet to a point that is 100 feet from the centerline of said canal;

THENCE, 100 feet from the centerline of said canal, N 7 deg 24 min 30 sec E 2640.0 feet to a point in the north line of Lot 69 and the south line of Lot 70, Block 11, said point being S 82 deg 30 min E 184.3 feet from the northwest corner of Lot 69 and the southwest corner of Lot 70;

THENCE, along the north line of Lot 69 and the south line of Lot 70, S 82 deg 30 min E 115.7 feet, said point being 300.0 feet from the northwest corner of Lot 69 and the southwest corner of Lot 70;

THENCE, 300.0 feet perpendicularly east of the west line of Lot 70, N 8 deg 10 min 30 sec E 178.6 feet and N 37 deg 16 min E 399.1 feet to a point that is 135.0 feet perpendicularly south of the north line of Lot 70;

THENCE, 135.0 feet perpendicularly south of and parallel to the north line of Lots 70 and 11, S 82 deg 30 min E 811.7 feet to a point on the east line of Lot 11 and the west line of Lot 12;

THENCE, on the line between Lot 11 and Lot 12, N 7 deg 30 min E 90.0 feet to a point for a corner;

THENCE, 45.0 feet perpendicularly south of and parallel to the north line of Lots 12, 13 and 14, S 82 deg 30 min E 1935.0 feet to a point;

THENCE, 45.0 feet perpendicularly west of the east line of Lot 14, S 7 deg 30 min W 615.0 feet to a point on the south line of Lot 14 and the north line of Lot 19;

THENCE, along the south line of Lots 14, 15, and 16, S 82 deg 30 min E 1980.0 feet to a point;

For Annotations and Historical Notes, see V.A.T.S.

THENCE, 45.0 feet perpendicularly west of the east line of Lot 17, S 7 deg 30 min W 45.0 feet;

THENCE, S 82 deg 30 min E 45.0 feet to a point on the east line of Lot 17, Block 11 and the west line of Lot 2, Block 10;

THENCE, along the line between said Lot 17 and Lot 2, S 7 deg 30 min W 105.0 feet;

THENCE, 150.0 feet perpendicularly south of and parallel to the north line of Lot 2 and the northwest line of Lot 3, S 82 deg 30 min E 1373.7 feet and N 58 deg 05 min E 780.6 feet to a point in the northeast line of Lot 3;

THENCE, along the northeast line of Lot 3, S 31 deg 55 min E 16.3 feet to a point;

THENCE, 50.0 feet perpendicularly southeast of and parallel to the northwest line of Lot 61, Block 10, N 58 deg 05 min E 435.6 feet to a point on the northeast line of Lot 61, said point being on the southwest right of way line of the St. Louis, Brownsville and Mexico Railroad (50.0 feet from its centerline);

THENCE, along the said southwest right of way line, along the northeast line of Lots 61 to 53, incl. N 31 deg 55 min W 805.0 feet to a point, said point being S 31 deg 55 min E 45.0 feet from the northernmost corner of Lot 53, Block 10;

THENCE, crossing the railroad right of way and State Highway No. 4 right of way, N 58 deg 05 min E 200.0 feet to a point on the southwest line of Lot 42, Block 9, said point being S 31 deg 55 min E 45.0 feet from the westernmost corner of Lot 42;

THENCE, along the southwest line of Lots 42 to 80, incl. Block 9 along the northeast right of way line of 100 ft State Highway No. 4, S 31 deg 55 min E 4268.5 feet to the east line of the Barreda Gardens Subdivision, said point being on the west line of the Brooks Tract;

THENCE, along the northeast right of way line of 100 ft State Highway No. 4, S 31 deg 54 min E 1805.6 feet to the beginning of a curve to the left with a central angle of 10 deg 57 min and a radius of 5544.8 feet and whose tangents are S 31 deg 54 min east 531.5 feet, and south 42 deg 51 min east 531.5 feet;

THENCE, along the arc of said curve a distance of 1059.5 feet;

THENCE, N 47 deg 57 min E 6170.4 feet to a point on the east line of Share one, Espiritu Santo Grant, and the east line of the previously mentioned Noriega Tract;

THENCE, along the East line of Share No. One and the east line of the Noriega Tract, N 7 deg 32 min E 12,739.8 feet to the place of beginning, containing 4880 acres, more or less.

If there is any error or omission in the description of the boundaries of said District, as set forth in Section 1 of this Act, the Commissioners Court of Cameron County, Texas, is hereby authorized and directed to re-define said boundaries and correct the error or supply the omission. As amended Acts 1965, 59th Leg., p. 821, ch. 399, § 1, emerg. eff. June 9, 1965.

#### Art. 8280—257. Upper Leon River Municipal Water District

Sec. 17. No contract under which the District will supply water to a Potential City or to any other city hereafter annexed to the District shall be executed and no tax shall be levied for bonds in any such Potential City or city until such action shall have been authorized at an election held in such Potential City or in such city. Within the discretion of the Board of Directors of the District the first election on the question of executing such contract and the first election as to voting such tax may be held in less than all of the Potential Cities. Until an election is held in a Potential City and until it has voted adversely, it shall remain a Potential

City. Whenever an election is held in all Potential Cities or in some of them either for approval of contracts between the respective Potential Cities and the District, or for the voting of an ad valorem tax to pay wholly or partially the principal of and interest on any bonds proposed by the District, and if a majority of the votes cast in one or more of such Potential Cities is against either the executing of such contract or against tax-supported bonds, the Board of Directors may adopt a resolution detaching the territory of any such city from the District if the Board finds that it is to the best interest of the District to execute such contracts with the Potential Cities voting favorably to issue bonds payable wholly or partially from taxes, or to execute such contracts and without participation by the Potential Cities thus voting unfavorably, but no territory shall be detached from the District after the issuance of bonds which are payable from revenues or taxes or both, or after the execution of such contracts. Any city thus detached from the District shall be eligible for reannexation under the provisions of Section 5 hereof. Potential Cities which shall have voted in favor of such contract or tax-supported bond issue, as the case may be, shall after such vote be Constituent Cities, and as such shall remain committed under such vote.

Provided that at any time before taxes have been levied by the District, and at such time as a majority in number of the Potential Cities named in Section 2 of this Act shall have held elections on the question of approval of contracts between the Potential Cities and the District, and such contracts have been voted favorably in a majority of such Potential Cities, and bonds, the interest on and principal of which are payable from revenues of such contracts, shall have been sold and delivered to the purchaser or purchasers thereof, thereafter (a) only Directors appointed by the governing bodies of Constituent Cities shall have the right to vote on matters coming before the Board of Directors, (b) only Directors appointed by the governing bodies of Constituent Cities shall be counted for the purpose of establishing a quorum of such Board, and (c) upon the passage of an ordinance by the governing body of any Potential City declaring the territory of such Potential City detached, and the filing of a certified copy of such ordinance with the District, the territory of such Potential City shall be detached from the District. As amended Acts 1965, 59th Leg., p. 1149, ch. 542, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Section 2 of the amendatory act of 1965 provided: "Proof of Publication of the Constitutional notice required in the enactment hereof under the provisions of paragraph (d) of Section 59 of Article XVI of the Texas Constitution has been made

in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such Constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements."

#### Art. 8280—281. Dalby Springs Conservation District

Sec. 2. The District shall have and exercise and is hereby vested with all the rights, powers, privileges, and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59, Article XVI of the Constitution, and all amendments thereto, except as otherwise herein expressly provided; provided, however, that the District shall have no power of condemnation of property or of eminent domain outside of the geographical boundaries of Bowie County. The District may construct, establish, operate, and maintain a community center in Bowie County. To the extent that the provisions of any General Law applying to water control and improvement districts, or other conservation districts, conflict with this Act, the provisions of this Act shall control.

For Annotations and Historical Notes, see V.A.T.S.

In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipelines, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. As amended Acts 1965, 59th Leg., p. 1410, ch. 623, § 1, emerg. eff. June 17, 1965.

Sec. 5. The District shall have the power and authority conferred upon water control and improvement districts, including the control, storing, preservation and distribution of storm and floodwaters, the waters of rivers and streams, for reclamation and irrigation of arid, semiarid, and other lands needing irrigation, the reclamation, drainage, conservation and development of its forests, waters and all natural resources; and including particularly the following:

(a) The control of surface waters in the District by planning, laying out, constructing, owning, maintaining, acquiring and operating a catch basin, or basins, or other appropriate devices and waterlines to carry off and dispose of excesses of water or to make use of such water.

(b) Acquiring a supply of fresh water suitable for domestic and industrial uses by negotiation or purchase, or by connection with the supply system of any other municipality or body politic or corporate, or by any other practicable means, and the planning, laying out, construction, ownership, maintenance and operation of a system of waterlines throughout the District for the purpose of supplying domestic and industrial users thereof in the District.

(c) The planning, laying out, construction, ownership, maintenance, acquisition and operation of a sanitary sewer system and improvements and extension thereof for the collection, distribution, processing, disposal and control of all domestic, industrial and communal waters, whether of fluids, solids or composites, and ultimate disposal through its own sanitary sewer system or by connection with a sanitary system of any other municipality or by any other practicable and lawful means.

(d) Upon appropriate resolution by the Board of Directors in the District, the District may purchase other water systems, water and sewer systems, or sewer systems and may finance the purchase of such system or systems by the issuance of revenue bonds, tax and revenue bonds, or tax bonds, in the manner and to the extent provided in this Act and in the event of such purchase, the rates to be charged for the distribution of water, the collection of sewage and other authorized charges shall be determined by the Board of Directors as elsewhere provided and such rates shall not be subject to regulation by any other municipal corporation of the State of Texas.

(e) The District may construct, establish, operate, and maintain a community center in Bowie County.

(f) The District may borrow money and accept grants from the United States of America, and from any corporation or agency created or designated by the United States of America; and in connection with the loan or grant, enter into such arrangement with the United States of America or such corporation or agency as the District may deem advisable. As amended Acts 1965, 59th Leg., p. 1410, ch. 623, § 2, emerg. eff. June 17, 1965.

#### Art. 8280—293. Lake Dallas Municipal Utility Authority

Sec. 2. The Authority shall be comprised of all of the territory which was contained in the City of Lake Dallas, Denton County, Texas, on April 30, 1963. It is hereby found and determined that all of the ter-

ritory and taxable property contained within the area above described will be benefited by the works and improvements of the Authority.

As hereinafter used, the term "city" shall mean the duly constituted municipal corporation, regardless of when created, known as the City of Lake Dallas. As amended Acts 1965, 59th Leg., p. 1301, ch. 599, § 1, emerg. eff. June 17, 1965.

Sec. 3. (a) All powers of the Authority shall be exercised by a Board of Directors (hereinafter called the "Board"). Each member shall serve for a term of two (2) years and until his successor is elected and qualified, except for the first directors appointed initially pursuant to this Act, and except for the directors named below who are hereby reappointed and shall have terms with expiration dates as follows, to wit:

Bobby G. Farley	September 30, 1965
H. L. Whitehead	September 30, 1965
B. G. Caddell	September 30, 1965
Howard M. Davis	April 30, 1966
J. R. Garrison	April 30, 1966.

(b) An election for the election of three directors shall be held on the last Saturday in September, 1965, and thereafter beginning in 1966, a regular election for the election of directors shall be held on the last Saturday in April of each year. Two directors shall be elected in each even-numbered year and three in each odd-numbered year. The elections shall be ordered by the Board of Directors, which shall canvass the returns and declare the results of such elections. Such elections shall be held and conducted as provided by the General Law governing water control and improvement districts, except as provided herein.

(c) Each director shall serve for his term of office as herein provided and thereafter until his successor shall be elected or appointed and qualified. No person shall be elected or appointed a director unless he resides in and owns taxable property in the Authority. No member of a governing body of the City and no employee of the City shall be appointed as director. Such directors shall subscribe the constitutional oath of office, and each shall give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000), the cost of which shall be paid by the Authority. A majority shall constitute a quorum. If any director moves from the Authority or otherwise ceases to be a director, the remaining members of the Board of Directors shall appoint a director to succeed him for the unexpired term.

(d) No compensation shall be paid to directors. As amended Acts 1965, 59th Leg., p. 1301, ch. 599, § 2, emerg. eff. June 17, 1965.

Sec. 5. Other territory may be annexed to the Authority in the following manner:

(a) A petition praying for such annexation signed by twenty-five (25) or a majority, whichever number is smaller, of the resident qualified property taxpaying voters of the territory sought to be annexed shall be filed with the Board. The petition shall describe the territory by metes and bounds.

(b) If the Board finds that the petition complies with, and is signed by the number of qualified persons required by the foregoing subsection, that the annexation would be to the best interest of the territory and the Authority, and that the Authority will be able to supply water, or cause water to be supplied to the territory or render sewer service or cause same to be rendered to the territory, it shall adopt a resolution stating the conditions, if any, under which such territory may be annexed to the Authority, and shall fix a time and place when and where a hearing shall be held by the Board on the question of whether the territory sought to be



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annexed will be benefited by the improvements, works, and facilities then owned or operated or contemplated to be owned or operated by the Authority or by the other functions of the Authority. Railroad right-of-way which is not situated within the defined limits of an incorporated city or town will not be benefited by improvements, works and facilities which the Authority is authorized to construct; therefore, it is provided that no railroad right-of-way shall hereafter be annexed to the Authority except such right-of-way as is contained within the limit of an incorporated city or town. Notice of the adoption of such resolution stating the time and place of such hearing shall be published one time in a newspaper of general circulation in the territory sought to be annexed at least ten (10) days prior to the date of such hearing. The notice shall describe the territory in the same manner in which it is required or permitted by this Act to be described in the petition. All persons interested may appear at such hearing and offer evidence for or against the proposed annexation. Such hearing may proceed in such order and under such rules as may be prescribed by the Board, and the hearing may be recessed from time to time. If, at the conclusion of the hearing, the Board finds that lands in such territory will be benefited by the present or contemplated improvements, works or facilities of the Authority, the Board shall adopt a resolution making a finding of such benefit and calling an election in the territory proposed to be annexed stating therein the date of the election, the place or places of holding the same, the proposition to be voted on and appointing a presiding judge for each voting place who shall appoint the necessary assistant judges and clerks to assist in holding the election.

Notice of such election shall be given by publishing a substantial copy of the resolution calling the election one time in a newspaper of general circulation in the territory sought to be annexed to the Authority at least ten (10) days before the date set for the election. Only constitutionally qualified electors who reside in the territory sought to be annexed shall be qualified to vote in said election. Returns of the result of said election shall be made to the Board. The Board shall canvass the returns of the election and adopt an order declaring the results thereof. If such order shows that a majority of the votes cast are in favor of annexation, the Board shall by resolution annex said territory to the Authority, and such annexation shall thereafter be incontestable except in the manner and within the time for contesting elections under the General Election Code.

(c) The Board, in calling an election on the proposition for annexation of territory, may include as a part of the same proposition, or a separate proposition for the assumption of its part of the tax supported bonds of the Authority then outstanding and those theretofore voted but not yet sold, and for the levy of an ad valorem tax on taxable property in said territory along with the tax in the rest of the Authority for the payment thereof in which event the voting shall be restricted to constitutionally qualified electors.

(d) After territory is added to the Authority, the Board may call an election over the entire Authority for the purpose of determining whether the entire Authority as enlarged shall assume the tax support bonds then outstanding and those theretofore voted but not yet sold and whether an ad valorem tax shall be levied upon all taxable property within the Authority as enlarged for the payment thereof, unless such proposition had been previously voted at an election held within the territory annexed and became lawfully binding upon such territory. Such election shall be called and held and notice thereof given in the same manner as elections for the issuance of bonds as provided in this Act. As amended Acts 1965, 59th Leg., p. 1301, ch. 599, § 3, emerg. eff. June 17, 1965.

Sec. 17(a). The Authority may be abolished by a majority vote of the taxpaying qualified voters residing in such Authority at an election held for the purpose of determining whether or not such Authority shall be abolished.

An election shall be ordered by the County Judge of Denton County, Texas, whenever a petition for the abolishment of such Authority shall be presented to the County Judge, duly signed by not less than a majority of the qualified property taxpaying voters residing in such Authority. Notices of such election shall be published in a newspaper of general circulation in the Authority on the same day of each of two (2) consecutive weeks. Notice of said election shall also be given by posting a copy of the election order in three (3) public places within the Authority, at least fourteen (14) days prior to the date set for the election. Said County Judge shall appoint a presiding judge and two (2) clerks to assist him in holding the election. The ballots for such election shall contain the proposition "For abolishment of the Authority" and "Against abolishment of the Authority." Only qualified voters who reside in the Authority and who own taxable property therein, and who have duly rendered the same for taxation shall be qualified to vote at said election.

If a majority of those voting at such election vote in favor of abolishing such Authority, the said Authority shall be abolished. In the event said Authority shall, at the time of abolition of the Authority, have outstanding bonds or other indebtedness maturing beyond the current year in which such abolition occurs, the Commissioners Court of Denton County, Texas, shall levy and cause to be collected as county taxes are assessed and collected, sufficient taxes on all taxable property within such Authority to pay the principal and interest on said bonds and other indebtedness when due. Added Acts 1965, 59th Leg., p. 1301, ch. 599, § 3(a), emerg. eff. June 17, 1965.

Sec. 19. Prior to the sale and delivery of Authority bonds which are payable wholly or partially from ad valorem taxes the Board of Directors shall appoint a tax assessor and collector and a board of equalization and cause taxes to be assessed, valuations to be equalized, and tax rolls to be prepared. General Laws applicable to water control and improvement districts with reference to tax assessors and collectors, boards of equalization, tax rolls and the levy and collection of taxes and delinquent taxes shall be applicable to this Authority, provided if, during the year of the Authority's initial sale of bonds payable wholly or partially from ad valorem taxes, it shall become necessary to have the property therein rendered for taxation at an earlier or later date than provided in such General Laws applicable to water control and improvement districts for the regular assessment thereof, then the directors of the Authority shall fix and determine the time when such renditions shall be made and the time other necessary things required to be done in connection with the assessment, equalization, collection and enforcement of collection of taxes shall be done. After said year, however, said assessment, equalization, collection and enforcement of collection of taxes shall occur as provided in such General Laws. As amended Acts 1965, 59th Leg., p. 1301, ch. 599, § 4, emerg. eff. June 17, 1965.

Section 5 of the amendatory act of 1965 provided: "Proof of Publication of the Constitutional notice required in the enactment hereof under the provisions of paragraph (d) of Section 59 of Article XVI of the Texas Constitution has been made in the manner provided therein and a copy

of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such Constitutional provision and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements."

**Art. 8280—297. Evergreen Underground Water Conservation District**

**SUBCHAPTER A. GENERAL PROVISIONS.**

**Short title**

Section 1. This Act may be cited as the Evergreen Underground Water Conservation District Act.

**Definitions**

Sec. 2. In this Act, unless the context requires a different definition,

- (1) "person" includes firm, association, partnership, and corporation;
- (2) "underground water"
  - (A) means water suitable for agricultural, gardening, domestic, or stockraising uses percolating below the earth's surface;
  - (B) does not include water in a defined subterranean stream or in the underflow of a river;
- (3) "District" means the Evergreen Underground Water Conservation District;
- (4) "Board" means the Board of Directors of the District.

**SUBCHAPTER B. ADMINISTRATION.**

**Creation of district**

Sec. 3. The Evergreen Underground Water Conservation District is created. The District is created under Section 59, Article XVI, Constitution of the State of Texas.

**Area of district**

Sec. 4. The District shall comprise all of the territory contained within Wilson and Atascosa counties and for all practical purposes the boundaries of said counties are coterminous with the boundaries of a subdivision of an underground water reservoir heretofore designated by the Board of Water Engineers, except

- (1) area which is within the limits of an incorporated city or town in Wilson or Atascosa county on the effective date of this Act;
- (2) area which comes within the limits of an incorporated city or town in Wilson or Atascosa county after the effective date of this Act, which the Board excludes under Section 36(c) of this Act;
- (3) area under which there is either no underground water or no underground water that can be brought to the surface at a cost that makes bringing it to the surface economically feasible, which the Board excludes under Section 36(c) of this Act.

**Establishment of board**

Sec. 5. The Board of Directors of the Evergreen Underground Water Conservation District is established.

**Composition and terms of office**

- Sec. 6. (a) The Board consists of five directors.
- (b) Four of the directors are elected at elections provided for in Section 10 of this Act; the fifth director is appointed by the Governor. A director serves a two-year term.

(c) If a Constitutional Amendment is adopted authorizing directors of conservation and reclamation districts to serve six-year terms, Subsection (b) of this Section is repealed on the day of the first election to elect directors held under this Act after the Constitutional Amendment becomes effective, and the directors serve six-year terms. At that election, one director from Atascosa County and one from Wilson County are elected for two-year terms; one from Atascosa County and one from Wilson County for four-year terms; and one from Atascosa County for a six-year term. The Board shall conduct biennial elections after that election, at which directors are elected to replace retiring directors, for six-year terms. The director who succeeds the director from Atascosa County with a six-year term shall be from Wilson County, and that position shall thereafter alternate between Wilson and Atascosa Counties.

(d) If a position on the Board becomes vacant, a majority of the remaining directors shall appoint another person from the county of residence of the retiring director to fill the vacated position for the unexpired term.

(e) A director serves until his successor is elected or appointed.

#### **Qualification of directors**

Sec. 7. A person is qualified to serve on the Board who is elected or appointed to that position, and who

- (1) is at least 21 years of age;
- (2) owns real property in the District;
- (3) is a resident of Atascosa or Wilson County.

#### **Administrator and employees**

Sec. 8. (a) The Board may employ an administrator and set his salary. The Board may delegate any of its powers and duties (except those of adopting rules, a dissolution resolution, a dissolution order, and those relating to hearings, taxation, and bonds) to the administrator, who may carry out powers and duties delegated to him by the Board.

(b) The administrator, with the approval of the Board, may employ employees of the Board and set their salaries, and hire legal counsel for the Board.

#### **Board meetings and officers**

Sec. 9. (a) The Board shall hold regular quarterly meetings. It may hold other meetings at the call of the chairman or at the request of at least two directors.

(b) A majority of the directors is a quorum for conducting business.

(c) The Board shall elect its officers.

(d) The General Law relating to filing bonds by directors of districts applies to directors of the District.

#### **Elections**

Sec. 10. (a) The Board shall call an election to elect directors to the Board on the second Tuesday in January of each odd-numbered year. The first election to elect directors under this Act is to be held on January 10, 1967.

(b) The Board shall conduct an election held under this Act under the General Laws of the state relating to elections.

(c) The Board shall prepare a ballot with the names of the candidates who reside in Atascosa County and a ballot with the names of the candidates who reside in Wilson County. Voters in Atascosa County

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vote for residents of Atascosa County; voters in Wilson County vote for residents of Wilson County.

(d) The two persons with the highest number of votes who are residents of Atascosa County and the two persons with the highest number of votes who are residents of Wilson County are elected.

(e) The Board shall pay for the cost of the elections with money of the District.

### SUBCHAPTER C. ADMINISTRATIVE PROCEDURE.

#### Procedure for adopting and amending rules

Sec. 11. (a) Before the Board may adopt or amend a rule under this Act, it must publish a brief summary of the rule or the amendment in one or more newspapers as it decides is necessary to give the summary general circulation throughout the District. The Board must publish the summary one time a week for two weeks.

(b) The rule or amendment takes effect on the fourteenth day after the day the summary is published the second time, unless

(1) the Board specifies that it takes effect at a later time; or

(2) the Board rescinds the order adopting the rule or amendment.

(c) The Board may rescind the order for (but it may not change) a rule or amendment, from the time the summary is first published until after the rule or amendment takes effect. After the rule or amendment takes effect, the Board may change or repeal it only by adopting a rule repealing or amending it.

(d) If the Board rescinds an order for a rule or amendment, it may adopt a new rule or amendment at any time, even though the new rule or amendment is on the same subject as the rule or amendment rescinded.

#### Declaratory judgment on validity of rules

Sec. 12. (a) The validity of a rule adopted under this Act may be determined upon petition for a declaratory judgment on the validity of the rule addressed to the district court sitting in the Evergreen Underground Water Conservation District, when it appears that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the petitioner. The Board shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the Board to pass upon the validity of the rule in question.

(b) The court shall declare the rule invalid if it finds that the rule violates constitutional provisions, exceeds the statutory authority of the Board, or was adopted without complying with Section 11 of this Act.

#### Definition

Sec. 13. In Sections 13 through 20 of this Act, "contested case" means a proceeding before the Board in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a Board hearing.

#### Hearing officer

Sec. 14. (a) In a contested case, the Board shall employ an attorney to serve as the hearing officer in the hearing. At the hearing, the hearing officer shall

(1) preside over the hearing;

(2) rule on the admissibility of evidence;

(3) at the direction of the Board, prepare the record, decision, and order of the Board and the notices for the hearing;

(4) assist the Board in all legal matters connected with the hearing.

(b) The hearing officer may vote only to break a tie.

(c) If the appointed member of the Board is an attorney, the Board may designate that he is the hearing officer, rather than employ another attorney to be the hearing officer. In that case, Subsection (b) of this Section does not apply.

#### Notice, hearing, records

Sec. 15. (a) In a contested case all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place, and issues involved, but if, because of the nature of the proceeding, the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, the issues shall be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect to the issues.

(b) The Board shall prepare an official record, which includes testimony and exhibits, in each contested case, and shall prepare a mechanical recording of the proceedings. It is not necessary to transcribe the recording unless the transcription is requested for purposes of rehearing or court review.

(c) Informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(d) The Board shall adopt appropriate rules of procedure for notice and hearing in contested cases.

#### Rules of evidence

Sec. 16. (a) In contested cases, the Board may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The Board shall give effect to the rules of privilege recognized by law. It may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(b) All evidence, including records and documents in the possession of the Board of which it desires to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(c) Every party has the right to cross-examine witnesses who testify, and has the right to submit rebuttal evidence.

#### Official notice

Sec. 17. The Board may take notice of judicially cognizable facts and in addition may take notice of general, technical, and scientific facts within its specialized knowledge. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Board may use its experience, technical competence, and specialized knowledge in evaluating the evidence presented to it.

#### Examination of evidence by board

Sec. 18. When in a contested case a majority of the directors of the Board who are to render the final decision have not heard or read the evidence, the decision, if adverse to the party to the proceeding other than the Board itself, shall not be made until a proposal for decision,

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including findings of fact and conclusions of law, has been served upon the parties and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to a majority of the directors who are to render the decision, who shall personally consider the whole record or as much of it as may be cited by the parties.

#### Decisions and orders

Sec. 19. Every decision and order adverse to a party to the proceeding, rendered by the Board in a contested case, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or to his attorney of record.

#### Judicial review of contested cases

Sec. 20. (a) A person aggrieved by a final decision in a contested case, whether the decision is affirmative or negative in form, is entitled to judicial review of the decision.

(b) Proceedings for review shall be instituted by filing a petition in a district court within the District within 30 days after the service of the final decision of the Board. Copies of the petition shall be served upon the Board and all other parties of record. The court, in its discretion, may permit other interested persons to intervene.

(c) Filing the petition does not stay enforcement of the Board decision; but the Board may do so, or the reviewing court may order a stay upon such terms as it deems proper.

(d) Within 30 days after service of the petition, or within such further time as the court may allow, the Board shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of all parties to the review proceeding, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs caused by his refusal. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failing to present it in the proceeding before the Board, the court may order that the additional evidence be taken before the Board upon such conditions as the court deems proper. The Board may modify its findings and decision by reason of the additional evidence and shall file with the reviewing court, to become a part of the record, the additional evidence, together with any modifications or new findings or decision.

(f) The review shall be conducted by the court and shall be confined to the record, except that in cases of alleged irregularities in procedure before the Board, not shown in the record, testimony on the alleged irregularities may be taken in court. The court shall, on request, hear oral argument and receive written briefs.

(g) The court may affirm the decision of the Board or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are

(1) in violation of constitutional provisions;

- (2) in excess of the statutory authority or jurisdiction of the Board;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by competent, material, and substantial evidence in view of the entire record as submitted; or
- (6) arbitrary or capricious.

**SUBCHAPTER D. FINANCIAL PROVISIONS.**

**Taxation**

Sec. 21. (a) The Board may levy and collect property taxes levied on the property in the District that are necessary to enable the Board to perform the powers and functions given it in this Act.

(b) The Board may not levy or collect property taxes at a rate greater than 35 cents on the One Hundred Dollar valuation.

(c) The General Law on water control and improvement districts, relating to the levy and collection of taxes and to elections held on tax levies, applies to the levy and collection of taxes by the Board.

**Bonds**

Sec. 22. (a) The Board may issue bonds to finance operations and construct projects authorized under this Act.

(b) The General Law on water control and improvement districts, relating to issuing bonds and retiring bond issues, elections on bond issues, elections on assuming tax liabilities for bonds, and procedures for determining the liability of property proposed to be excluded from a district, applies to issuing bonds and retiring bond issues by the Board.

**SUBCHAPTER E. POWERS AND DUTIES OF THE BOARD.**

**Conservation rules**

Sec. 23. The Board may adopt rules for the purpose of conserving, preserving, protecting, and recharging the underground water in the District.

**Waste**

Sec. 24. The Board may adopt rules designed to prevent waste of the underground water in the District. Nothing contained herein shall in any way amend, alter, or otherwise change the declaration of water priorities and appropriation thereof as set out in Article 7471, Revised Civil Statutes of Texas, 1925.

**Permits**

Sec. 25. (a) The Board may adopt rules requiring a person to obtain a permit from the Board before he may drill, equip, complete, or substantially alter the size of a well or the size of a pump used in connection with the well.

(b) The Board may add whatever terms and conditions to the permit, and modify the terms and conditions, that are necessary to insure that drilling, equipping, completing, or substantially altering the size of a well or the size of a pump used in connection with the well will

- (1) preserve and conserve the underground water in the District;
- (2) prevent any of the kinds of waste of the underground water specified in Section 24 of this Act;
- (3) minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure;



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(4) lessen interference between wells.

(c) A permit issued under this Section is conditional and the Board may revoke it if the person to whom it was issued does not comply with rules adopted under Sections 23 through 28 of this Act or with the terms and conditions stated in the permit.

(d) Before the Board may refuse to issue a permit, add terms or conditions to a permit, modify the terms or conditions of a permit, or revoke a permit, it must offer the applicant or holder of the permit an opportunity to be heard by the Board.

#### Spacing and production

Sec. 26. (a) The Board may adopt rules to

(1) provide for spacing wells to be drilled to produce water from the underground water in the District;

(2) regulate the production of wells producing water from the underground water in the District.

(b) To be valid, a rule adopted under this Section must relate to minimizing as far as practicable the drawdown of the water table or the reduction of artesian pressure, or to the prevention of any of the kinds of waste of the underground water specified in Section 24 of this Act.

(c) Rules adopted under this Section do not apply to wells drilled to produce water to be used by an individual, a family, or a household for

(1) drinking water and cooking;

(2) washing;

(3) irrigating a garden or orchard, if the produce of the garden or orchard is to be eaten by the individual, family, or household;

(4) watering animals used in operating a farm or as food for the individual, family, or household.

#### Records and reports

Sec. 27. The Board may adopt rules

(1) requiring that records be kept and reports be made to the Board concerning

(A) drilling, equipping, and completing wells into the underground water strata in the District;

(B) taking and using underground water in the District;

(2) requiring accurate driller's logs to be kept of wells into underground water strata, and that driller's logs and any electric logs kept be filed with the Board.

#### Rules relating to capping wells

Sec. 28. The Board may adopt regulations implementing the requirements in Section 35 of this Act relating to capping uncapped wells.

#### Projects

Sec. 29. The Board, through its employees and agents, may

(1) construct and maintain dams;

(2) drain lakes, depressions, draws, and creeks;

(3) install and operate pumps and other equipment necessary to recharge the underground water in the District;

(4) acquire land within the District, by eminent domain or otherwise, to do the things specified in Subdivisions (1) through (3) of this Section.

**Surveys**

Sec. 30. The Board may employ engineers to

(1) survey the underground water in the District and the facilities for developing, producing, and using the underground water;

(2) determine the quality of the underground water available for production and use and the improvements, developments, and recharges needed in regard to the underground water in the District.

**Plans**

Sec. 31. (a) The Board shall develop comprehensive plans for

(1) efficiently using the underground water in the District;

(2) controlling and preventing waste of the underground water.

(b) The Board shall specify in the plans, to the maximum extent practicable, the acts, procedure, performance and avoidance which are or may be necessary to effect the plans, including specifications for them.

(c) The Board shall carry out research projects, develop information, and determine limitations, if any, which should be made on withdrawing underground water in the District.

(d) The Board shall collect and preserve information regarding the use of underground water in the District and the practicability of recharging the underground water.

(e) The Board shall publish plans and information developed under this Section, bring them to the attention of the users of underground water in the District, and encourage the users to adopt and use the information. The Board shall make plans and information developed under this Section available to the Texas Water Commission.

**SUBCHAPTER F. RIGHTS AND DUTIES OF PERSONS IN THE DISTRICT.**

**Ownership of water**

Sec. 32. The ownership and rights of the owner of the land and his lessees and assigns in underground water are recognized, and this Act does not in any way deprive or divest the owner or his assigns or lessees of that ownership or those rights, subject, however, to the rules adopted under this Act.

**Responsibility for complying**

Sec. 33. The owner of underground water brought to the surface, or his lessee, if there is one, and the operator of a well into the underground stratum from which the water is brought or is to be brought are jointly and severally responsible for complying with rules adopted by the Board under this Act.

**Illegal drilling and production**

Sec. 34. Drilling a well without a permit or drilling or operating a well in violation of the terms and conditions of the permit, if a permit is required, and operating a well at a higher rate of production than the rate approved by the Board for the well, are each declared to be illegal, wasteful per se, and a nuisance.

**Capping wells**

Sec. 35. The owner of underground water being produced from an underground artesian water well shall keep the flowing well capped with a covering capable of sustaining a pressure of at least 400 pounds, except when the well is in use, and shall comply with rules adopted under

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Section 28 of this Act. The operator of the well has the same duty the owner of the underground water had under this section.

### SUBCHAPTER G. MISCELLANEOUS PROVISIONS.

#### Excluding land from the district

Sec. 36. (a) A person who owns land over which the Board is exercising authority or claiming jurisdiction may petition the Board for a hearing to determine whether or not the land is or should be excluded from the District under Section 4 of this Act.

(b) At the conclusion of the hearing, the land is a part of the District if the Board finds that the person has failed to establish

(1) with respect to land claimed to be excluded under Section 4(1) of this Act, that the land was within the limits of an incorporated city or town on the effective date of this Act; or

(2) with respect to land claimed to be excluded under Section 4(2) of this Act, that the land has been included within the limits of an incorporated city or town since the effective date of this Act, and that exclusion of the land would defeat none of the regulatory purposes of this Act; or

(3) with respect to land claimed to be excluded under Section 4(3) of this Act, that there is no underground water under the land or that the underground water cannot be brought to the surface at a cost that makes bringing it to the surface economically feasible.

(c) If the Board makes a contrary finding under Subsection (b)(1) of this Section, the land has never been a part of the District. If the Board makes a contrary finding under Subsection (b)(2) or Subsection (b)(3) of this Section, the land is excluded from the District on the day the person filed the petition with the Board to determine whether or not the land should be excluded.

#### Including land in the district

Sec. 37. Land may be included in the District under the provisions of the General Law relating to water control and improvement districts.

#### Dissolution

Sec. 38. (a) The Board may dissolve the District, if it finds that the continued existence of the District will not best serve a public purpose, either because conditions in the District have changed so that regulation of underground water in the District is no longer necessary, or because it would be more efficient to have that regulation performed by some other agency.

(b) To dissolve the District, the Board shall adopt a resolution proposing dissolution using the procedure for adopting rules provided for in Section 11 of this Act. After the resolution becomes effective, the Board shall appoint a trustee, who shall settle the affairs of the District as quickly as possible. The trustee serves at the pleasure of the Board, and is entitled to reasonable compensation set by the Board.

(c) The trustees shall reduce to possession, and money, all assets and resources of the District, and shall apply the money to discharging the outstanding obligations of the District, having regard to specific funds. If it is necessary to do so, the Board shall levy, assess, and collect additional taxes to pay all necessary expenses and outstanding obligations of the District.

(d) When all expenses and outstanding obligations are paid and the trustee's account is verified, the Board shall discharge the trustee. When the trustee is discharged, the Board shall enter of record its final order

of dissolution and record the order in the deed records of the counties in which the District is located. The District is dissolved on the date specified in the order. The Board shall file a copy of the dissolution order with the Texas Water Commission and mail a copy to the Texas Legislative Council.

(e) The Board shall pay to the counties in the District a proportionate part of all money in the possession of the District not needed to pay for expenses and outstanding obligations of the District when it is dissolved.

**Application**

Sec. 39. The provisions of this Act do not apply to a well drilled under a permit from the Railroad Commission of Texas.

**SUBCHAPTER H. ENFORCEMENT PROVISIONS.**

**Suits by private persons**

Sec. 40. (a) A person who has an estate in land any part of which is within one-half mile of a well which is being drilled or operated in a manner declared to be illegal in Section 34 of this Act may sue or restrain or enjoin the illegal drilling or operation or both. He may also sue to recover damages he has suffered because of the illegal operation and for any further relief he is entitled to at law or equity.

(b) In a suit for damages under this Section, the operation of the well in violation of rules adopted by the Board is prima facie evidence of illegal and illegitimate drainage.

(c) The suit for damages may be brought in the county where the illegal well is located or in the county where any part of the affected land of the plaintiff is located.

(d) The cause of action and the rights created by this Section are cumulative, and do not impair the rights of any other person or the enforcement powers of the Board.

(e) A suit brought under this Section shall be advanced for trial and be determined as expeditiously as possible, and no postponement or continuance of the suit (including a first motion for postponement or continuance) may be granted except for reasons deemed imperative by the court.

**Suits by the board**

Sec. 41. The Board shall sue for injunctions, mandatory injunctions, and other appropriate remedies, to compel persons to comply with rules adopted by the Board and with the provisions of Section 35 of this Act.

**SUBCHAPTER I. TEMPORARY PROVISIONS.**

**Initial board**

Sec. 42. (a) On the effective date of this Act, the following persons are the directors of the Board: Mr. Charles H. Troell of Atascosa County; Mr. Stanley Brauchle, Sr. of Atascosa County; Mr. W. Curtis Ray of Wilson County; Mr. A. D. Richardson of Wilson County; and Mr. Merrill L. Connally of Wilson County.

(b) The term of office of the initial Board members is from the effective date of this Act until January 10, 1967.

## Expiration date

Sec. 43. If the Board dissolves the District under Section 38 of this Act, this Act expires on the day the dissolution order is effective. Acts 1965, 59th Leg., p. 398, ch. 197.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## Title of Act:

An Act relating to the creation, organization, powers, and duties of an underground water conservation district located in Atascosa and Wilson counties; and declaring an emergency. Acts 1965, 59th Leg., p. 398, ch. 197.

## Art. 8280—298. Mackenzie Municipal Water Authority

Section 1. By virtue of Article XVI, Section 59 of the Texas Constitution, there is hereby created a Conservation and Reclamation District to be known as "Mackenzie Municipal Water Authority" (hereinafter called "Authority"), which shall be a governmental agency and a body politic and corporate.

Sec. 2. The Authority shall contain all of the territory contained in the boundaries of the City of Tulia in Swisher County, the City of Silverton in Briscoe County, and the Cities of Lockney and Floydada in Floyd County, as the boundaries of each City existed on February 1, 1965. It is provided, however, that no invalidity in the fixing of such boundaries shall affect the boundaries of the territory contained in this Authority, it being hereby found and determined that all of the territory and taxable property contained within the boundaries of said Cities will be benefited by the works and improvements of the Authority.

Sec. 3. (a) All powers of the Authority shall be exercised by a Board of Directors (herein called "Board"), each of whom shall serve for a term of two (2) years except for the directors first appointed. Immediately after this Act becomes effective, the governing body of each City contained in the Authority shall appoint two (2) directors, one of whom shall serve to and including April 30, 1966, and the other shall serve to and including April 30, 1967.

(b) In April of 1966 and in April of each year thereafter the governing body of each City contained in the Authority shall appoint a director to succeed the director from such City whose term is about to expire. Any vacancy shall be filled for the unexpired term by the governing body of the appropriate City. Each director shall reside in the City from which he is appointed.

(c) Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be appointed and qualified. No person shall be appointed a director unless he resides in and owns taxable property in the City from which he is appointed. No member of a governing body of a City, and no employee of a City shall be appointed as director. Such directors shall subscribe the Constitutional Oath of Office, and each shall give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000), the cost of which shall be paid by the Authority. A majority shall constitute a quorum. If any director moves from the City from which he is appointed or otherwise ceases to be a director, the governing body of such City shall appoint a director to succeed him, for the unexpired term.

(d) Each director may receive a fee determined by the Board, of not to exceed Twenty Dollars (\$20), for attending each meeting of the Board, provided that no more than Forty Dollars (\$40) shall be paid to any director for meetings held in any one calendar month. Each director shall also be entitled to receive not to exceed Twenty Dollars (\$20) per day devoted to the business of the Authority and to reimbursement for actual ex-

penses incurred in attending to Authority business provided that such service and expense shall have received prior approval by the Board.

Sec. 4. The Board shall elect from its number a president and a vice-president of the Authority, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the Authority and the presiding officer of the Board, and shall have the same right to vote as any other director. The vice-president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act except the president's right to vote. The Board shall also appoint a secretary and a treasurer who may or may not be members of the Board, and it may combine those offices. The treasurer shall give bond in such amount as may be required by the Board. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the Authority. The Board shall appoint necessary engineers, attorneys and other employees, and employ a general manager. The power to employ and discharge employees may be conferred upon the manager. The Board shall adopt a seal for the Authority.

Sec. 5. Other territory, whether incorporated or unincorporated, may be annexed to the Authority in the following manner:

(a) A petition praying for such annexation signed by fifty (50) or a majority, whichever number is smaller, of the qualified taxpaying voters residing in the territory sought to be annexed who own taxable property therein shall be filed with the Board. The petition shall describe the territory by metes and bounds, or otherwise, unless such territory is the same as that contained in a City or Town, in which event it shall be sufficient to state that the territory to be annexed is that which is contained within the boundaries of such City or Town.

(b) If the Board finds that the petition complies with, and is signed by the number of qualified persons required by the foregoing Subsection, that the annexation would be to the best interest of the territory and the Authority, and that the Authority will be able to supply water or cause water to be supplied to the territory, or render sewer service or cause same to be rendered to the territory, it shall adopt a resolution stating the conditions, if any, under which such territory may be annexed to the Authority, and shall fix a time and place when and where a hearing shall be held by the Board on the question of whether the territory sought to be annexed will be benefited by the improvements, works, and facilities then owned or operated or contemplated to be owned or operated by the Authority or by the other functions of the Authority. Railroad right-of-way which is not situated within the defined limits of an incorporated City or Town will not be benefited by improvements, works and facilities which the Authority is authorized to construct; therefore, it is provided that no railroad right-of-way shall hereafter be annexed to the Authority except such right-of-way as is contained within the limit of an incorporated City or Town then or theretofore annexed to the Authority. Notice of the adoption of such resolution stating the time and place of such hearing shall be published one time in a newspaper designated by the Board at least ten (10) days prior to the date of such hearing. The notice shall describe the territory in the same manner in which it is required or permitted by this Act to be described in the petition. All persons interested may appear at such hearing and offer evidence for or against the proposed annexation. Such hearing may proceed in such order and under such rules as may be prescribed by the Board, and the hearing may be recessed from time to time. If, at the conclusion of the hearing, the Board finds that lands in such territory will be benefited by the present or contemplated improvements, works or facilities of the Authority, the Board shall adopt a resolution making a finding of such benefit and calling an

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election in the territory proposed to be annexed stating therein the date of the election, the place or places of holding the same, the proposition to be voted on and appointing a presiding judge for each voting place who shall appoint the necessary assistant judges and clerks to assist in holding the election.

Notice of such election shall be given by publishing a substantial copy of the resolution calling the election one time in a newspaper of general circulation in the territory sought to be annexed to the Authority at least ten (10) days before the date set for the election. Only Constitutionally qualified electors who reside in the territory sought to be annexed shall be qualified to vote in said election. Returns of the result of said election shall be made to the Board. The Board shall canvass the returns of the election and adopt an order declaring the results thereof. If such order shows that a majority of the votes cast are in favor of annexation the Board shall by resolution annex said territory to the Authority, and such annexation shall thereafter be incontestable except in the manner and within the time for contesting elections under the General Election Code.

(c) The Board, in calling an election on the proposition of annexation of territory, may include as a part of the same proposition, or as a separate proposition, the question of the assumption of its part of the tax supported bonds of the Authority then outstanding and those theretofore voted but not yet sold, and for the levy of an ad valorem tax on taxable property in said territory along with the tax in the rest of the Authority for the payment thereof in which event the voting shall be restricted to Constitutionally qualified electors. The territory may be annexed only if both propositions receive a majority vote.

(d) Territory hereafter annexed to any city initially contained in the Authority or hereafter added to the Authority may be annexed to the Authority in the following manner:

(1) At any time after final passage of an ordinance or resolution annexing territory to the City, the Board may issue a notice of hearing on the question of annexing said territory or any part thereof. Such notice shall be sufficient if it states the date and place of the hearing and a description of the area proposed to be annexed, but in lieu of such description the notice may make reference to the annexation ordinance or resolution of the City.

(2) The notice shall be published one time in a newspaper having general circulation in the City which made the annexation, such publication to be at least ten (10) days before the date set for the hearing.

(3) If, pursuant to such hearing, the Board finds that the territory proposed to be annexed will be benefited by the present or contemplated improvements, works or facilities of the Authority, the Board shall adopt a resolution annexing said territory to the Authority.

(e) After territory is added to the Authority, the Board may call an election over the entire Authority for the purpose of determining whether the entire Authority as enlarged shall assume the tax supported bonds then outstanding and those theretofore voted but not yet sold and whether an ad valorem tax shall be levied upon all taxable property within the Authority as enlarged for the payment thereof, unless such proposition had previously been voted at an election held within the territory annexed and became lawfully binding upon the territory annexed. Such election shall be called and held and notice thereof given in the same manner as elections for the issuance of bonds as provided in this Act.

Sec. 6. When the territory of any City is hereafter annexed to the Authority, the governing body of the City shall appoint two (2) directors and the term of one such appointee shall expire on the following April 30 and the term of the other appointee shall expire on the following April

30 a year later, thereafter the directors shall be appointed as provided in Section 3 of this Act.

Sec. 7. The Authority is empowered to obtain through appropriate hearings an appropriation permit or permits from the Texas Water Commission, as provided in Chapter 1 of Title 128, Revised Civil Statutes of 1925, as amended.

Sec. 8. The Authority is authorized to acquire or construct within or without the boundaries of the Authority a dam or dams and all works, plants and other facilities, including underground water storage facilities, necessary for the purpose of diverting, impounding, storing, treating and transporting water to cities and others for municipal, domestic, industrial, and mining purposes. No dam or other facilities for impounding water shall be constructed until the plans therefor are approved by the Texas Water Commission.

Sec. 9. (a) The Authority is empowered to acquire land within and without the boundaries of the Authority and to construct, lease or otherwise acquire all works, plants and other facilities necessary for the purpose of diverting, further impounding or storing water, treating such water and transporting it to cities and others for municipal, domestic, industrial and mining purposes. The Authority is empowered to sell water within and without the boundaries of the Authority and is furthermore empowered and authorized to acquire by purchase or contract in any county in which a part of the Authority is situated, lands in fee simple title or water rights without surface title and develop and beneficially use such underground water; provided, however, that the Authority shall be limited to a quantity of underground water as may be reasonably necessary and such withdrawal shall not exceed two (2) acre-feet of water per annum for each acre of surface area purchased or water rights otherwise acquired by the Authority overlying the underground water reservoir. Subject to the terms of any deed of trust issued by the Authority, the Authority may sell, trade or otherwise dispose of any real or personal property deemed by the Board not to be needed for Authority purposes.

(b) As a necessary aid to the conservation, control, preservation and distribution of such water for beneficial use, the Authority shall have the power to construct, own and operate sewage gathering, transmission and disposal facilities, to charge for such service, and to make contracts in reference thereto with municipalities and others.

Sec. 10. (a) For the purpose of carrying out any power or authority conferred by this Act (save and except the acquiring of underground water rights) the Authority shall have the right to acquire the fee simple title to land and other property and easements (including land needed for the reservoir and dam and flood easements above the probable high water line around any such reservoirs) within or without the boundaries of the Authority, by condemnation in the manner and with the same power as conferred upon counties of the State of Texas by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. This Authority is hereby declared to be a municipal corporation within the meaning of Article 3268 of said Title 52. The Authority shall not have the right to condemn any property which may be owned by any persons, firms, private corporations or receivers, or trustees thereof, who have the power of eminent domain, except that the Authority shall have the power to condemn an easement. The amount of and character of interest in land, other property and easements thus to be acquired shall be determined by the Board. The Authority shall have the same power as is conferred upon water control and improvement districts by Section 49 of Chapter 25, Acts of the Thirty-ninth Legislature, with reference to making surveys and attending to other business of the Authority.



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(b) In the event the Authority, in the exercise of its power of eminent domain or police power, or any other power requires the relocation, raising, lowering, re-routing, or change in grade or alteration in the construction of any roads or highways, railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties or facilities or pipelines, all such relocation, raising, lowering, re-routing, or changes in grade or alteration of construction shall be accomplished at the sole expense of the Authority. The term "sole expense" shall mean the actual cost of such lowering, re-routing or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 11. Any construction contract requiring an expenditure of more than Fifteen Thousand Dollars (\$15,000) shall be made after publication of a notice to bidders once each week for two (2) weeks before awarding the contract. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper published in each county in which a portion of the Authority is located and such newspapers shall be designated or approved by the Board.

Sec. 12. (a) For the purpose of carrying out any power or authority conferred by this Act, the Authority is empowered to issue its negotiable bonds to be payable from revenues or taxes or both revenues and taxes of the Authority as are pledged by resolution of the Board.

(b) Such bonds shall be authorized by resolution of the Board and shall be issued in the name of the Authority, signed by the president or vice-president, attested by the secretary and shall bear the seal of the Authority. It is provided, however, that the signatures of the president, the vice-president or of the secretary or of both may be printed or lithographed on the bonds if authorized by the Board and that the seal of the Authority may be impressed on the bonds or may be printed or lithographed thereon. The bonds shall mature serially or otherwise in not to exceed forty (40) years from their date and may be sold at a price and under terms determined by the Board to be the most advantageous reasonably obtainable, provided that the interest cost to the Authority, including the discount, if any, does not exceed six per cent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the bonds, and made registrable as to principal or as to both principal and interest.

(c) Bonds may be issued in more than one series and from time to time as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or part of the net revenues of the Authority, or by the net revenues of any one or more contracts theretofore or thereafter made or other revenues or income specified by resolution of the Board or in the trust indenture. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued.

(e) The Authority is also empowered to issue bonds payable from ad valorem taxes to be levied on all taxable property therein, or to issue bonds secured by and payable from both such taxes and the revenues of the Authority. Where bonds are issued payable wholly or partially from ad valorem taxes, it shall be the duty of the Board to levy a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, but the rate of the tax for any year may be fixed after giving con-

sideration to the money received from the pledged revenues which may be available for payment of principal and interest to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

(f) Where bonds payable wholly from revenues are issued, it shall be the duty of the Board to fix, and from time to time to revise, the rates of compensation for water sold and services rendered by the Authority which will be sufficient to pay the expense of operating and maintaining the facilities of the Authority and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as provided in the resolution authorizing the bonds. Where bonds payable partially from revenues are issued it shall be the duty of the Board to fix, and from time to time revise, the rates of compensation for water sold and services rendered by the Authority which will be sufficient to assure compliance with the resolution authorizing the bonds or the trust indenture securing such bonds.

(g) From the proceeds from the sale of the bonds, the Authority may set aside an amount for the payment of interest expected to accrue during construction, a reserve interest and sinking fund and such other funds as may be provided in the resolution authorizing the bonds or in the trust indenture. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purpose for which this Authority is created, including expenses of issuing and selling the bonds. The proceeds from the sale of the bonds and other funds may be invested in such securities as are specified in the bond resolution or trust indenture.

(h) In the event of a default or a threatened default in the payment of principal or of interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, upon petition of the holders of outstanding bonds, appoint a receiver with authority to collect and receive all income of the Authority except taxes, employ and discharge agents and employees of the Authority, take charge of funds on hand (except funds received from taxes, unless commingled) and manage the proprietary affairs of the Authority without consent or hinderance by the Board. Such receiver may also be authorized to sell or make contracts for the sale of water or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds. The resolution authorizing the issuance of the bonds, or the trust indenture securing them may limit or qualify the rights of the holders of less than all of the outstanding bonds payable from the same source to institute or prosecute litigation affecting the Authority's property or income.

Sec. 13. The Authority is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues and mortgage liens. The provisions of this Act with reference to the issuance by the Authority of other bonds, their security, and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and the interest on the original bonds to their option date or maturity date, and the Comp-

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troller shall register them without concurrent surrender and cancellation of the original bonds. Such refunding bonds may be issued without an election.

Sec. 14. Any bonds (including refunding bonds) authorized by this Act, not payable wholly from ad valorem taxes, may be additionally secured by a trust indenture under which the Trustee may be a bank having trust powers situated either within or outside of the State of Texas. Such bonds, within the discretion of the Board, may be additionally secured by a deed of trust or mortgage lien upon physical properties of the Authority and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties, vesting in the Trustee power to sell the properties for the payment of indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties may contain any provisions prescribed by the Board for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend Authority money or sell Authority property upon approval of a registered professional engineer selected as provided therein, and may make provision for the investment of funds of the Authority. Any purchaser under a sale under the deed of trust lien where one is given, shall be the absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate the same.

Sec. 15. (a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by an election at which only the Constitutionally qualified electors who reside in the Authority are allowed to vote and unless a majority of votes cast in each city contained in the Authority is in favor of the issuance of the bonds. If a majority of the votes cast in any City contained in the Authority are against the issuance of the bonds, the Board may, in its discretion, adopt a resolution detaching the territory of such City from the Authority. Provided, that after any bonds payable from taxes have been issued by the Authority and while any such bonds are outstanding; no territory shall be detached from the Authority. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

(b) Such election may be called by the Board without a petition. The resolution calling the election shall specify the time and places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the form of the ballot, and the presiding judge for each voting place. The presiding judge serving at each voting place shall appoint one assistant judge and at least two clerks to assist in holding such election. Notice of the election shall be given by publishing a substantial copy thereof in one newspaper published in each City contained in the Authority for two consecutive weeks. The first publication shall be at least twenty-one (21) days prior to the election. In any City in which no newspaper is published, notice shall be given by posting a copy of the resolution in three public places in said City at least twenty-one (21) days prior to the date of the election.

(c) The returns of the election shall be made to and canvassed by the Board.

(d) The general laws relating to elections shall be applicable to elections held under this Section of this Act except as otherwise provided in this Act.

Sec. 16. After any bonds (including refunding bonds) are authorized by the Authority, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. If such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the Authority and any City or other governmental agency, authority or district, a copy of such contract and the proceedings of the City or other governmental agency, authority or district authorizing such contract shall also be submitted to the Attorney General. If he finds that such bonds have been authorized and such contracts have been made in accordance with the Constitution and Laws of the State of Texas he shall approve the bonds and such contracts and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

Sec. 17. (a) The Authority is authorized to enter into contracts with Cities and others for supplying water to them. The Authority is also authorized to contract with any City for the rental or leasing of, or for the operation of, the water production, water supply, water filtration or purification and water supply facilities of such City upon such consideration as the Authority and the City may agree. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of such bonds are paid.

(b) If an election is held in any City then contained in the Authority on the question of whether the governing body of such City shall be authorized to make a water supply contract with the Authority and the result of such election is that said governing body shall not be authorized to make such a contract with the Authority, the Board of Directors of the Authority may, in its discretion, adopt a resolution detaching such City from the Authority. Provided, that after any bonds payable from taxes have been issued by the Authority and while any such bonds are outstanding, no territory shall be detached from the Authority.

(c) In addition to selling its bonds to the Texas Water Development Board and securing loans from said Board, the Authority may enter into a contract or contracts with said Board under which that Board or the State of Texas will own a portion of the water storage facilities, as provided in Chapter 49, Acts of the Fifty-eighth Legislature, 1963, in a reservoir or reservoirs to be constructed by the Authority, and may include in such contract or contracts the obligation to purchase such storage facilities from the State and a provision to accumulate a fund for such purpose by fixing and maintaining adequate rates and charges to be paid by Cities heretofore and hereafter contracting to buy water from the Authority.

Sec. 18. (a) The Board shall designate one or more banks within the Authority to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks except that bond proceeds and funds pledged to pay bonds may, to the extent provided in the indenture, be deposited with the trustee bank named in the trust indenture, and except that funds shall be remitted to the bank of payment for the payment of principal of and interest on bonds. To the extent that funds in the depository banks and the trustee bank are not insured by the Federal Deposit Insurance Corporation they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the Board shall issue a notice stating the time and the place when and where the Board

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will meet for such purpose and inviting the banks in the Authority to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the Board. Such notice shall be mailed to each bank in the Authority.

(c) At the time mentioned in the notice, the Board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the Authority and which the Board finds have proper management and are in condition to warrant handling of Authority funds. Membership on the Board of an officer or director of a bank shall not disqualify such bank from being designated as depository.

(d) If no applications are received by the time stated in the notice, the Board shall designate some bank or banks within or without the Authority upon such terms and conditions as it may find advantageous to the Authority.

Sec. 19. The Authority is authorized to acquire water appropriation permits from owners of permits. The Authority is hereby empowered to lease or acquire rights in and to storage and storage capacity in any reservoir constructed or to be constructed by any person, firm, corporation or public agency or from the United States Government or any of its agencies.

Sec. 20. All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking fund of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 21. The accomplishment of the purposes stated in this Act is for the benefit of the people of this State and for the improvement of their properties and industries, and the Authority, in carrying out the purposes of this Act, will be performing an essential public function under the Constitution. The Authority shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 22. (a) The tax rolls of the Cities situated within the Authority, and within territory hereafter annexed, are hereby adopted and shall constitute the tax rolls of the Authority until assessment and tax rolls shall be made by the Authority.

(b) Prior to the sale and delivery of Authority bonds which are payable wholly or partially from ad valorem taxes the Board shall appoint a tax assessor and collector and a board of equalization and cause taxes to be assessed, valuations to be equalized, and tax rolls to be prepared. General laws applicable to water control and improvement districts with reference to tax assessors and collectors, boards of equalization, tax rolls, tax liens and the levy and collection of taxes and delinquent taxes shall be applicable to this Authority, except that the board of equalization to be appointed each year by the Board of Directors shall consist of one member residing in each City then contained in the Au-

thority. The Board of Directors is also authorized to make contracts with any one or more Cities in the Authority for the collection of Authority taxes. Provided, that any taxes levied by the Authority shall be ad valorem.

Sec. 23. (a) The Board of Directors of the Authority shall have the power to adopt and promulgate all reasonable regulations to secure, maintain and preserve the potable and sanitary condition of all water in and to flow into any reservoir owned by the Authority to prevent waste of water or the unauthorized use thereof, to regulate residence, hunting, fishing, boating and camping, and all recreational and business privileges, along or around any such reservoir or any body of land, or easement owned by the Authority.

(b) The Authority may prescribe reasonable penalties for the breach of any regulation of the Authority, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200), or imprisonment for not more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction, provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five (5) days next after the Authority may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published once a week for two consecutive weeks in the county or counties in which such reservoir is situated. The substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulation; one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation, or regulations, will subject the violator to the infliction of a penalty and there also shall be included in the notice advice that the full text of the regulations sought to be enforced is on file in the principal office of the Authority, where the same may be read by any interested person. Five days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty and, the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinance of a City of the State.

(c) Any duly constituted peace officer shall have the power to make arrests when necessary to prevent or abate the commission of any offense against the regulations of the Authority, and against the laws of the State of Texas, when any such offense or threatened offense, occurs upon any land, water, or easement owned or controlled by the Authority, or to make such arrest at any place, in case of an offense involving injury or detriment to any property owned or controlled by such Authority.

Sec. 24. The Authority is authorized to establish or otherwise provide for public parks and recreation facilities, and to acquire land for such purposes within or without the Authority, provided, however, that no money received from taxation or from bonds payable wholly or partially from taxation shall be used for such purpose.

Sec. 25. It further is expressly provided that the Authority shall have the power to employ and constitute its own peace officers, and any such officer or any other duly constituted peace officer shall have the power to make arrests when necessary to prevent or abate the com-

For Annotations and Historical Notes, see V.A.T.S.

mission of any offense against the regulations of the Authority, and against the laws of the State of Texas, when any such offense or threatened offense occurs upon any land, water, or easement owned or controlled by the Authority, or, to make such arrest at any place, in case of an offense involving injury or detriment to any property owned or controlled by such Authority.

Sec. 26. The Cities initially contained in the Authority are authorized to pay money to the Authority, in such amounts as may be agreed on between such Cities and the Authority, for the purpose of defraying the preliminary costs of organizing the Authority.

Sec. 27. Nothing in this Act shall be interpreted as amending or repealing Article 7471, Revised Civil Statutes of Texas, which provide for priorities of the use of water.

Sec. 28. It is hereby found that notice of intention to introduce this bill has been published at least thirty (30) days and not more than ninety (90) days prior to its introduction in newspapers having general circulation in counties in which said Authority is situated and in the manner provided by Article XVI, Section 59(d) of the Constitution, that a copy of said notice and of this bill as introduced were delivered to the Governor, and the time, form and manner of giving said notice is hereby approved and ratified. The evidence of the foregoing was exhibited in the Legislature before the passage of this Act. Acts 1965, 59th Leg., p. 537, ch. 277, emerg. eff. May 28, 1965.

**Title of Act:**

An Act relating to the creation, organization, financing, powers, duties, and functions of the Mackenzie Municipal Water Authority, a Conservation and Reclamation

District comprising the territory contained in certain Cities in Swisher, Briscoe and Floyd Counties; and declaring an emergency. Acts 1965, 59th Leg., p. 537, ch. 277.

**Art. 8280—299. Deep East Texas Interbasin Navigation District**

Section 1. There is hereby created within the State of Texas in addition to the districts into which the State has heretofore been divided, a conservation and reclamation district to be known as the Deep East Texas Interbasin Navigation District (hereinafter called the "District"). Such District shall be and is hereby declared to be a governmental agency and body politic and corporate with the powers of government and with the authority to exercise the rights, privileges, and functions hereinafter specified, and the creation of such District is hereby determined to be essential to the accomplishments of the purposes of Section 59, Article XVI, Constitution of the State of Texas.

Sec. 2. The Deep East Texas Interbasin Navigation District shall include all of the territory lying within the Counties of Angelina, Jasper, Nacogdoches, Sabine, San Augustine, and Shelby, and it is hereby found and determined that all of the land included in the District shall be benefited by the exercise of the powers conferred by this Act. It is recognized that this boundary overlaps, in part, an area included within the Sabine River Authority of Texas as created by Chapter 110, Acts of the 51st Legislature, Regular Session, 1949, and nothing herein is intended to alter in any manner the rights, duties, privileges, powers, and immunities of that Authority.

Sec. 3. Except as expressly limited by this Act, the District shall have and is vested with all powers, rights, privileges, and functions conferred upon navigation districts created pursuant to Section 59, Article XVI, Constitution of the State of Texas, and shall, likewise, have and is vested with all powers, rights, privileges, and functions conferred upon navigation districts by General Law. Without limitation of the generality of the foregoing, the District shall have and is hereby au-

thorized to exercise the following powers, rights, privileges, and functions:

(1) the right, power, and authority to promote, construct, maintain and operate and/or to make practicable, promote, aid, and encourage the construction, maintenance, and operation of navigable canals or waterways and all navigational systems or facilities auxiliary thereto, using the natural bed and banks of the streams and rivers in the District in so doing where practicable;

(2) the right, power, and authority to acquire, purchase, improve, extend, take over, construct, maintain, repair, operate, develop and regulate ports, levees, wharves, docks, locks, warehouses, grain elevators, dumping facilities, belt railways, lands, and all other facilities or aids to navigation or aids necessary to the operation or development of ports or waterways within the District;

(3) to construct, extend, improve, repair, maintain, and reconstruct or cause to be constructed, extended, improved, repaired, maintained, and reconstructed, and own, use, and operate any and all facilities of any kind necessary to the exercise of such powers, rights, privileges, and functions as are herein granted;

(4) to sue and be sued in its corporate name;

(5) to adopt, use, and alter a corporate seal;

(6) to make bylaws, rules, and regulations for the management, control, and regulation of its affairs;

(7) to employ officers, attorneys, agents, and employees, to prescribe their duties, and to fix their compensation;

(8) to make contracts and execute instruments necessary to the exercise of the powers, rights, privileges, and functions conferred upon the District by this Act;

(9) to borrow money for its corporate purpose consistent with the Constitution and General Laws of the State and, without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America or from any corporation or agency created or designated by the United States of America; and, in connection with any such loan or grant, to enter into such agreements as the United States of America or such corporation or agency may require and issue its bonds payable from revenues only for such money so borrowed;

(10) to acquire by gift or purchase any and all properties of any kind, including lighters, tugs, barges, and other floating equipment of any nature, real, personal, or mixed, or any interest therein inside or outside of the boundaries of the District necessary to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act and by condemnation within the boundaries of the District, in the manner provided by General Law for condemnation by counties; provided that the District shall not be required to give bond for appeal or bond for costs in any judicial proceedings;

(11) to expend all sums reasonably necessary for seeking cooperation in accomplishing the objects of this Act from the Federal Government and/or any and all other persons, creatures, or entities, whether natural or creatures of law or contract;

(12) from time to time, to sell or otherwise dispose of any property of any kind, real, personal, or mixed, or any interest therein, which shall not be deemed necessary to the carrying on of the business of the District.

Sec. 4. (a) All powers of the District shall be exercised by a Board of Directors (herein called "Board"), and each Director shall serve for a period of two years except for the Directors hereinafter initially appointed.



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The Board consists of 12 members, two of whom shall be from each county in the District.

(b) The commissioners court of each county in the District shall appoint two members to the initial Board. The term of office of one of the two members expires on January 1, 1966; the term of office of the other member expires on January 1, 1967. The commissioners courts shall designate which of the persons they appoint serves until January 1, 1966, and which serves until January 1, 1967.

(c) Within not less than 10 or more than 30 days prior to the expiration of the term of office of each Director, the commissioners court of the county of residence of such Director whose term is expiring shall designate a successor, and each successor so appointed shall serve for a term of two years. All Directors shall hold office until their successors have been designated and have qualified as required by law. Before entering upon the duties of his office, each Director shall

(1) take the Constitutional Oath of office and the same shall be filed in writing with the secretary of the Board; and

(2) enter into a good and sufficient bond executed by a surety company authorized to do business in Texas as surety thereon in the sum of \$1,000 payable to the District, conditioned upon the faithful performance of his duties as Director. The cost of entering into said bond shall be paid by the District. The bond of the first Board of Directors shall be approved by the county judge of the county of residence of each of the initial Directors and the bonds of all Directors thereafter elected or appointed shall be approved by the Board.

(d) Vacancies occurring on the Board from any county shall be filled by appointment by the commissioners court of the county of residence of the member whose place on the Board shall have been vacated for any cause, for the remainder of the term. Any person over the age of 21 years residing within the District and within the county from which he is appointed and possessing the qualifications of a juror shall be eligible for appointment and to serve as a Director.

Sec. 5. No Director may be paid any sum whatsoever for his services as a Board member or as a member of any committee authorized by the Board. Actual expense incurred by any member of the Board in performing any service for the District may be reimbursed; provided, however, that all such reimbursement shall be paid out of funds raised in the county from which the Director is appointed.

Sec. 6. Any Director or officer shall be subject to removal or suspension from office by the affirmative vote of a majority of the Directors, for incompetency, official misconduct, official gross negligence, habitual drunkenness, or for nonattendance at six consecutive regular meetings of the Board; provided that no Director or officer shall be removed or suspended from office until charges in writing are filed against him and he is given opportunity for a fair hearing before the Board of Directors.

Sec. 7. At the first meeting of the Board after this Act becomes effective and the initial Board of Directors, as herein designated, have qualified for and have taken office, and at the first meeting of the Board held in the month of January of each odd-numbered year commencing with the year 1965, there shall be appointed by a majority of the Board of Directors from its membership a chairman, a vice-chairman, a secretary-treasurer (these two offices to be combined) and, if deemed proper, an assistant secretary and an assistant treasurer who need not be members of the Board of Directors and who may be granted limited powers in the bylaws. The officers so appointed shall serve for a term of two years and until their successors have been appointed; except that the assistant secretary and the as-

sistant treasurer, if such officers are appointed, shall hold office at the pleasure of the Board. A quorum at all meetings of the Board of Directors shall consist of not less than five members. All regular and special meetings of the Board of Directors shall be held as provided for by the bylaws and notice of all such meetings shall be given as required by the bylaws.

Sec. 8. Nothing in this Act shall be construed to authorize the levy or collection of ad valorem taxes upon any property, real, personal, or mixed, lying within the District.

Sec. 9. The Board shall cause to be kept complete and accurate accounts conforming to approved methods of bookkeeping. Said accounts and all contracts, documents, and records existing shall be kept at its principal office, all of which shall be open to public inspection at all reasonable times. The Board shall cause to be made and completed within 90 days after the end of each calendar year or fiscal year, if the fiscal year shall be different from the calendar year, an audit of the books and accounts and financial records of the District for each year, such audit to be made by an individual certified public accountant or firm of certified public accountants. Copies of such audit, certified by said accountant or accountants, shall be filed with the county clerks of the counties in the District, and at the principal office of the District, and shall be open to public inspection at all reasonable times. The money of the District shall be distributed only on checks, vouchers, drafts, orders, or other written instruments signed by such persons as shall be authorized to sign the same by a resolution of the Board.

Sec. 10. All officers, agents, and employees of the District who shall be charged with the collection, custody, or payment of any money of the District shall give bond in the amount of \$5,000, conditioned on the faithful performance of their duties and accounting for all money and properties of the District coming into their respective hands, each of which bonds shall be in the form and manner prescribed by the Board and with a surety authorized to do business in the State and approved by the Board. The premiums on such bonds shall be paid by the District and charged as operating expenses.

Sec. 11. The Sabine River Authority of Texas heretofore created by the State, with powers provided in Section 59, Article XVI, Constitution of the State of Texas, shall have the authority, power, and right to co-ordinate its plans with the District herein created, and shall have full authority, power, and right to enter into joint undertakings for the purposes for which the District is created; provided, however, that all such acts must be approved by a majority vote of the Board of Directors of each District involved and by the Texas Water Commission or its successor. By this provision, the co-ordination of navigational planning functions and the joint undertaking of projects at the local and watershed levels are hereby encouraged as necessary for sound and orderly watershed development.

Sec. 12. (a) For the purpose of providing money for any of the purposes provided by this Act or other laws relating to navigation districts, the Board shall have the power from time to time to

(1) issue bonds for and on behalf of the District, which bonds may be secured solely by a pledge of and payable from the net revenues derived from the operation of all or a designated part of the improvements and facilities of the District then in existence or to be constructed or acquired, with the duty of the Board to charge and collect fees, tolls, and charges, so long as the bonds are outstanding, sufficient to pay all maintenance and operation expenses of the improvements and facilities (the income of which is pledged), the interest on such bonds as it accrues, the principal of such bonds as it matures, and to make any and all other payments as may be prescribed in the bond order or resolution;

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(2) issue bonds secured by a pledge of all or a part of the proceeds of any one or more contracts theretofore or thereafter made or other revenues or income specified by resolution of the Board.

(b) "Net revenues" as used herein shall mean the gross revenues derived from the operation of those improvements and facilities of the District the income of which is pledged to the payment of the bonds, less the reasonable expense of maintaining and operating said improvements and facilities, and said maintenance and operation expenses shall include, among other things, necessary repair, upkeep, and insurance of said improvements and facilities.

(c) In the resolution or order adopted by the Board authorizing the issuance of bonds payable from net revenues or from the proceeds of a contract or contracts, the Board may provide for the flow of funds, the establishment and maintenance of an interest and sinking fund, reserve funds, and other funds, and may make such additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of those improvements and facilities (the income of which is pledged), including provisions for the leasing of all or a part of said improvements and facilities and the use or pledge of money derived from leases thereof, as it may deem appropriate. Said resolution or order may also prohibit the further issuance of bonds or other obligations payable from the pledged net revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said net revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said resolution or order. Such resolution or order may contain such other provisions and covenants, as the Board shall determine, not prohibited by the Constitution or by this Act, and the Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of said bonds.

(d) Bonds payable solely from net revenues may be issued by resolution or order of the Board and no election therefor shall be necessary.

(e) All bonds of the District shall be authorized by resolution or order of the Board, shall be issued in the name of the District, shall be signed by the chairman and attested by the secretary, and shall have the seal of the District impressed thereon; provided, that the resolution or order authorizing such bonds may provide for the bonds to be signed by the facsimile signatures of said chairman and secretary, either or both, and for the seal of the District on the bonds to be a printed facsimile seal of the District; and provided further that the interest coupons, if any, attached to said bonds may also be executed by the facsimile signatures of said officers. Such bonds shall mature serially or otherwise in not to exceed 40 years from their date or dates, and may be sold at a price and under terms determined by the Board to be the most advantageous reasonably obtainable; provided, that the interest cost to the District may not exceed six per cent per annum calculated to the absolute maturity of the bonds, and within the discretion of the Board such bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the resolution or order authorizing the bonds. Such bonds may be made registrable as to principal, or as to both principal and interest.

(f) After such bonds have been authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after the Attorney General has approved the same, they shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General and registered by the Comptroller, they shall thereafter be incontestable. When

any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the District and another party or parties (public agencies or otherwise), a copy of such contract or contracts and of the proceedings authorizing the same shall be submitted to the Attorney General along with the bond record, and the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable except for fraud or palpable error.

(g) From the proceeds of the sale of any bonds of the District, the Board may appropriate or set aside amounts for the payment of interest expected to accrue during the period of construction of the improvements or facilities, for reserve funds, and for expenses incurred and to be incurred in the issuance, sale, and delivery of bonds.

(h) The Board shall have the power to borrow money for current expenses and to evidence same by notes or warrants payable not later than the close of any calendar year during which loans are made, provided that all of such notes or warrants shall never exceed the anticipated revenue and may bear, not to exceed, six per cent interest.

Sec. 13. (a) The Board shall have the power to issue refunding bonds of the District for the purpose of refunding any outstanding bonds of the District and accrued interest thereon. Such refunding bonds may be issued to refund more than one series or issue of such outstanding bonds and combine pledges for the outstanding bonds for the security of the refunding bonds, and such refunding bonds may be secured by other and additional revenues; provided, that such refunding will not impair the contract rights of the holders of any of the outstanding bonds which are not to be refunded.

(b) Refunding bonds shall be authorized by resolution or order of the Board, and shall be executed and shall mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution or order authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option or maturity date, and the Comptroller shall register them without the surrender and cancellation of the original bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller, shall be incontestable.

Sec. 14. All bonds issued under this Act shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State. Such bonds shall be eligible to secure the deposit of any and all public funds of the State, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Sec. 15. (a) The District shall apply to and obtain from the Texas Water Commission such permits as it may be required to do by the General Law.

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(b) The District shall fully comply with relevant interstate river compacts and the creation of the District shall not in any way affect or alter such compacts.

(c) Prior to the issuance of any revenue bond or bonds, the proceeds of which are to be used in payment of any of the construction provided for or authorized by this Act, the District shall submit to the Texas Water Commission or its successor plans and specifications for such construction, and obtain the approval of the commission.

(d) This Act and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein. Acts 1965, 59th Leg., p. 663, ch. 319.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the creation, organization, powers, duties and functions of a conservation and reclamation district lo-

cated in Angelina, Jasper, Nacogdoches, Sabine, San Augustine, and Shelby Counties to be known as the Deep East Texas Interbasin Navigation District; and declaring an emergency. Acts 1965, 59th Leg., p. 663, ch. 319.

**Art. 8280—300. South China Improvement District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Jefferson County, Texas, to be known as "South China Improvement District"; hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Lying wholly within Jefferson County, Texas, and being 160.86 acres, more or less, out of the Maria F. Lazarine League, A-36, and described by metes and bounds as follows:

Commencing for reference at the most northerly corner of said Maria F. Lazarine League.

Thence S 82° E 9420 feet along a north boundary line of said Maria F. Lazarine League to an iron pin.

Thence S 08° W 1325 feet along the east right-of-way line of the South China Road as extended and the east right-of-way line of the South China Road to an iron pin, being the point of beginning of the herein described tract.

Thence S 08° W 70 feet along the east right-of-way line of the South China Road to an iron pin.

Thence S 82° E 227 feet to an iron pin.

Thence N 08° E 780 feet to an iron pin.

Thence S 82° E 374 feet to an iron pin.

Thence S 08° W 735 feet to an iron pin in the northwest right-of-way line of a Lower Neches Valley Authority canal.

Thence S 57° W 820 feet along the northwest right-of-way line of said Lower Neches Valley Authority canal to an iron pin in the east right-of-way line of the South China Road.

Thence S 08° W 2995 feet along the east right-of-way line of the South China Road to an iron pin.

Thence N 82° W 600 feet to a point.

Thence N 25° 50' 29" W 2418.20 feet to a point.

Thence N 27° E 1200 feet to an iron pin, being the most easterly corner of a 20-acre school tract.

Thence S 81° W 1200 feet to an iron pin.

Thence N 09° W 726.3 feet to an iron pin.

Thence N 81° E 1200 feet to an iron pin.

Thence S 09° E 97.7 feet to an iron pin in the north boundary line of Avenue B, and unrecorded road.

Thence S 87° E 243.1 feet along the north boundary line of said Avenue B to an iron pin.

Thence S 64° E 600 feet continuing along the north boundary line of said Avenue B to an iron pin.

Thence N 08° E 695 feet to an iron pin.

Thence due North 421.5 feet to an iron pin lying in the south right-of-way line of U. S. Highway No. 90.

Thence due East 199.5 feet along the south right-of-way line of U. S. Highway No. 90 to an iron pin.

Thence due South 425.6 feet to an iron pin.

Thence S 82° E 147.8 feet to an iron pin.

Thence due North 65 feet to an iron pin in the south boundary line of Avenue A, an unrecorded road.

Thence due East 250.4 feet along the south boundary of said Avenue A to an iron pin.

Thence S 08° W 840 feet to an iron pin.

Thence S 82° E 360 feet to an iron pin in the east right-of-way line of the South China Road, the point of beginning.

Containing 160.86 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the Dis-

For Annotations and Historical Notes, see V.A.T.S.

trict; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District: Leroy C. Stelly, Ernest Stelly, Lester Thomas, Willie Eaglin and Julius Beverly. If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice-president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice-president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Jefferson County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Jefferson County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls



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of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the District and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Jefferson County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Any kind of bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District, and may be sold at a private or public sale, but none of said bonds or refunding bonds shall be sold for less than ninety-five per cent of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety-five per cent of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six (6) months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their

properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Acts 1965, 59th Leg., p. 692, ch. 331.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "South China Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for terms and election of Directors and notice of Directors elections, and related matters; providing for Directors to fill vacancies; providing for organization of Board of Directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of

Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Jefferson County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Jefferson County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this state; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 692, ch. 331.

**Art. 8280—301. Cardinal Meadows Improvement District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Jefferson County, Texas, to be

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known as "Cardinal Meadows Improvement District"; hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Lying wholly within Jefferson County, Texas, and being 97.43 acres, more or less, out of the John Douthit Survey, A-114, and the John A. Veatch Survey, A-55, and described by metes and bounds as follows:

Commencing for reference at the southeast corner of said John Douthit Survey.

THENCE N 45° 01' E 355.27 feet along the southeast boundary line of said John Douthit Survey to a galvanized iron pipe, being the most southerly corner of Cardinal Meadows Subdivision, Section 1, as recorded in the Map Records of Jefferson County, Texas, and also being the point of beginning of the herein described tract.

Thence N 45° 01' E 5746.78 feet along the southeast boundary line of said John Douthit Survey to a concrete monument.

Thence N 45° 00' W 740.95 feet to an iron pin lying on the northwest right-of-way line of Hillebrandt Bayou Road.

Thence S 44° 59' W 5749.11 feet along the northwest right-of-way line of Hillebrandt Bayou Road to an iron pin.

Thence S 45° 11' E 737.63 feet to a galvanized iron pipe, being the point of beginning.

Containing 97.43 acres, more or less.

It is hereby provided that the following land totaling 10.002 acres as hereby described shall not be included within the district which is created under this Act.

Being out of Abstract 114, John Douthit Survey, Jefferson County, Texas, and being a part of Tract No. 6 of Jefferson County lands as described in conveyance from East Texas Pulp and Paper Company to A. P. Hart & Carl T. Bledsoe by deed dated April 1, 1960, said deed being recorded in Vol. 1212, page 556 et seq., Deed Records of Jefferson County, Texas, and being 10.002 acres of land described as follows:

BEGINNING at the southwest corner of the Pelham Humphries Survey, Abstract 32, in the north line of the D. Cunningham Survey, Abstract 15, a 4 inch iron pipe with brass disk stamped Texas Rice Land Company corner of the P. Humphries Survey, from which pipe a fence corner bears north 26 deg. east, 0.3 vrs. a fence corner bears north 74 deg. 40' west 0.3 vrs., top point of San Jacinto Building bears north 1 deg. 13½' west and a concrete monument stamped JE-81 bears west 0.7 vrs.;

THENCE west 334.58 vrs. with the north line of said Cunningham Survey to a concrete monument stamped JE-82 for corner in the southeast right of way line of the Spindletop-Hillebrandt Bayou Road 40' perpendicular distance from the centerline of same, from which a 4 inch iron pipe with brass disk stamped Texas Rice Land Company northwest corner of D. Cunningham Survey bears north 89 deg. 33' west 20.16 vrs.;

THENCE north 44 deg. 59' east 356.5 vrs. with the northwest line of said tract to a stake for corner;

THENCE south 45 deg. 11' east 236.75 vrs. to a stake for corner in the southeast line of said tract;

THENCE south 45 deg. 01' west 120.7 vrs. with the southeast line of said tract to the place of beginning, containing 10.002 acres of land.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District: Fred L. Aldred, Andrew Durham, Clarence

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Green, Joe Mayfield and Simon Green. If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice-president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice-president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Jefferson County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, as amended, and to the extent of the creation of

the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Jefferson County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the district and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Jefferson County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and pro-

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vide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Any kind of bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District, and may be sold at a private or public sale, but none of said bonds or refunding bonds shall be sold for less than ninety-five per cent of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety-five per cent of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a District where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six (6) months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Acts 1965, 59th Leg., p. 702, ch. 335.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Cardinal Meadows Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the

field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution

of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for terms and election of Directors and notice of Directors elections, and related matters; providing for Directors to fill vacancies; providing for organization of Board of Directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Jefferson County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that

the Municipal Annexation Act shall have no application to this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Jefferson County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this state; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 702, ch. 335.

**Art. 8280—302. North Nome Improvement District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Jefferson County, Texas, to be known as "North Nome Improvement District", hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Lying wholly within Jefferson County, Texas, and being 35.50 acres, more or less, out of the John Vanness Survey, A-380, and described by metes and bounds as follows:

Commencing for reference at the northeast corner of said John Vanness Survey.

Thence due West 3937.00 feet along the north boundary line of said John Vanness Survey to an iron pin.

Thence S 05° 26' W 1958.00 feet to an iron pin, being the point of beginning of the herein described tract.

Thence S 05° 26' W 850.00 feet to an iron pin lying on the northerly right-of-way line of Alabama Street as recorded in Volume 1, Page 26 of the Map Records of Jefferson County, Texas, and being a part of the Sour Lake Subdivision.

Thence S 00° 21' E 399.21 feet to an iron pin.

Thence S 81° 05' W 180.00 feet to an iron pin.

Thence N 08° 55' W 330.00 feet along the westerly right-of-way line of First Street to an iron pin.



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Thence S 81° 05' W 620.00 feet along the southerly right-of-way line of Alabama Street to an iron pin.

Thence S 08° 55' E 330.00 feet along the easterly right-of-way line of Third Street to an iron pin.

Thence S 81° 05' W 415.00 feet to an iron pin lying on the westerly right-of-way line of Fourth Street.

Thence N 08° 55' W 1320.00 feet along the westerly right-of-way line of Fourth Street to an iron pin.

Thence N 81° 05' E 1105.00 feet to an iron pin lying on the easterly right-of-way line of First Street.

Thence S 08° 55' E 44.51 feet along the easterly right-of-way line of First Street to an iron pin.

Thence N 89° 39' E 384.41 feet to an iron pin, being the point of beginning.

Containing 35.50 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as

herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District: Alex Spears, Jr., Lafayette Spivey, Veley Grogan, Tom Buckner and J. W. Samuel. If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice-president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice-president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

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Sec. 12. The power of eminent domain of the District shall be limited to Jefferson County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, as amended, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Jefferson County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the District and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities; and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Jefferson County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Any kind of bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District, and may be sold at a private or public sale, but none of said bonds or refunding bonds shall be sold for less than ninety-five per cent of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety-five per cent of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other General law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six (6) months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties,

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school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 709, ch. 336.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "North Nome Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for terms and election of Directors and notice of Directors elections, and related matters; providing for Directors to fill vacancies; providing for organization of Board of Directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by

the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Jefferson County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Jefferson County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this state; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 709, ch. 336.

**Art. 8280—303. Three Rivers Water District**

**District created**

Section 1. Under and pursuant to the provisions of Article XVI, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created in Live Oak County to be known as Three Rivers Water District, hereinafter referred to as the "District," which shall be a governmental agency and body politic and corporate and municipal corporation.

**Territory comprising the district**

Sec. 2. The area of the District is hereby established to comprise all territory contained within the boundaries described as follows, to wit:

BEGINNING at the Southeast corner of Tract 18 of Tract "B" of Hamilton Bros. Subdivision as shown by the plat of said subdivision recorded in Vol. "U", pages 148 and 149 of the Deed Records of Live Oak County, Texas, and which tract is also in the William O'Docharty Survey, Abstract 33, in Live Oak County, for the most Southeast corner of this district;

THENCE, in a Northerly direction along the Eastern boundary line of said Tract 18 of Tract "B" of Hamilton Bros. Subdivision as shown by the plat of said subdivision recorded in Vol. "U", pages 148 and 149 of the Deed Records of Live Oak County, Texas, to the Northeast corner of said Tract 18;

THENCE, in a Westerly direction to the Southeast corner of Tract 21 of Tract "B" of Hamilton Bros. Subdivision as shown by plat of said subdivision recorded in Vol. "U", pages 148 and 149 of the Deed Records of Live Oak County, Texas;

THENCE, in a Northerly direction along the Eastern boundary line of Tract 21 to the South line of a 100 acre tract of land out of Tracts 21 and 22 of Tract "B" of said Hamilton Bros. Subdivision and which 100 acre tract of land is more particularly described in a deed recorded in Vol. 87, page 141, of the Deed Records of Live Oak County, Texas;

THENCE, in an Easterly direction to the Southeast corner of said 100 acre tract;

THENCE, in a Northerly direction with the East boundary of said 100 acre tract as described in said Vol. 87, page 141, of the Deed Records of Live Oak County, Texas, to its Northeast corner for an inner corner of this district;

THENCE, in an Easterly direction to the Southeast corner of a 30 acre tract of land in the William O'Docharty Survey, Abstract 33, as described in a deed recorded in Vol. 41, page 78, of the Deed Records of Live Oak County, Texas, for another Southeast corner of this district;

THENCE, North along the Eastern boundary of said 30 acre tract of land to the Northeast corner of said 30 acre tract of land, said Northeast corner being in the Southern boundary line of a tract of 450 acres, more or less, in the Bridget Haughey Grant and William O'Docharty Grant in Live Oak County, Texas, said 450 acres of land being described in a deed recorded in Vol. 50, page 255, of the Deed Records of Live Oak County, Texas, for a Northeast corner of this district;

THENCE, along the Southern boundary line of said 450 acres of land as described in said deed recorded in Vol. 50, page 255, in a Westerly direction to a point in said Southern boundary line, which point is due South of the Southwest corner of Tract 2 of Tract "A" of Hamilton Bros. Subdivision as shown on the plat of said subdivision recorded in Vol. "U", pages 150 and 151 of the Deed Records of Live Oak County, Texas, for an inner corner of this district;

THENCE, due North to said Southwest corner of said Tract 2 of Tract "A" of Hamilton Bros. Subdivision as shown on the plat of said subdivision recorded in Vol. "U", pages 150 and 151 of the Deed Records of Live Oak County, Texas, for another Northeast corner of this district;

THENCE, in a Northwesterly direction to the Southeast corner of a 328.29 acre tract of land in the Bridget Haughey Grant, Abstract No. 9, as described in a deed recorded in Vol. "Y", pages 563, et seq., of the Deed Records of Live Oak County, Texas, for the most Northeasterly corner of this district;

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THENCE, in a Westerly direction along the Southern boundary line of said 328.29 acre tract of land in the Bridget Haughey Grant, Abstract No. 9, as described in a deed recorded in Vol. "Y", pages 563, et seq., of the Deed Records of Live Oak County, Texas, to the Eastern right-of-way line of the San Antonio, Uvalde and Gulf Railroad right-of-way, also known as the Missouri Pacific Lines right-of-way, for the most northerly Northwest corner of this district;

THENCE, in a Southerly direction along the Eastern right-of-way line of said San Antonio, Uvalde and Gulf Railroad right-of-way to a point in said railroad right-of-way that is due East of the Northeast corner of a 41.75 acre tract of land in the William O'Docharty Grant, Abstract No. 33, being Survey No. 2 of Share No. 5 of the James Murray Estate land, said 41.75 acre tract of land being described in a deed recorded in Vol. 52, page 276, of the Deed Records of Live Oak County, Texas, for an inner corner of this district;

THENCE, due West to the Northwest corner of said 41.75 acre tract of land as described in a deed recorded in Vol. 52, page 276, of the Deed Records of Live Oak County, Texas, for a Northwesterly corner of this district;

THENCE, in a Southerly direction along the Western boundary line of said 41.75 acre tract of land as described in a deed recorded in Vol. 52, page 276, of the Deed Records of Live Oak County, Texas, to the Southwest corner thereof, said Southwest corner being in the northern boundary line of Tract 1 of Tract "B" of Hamilton Bros. Subdivision as shown on the plat of said Tract "B" of Hamilton Bros. Subdivision recorded in Vol. "U", pages 148 and 149, of the Deed Records of Live Oak County, Texas, for an inner corner of this district;

THENCE, in a Westerly direction along the Northern boundary line of said Tract 1 of Tract "B" of Hamilton Bros. Subdivision as shown on the plat of said Tract "B" of Hamilton Bros. Subdivision recorded in Vol. "U", pages 148 and 149 of the Deed Records of Live Oak County, Texas, to the Northwest corner of said Tract 1 on the East bank of the Frio River;

THENCE, due West across the Frio River to the West Bank of the Frio River;

THENCE, down the West bank of the Frio River with its meanders to a point where the South boundary of Tract 4 of Tract "B" of said Hamilton Bros. Subdivision extended intersects this West bank of the Frio River for a Southwest corner of this district;

THENCE, in an Easterly direction crossing the Frio River to its East bank at the Southwest corner of said Tract 4 of Tract "B" of Hamilton Bros. Subdivision, and continuing with the South boundary of said Tract 4 to where this boundary of Tract 4 intersects the West right-of-way line of the old S. A. U. & G. Railroad as shown on the plat of said Tract "B" of Hamilton Bros. Subdivision recorded in Vol. "U", pages 148 and 149, of the Deed Records of Live Oak County, Texas, this point being a corner in the South line of this district;

THENCE, in a Northeasterly direction crossing old S. A. U. & G. Railroad right-of-way, to the Southwest corner of Tract 20 of Tract "B" of Hamilton Bros. Subdivision as shown by plat recorded in Vol. "U", pages 148 and 149 of the Deed Records of Live Oak County, Texas, for a corner in the South line of this district;

THENCE, in an Easterly direction with the South line of Tracts 20, 19 and 18 of said Tract "B" of Hamilton Bros. Subdivision to the Southeast corner of said Tract 18, the Place of BEGINNING. There is also included in the territory of the District and comprising an additional part of the District the river beds of and all those areas below the 140 ft. contour line above mean sea level which lay and meander along

the Atascosa and Frio Rivers situated in Live Oak County, Texas, upstream from the above-described boundaries of the District.

The area of the District included within the above-described boundaries is situated in Live Oak County and contains approximately 2,500 acres, more or less.

It is hereby determined and found by the Legislature that the boundaries and field notes of said District form a closure, and if any mistake is made in copying the field notes in the legislative process it shall in no way or manner affect the organization, existence and validity of said District or the right of the District to issue bonds or refunding bonds or in any other manner affect the legality or operation of the District.

#### **District's powers**

Sec. 3. The District shall have and exercise and is hereby vested with all of the rights, powers and privileges conferred by the General Laws of the State now in force and effect or hereinafter enacted, applicable to water control and improvement districts created under the authority of Article XVI, Section 59 of the Constitution of Texas, but to the extent that the General Laws may be in conflict and inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. It shall, however, not be necessary for the board of directors to call a confirmation election or to hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

#### **Governing body of the district**

Sec. 4. The management and control of the District is hereby vested in a board of five (5) directors, which shall have all of the powers and authority conferred upon boards of directors of water control and improvement districts organized under the provisions of Chapter 25, Acts of the Thirty-ninth Legislature, passed in 1925, and amendments thereto, as incorporated in Title 128, Chapter 3A of Vernon's Civil Statutes of the State of Texas and amendments thereto. Upon the effective date of this Act, the following named persons shall be and constitute the board of directors of said District: (1) Harold D. House, Three Rivers, (2) Aubrey Lee, Three Rivers, (3) J. Arthur Byrne, Three Rivers, (4) J. K. Montgomery, Three Rivers, and (5) J. T. Bomar, Three Rivers, and each of said directors shall subscribe to the Constitutional Oath of Office and give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000) within sixty (60) days after the effective date of this Act, the cost of which shall be paid by the District; and shall hold office until his successor has been elected and qualified. Should any of the named directors refuse to act or for any reason fail to qualify as herein required, the County Judge of Live Oak County shall fill such vacancy. The terms of the first two (2) named directors shall expire in 1966, on the day and month set for city elections in Three Rivers, and the terms of the last three (3) named directors shall expire one year later. A regular election for the election of directors shall be held each year, on the day and month set for city elections in the City of Three Rivers, beginning in 1966. Two (2) directors shall be elected in even-numbered years and three (3) directors in each odd-numbered year. The regular elections for directors shall be ordered by the board and such order shall state the time, place and purpose of the election, and the board shall appoint the presiding judge who shall appoint an assistant judge and two (2) clerks, if needed. The board may, by agreement with Three Rivers, use the city election judges, clerks, and material. All vacancies in office (other than for failure of an original director to qualify as hereinabove



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provided) shall be filled by majority vote of the remaining directors and such appointees shall hold office for the unexpired term for which they were appointed. Each director shall receive no compensation other than actual and necessary expenses. Any person who is a resident property owning taxpaying voter of the District shall be eligible to hold the office of director of the District. The board of directors shall elect from its number a president and vice president of the District, and such other officers as in the judgment of the board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the board, and shall have the same right to vote as any other director. The vice president shall perform all duties and exercise all power conferred by this Act upon the president when the president is absent or fails or declines to act.

#### May issue bonds

Sec. 5. For the purpose of acquiring or improving a water supply and water treatment facilities, or for the purpose of constructing, improving, extending or enlarging water storage and distribution facilities, or for either or all of such purposes, the District is specifically authorized to issue its negotiable bonds. Such bonds may be secured by and payable from ad valorem taxes or net revenues of the District, or by combination of such taxes and revenues as authorized by the general law relating to water control and improvement districts. No bonds payable in whole or in part from taxes, except refunding bonds, shall be issued by the District until their issuance has been approved by a majority of the resident qualified property taxpaying voters whose property has been duly rendered for taxation who participate in an election called for that purpose. Should any proposition so submitted be defeated, another election or elections may be called and held after the expiration of 180 days within the District to vote upon the same or similar proposition at such time as the board of directors may determine. Bond elections may be called by the board of directors without a petition. The board may, by agreement with Three Rivers, use city election judges, clerks, and material. The resolution calling the election shall specify the time and places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the maximum interest rate, the form of ballot and the presiding judge for each voting place. The board shall show on the ballot the total amount to be issued, the maximum interest rate, and the maximum interest that can be paid. The presiding judge serving at each voting place shall appoint the necessary assistant judges and clerks for holding such election. The returns of the elections shall be made to and canvassed by the board of directors of the District. The General Laws relating to elections shall be applicable to elections held under this Section of this Act, except as otherwise provided in this Act.

Except as herein otherwise prescribed, the bonds of the District shall be authorized by resolution of the board of directors and may be sold under the terms and provisions of the General Laws of this State now in effect or hereafter enacted applicable to bonds issued by water control and improvement districts. Within the discretion of the board, the bonds may be callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing their issuance.

All bonds of the District, including refunding bonds, and the proceedings pertaining to their authorization, shall be submitted to the Attorney General of Texas, and if such bonds have been authorized in accordance with the provisions of this Section 5, he shall approve the bonds which shall then be registered by the Comptroller of Public Accounts. Thereafter such bonds shall be valid and binding as negotiable instruments and shall be incontestable for any cause.

**Bonds exempt from taxation**

Sec. 6. The bonds issued hereunder and their transfer, and the income therefrom, including the profits on the sale thereof, shall at all times be free from taxation by the State or by any municipal corporation, county, or other political subdivision or taxing district of the State. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusion hearing or hearings pursuant to the provisions of the General Law.

**District depository and its selection**

Sec. 7. The board of directors shall designate one or more banks to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank and banks, except those pledged to pay bonds, which shall be deposited with the trustee bank, or paying agent named in the bond proceedings and to the extent provided for in such proceedings. To the extent that funds in the depository bank and the trustee bank are not insured by the F. D. I. C., they shall be secured in the manner provided by law for the security of county funds.

**Charges for services**

Sec. 8. The District shall have the right to fix and collect charges, fees or tolls for the services of its water system and facilities, and District shall have the right to impose penalties for failure to pay when due such charges, fees, or tolls.

**District may acquire property**

Sec. 9. For the purpose of carrying out any power or authority conferred by this Act, the District shall have the right to acquire land and easements by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the board of directors. In the event that the District in the exercise of the power of eminent domain or power of relocation or any other power granted hereunder makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line or pipeline or telephone or telegraph properties and facilities, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility. The power of eminent domain granted shall be confined to the limits of Live Oak and McMullen Counties.

**May contract with city**

Sec. 10. Any city may enter into contract to take water from the facilities of the District or purchase water from the District upon the terms and conditions provided in Article 1109e, Vernon's Texas Civil Statutes, and such contract or any other contract executed by the District and another political subdivision of the State of Texas may provide one of

For Annotations and Historical Notes, see V.A.T.S.

the parties thereto shall operate or maintain (either or both), all or part of the properties, plants and facilities of the District as the parties thereto may specify, but in no event shall such contract be construed as relieving the District of its obligation to provide for the operation and maintenance of its properties, plants and facilities.

#### Recreational facilities

Sec. 11. The board may provide recreational services and facilities, and may enter into contracts and agreements with the Federal Government and with corporations and agencies of the Federal Government in relation to recreational services and facilities, and may perform all functions necessary to qualify for Federal recreational grants and loans.

#### May acquire water rights

Sec. 12. The District shall have the power to acquire water rights under permit from the Texas Water Commission, or may acquire water rights held by any city or district upon such terms and conditions as may be negotiated between the District and any such city or district, subject to approval by the Texas Water Commission.

#### District declared essential

Sec. 13. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article XVI of the Constitution of Texas wherein it is empowered to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the State; that the District herein created is essential to the accomplishment of the purposes of said constitutional provision; and that this Act operates on a subject in which the State at large is interested. It is hereby found and determined that all the lands and other property included within the boundaries of the District will be benefited thereby, and that the District is created to serve a public use and benefit and no exclusion hearing shall be held nor shall any land or other property be excluded from the District. All the terms and provisions of this Act are to be liberally construed to effectuate the purposes herein set forth.

#### Bonds of district as investment and security for public funds

Sec. 14. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

#### Proper notice published and given

Sec. 15. It is hereby found and determined that in conformity with Article XVI, Section 59 of the Constitution of Texas (as amended in 1964) notice of the intention to introduce this bill setting forth the general substance of this contemplated bill and law has been published at least thirty days and not more than ninety days prior to the introduction of this bill in the Legislature in a newspaper or newspapers having general circulation in the county or counties in which said District or any part thereof will be located and by delivering a copy of such notice and such bill to the Governor, who has submitted such notice and bill to the Texas Water Commission, which has filed its recommendations as to such bill with the Governor, Lieutenant Governor and Speaker of the House of Representatives within thirty days from date notice was received by the Texas Water Commission. The evidence of the foregoing was ex-

hibited in the Legislature before the passage of this Act. The time, form and manner of giving said notices and the performances of said acts as required by the Constitution are hereby found to be sufficient to comply with the Constitution and such notices and all acts in relation thereto are hereby approved and ratified.

#### Saving clause

Sec. 16. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be done in such manner as will conform thereto, whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. If any provisions of this Act shall be invalid, such fact shall not affect the creation of the District or the validity of any other provisions of this Act, and the Legislature here declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof. Acts 1965, 59th Leg., p. 1038, ch. 514, emerg. eff. June 16, 1965.

#### Title of Act:

An Act creating and establishing a conservation and reclamation district under Article XVI, Section 59 of the Constitution of Texas, comprising certain territory contained in Live Oak County, Texas, to be known as Three Rivers Water District; constituting the same a governmental agency and body politic and corporate and a municipal corporation; defining the boundaries thereof and finding that all land and property therein will be benefited and no exclusion hearing shall be held, and that no election shall be necessary to confirm the organization of the District nor shall hearings be held on a plan of taxation but the ad valorem plan shall be used; prescribing the rights, powers, privileges and duties of said District and incorporating the General Law pertaining to water control and improvement districts not in conflict or inconsistent with the provisions of this Act; providing for a board of directors, their terms, the filling of vacancies, the election of successors, and prescribing the duties and qualifications for such directors; prescribing the purpose for which bonds may be issued; the methods of securing the payment and the procedure for the issuance of such bonds; requiring all bonds payable in whole or in part from taxes, except refunding bonds, to be approved by the resident qualified property taxpaying voters whose property has been

duly rendered for taxation and providing terms and conditions for the issuance of bonds and the sale thereof; prescribing the manner in which such elections shall be called, held and notice thereof given; exempting the District's bonds from taxation; providing that the District shall have the power to fix rates and charges for services furnished; providing for a District depository and its selection; making applicable to the District Title 52, Revised Civil Statutes of Texas, as amended, relating to eminent domain and providing that the cost of relocation, raising, rerouting, or changing the grade or altering the construction of any highway, railroad, electric transmission line or telegraph properties and facilities shall be borne by District; enacting provisions relating to contracts with a City and providing that the District may acquire water rights under certain terms and conditions; providing that bonds of the District shall be authorized investments in certain instances and shall be eligible to secure the deposit of certain funds; declaring the District essential; making certain findings relating to the publication of the notice of intention to apply for the passage of this Act; enacting provisions incident and relating to the subject; providing a severance clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1038, ch. 514.

#### Art. 8280—304. Turkey Creek Improvement District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Turkey Creek Improvement District," hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

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Situated wholly in Harris County, Texas, and being 111.01 acres of land, more or less, in the Joel Wheaton Survey, A-80, described by metes and bounds as follows:

Commencing for reference at a concrete monument in a fence corner for the northeast corner of said Joel Wheaton Survey, A-80, and the southeast corner of the Joel Wheaton Survey, A-828, in the west right-of-way line of the Addicks-Fairbanks Road.

THENCE, S 0° 15' 00" W with said west right-of-way line of the Addicks-Fairbanks Road and the east line of said Joel Wheaton Survey, A-80, a distance of 2114.27 feet to a point in the south right-of-way line of the 275.0-foot wide U.S. Highway No. 90 (also known as Katy Road and the Interstate Highway No. 10) which point is the northeast corner and the beginning point of the herein-described tract of land, from which beginning point a United States Coast and Geodetic Survey concrete monument capped with a standard brass plate inscribed "U.S.C.G.S. Addicks 2, 1959" bears S 87° 45' 20" W 59.25 feet and a reference monument of similar construction set by the same agency bears S 85° 05' 34" E 39.39 feet.

THENCE, S 0° 07' 37" E with said east line of the Joel Wheaton Survey, A-80, which is the west line of the William Hardin Survey, A-24, a distance of 2058.52 feet to a fence corner.

THENCE, S 0° 07' 06" W with that fence, at 227.90 feet pass a 1½ inch iron pipe, at 248.0 feet pass another corner of that fence, in all a distance of 275.66 feet to a point in the center line of Turkey Creek.

THENCE, following the meanders of said center line of Turkey Creek, as follows:

N 86° 31' 49" W 13.50 feet.

S 81° 06' 06" W 98.48 feet.

S 72° 46' 10" W 109.66 feet.

S 5° 03' 33" W 98.82 feet, to a point in that center line from which point a 1" iron rod in the northeast right-of-way line of the 100-foot wide Memorial Drive bears S 41° 27' 30" E 30.00 feet.

THENCE, continuing with the meanders of the said creek center line and crossing said Memorial Drive right-of-way, as follows:

S 38° 55' 21" W 41.91 feet.

S 43° 34' 16" W 64.57 feet to a point in that center line.

THENCE, continuing with the meanders of said creek center line, as follows:

S 29° 07' 46" E 85.90 feet.

S 11° 54' 14" W 156.99 feet.

S 29° 53' 38" W 55.58 feet.

N 82° 31' 53" W 113.26 feet.

S 33° 42' 27" E 139.24 feet.

S 40° 57' 59" W 71.14 feet.

S 52° 04' 04" W 103.85 feet.

S 20° 31' 59" E 116.70 feet.

S 48° 50' 47" W 64.97 feet.

S 18° 48' 14" E 39.58 feet.

S 3° 05' 27" E 40.86 feet.

S 8° 23' 10" W 48.20 feet.

S 30° 03' 17" W 47.35 feet.

S 10° 14' 13" W 27.64 feet.

S 22° 46' 30" W 61.94 feet.

S 66° 41' 20" W 111.02 feet.

S 25° 05' 19" E 71.47 feet.

S 70° 45' 13" W 152.31 feet.

S 48° 23' 19" W 43.14 feet, to a point in the center line of Turkey Creek from which point a  $\frac{3}{4}$ -inch iron pipe in a fence line bears S 87° 33' 00" E a distance of 31.0 feet.

THENCE, continuing with the meanders of said creek center line, as follows:

S 28° 11' 57" W 69.26 feet.

S 49° 38' 55" E 78.22 feet.

S 17° 29' 22" E 41.16 feet.

S 26° 25' 10" W 90.76 feet.

S 8° 28' 58" E 103.26 feet.

S 89° 29' 58" E 79.65 feet.

S 54° 00' 42" E 96.30 feet.

S 9° 43' 33" E 23.76 feet.

S 37° 35' 07" E 51.22 feet.

S 41° 46' 19" E 29.41 feet.

S 45° 07' 35" E 30.79 feet.

S 30° 42' 34" E 89.97 feet.

S 16° 51' 03" E 38.31 feet.

S 42° 46' 26" E 64.09 feet.

S 17° 29' 14" E 21.80 feet to a point in said center line of Turkey Creek from which point a 1" iron pipe in a fence corner bears S 87° 38' 54" E a distance of 25.0 feet.

THENCE, continuing with the meanders of said creek center line, as follows:

S 50° 49' 54" W 76.34 feet.

S 30° 17' 40" W 52.44 feet.

S 37° 38' 48" W 178.95 feet.

S 76° 43' 43" W 124.86 feet.

S 75° 38' 37" W 183.97 feet to a point in the center line of said Turkey Creek for the most southerly corner of this tract of land, from which point a 1" iron pipe bears S 46° 43' 42" E a distance of 41.05 feet.

THENCE, N 0° 07' 58" E a distance of 420.65 feet to a point for an interior southwest corner of this tract.

THENCE, S 89° 36' 21" W a distance of 623.90 feet to a concrete monument in a fence corner for the most southerly southwest exterior corner of this tract.

THENCE, N 31° 17' 42" W with that fence, a distance of 480.10 feet to another concrete monument in a fence corner for the most northerly southwest corner of this tract in the east right-of-way line of the Addicks Dam Spillway property, from which monument a  $\frac{5}{8}$ -inch iron rod bears S 74° 20' 00" W a distance of 31.20 feet.

THENCE, N 0° 03' 39" W with that fence marking said east right-of-way of Addicks Dam Spillway property, which is the most westerly west line of the herein described tract of land, at 655.34 feet pass a  $\frac{3}{4}$ -inch iron pipe, at 1645.40 feet pass another iron pipe, in all a distance of 1647.57 feet to a point for the most westerly northwest corner of this tract, from which corner a  $\frac{3}{4}$ -inch iron rod in a fence corner in said south right-of-way line of Memorial Drive bears N 0° 06' 07" W a distance of 548.30 feet.

THENCE, N 89° 05' 44" E a distance of 879.90 feet to an iron pipe in an interior northwest corner of this tract.

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THENCE, N 0° 02' 53" E and crossing the said Memorial Drive right-of-way, in a curve in that right-of-way, a distance of 2157.91 feet to a  $\frac{5}{8}$ -inch iron rod in the south right-of-way line of said U. S. Highway 90, for the most northerly northwest corner of the herein described tract of land.

THENCE, S 89° 21' 26" E with the south line of said 275.0 foot wide U. S. Highway 90 right-of-way a distance of 905.00 feet to the place of beginning.

Containing 111.01 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before

any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

R. W. Carey  
J. H. MacNaughton  
Vincent D. Kickerillo  
Jack F. Milner  
Robert G. Chilton

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of



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the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission; and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, 1925, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the District and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days have expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Harris County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 5% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer

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and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1046, ch. 515, emerg. eff. June 16, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Turkey Creek Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of directors; naming first board of directors; providing for terms and election of directors and related matters; providing for directors to fill vacancies; providing for organization of board of directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality,

validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Harris County; providing District shall bear expenses of relocating, raising or re-routing of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880-75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Harris County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880-77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1046, ch. 515.

**Art. 8280—305. Plateau Underground Water Conservation and Supply District**

**SUBCHAPTER A. GENERAL PROVISIONS.**

**Short title**

Section 1. This Act may be cited as the Plateau Underground Water Conservation and Supply District Act.

**Definitions**

Sec. 2. In this Act, unless the context requires a different definition:

- (1) "person" includes firm, association, partnership, and corporation;
- (2) "underground water" means water suitable for agriculture, gardening, domestic, or stock-raising uses, percolating below the earth's surface;
- (3) "district" means the Plateau Underground Water Conservation and Supply District;
- (4) "board" means the board of directors of the district.

**SUBCHAPTER B. ADMINISTRATION.**

**Creation of district**

Sec. 3. The Plateau Underground Water Conservation and Supply District is created only in the event and at such time an underground water reservoir or reservoir subdivision is designated by the Texas Water Commission. Pursuant to the general laws applicable to underground water conservation districts, the district must be created with boundaries coterminous with an underground water reservoir or subdivision thereof which theretofore has been designated as such by the Texas Water Commission. At such time, the district is created under Section 59, Article XVI, Constitution of the State of Texas.

**Area of district**

Sec. 4. The district covers the same area that Schleicher County covers, and all other area added by the board under Section 38 of this Act, except area under which there is either no underground water or no underground water that can be brought to the surface at a cost that makes bringing it to the surface economically feasible, which the board excludes under Section 37(c) of this Act.

**Establishment of board**

Sec. 5. The board of directors of the Plateau Underground Water Conservation and Supply District is established.

**Composition and terms of office**

- Sec. 6. (a) The board consists of five directors.
- (b) The directors are elected at elections provided for in Section 10 of this Act. A director serves a two-year term.
- (c) If a constitutional amendment is adopted authorizing directors of conservation and reclamation districts to serve six-year terms, Subsection (b) of this Section is repealed on the day of the first election to elect directors held under this Act after the constitutional amendment becomes effective, and the directors serve six-year terms. At that election, two directors are elected for two-year terms; two for four-year terms; and one for a six-year term. The director-at-large is elected for

For Annotations and Historical Notes, see V.A.T.S.

the six-year term. The board shall designate which precinct elects a director for a two-year term and which for a four-year term. The board shall conduct biennial elections after that election, at which directors are elected for six-year terms to replace retiring directors.

(d) If a position on the board becomes vacant, a majority of the remaining directors shall appoint another person to fill the vacated position for the unexpired term.

(e) A director serves until his successor is elected.

#### Qualification of directors

Sec. 7. A person is qualified to serve on the board who is elected or appointed to that position, and who

- (1) is at least 21 years of age;
- (2) owns real property in the district;
- (3) is a resident of the district.

#### Administrator and employees

Sec. 8. (a) The board may employ an administrator and set his salary. The board may delegate any of its powers and duties (except those of adopting rules, a dissolution resolution, a dissolution order, and those relating to hearings, taxation, and bonds) to the administrator, who may carry out powers and duties delegated to him by the board. Employment of personnel is subject to the general law on nepotism.

(b) The administrator, with the approval of the board, may employ employees of the board and set their salaries, and hire legal counsel for the board. If an employee or a member of his family is a member of the board, the employee may not receive compensation for his services as an employee.

#### Board meetings and officers

Sec. 9. (a) The board shall hold regular quarterly meetings. It may hold other meetings at the call of the chairman or at the request of at least two directors.

- (b) A majority of the directors is a quorum for conducting business.
- (c) The board shall elect its officers.

#### Elections

Sec. 10. (a) The board shall call an election to elect directors to the board on the second Tuesday in January of each odd-numbered year. The first election to elect directors under this Act is to be held on January 10, 1967. In the event the district is not created by January 9, 1967, as set out in Section 3 of this Act, the first election to elect directors under this Act is to be held immediately after creation of the district and the election held under this provision shall be conducted under the General Laws of the State relating to elections.

(b) The board shall conduct an election held under this Act under the General Laws of the State relating to elections.

(c) No board member may serve continuously for more than two terms.

(d) The board shall pay for the cost of elections with money of the district.

(e) No board member may hold any office of emolument.

**SUBCHAPTER C. ADMINISTRATIVE PROCEDURE.**

**Procedure for adopting and amending rules**

Sec. 11. (a) Before the board may adopt or amend a rule under this Act, it must publish a brief summary of the rule or the amendment in one or more newspapers as it decides is necessary to give the summary general circulation throughout the district. The Board must publish the summary one time a week for two weeks.

(b) The rule or amendment takes effect on the fourteenth day after the day the summary is published the second time, unless

- (1) the board specifies that it takes effect at a later time; or
- (2) the board rescinds the order adopting the rule or amendment.

(c) The board may rescind the order for (but it may not change) a rule or amendment from the time the summary is first published until after the rule or amendment takes effect. After the rule or amendment takes effect, the board may change or repeal it only by adopting a rule repealing or amending it.

(d) If the board rescinds an order for a rule or amendment, it may adopt a new rule or amendment at any time, even though the new rule or amendment is on the same subject as the rule or amendment rescinded.

**Declaratory judgment on validity of rules**

Sec. 12. (a) The validity of a rule adopted under this Act may be determined upon petition for a declaratory judgment on the validity of the rule addressed to a district court sitting in the Plateau Underground Water Conservation and Supply District, when it appears that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the petitioner. The board shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the board to pass upon the validity of the rule in question.

(b) The court shall declare the rule invalid if it finds that the rule violates constitutional provisions, exceeds the statutory authority of the board, or was adopted without complying with Section 11 of this Act.

**Definition**

Sec. 13. In Sections 13 through 20 of this Act, "contested case" means a proceeding before the board in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a board hearing.

**Hearing officer**

Sec. 14. (a) In a contested case, the board shall employ an attorney to serve as the hearing officer in the hearing. At the hearing, the hearing officer shall

- (1) preside over the hearing;
- (2) rule on the admissibility of evidence;
- (3) prepare the record, decision, and order of the board and the notices for the hearing;
- (4) assist the board in all legal matters connected with the hearing.

(b) The hearing officer may vote only to break a tie.

(c) If a member of the board is an attorney, the board may designate that he is the hearing officer, rather than employ another attorney to be the hearing officer. In that case, Subsection (b) of this Section does not apply.

**Notice, hearing, records**

Sec. 15. (a) All parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place, and issues involved, but if, because of the nature of the proceeding, the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, the issues shall be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect to the issues.

(b) The board shall prepare an official record, including testimony and exhibits, in each contested case, and shall prepare a mechanical recording of the proceedings. It is not necessary to transcribe the recording unless the transcription is requested for purposes of rehearing or court review.

(c) Informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(d) The board shall adopt appropriate rules of procedure for notice and hearing in contested cases.

**Rules of evidence**

Sec. 16. (a) In contested cases, the board may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The board shall give effect to the rules of privilege recognized by law. It may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(b) All evidence, including those of the board's records and documents it desires to use, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(c) Every party has the right to cross-examine witnesses who testify, and has the right to submit rebuttal evidence.

**Official notice**

Sec. 17. The board may take notice of judicially cognizable facts and in addition may take notice of general, technical, and scientific facts within its specialized knowledge. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The board may use its experience, technical competence, and specialized knowledge in evaluating the evidence presented to it.

**Examination of evidence by board**

Sec. 18. When in a contested case a majority of the directors of the board who are to render the final decision have not heard or read the evidence, the decision, if adverse to the party to the proceeding other than the board itself, shall not be made until a proposal for decision, including findings of fact and conclusions of law, has been served upon the parties and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to a majority of the directors who are to render the decision, who shall personally consider the whole record or as much of it as may be cited by the parties.

**Decisions and orders**

Sec. 19. Every decision and order adverse to a party to the proceeding, rendered by the board in a contested case, shall be in writing or stated

in the record and shall be accompanied by findings of fact and conclusions of law for each contested issue. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or to his attorney of record.

#### Judicial review of contested cases

Sec. 20. (a) A party aggrieved by a final decision in a contested case, whether the decision is affirmative or negative in form, is entitled to judicial review of the decision.

(b) Review shall be instituted by filing a written statement complaining of the board's decision in a district court within the boundaries of the district within 30 days after service of the final decision of the board. The statement shall specify concisely each finding, conclusion, or action of the board with which the aggrieved party disagrees. Copies of the statement shall be served upon the board and all other parties of record. The court, in its discretion, may permit other interested persons to intervene.

(c) Filing the petition does not stay enforcement of the board's decision; but the board may do so, or the reviewing court may order a stay upon such terms as it deems proper.

(d) Within 30 days after service of the statement or within such further time as the court may allow, the board shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of all parties to the review proceeding, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs caused by his refusal. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material and that there was good reason for failing to present it in the proceeding before the Board, the court may order that the additional evidence be taken before the board upon such conditions as the court deems proper. The board may add to or modify its findings, conclusions, and decision in the light of the additional evidence and shall file with the court, as part of the record, the additional evidence, together with any additions or modifications to its findings, conclusions, or decision.

(f) The review shall be conducted by the court and shall be confined to the record, except that in cases of alleged irregularities in procedure before the board, not shown in the record, testimony on the alleged irregularities may be taken in court. The court shall, on request, hear oral argument and receive written briefs.

(g) The court may affirm the decision of the board or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of a party may have been prejudiced because the board's findings, inferences, conclusions, or decisions are

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the board;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by competent, material, and substantial evidence in view of the entire record as submitted; or
- (6) arbitrary or capricious.



## SUBCHAPTER D. FINANCIAL PROVISIONS.

**Taxation**

Sec. 21. (a) The board may levy and collect property taxes levied on the property in the district that are necessary to enable the board to perform the powers and functions given it in this Act.

(b) The board may levy annual taxes not to exceed thirty-five cents (35¢) on the one hundred dollar valuation on all taxable property within the district. The board may not levy or collect property taxes at a rate greater than the number of cents per one hundred dollar valuation based on Schleicher County valuations necessary to provide net fund or no greater than Ten Thousand Dollars (\$10,000) unless a district-wide election is held to provide a raise in taxes.

**Bonds**

Sec. 22. (a) The board may issue bonds to finance operations and construct projects authorized under this Act.

(b) The general law on water control and improvement districts, relating to issuing bonds and retiring bond issues, elections on bond issues, and elections in assuming and discharging tax liability for bonds, applies to issuing bonds and retiring bond issues by the board.

(c) The provisions of Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880—139, Vernon's Texas Civil Statutes), relating to approval of plans and specifications for projects to be financed by the sale of bonds, apply to the sale of bonds under this Act.

## SUBCHAPTER E. POWERS AND DUTIES OF THE BOARD.

**Conservation rules**

Sec. 23. The board may adopt rules for the purpose of conserving, preserving, protecting, and recharging the underground water in the district.

**Waste**

Sec. 24. The board may adopt rules designed to prevent waste of the underground water in the district. Nothing contained herein shall in any way amend, alter, or otherwise change the declaration of water priorities and appropriation thereof as set out in Article 7471, Revised Civil Statutes of Texas, 1925.

**Permits**

Sec. 25. (a) The board may adopt rules requiring a person to obtain a permit from the board before he may drill, equip, complete, or substantially alter the size of a well or the size of a pump used in connection with the well.

(b) The board may add whatever terms and conditions to the permit and modify the terms and conditions, that are necessary to insure that drilling, equipping, completing, or substantially altering the size of a well or the size of a pump used in connection with the well will

- (1) preserve and conserve the underground water in the district;
- (2) prevent any of the kinds of waste of the underground water specified in Section 24 of this Act;
- (3) minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure;

(4) lessen interference between wells.

(c) a permit issued under this Section is conditional and the board may revoke it if the person to whom it was issued does not comply with rules adopted under Sections 23 through 28 of this Act or with the terms and conditions stated in the permit.

(d) Before the board may refuse to issue a permit, add terms or conditions to a permit, modify the terms or conditions of a permit, or revoke a permit, it must offer the applicant or holder of the permit an opportunity to be heard by the board.

**Spacing and production**

Sec. 26. (a) The board may adopt rules to

(1) provide for spacing wells to be drilled to produce water from the underground water in the district;

(2) regulate the production of wells producing water from the underground water in the district.

(b) To be valid, a rule adopted under this Section must relate to minimizing as far as practicable the drawdown of the water table or the reduction of artesian pressure, or to the prevention of any of the kinds of waste of the underground water specified in Section 24 of this Act.

(c) Rules adopted under this Section do not apply to wells drilled to produce water to be used by an individual, a family, or a household for

(1) drinking water and cooking;

(2) washing;

(3) irrigating a garden or orchard, if the produce of the garden or orchard is primarily to be eaten by the individual, family, or household;

(4) watering animals.

(d) If the board sees fit, it may require that not more than one well producing more than 500 gallons a minute be drilled on 80 acres.

**Records and reports**

Sec. 27. The board may adopt rules

(1) requiring that records be kept and reports be made to the board concerning

(A) drilling, equipping, and completing wells into the underground water strata in the district;

(B) taking and using underground water in the district;

(2) requiring accurate driller's logs to be kept of wells into underground water strata, and that driller's logs and any electric logs kept be filed with the board.

**Rules relating to capping wells**

Sec. 28. The board may adopt regulations implementing the requirements in Section 36 of this Act relating to capping uncapped wells.

**Projects**

Sec. 29. The board, through its employees and agents, may

(1) construct and maintain dams;

(2) drain lakes, depressions, draws, and creeks;

(3) install and operate pumps and other equipment necessary to recharge the underground water in the district;

(4) acquire land, by eminent domain or otherwise, to do the things specified in Subdivisions (1) through (3) of this Section.

### Surveys

Sec. 30. The board may employ engineers to

- (1) survey the underground water in the district and the facilities for developing, producing, and using the underground water;
- (2) determine the quality of the underground water available for production and use and the improvements, developments, and recharges needed in regard to the underground water in the district.

### Plans

Sec. 31. (a) The board shall develop comprehensive plans for

- (1) efficiently using the underground water in the districts;
- (2) controlling and preventing waste of the underground water.

(b) The board shall specify in the plans, to the maximum extent practicable, the acts, procedure, performance and avoidance which are or may be necessary to effect the plans, including specifications for them.

(c) The board shall carry out research projects, develop information, and determine limitations, if any, which should be made on withdrawing underground water in the district.

(d) The board shall collect and preserve information regarding the use of underground water in the district and the practicability of recharging the underground water.

(e) The board shall publish plans and information developed under this Section, bring them to the attention of the users of underground water in the district, and encourage the users to adopt and use the information.

### Water supply for municipalities

Sec. 32. (a) The district may purchase water rights and pipeline rights-of-way, drill wells, and erect suitable storage and other facilities for the purpose of selling water to municipalities within the district.

(b) The district may employ pumpers and well service personnel and may purchase vehicles and gauges pertinent to operation. No vehicle of the district may be used other than for official business.

(c) Rights of eminent domain are specifically excluded from proceedings or negotiations under this Section.

(d) Amortization of bonds and operating expenses must be guaranteed by the purchasers of the water, and any tax money spent for these purposes must be refunded to the district.

## SUBCHAPTER F. RIGHTS AND DUTIES OF PERSONS IN THE DISTRICT.

### Ownership of water

Sec. 33. The ownership and rights of the owner of the land and his lessees and assigns in underground water are recognized, and this Act does not in any way deprive or divest the owner or his assigns or lessees of that ownership or those rights, subject, however, to the rules adopted under this Act.

### Responsibility for complying

Sec. 34. The owner of underground water or his lessee, if there is one, is responsible for complying with rules adopted by the board under this Act.

**Illegal drilling and production**

Sec. 35. Drilling a well without a permit or drilling or operating a well in violation of the terms and conditions of the permit, if a permit is required, and operating a well at a higher rate of production than the rate approved by the board for the well, are each declared to be illegal, wasteful per se, and a nuisance.

**Capping wells**

Sec. 36. The owner of underground water being produced from an underground water well shall keep the well capped with a covering capable of sustaining a pressure of at least 400 pounds, except when the well is in use, and shall comply with rules adopted under Section 28 of this Act.

**SUBCHAPTER G. MISCELLANEOUS PROVISIONS.****Excluding land from the district**

Sec. 37. (a) A person who owns land over which the board is exercising authority or claiming jurisdiction may petition the board for a hearing to determine whether or not the land is or should be excluded from the district. There will be no exclusion of any property after bonds are voted.

(b) At the conclusion of the hearing, the land is a part of the district if the board finds that the person has failed to establish that there is no underground water under the land or that the underground water cannot be brought to the surface at a cost that makes bringing it to the surface economically feasible.

(c) If the board makes a contrary finding under Subsection (b) of this Section, the land is excluded from the district on the day the person filed the petition with the board to determine whether or not the land should be excluded.

**Including land in the district**

Sec. 38. (a) Including land in the district. Land may be included in the district under the provisions of the general annexation law relating to underground water control and improvement districts.

(b) Application. The provisions of this Act to not apply to a well drilled under a permit from the Railroad Commission of Texas.

**Dissolution**

Sec. 39. (a) The board may dissolve the district if it finds that the continued existence of the district will not best serve a public purpose, either because conditions in the district have changed so that regulation of underground water in the district is no longer necessary, or because it would be more efficient to have that regulation performed by some other agency.

(b) To dissolve the district, the board shall adopt a resolution proposing dissolution using the procedure for adopting rules provided for in Section 11 of this Act. After the resolution becomes effective, the board shall appoint a trustee, who shall settle the affairs of the district as quickly as possible. The trustee serves at the pleasure of the board, and is entitled to reasonable compensation set by the board.

(c) The trustee shall reduce to possession, and money, all assets and resources of the district, and shall apply the money to discharging the outstanding obligations of the district, having regard to specific

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funds. If it is necessary to do so, the board shall levy, assess, and collect additional taxes to pay all necessary expenses and outstanding obligations of the district.

(d) When all expenses and outstanding obligations are paid and the trustee's account is verified, the board shall discharge the trustee. When the trustee is discharged, the board shall enter of record its final order of dissolution and record the order in the deed records of the counties in which the district is located. The district is dissolved on the date specified in the order. The board shall file a copy of the dissolution order with the Texas Water Commission and mail a copy to the Texas Legislative Council.

(e) The board shall pay to the counties in the district a proportionate part of all money in the possession of the district not needed to pay for expenses and outstanding obligations of the district when it is dissolved.

#### Legislative findings

Sec. 40. The Legislature finds that the boundaries of the aquifer in the district are reasonably consistent with the county lines of Schleicher County; that all of the land and other property included within the area and boundaries of the district will be benefited by the works and projects which are to be accomplished by the district pursuant to the powers granted it by this Act; and that the district is created to serve a public use and benefit.

### SUBCHAPTER H. ENFORCEMENT PROVISIONS.

#### Suits by the board

Sec. 41. The board shall sue for injunctions, mandatory injunctions, and other appropriate remedies, to compel persons to comply with rules adopted by the board and with the provisions of Section 3 of this Act.

### SUBCHAPTER I. TEMPORARY PROVISIONS.

#### Initial board

Sec. 42. (a) On the effective date of the creation of this district, as set out in Section 3 of this Act, the following persons are the directors of the board:

- Precinct 1, Ford Oglesby
- Precinct 2, James L. Powell
- Precinct 3, Bobby R. Sykes
- Precinct 4, Earl Lloyd
- Director-at-large, Mort Merz.

(b) The term of office of the initial board members is from the effective date of the creation of this district, as set out in Section 3 of this Act until January 10, 1967. In the event the effective date of the creation of this district is after January 10, 1967, the term of office of the initial board members is from the effective date of the creation of the district, as set out in Section 3 of this Act, until January 10, 1969.

#### Expiration date

Sec. 43. If the board dissolves the district under Section 39 of this Act, this Act expires on the day the dissolution order is effective.

#### Severance and savings clause

Sec. 44. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other

provisions or applications of this Act which can be given effect without the invalid provisions or applications and to this end the provisions of this Act are declared to be severable. Acts 1965, 59th Leg., p. 1054, ch. 517.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to the creation, organization, powers, and duties of an underground water conservation district located in Schleicher County; and declaring an emergency. Acts 1965, 59th Leg., p. 1054, ch. 517.

**Art. 8280—306. Treeline Improvement District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59, of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Treeline Improvement District," hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Situated in Harris County, Texas, and being 210.0363 acres of land out of the Henry Meyer Survey, A—1483, and the H. T. & B. R. R. Company Survey, Section 1, A—404, more particularly described as follows:

BEGINNING at a fence corner post for the southeast corner of the Henry Meyer Survey, A—1483 (Southwest  $\frac{1}{4}$  of H. T. & B., Section 2) and the southwest corner of the L. A. Halphen Survey, A—1190.

THENCE, North  $0^{\circ} 31' 33''$  West 2291.21 feet with the east line of the Henry Meyer Survey, A—1483, and the west line of the L. A. Halphen Survey, A—1190, to a fence corner post for the most northerly northeast corner of the herein described tract.

THENCE, South  $89^{\circ} 46' 00''$  West 1614.12 feet to a  $\frac{3}{4}''$  iron pipe for the most northerly northwest corner of the herein described tract.

THENCE, South  $0^{\circ} 29' 06''$  East 2286.59 feet to a  $\frac{3}{4}''$  iron pipe in the south line of the Henry Meyer Survey, A—1483 and the north line of the H. T. & B. R. R. Company Survey, Section 1, A—404, for an interior corner of the herein described tract.

THENCE, South  $89^{\circ} 45' 57''$  West 215.20 feet with the south line of the said Henry Meyer Survey and the north line of the said H. T. & B. R. R. Survey, Section 1, A—404, to a  $\frac{3}{4}''$  iron pipe for the southern northwest corner of the herein described tract.

THENCE, South  $9^{\circ} 18' 56''$  East 2819.06 feet to a  $\frac{3}{4}''$  iron pipe in the north right-of-way line of the Spring-Cypress Road, 60-foot wide, for the southwest corner of the herein described tract.

THENCE, North  $89^{\circ} 34' 45''$  East 886.20 feet along the north right-of-way line of the Spring-Cypress Road to a  $\frac{5}{8}''$  iron rod for a point of curvature.

THENCE, 470.29 feet with a curve to the left having a radius of 680.43 feet and a central angle of  $39^{\circ} 36' 02''$  to a  $\frac{5}{8}''$  iron rod for the point of tangency.

THENCE, North  $49^{\circ} 58' 43''$  East 186.93 feet along the north right-of-way line of the Spring-Cypress Road, 60-foot wide, to an iron pipe for a corner of a cemetery and a corner of the herein described tract.

THENCE, North  $88^{\circ} 40' 04''$  West 55.91 feet along the south line of said cemetery to an iron pipe for the southwest corner of the cemetery and an interior corner of the herein described tract.

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THENCE, North 0° 28' 18" West 208.91 feet along the west line of said cemetery to an iron pipe for the northwest corner of said cemetery and an interior corner of the herein described tract.

THENCE, North 89° 15' 23" East 208.24 feet along the north line of said cemetery to an iron pipe for the northeast corner of said cemetery and an interior corner of the herein described tract.

THENCE, South 0° 18' 29" East 86.04 feet along the east line of said cemetery to an iron pipe in the north right-of-way line of Spring-Cypress Road, 60-feet wide, for a corner of the herein described tract.

THENCE, North 49° 58' 43" East 477.87 feet along the northwest right-of-way line of Spring-Cypress Road, 60-feet wide, to a concrete monument for the southeast corner of the herein described tract.

THENCE, North 9° 00' 08" West 2092.03 feet to a concrete monument in the north line of the H. T. & B. R. R. Company Survey, Section 1, A—404, and the south line of the L. A. Halphen Survey, A—1190, for the most southerly northeast corner of the herein described tract.

THENCE, South 89° 38' 10" West 276.94 feet along the north line of the H. T. & B. R. R. Company Survey, Section 1, and the south line of the L. A. Halphen Survey, to the place of BEGINNING.

Containing 210.0363 acres of land.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

J. Harold Bates  
Otto A. Yelton, Jr.  
Donald G. McCormick  
Mrs. C. Jim Stewart  
B. J. Robbins.

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission



For Annotations and Historical Notes, see V.A.T.S.

for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Vernon's Texas Civil Statutes, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on

the proposed annexation and for having an election within the district and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the district lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Harris County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Any kind of bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District, and may be sold at a private or public sale, but none of said bonds or refunding bonds shall be sold for less than ninety-five per cent of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety-five per cent of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the

project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1065, ch. 518, emerg. eff. June 16, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Treeline Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for terms and election of Directors, and related matters; providing for Directors to fill vacancies; providing for organization of Board of Directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality,

validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Harris County; providing District shall bear expenses of relocating, raising or re-routing of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Harris County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1065, ch. 518.

**Art. 8280—307. Gulf Freeway Municipal Utility District**

Section 1. Under and pursuant to the provisions of Section 59, Article XVI, Constitution of the State of Texas, a conservation and reclamation district is hereby created and incorporated in Galveston County, Texas, to be known as "Gulf Freeway Municipal Utility District of Galveston County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

A tract of land out of the S. F. Austin League, Abstract No. 3, Galveston County, Texas, said District being described by metes and bounds as follows:

BEGINNING at the point of intersection of the northeasterly right-of-way line of U.S. Highway No. 75 and the westerly line of that certain tract of land conveyed to Robert L. Moody, Trustee, by deed recorded in Volume 1573, pages 100-110, Galveston County, Texas, Deed Records, said point also being on the westerly line of the 224.4 acres Tract No. 1 set out in said deed;

THENCE, northerly along said westerly line of said Tract No. 1 and continuing in the same direction along the westerly line of Block 4, League City Orange Groves Subdivision, according to plat thereof recorded in Volume 231, page 474, Galveston County, Texas, Deed Records, to the northwesterly corner of said Block 4;

THENCE, in an easterly direction along the northerly line of Block 4 and its easterly projection and along the northerly line of Block 5 of said League City Orange Groves Subdivision to the northeasterly corner of said Block 5;

THENCE, in a southerly direction along the easterly line of said Block 5 to the northeasterly corner of Lot 8 in said Block 5;

THENCE, in an easterly direction with the easterly projection of the northerly line of said Lot 8, Block 5, and continuing in the same direction along the northerly lines of Lots 7 & 8, Block 6, of said Subdivision to the northeasterly corner of Lot 8, Block 6;

THENCE, in a southerly direction along the easterly line of said Block 6, said line also being the most easterly line of said S. F. Austin League, Abstract No. 3, and continuing along the easterly line of said Tract No. 1 and the most easterly line of said S. F. Austin League to the southeasterly corner of said Tract No. 1, said corner also being the southeasterly corner of said S. F. Austin League, Abstract No. 3;

THENCE, in a westerly direction along the southerly line of said S. F. Austin League, same being the southerly line of said Tract No. 1, to the intersection of the southerly line of said S. F. Austin League, Abstract No. 3, with the northeasterly right-of-way line of said U. S. Highway No. 75;

THENCE, in a northwesterly direction along said northeasterly right-of-way line of said U. S. Highway No. 75 to its intersection with the westerly line of said tract conveyed to Robert L. Moody, Trustee, by deed recorded in Volume 1573, pages 100-110, Galveston County, Texas, Deed Records, and the westerly line of said Tract No. 1, the place of beginning, and containing 374.4 acres, more or less.

Sec. 2. The Legislature hereby declares that if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence, or validity of said District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy, and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

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Sec. 3. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59, Article XVI, Constitution of the State of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generality of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in said Chapter, including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Section 90a, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as added and amended (Article 7880—90a, Vernon's Texas Civil Statutes). Since such District will, upon the effective date of this Act, be located entirely within an incorporated city or town, it is expressly provided that the provisions of Chapter 128, Acts of the 50th Legislature, Regular Session, 1947, as amended, shall have no application to this District unless and until the governing body of said incorporated city or town adopts an ordinance making the provisions of said Chapter 128, Acts of the 50th Legislature, Regular Session, 1947, as amended, applicable to such city or town and the District; and, upon the adoption of such an ordinance by a vote of not less than two-thirds of the entire membership of such governing body, the provisions of said Chapter 128, Acts of the 50th Legislature, Regular Session, 1947, as amended, shall thereafter be applicable to such city or town and said District. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board of Directors shall include, but not be limited to, the right to enter into contracts on behalf of said District for the purchase and sale, or either, of water for such periods of time, not exceeding 40 years, and on such terms and conditions as its Board of Directors may deem desirable. If the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing, or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 4. The management and control of the District is hereby vested in a Board of five Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The mem-

bers of the first Board of Directors shall be Robert L. Moody, Mrs. Agnes Connolly, Archie Alexander, Wesley Alexander, and John McCann. Said members shall become Directors immediately after this Act becomes effective, and said first Board of Directors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Directors shall die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1967, and in accordance with Section 37, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended (Article 7880—37, Vernon's Texas Civil Statutes). Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held, in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 5. Land may be excluded from said District in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended. Land may be added to the District only by written request of an adjacent, or contiguous, landowner or landowners; and no land may be added without the consent of the owner thereof. No land may be added which is not adjacent or contiguous to the District when added. Said District may be dissolved by its Board of Directors in accordance with the provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880—77b, Vernon's Civil Statutes).

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State. Such bonds shall be eligible to secure the deposit of any and all public funds of the State, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Said bonds may be in the denomination of \$1,000 or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both.

Sec. 7. As soon as practicable after the qualification of the first Board of Directors of said District, said Board shall by resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of county funds. Such bank or banks shall serve for a period of two years and until a successor has been selected.

Sec. 8. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusion of land or other property from the District; provided, however, that

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the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusion hearing or hearings pursuant to the provisions of the General Law. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 9. The Legislature hereby exercises the authority conferred upon it by Section 59, Article XVI, Constitution of the State of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 10. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Section 59(d), Article XVI, Constitution of the State of Texas, have been fulfilled and accomplished as therein provided. Acts 1965, 59th Leg., p. 1071, ch. 519.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of the State of Texas, to be known as "Gulf Freeway Municipal Utility District of Galveston County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole ex-

pense of the relocation of certain facilities under the provisions of this Act; providing for its governing body; containing provisions relating to addition and exclusion of land and dissolution of the District; providing that its bonds are legal and authorized investments; containing other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 1071, ch. 519.

**Art. 8280—308. San Leon Municipal Utility District**

Section 1. Under and pursuant to the provisions of Section 59, Article XVI, Constitution of the State of Texas, a conservation and reclamation district is hereby created and incorporated in Galveston County, Texas, to be known as "San Leon Municipal Utility District of Galveston County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

Said District shall be composed of two separate tracts of land situated entirely within Galveston County, Texas, and described by metes and bounds as follows:

**Tract No. 1**

BEGINNING at the point of intersection of the southerly shore line of Galveston Bay with the northeasterly projection of the southeasterly line of the J. Rogers Survey, Abstract No. 168, Galveston County, Texas;

THENCE in a southwesterly direction following said southeasterly line of said Rogers Survey, being also the northwestern line of the Amos Edwards League, Abstract No. 10, and being also the northwestern line of San Leon Farm Home Tracts as shown by the map thereof recorded in Volume 238, page 25, Deed Records of Galveston County, to a point for corner, being the intersection of said survey line with the easterly line of Lot 2, Block No. 25—A of San Leon Farm Home Tracts;

THENCE in a southerly direction following the easterly line of Lot No. 2 and Lot No. 7 in said Block No. 25—A, and continuing in the same direction across Ave. H and along the easterly line of Lot No. 2 and Lot No. 7 in Block No. 26 and continuing in the same direction across San Leon Road and along the easterly line of Lot No. 2 in Block No. 41 to a point for corner, said point being the northwesterly corner of Lot No. 4 in said Block No. 41;

THENCE in an easterly direction with the northerly line of said Lot No. 4 to a point for corner, being the northeasterly corner of said Lot No. 4;

THENCE in a southerly direction with the easterly line of Block No. 41 and continuing in the same direction across Ave. L and along the easterly line of Block No. 44 to a point for corner, being the southeasterly corner of Lot No. 3 in said Block No. 44;

THENCE in an easterly direction across 29th St. (F. M. No. 517) and continuing in the same direction along the northerly line of Lot No. 1 in Block No. 45 to a point for corner, being the northeasterly corner of said Lot No. 1;

THENCE in a northerly direction with the westerly line of Lot No. 3 in Block No. 45 to a point for corner, being the northwesterly corner of said Lot No. 3;

THENCE in an easterly direction with the northerly line of said Lot No. 3 to the northeasterly corner of said Lot No. 3;

THENCE in a southerly direction with the easterly line of said Lot No. 3 to a point for corner, being the southeasterly corner of said Lot No. 3;

THENCE in an easterly direction with the northerly line of Lot No. 5 in said Block No. 45 and continuing in the same direction across 28th St. and along the northerly line of Lots Nos. 8, 7, 6 and 5 in Block No. 46 to a point for corner on the easterly line of said Block No. 46;

THENCE in a southerly direction with the easterly line of said Block No. 46 and continuing in the same direction across Ave. N to a point for corner, being the northeasterly corner of Block No. 56;

THENCE in an easterly direction across 27th St. and along the northerly line of Block No. 55 and continuing in the same direction across 26th St. along the northerly line of Block No. 54 to a point for corner, being the northeasterly corner of Lot No. 1 in said Block No. 54;

THENCE in a southerly direction with the easterly line of Lot No. 1 in Block No. 54 to a point for corner, being the southeasterly corner of said Lot No. 1;

THENCE in an easterly direction with the northerly line of Lot No. 7 and Lot No. 6 in said Block No. 54 to a point for corner, being the southwesterly corner of Lot No. 4 in said Block No. 54;

THENCE in a northerly direction with the westerly line of said Lot No. 4, in Block No. 54 to a point for corner in the northerly line of said Block No. 54;

THENCE in an easterly direction with the northerly line of said Block No. 54 to a point for corner, being the northeasterly corner of said Block No. 54;



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THENCE in a southerly direction with the easterly line of Block No. 54 and continuing in the same direction across Ave. P and along the easterly line of Block No. 68 and continuing in the same direction across Ave. Q to a point for corner, being the northeasterly corner of Block No. 71;

THENCE in an easterly direction across 25th St. and following the northerly line of Block No. 70 and the easterly projection thereof to a point on the shore line of Dickinson Bay;

THENCE in a generally easterly direction along the shore line of Dickinson Bay to its intersection with the western shore line of Galveston Bay at April Fool Point;

THENCE in a generally northerly direction along the western shore line of Galveston Bay to Eagle Point;

THENCE in a generally westerly direction along the southern shore line of Galveston Bay to its intersection with the northeasterly projection of the southeasterly line of the J. Rogers Survey, Abstract No. 168, the place of beginning, and containing 3,200 acres of land, more or less.

BEGINNING at a point on the westerly shore line of Dickinson Bay in Galveston County, Texas, said point being designated as Point "A" in the description of the present boundary line of the City of Texas City, Texas, said point also being in the easterly line of a parkway opposite Block No. 70 of San Leon Farm Home Tracts as shown by the map thereof recorded in Volume 238, page 25, Deed Records of Galveston County, and being also the most southerly corner of a 1.054 acre tract of land described in deed dated October 10, 1960, from E. W. Barnett, Trustee, to Houston Lighting & Power Company;

THENCE from said Point "A" in a northwesterly direction to a point located in Lot No. 3 in Block No. 67 of said San Leon Farm Home Tracts, said point being located 75 feet east and 65.5 feet south from the northwesterly corner of said Lot No. 3;

THENCE in a northerly direction parallel with the westerly line of said Lot No. 3 and across Ave. P to a point in the southerly line of Lot No. 6 in Block No. 55 of said San Leon Farm Home Tracts;

THENCE westerly with the southerly line of said Block No. 55 and continuing in the same direction across 27th St. and along the southerly line of Block No. 56 to a point for corner, said point being the southwest corner of Lot No. 5 in said Block No. 56;

THENCE in a northerly direction with the westerly line of said Lot No. 5 in Block No. 56 to the northwesterly corner of said Lot No. 5;

THENCE in a westerly direction with the southerly line of Lots Nos. 3, 2 and 1 in said Block No. 56 and continuing in the same direction across 28th St. and along the southerly line of Lots Nos. 4 and 3 of Block No. 57 to a point for corner, being the southwest corner of said Lot No. 3 in Block No. 57;

THENCE in a northerly direction with the westerly line of said Lot No. 3 in Block No. 57 and a northerly projection thereof to a point for corner, being the southwest corner of Lot No. 6 in Block No. 45;

THENCE in a westerly direction with the southerly line of Block No. 45 and continuing in the same direction across 29th St. (F.M. 517) and along the southerly line of Block No. 44 and the westerly projection thereof to a point for corner, being the southeasterly corner of Block No. 43;

THENCE in a southerly direction with the easterly line of Block No. 59 to a point for corner, being the southeasterly corner of said Block No. 59;

THENCE in a westerly direction with the south line of said Block No. 59 and the westerly projection thereof to a point for corner, being the southeasterly corner of Block No. 60;

THENCE in a southerly direction with the easterly line of Block No. 62 and its southerly projection, and continuing in the same direction along the easterly line of Block No. 77 and its southerly projection, and continuing in the same direction along the easterly line of Block No. 79 to a point for corner, said point being at the intersection of the easterly line of said Block No. 79 and the northeasterly line of State Highway No. 146;

THENCE in a northwesterly direction with the northeasterly line of said State Highway No. 146 to its intersection with the western line of Block No. 60A on the western line of said San Leon Farm Home Tracts, being also the western line of the Amos Edwards League, Abstract No. 10, Galveston County, Texas;

THENCE in a southerly direction along said western line of said Amos Edwards League, being also the western line of said San Leon Farm Home Tracts, to the southwest corner of said Amos Edwards League on the northerly water's edge of Dickinson Bayou;

THENCE downstream following along said northerly water's edge of Dickinson Bayou in a generally southerly, northeasterly and easterly direction to the western shore line of Dickinson Bay;

THENCE in a generally northerly direction along said western shore line of Dickinson Bay to Point "A" in the description of the present boundary line of the City of Texas City, Texas, said point also being in the easterly line of a parkway opposite Block No. 70 of San Leon Farm Home Tracts as shown by the map thereof recorded in Volume 238, page 25, Deed Records of Galveston County, Texas, and being also the most southerly corner of a 1.054 acre tract of land described in deed dated October 10, 1960, from E. W. Barnett, Trustee, to Houston Lighting and Power Company, the place of beginning, and containing 1,850 acres of land, more or less, the total area of said District being 5,050 acres, more or less.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59, Article XVI, Constitution of the State of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generality of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in said Chapter, including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Section 90a, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as added and amended (Article 7880—90a, Vernon's Texas Civil Statutes); and provided further that none of the provisions of Section 10, Chapter 280, Acts of the 41st Legislature, Regular Session, 1929 (Article 7880—77b, Vernon's Texas Civil Statutes), shall apply to this District. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board of Directors shall include, but not be limited to, the right to enter into contracts on behalf of said District for the purchase and sale, or either, of water for such

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periods of time, not exceeding 40 years, and on such terms and conditions as its Board of Directors may deem desirable. If the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing, or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade, or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 3. The management and control of the District is hereby vested in a Board of five directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be F. E. Dunn, H. O. Janner, David S. Baldwin, A. J. Babin, and Curtis Williford. Said members shall become directors immediately after this Act becomes effective, and said first Board of Directors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Directors shall die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the general laws for water control and improvement districts. The first election of directors of such District shall be held on the second Tuesday in January, 1967, and in accordance with Section 37, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended (Article 7880—37, Vernon's Texas Civil Statutes). Thereafter, directors of the District shall be chosen, and elections for directors shall be held, in accordance with the provisions of the general laws relating to water control and improvement districts.

Sec. 4. Land may be excluded from said District in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended. Land may be added to the District only by written request of an adjacent, or contiguous, landowner or landowners; and no land may be added without the consent of the owner thereof. No land may be added which is not adjacent or contiguous to the District when added. Said District may be dissolved by its Board of Directors in accordance with the provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880—77b, Vernon's Civil Statutes).

Sec. 5. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State. Such bonds shall be eligible to secure the deposit of any and all public funds of the State, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Said bonds may be in the denomination of \$1,000 or in multiples

thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both.

Sec. 6. (a) It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. As soon as practicable after the effective date of this Act, the District's Board of Directors shall order an election to be held within said District for the purpose of confirming the creation of said District. Said election shall be called and held, and notice thereof given, in the manner provided by the general laws relating to confirmation elections for water control and improvement districts, but it shall not be necessary to elect the Board of Directors named in this Act. If a majority of the qualified resident voters of said District voting at such election vote in favor of the confirmation of the District, then said District shall be finally confirmed and ratified and be a fully created and established water control and improvement district, and such result shall be declared and recorded in the deed records of Galveston County, Texas, in the manner provided by the general laws relating to water control and improvement districts.

(b) The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 7. The Legislature hereby exercises the authority conferred upon it by Section 59, Article XVI, Constitution of the State of Texas, and declares that the district created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 8. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Section 59(d), Article XVI, Constitution of the State of Texas, has been made in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements. Acts 1965, 59th Leg., p. 1075, ch. 520.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of the State of Texas, to be known as "San Leon Municipal Utility District of Galveston County, Texas"; prescribing its rights, powers, privileges, and duties; providing the district shall bear the sole expense of

the relocation of certain facilities under the provisions of this Act; providing for its governing body; containing provisions relating to addition and exclusion of land and dissolution of the District; providing that its bonds are legal and authorized investments; containing other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 1075, ch. 520.

**Art. 8280—309. Timberlake Improvement District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Timberlake Improvement District"; hereinafter called the "District," which shall be a governmental agency and a body politic and corporate.

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The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Situated wholly within Harris County, Texas, and being 205.924 acres, more or less, out of the John H. Callahan Survey, A-10; said 205.924-acre tract of land being more particularly described by metes and bounds as follows:

Commencing for reference at the southerly corner of the J. H. Callahan Survey, A-10, thence N 44° 55' 32" W 4322.76 feet to the point of beginning of the herein described tract, said beginning point being the northwest corner of Lot 19, Block 9, Timberlake Estates, Section 1, as per map or plat of said Subdivision recorded in Volume 53, Page 75 of the Map Records of Harris County, Texas.

THENCE, N 44° 00' W 695.00 feet to a point.

THENCE, N 43° 34' W 1110.00 feet to a point.

THENCE, N 44° 22' W 739.00 feet to a point.

THENCE, N 50° 00' 54" W 720.40 feet to a point in the centerline of Cypress Creek.

THENCE, in a northerly and easterly direction along the meanders of the center line of said Cypress Creek, as follows:

N 54° 48' E 224.85 feet.

N 69° 23' E 416.00 feet.

N 21° 04' W 848.60 feet.

N 10° 51' E 133.70 feet.

N 44° 38' E 210.13 feet.

N 39° 03' W 241.70 feet.

N 7° 51' W 136.13 feet.

N 86° 40' E 201.95 feet.

N 81° 15' E 207.40 feet.

N 54° 36' E 254.55 feet.

N 79° 24' E 179.25 feet.

S 83° 25' E 216.34 feet.

N 50° 42' E 153.60 feet.

N 67° 31' E 142.37 feet.

S 43° 01' E 280.30 feet.

S 77° 12' E 189.20 feet.

S 43° 09' E 100.00 feet.

S 0° 57' E 137.33 feet.

S 12° 15' E 147.60 feet.

S 77° 35' E 199.97 feet.

S 46° 06' E 225.77 feet.

S 67° 45' E 285.33 feet.

S 50° 51' E 232.18 feet.

S 89° 04' E 283.12 feet to a point in the center line of Cypress Creek.

THENCE, S 30° 10' E 1578.16 feet to a point, said point being the north-easterly corner of the aforesaid Timberlake Estates, Section 1.

THENCE, S 59° 50' W 200.00 feet to a point, the northwesterly corner of Lot 40, Block 5 of said Timberlake Estates, Section 1.

THENCE, N 30° 10' W 68.28 feet along the easterly right-of-way line of Timberlake Drive, to a point.

THENCE, S 47° 59' W 379.51 feet along the northerly line of said Timberlake Estates, Section 1, to a point.

THENCE, S 31° 30' W 1733.79 feet continuing along the northerly line of said Timberlake Estates, Section 1, to a point.

THENCE, N 45° 00' W 36.00 feet along the easterly right-of-way line of Tall Forest Drive, to a point.

THENCE, S 45° 00' W 204.38 feet to the place of BEGINNING.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each

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Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

Joseph P. Fleet  
 Bert R. Coats  
 Robert Coogan  
 Leonard C. Sauer  
 Peter O. Fleet.

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any Board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power

granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Vernon's Texas Civil Statutes, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the District and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase



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or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Harris County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 5% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages,

counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1081, ch. 521, emerg. eff. June 16, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Timberlake Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for terms and election of directors, and related matters; providing for Directors to fill vacancies; providing for organization of Board of Directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality,

validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Harris County; providing District shall bear expenses of relocating, raising or re-routing of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Harris County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1081, ch. 521.

**Art. 8280—310. Pineview Water Supply District**

Section 1. Under and pursuant to the provisions of Article XVI, Section 59, of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Jasper County, Texas, to be known as "Pineview Water Supply District of Jasper County" (hereinafter called the "District"), which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article XVI, Section 59, of the Constitution of Texas.

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Sec. 2. The District shall comprise all of the territory contained within the following described area and being within Jasper County, Texas:

BEING 750.18 acres of land, more or less, and being portions of Abst. 344, Lewis Letney League; Abst. 987, H&TC Section 152; Abst. 257, H&TC Section 151; Abst. 988, H&TC Section 146; and Abst. 37, Robert Stone League; all in Jasper County, Texas, AND being more particularly described by metes and bounds as follows, to-wit:

BEGINNING at the most westerly Northwest corner of H&TC Section 152 and the Northeast corner of the Robert Stone League in the South line of the Lewis Letney League;

THENCE South  $0^{\circ} 19'$  East 92 feet to a corner of Tract No. 104-24 deeded to the United States of America for McGee Bend (Sam Rayburn) Reservoir;

THENCE along the easterly boundary lines of Tract No. 102-24 to a point for corner in the West line of H&TC Section 146;

THENCE South  $0^{\circ} 57'$  East with said line, to a point which is located 300 feet southerly (perpendicular distance) from the South right of way line of the "McGee Bend Dam East Access Road";

THENCE in an easterly direction paralleling and 300 feet southerly (perpendicular distance) from said right of way line, approximately 6,200 feet to a point for corner in H&TC Section 151;

THENCE North to the North line of Section 151, being also the South line of Section 152, at a point which is located North  $89^{\circ} 50'$  East 722.22 feet from the Northwest corner of said Section 151;

THENCE continuing North an additional 2248.42 feet to a point for corner;

THENCE West 1758.33 feet to a point for corner in the East line of the Letney League;

THENCE North  $0^{\circ} 44'$  West with said line, 900 feet to a point for corner;

THENCE West approximately 4150 feet to a point for corner in the East line of Tract No. 104-2 deeded to the United States of America for McGee Bend (Sam Rayburn) Reservoir;

THENCE in a Southwesterly direction with the easterly boundary lines of said Tract No. 104-2 to the South line of the Letney League and the North line of Tract No. 101-1 deeded to the United States of America for McGee Bend (Sam Rayburn) Reservoir;

THENCE in an easterly direction with the North line of Tract No. 101-1 to the place of beginning.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State, now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article XVI, Section 59, of the Constitution of Texas; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 8. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be elected or appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas, but such Directors shall not be required to reside in or own property subject to taxation by the District. Provided, however, that each of said Directors shall be required to own land in the District prior to the awarding of construction contracts by the District. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or older and residents of the State of Texas, shall be the Directors of said District and shall constitute the Board of Directors of said District:

T. Gilbert Adams  
R. D. Richards, Jr.  
R. P. Hicks  
Glen Kirby  
W. A. Eddy

If any of such persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. The first two of the above-named Directors shall serve until the second Tuesday in January, 1966, or as herein provided; and the remaining three of the above-named Directors shall serve until the second Tuesday in January, 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966 and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual election shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president and a vice president of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and have the same right to vote as any other Director. The vice president shall perform all the duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act. The Board may appoint a secretary and a treasurer who may or may not be members of the Board, and it may combine those offices. The Board may require that the treasurer give

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bond in such amount as may be required by the Board. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the District. The Board shall appoint all necessary engineers, attorneys and other employees. The Board shall adopt a seal for the District.

Sec. 9. When bonds or refunding bonds have been issued by the District and said bonds or refunding bonds have been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, said bonds or refunding bonds shall be negotiable, valid, legal and binding obligations and shall be incontestable for any cause.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Chapter 336, Acts of the 57th Legislature, Regular Session, 1961 (codified as Article 7880—139, Vernon's Annotated Civil Statutes of Texas), and said District's project and improvements during the course of construction shall be subject to inspection in the manner provided in said Article 7880—139.

Sec. 11. The power of eminent domain of the District shall be limited to Jasper County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, rerouting, changing of grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facilities.

Sec. 12. The provisions of Article 7880—77b, as amended, as codified in Vernon's Annotated Civil Statutes of Texas, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 13. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution of Texas, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 14. The territory and lands hereinabove described as comprising this District are hereby excluded from the Upper Jasper County Water Authority, Chapter 508, page 1282, Acts of the 54th Legislature, Regular Session, 1955 (codified as Article 8280—184, Vernon's Annotated Civil Statutes of Texas), creating the Upper Jasper County Water Authority and providing that such Authority shall include and consist of that part of the State of Texas included within the boundaries of Commissioners Precinct Nos. 1 and 2 of Jasper County, Texas, and providing that the boundaries of said Precincts shall be the boundaries

of said Authority, are hereby repealed wherein said Acts are in conflict with this Act.

Sec. 15. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Jasper County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date of such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article XVI, Section 59(d), of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 16. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1087, ch. 522.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article XVI, Section 59, Constitution of Texas, known as "Pineview Water Supply District of Jasper County"; declaring said District to be a governmental agency and a body politic and corporate; defining the boundaries of said District and finding that said boundaries form a closure; finding that said District is created to serve a public use and benefit; providing that said District shall have all of the rights, powers, privileges, authority and duties conferred by the General Laws applicable to water control and improvement districts created under Article XVI, Section 59, of the Constitution of Texas except where such General Laws are in conflict with this Act; providing for no confirmation election; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation; providing for the governing

body of said District; providing for the qualifications, election and terms of directors and appointing members of original Board of Directors; providing for the election and appointment of officers and employees of such District and other related powers of the Board of Directors; providing for the validity of bonds issued by said District; providing for the approval and inspection of construction projects by the Texas Water Commission; limiting the powers of eminent domain of said District; providing that Article 7880—77b shall not be applicable to said District; providing that said District is free from taxation within this State; excluding lands of said District from Upper Jasper County Water Authority and repealing Article 8280—184, Vernon's Annotated Civil Statutes of Texas where in conflict with this Act; determining and finding that the requirements of Article XVI, Section 59(d) have been fulfilled and accomplished; providing for severability; and declaring an emergency. Acts 1965, 59th Leg., p. 1087, ch. 522.

**Art. 8280—311. Clear Creek Basin Authority**

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a Conservation and Reclamation District is hereby created and established in Harris County, Texas, to be known as "Clear Creek Basin Authority" (hereinafter called "the Authority") which shall be a governmental agency and a body politic and corporate. The creation and establishment of the Authority is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The Authority shall comprise generally the watershed area of Clear Creek in Harris County, Texas, a more particular description of the area of the Authority being as follows:

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**BEGINNING** at a point in the most Easterly south corner of the Ritson Morris Survey A-52, said corner also being where the westerly line of Galveston Bay joins the common line between Harris and Galveston Counties;

**THENCE**, in a westerly direction along the common line between Harris and Galveston Counties, said line also being the center line of Clear Creek, continuing through the center line of Clear Lake, and along the center line of Clear Creek to the common corner of Harris, Galveston and Brazoria Counties;

**THENCE**, westerly along the common county line between Harris and Brazoria Counties, continuing along the center line of Clear Creek to a point where said Harris County line leaves Clear Creek, said point being in the S. G. Haynie Survey A-212;

**THENCE**, continuing westerly along said common line between Harris and Brazoria Counties, to the common corner of Brazoria, Fort Bend and Harris Counties;

**THENCE**, westerly along the common county line between Fort Bend and Harris Counties crossing the S. G. Haynie Survey, A-212, H. Levering Survey, A-279, H. Sanders Survey, A-753 to a point on the west line of the H. Sanders Survey, A-753; said point also being on the east line of E. A. Giraud Survey, A-1682;

#### Harris County Surveys

**THENCE**, north along the common line between surveys, E. A. Giraud, A-1682, T.T. RR Co. Survey, A-1023, T.T. RR Co. Survey, A-1009 with H. Sanders Survey, A-753 to the common corner of four surveys, T.T. RR Co., A-1009, C. V. Uglow, A-819, N. B. Waters, A-872, and H. Sanders, A-753;

**THENCE**, east along the common line of the following surveys, N. B. Waters, A-872, N. B. Waters, A-873, BBB & C RR, A-176 and Jas. Hamilton, A-882 with H. Sanders, A-753, R. T. Blackburn, A-160, Jas. Hamilton, A-876, and Jas. Hamilton, A-881 to the northeast corner of Jas. Hamilton Survey, A-881, said corner also being the southeast corner of Jas. Hamilton Survey, A-882 and on the west line of Thos. Toby (D. Day) Survey, A-808;

**THENCE**, north along the common line between Jas. Hamilton Survey, A-882 and Thos. Toby Survey, A-808 to the northwest corner of Thos. Toby Survey, A-808;

**THENCE**, east along the common line between Thos. Toby Survey, A-806 and Thos. Toby Survey, A-808 to the northeast corner of Thos. Toby Survey, A-808, said corner also being the southeast corner of Thos. Toby Survey, A-806, and on the east line of the John Holloway Survey, A-339;

**THENCE**, south along the common line between the said John Holloway Survey and the Thos. Toby Survey, A-808, to the southwest corner of the John Holloway Survey, A-339, said corner also being the northwest corner of the H. A. Robinson Survey, A-678;

**THENCE**, east along the common line between the following surveys, John Holloway, A-339, with H. A. Robinson, A-678, M. C. Bulrice, A-128 and E. Friedenhaus, A-1073 to the southeast corner of the said John Holloway Survey, said corner also being an interior corner of E. Friedenhaus Survey, A-1073;

**THENCE**, north along the common line between John Holloway Survey, A-339 and Thomas Tobin Survey, A-774 with E. Friedenhaus Survey, A-1073 to the most northerly northwest corner of the E. Friedenhaus Survey, A-1073, said corner also being the southwest corner of Thomas Toby Survey, A-813;

**THENCE**, east along the common line between said Thomas Toby Survey and E. Friedenhaus Survey to the northeast corner of said E.

Friedenhaus Survey, said corner also being the southeast corner of the Thomas Toby Survey, A-813 and on the west line of the Blas Herrera Survey, A-320;

THENCE, south along the common line between the said Blas Herrera Survey and the E. Friedenhaus Survey, A-1073 to the southwest corner of said Blas Herrera Survey, said corner also being on the north line of the Wm. J. Lovett Survey, A-526;

THENCE, east along the common line between the following surveys, Wm. J. Lovett, A-526, J. M. Swisher, A-1278, G. Wilgus, A-1127, Wm. Stinde, A-1495 with the Blas Herrera, A-320, to the southeast corner of said Blas Herrera Survey, said corner also being on the west line of the W. A. Arnold Survey, A-1461;

THENCE, north along the common line between the said Blas Herrera Survey and the W. A. Arnold Survey, A-1461 to the northwest corner of said W. A. Arnold Survey, said corner also being the southwest corner of the Peter Mahin Survey, A-562;

THENCE, east along the common line of the following surveys, W. A. Arnold, A-1461, G. W. Dowell, A-1575, Thos. Slayden, A-1687 with the Peter Mahin, A-562, to the southeast corner of said Peter Mahin Survey, said corner also being the northeast corner of said Thos. Slayden Survey, and on the west line of the T. Toby Survey, A-814;

THENCE, south along the common line between the said Thos. Slayden Survey and the T. Toby Survey, A-814, to the southwest corner of said T. Toby Survey, said corner also being the northwest corner of the J. Robinson Survey, A-680;

THENCE, east along the common line between the following surveys, T. Toby, A-814, G. W. Sherrick, A-1112, B. T. Masterson, A-1093, Thomas Toby, A-815, John Gay Hrs., A-310, Fred Martin, A-551, and HT & B RR Co., A-389 with the J. Robinson, A-680, and Juan Sutton, A-751 to the southeast corner of the HT & B RR Co. Survey, A-389, said corner also being on the west line of the Walton Hill and Walton Survey, A-1052;

THENCE, north along the common line between the said HT & B RR Co. Survey, and the Walton Hill and Walton Survey to the northerly northwest corner of the said Walton Hill and Walton Survey, said corner also being the southwest corner of the H. C. Burnett Survey, A-1065;

THENCE, east along the common line between Walton Hill and Walton Survey, A-1052 and W.C. RR Co. Survey, A-894 with the H. C. Burnett Survey, A-1065 to the southeast corner of the H. C. Burnett Survey, said corner also being on the northeast corner of the W. C. RR Co. Survey, A-894 and on the west line of the Thos. Gault Survey, A-1312;

THENCE, north along the common line between the H. C. Burnett Survey and the Thos. Gault Survey, to the northwest corner of the Thos. Gault Survey, A-1312, said corner also being an interior corner of the H. C. Burnett Survey, A-1065;

THENCE, east along the north line of the said Thos. Gault Survey, to the northwest corner, said corner also being on the west line of the J. M. Swisher Survey, A-1280;

THENCE, along the common line between the said Thos. Gault Survey and the J. M. Swisher Survey to the southwest corner of the J. M. Swisher Survey, A-1280, said corner also being the northwest corner of the Day Land & Cattle Co. Survey, A-1042;

THENCE, east along the common line between the J. M. Swisher Survey and the Day Land & Cattle Co. Survey to the southeast corner of the J. M. Swisher Survey, said corner also being the northeast corner of the Day Land & Cattle Co. Survey, and on the west line of the F. Reynolds Survey, A-643;

THENCE, north along the common line between the said J. M. Swisher Survey, the W.C. RR Co. Survey, A-928 with the F. Reynolds, A-643 to the



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northwest corner of the said F. Reynolds Survey, said corner also being the southwest corner of the J. W. Maxey Survey, A-1270;

THENCE, east along the common line between the following surveys, J. W. Maxey, A-1270, J. M. Burnett, A-1143, George M. Patrick, A-624, N. Clopper, Jr., A-198 and Enoch Brinson, A-5 with the F. Reynolds, A-643 and the W. M. Jones, A-482 to the northeast corner of the W. M. Jones Survey, A-482, said corner also being the northwest corner of the Richard Pearsall Survey, A-625;

THENCE, south along the common line between the Richard Pearsall Survey and the W. M. Jones Survey to the southeast corner of the W. M. Jones Survey said corner also being the southwest corner of the Richard Pearsall Survey and on the north line of the Geo. B. McKinstry Survey, A-47;

THENCE, east along the common line between the Geo. B. McKinstry Survey and the Richard Pearsall Survey, to the northeast corner of said Geo. B. McKinstry Survey, said corner also being the southeast corner of the Richard Pearsall Survey and on the west line of the Johnson Hunter Survey, A-35;

THENCE, south along the common line between the Geo. B. McKinstry and the Johnson Hunter Survey to the southwest corner of the said Johnson Hunter Survey said corner also being the northeast corner of the W. P. Harris Survey, A-30;

THENCE, east along the common line between the said W. P. Harris Survey and the Johnson Hunter Survey to the westerly shore line of Galveston Bay and being the northeast corner of the W. P. Harris Survey and the southeast corner of the Johnson Hunter Survey;

THENCE, in a southerly direction along the westerly shore line of Galveston Bay and the easterly line of the following surveys, W. P. Harris, A-30 and Ritson Morris, A-52 to the Place of Beginning.

Sec. 3. It is expressly determined and found that all of the land and other property included within the area and boundaries will be benefited by the works and projects which are to be accomplished by the Authority pursuant to the powers herein conferred under the provisions of Article 16, Section 59, of the Constitution of Texas, and that such Authority was and is created to serve a public use and benefit. The Authority shall not change its area or boundaries except by further enactment of the Legislature.

Sec. 4. It is determined, and the Legislature hereby finds, that the boundaries of said Authority form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said Authority, or the right of the Authority to issue bonds or refunding bonds, or to pay the principal and interest thereon, or in any other manner affect the legality or operation of the Authority or its governing body.

Sec. 5. Subject to the specific limitations hereafter set out, the Authority shall have and exercise and is hereby vested with, all of the rights, powers and privileges, authorities and functions conferred and imposed by the General Laws of this State now in force and hereafter enacted, applicable to water control and improvement districts created under the authority of Article 16, Section 59, of the Constitution of Texas, but to the extent that the provisions of any such General Laws may be in conflict with or inconsistent with the provisions of this Act, the provisions in this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. The Authority shall not,

within the corporate limits of any city, including cities operating under a Charter authorized by Special Act of the Legislature, duplicate, perform or provide any function, service or facility that such city is authorized to perform or provide, or is performing or providing, without the consent in writing of the governing body of such city.

Sec. 6. The Board of Directors shall not call a confirmation election or a hearing on the exclusion of lands and other property from the Authority, or a hearing on the adoption of a plan of taxation. It is specifically provided that the Authority shall not have the power to impose, levy, assess, or collect any taxes.

Sec. 7. The Authority is specifically granted the right, power and authority to purchase and construct, or purchase or construct, or otherwise plan, acquire and accomplish by any and all practical means sanitary sewer systems, and any and all works, facilities, plants, equipment, and appliances in any and all manner incident to, helpful or necessary to the collection, transportation, processing, disposal, and control of all domestic, industrial, or communal wastes, whether fluids, solids, or composites, and to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase or acquire by eminent domain all necessary land, right of way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain the same, and to sell its services and by-products, and to fix rates therefor, and the Authority may exercise any of the rights, powers, and authorities granted by this Act within the boundaries of the Authority; and the Authority may issue its bonds (whether funding or refunding) for such purposes and provide and make payment therefor and for necessary expenses in connection therewith; and subject to the limitations contained in this Section and to the further limitation provided in the next preceding Section relating to taxes, the Authority shall have and exercise and is hereby vested with, all of the rights, powers, privileges, authority and functions conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under the Authority of Article 16, Section 59, of the Constitution of Texas, and such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Notwithstanding any other provision hereof, Authority shall not use nor acquire by eminent domain within the boundaries of the Authority only any public properties (including but not limited to public streets, rights of way, easements, alleys or other properties) within the corporate limits of any city, without first having obtained the consent of the governing body of such city, and upon such terms and conditions as such city may require; provided, however, that the consent of such city shall not be unreasonably withheld.

Sec. 8. (a) All powers of the Authority shall be exercised by a Board of Directors (sometimes called the "Board").

(b) The Board shall consist of fifteen directors, to be divided into Positions 1 through 15, inclusive. The initial Board shall be appointed by the Governor with the advice and consent of the Senate, and the Governor, at the time of the initial appointments, shall designate the position (by number) to be held by each director.

(c) The term of each director shall be for two years and until his successor shall have been elected and qualified, except that of the directors first appointed, Positions 1 through 8 shall serve for a term ending May 31, 1966; and Positions 9 through 15 shall serve for a term ending May 31, 1967. The Board of Directors shall call and hold

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an election pursuant to law at a date to be selected by the Board, but not later than May 15, 1966, and each year thereafter not later than May 15th, for the respective positions becoming vacant as set forth herein. Such elections shall be held in compliance with the Texas Election Code and notice of election shall be published at least one time in a newspaper of general circulation in Harris County, Texas, at least thirty days prior to each such election.

(d) The Board of Directors shall also have the power and authority to create an "Advisory Board," composed of representatives of contracting parties, and various governmental agencies of the United States of America, the State of Texas, and municipal corporations. Members of such Advisory Board shall have such privileges and responsibilities as may be prescribed by the Board of Directors.

(e) No person shall be qualified to serve as a director unless he is a qualified voter within the Authority. Each director shall subscribe to the Constitutional Oath and shall give bond in the amount of \$5,000, the cost of which shall be paid by the Authority. If any director moves from the Authority or a vacancy occurs otherwise, the Board of Directors shall promptly appoint a director to succeed to such position until the next election for directors, at which time the position shall be filled for the unexpired term of such position by the electorate.

(f) No director shall be entitled to receive any compensation for his services on the Board. Each director shall be entitled, however, to reimbursement for actual expenses incurred in attending to the business of the Authority, provided that such expense is approved by the Board of Directors.

(g) The Board of Directors shall elect from its number a President and Secretary and such other officers as in the judgment of the Board shall be necessary. The Treasurer may be appointed by the Board and shall give bond in such amount as may be required by the Board, conditioned that he or it will faithfully account for all money which shall come into his or its custody as Treasurer of the Authority. The Board shall appoint all necessary engineers, attorneys, fiscal agents, managers, employees, or other personnel as may be needed, and shall adopt a seal for the Authority.

Sec. 9. Subject to the provisions of Section 7 hereof, the Authority shall have the right, power and authority to use any and all public roadways, streets, alleys and public easements within or without the boundaries of the Authority in the accomplishment of its purpose, without the necessity of securing a franchise, but only after permission in writing has been obtained from the appropriate government agency having jurisdiction over the public property being used.

Sec. 10. In the event that the Authority in the exercise of the power of eminent domain or a power of relocation or any other power, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipelines, all such necessary relocation, raising, re-routing, change of grade or alteration of construction and any additional expenses required thereby shall be accomplished at the sole expense of the Authority. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or changing grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the agreed net salvage value derived from the old facility, together with any additional or different facility that may be required as a result of such relocation, raising, lowering, re-routing or change in grade or alteration of construction in any such

facilities. The term facilities shall also include storm sewers and drainage facilities.

In the event it becomes necessary to relocate, raise, re-route or change the grade of or alter the construction of any facility constructed by Authority within any public roadway, street, alley or public easement then located within the corporate limits of any city, or any city operating under a Charter authorized by a Special Act of the Legislature, because of such city desiring to relocate, raise, re-route or change the grade of, or construct any public facility within, any such public roadways, streets, alleys or public easements, Authority shall bear the sole expense of such relocation, raising, re-routing or changing the grade of, or altering the construction of its facilities located within such public roadway, street, alley or public easement.

Sec. 11. The Authority shall have the right, power and authority to enter into contracts with the United States of America, the State of Texas or any subdivision thereof, municipal corporations, owners of land, developers or lessees of land and properties and others, as may be necessary or appropriate in connection with the facilities, works or improvements as the Authority may be authorized and empowered to perform so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, the area may be placed in position ultimately to receive the services of such facilities, works or improvements. No election shall be required of any city or town for approval of contracts with the Authority, but such contracts may be entered into without the necessity of an election by any contracting party. Such contracts may be for any term not to exceed fifty years.

Sec. 12. The Authority is fully empowered to borrow money for its corporate purposes including the power to borrow money and accept grants, gratuities, or other support from the United States of America, or the State of Texas, or from any corporation or agency created or designated by the United States of America or the State of Texas, or from any other source, and in connection with any such loan, grant, or other support, to enter into such arrangements as the Board of Directors may deem advisable. The Authority is granted full powers to authorize, execute, and sell bonds, to be supported by revenues, to evidence any indebtedness it may lawfully incur and in such connection the Board of Directors may proceed as permitted under the General Laws pertaining to the issuance of bonds by water control and improvement districts, including refunding bonds. Bonds payable solely from net revenues of the Authority's operation or from the proceeds of any contract for the Authority's services may be issued by resolution of the Board of Directors and no hearing or election therefor shall be required of any contracting party. All bonds issued by the Authority pursuant to the provision of this Act shall constitute negotiable instruments within the meaning of the Negotiable Instruments Law of this State and may be in such denominations as the Board of Directors may fix and determine. Before any bonds shall be sold by the Authority, a certified copy of the proceedings for the issuance thereof, including the form of such bonds, together with any other information which the Attorney General of Texas may require, shall be submitted to the Attorney General, and if he shall find that such bonds have been issued in accordance with the law, he shall approve such bonds and execute a certificate of approval which shall be filed in the office of the Comptroller of Public Accounts of the State of Texas, and be recorded in a record kept for that purpose. No bonds shall be issued until the same shall have been registered by the Comptroller of Public Accounts, who shall so register the same if the Attorney General shall have filed with the Comptroller of Public Accounts his certificate approving the bonds, and the proceedings for the issuance thereof, as hereinabove provided.

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When bonds or the proceedings pertaining thereto recite that they are secured by a pledge of the proceeds of a contract theretofore made between the Authority and any city, district, or other user, a copy of such contract and proceedings of the contracting parties shall be submitted to the Attorney General with the bond record, and if such bonds have been duly authorized and such contracts made in compliance with law, he shall approve the bonds and contracts and the bonds shall then be registered by the Comptroller of Public Accounts. No bonds shall be issued until the same have been submitted to and reviewed by the Texas Water Commission as provided by Article 7880—139, Vernon's Annotated Civil Statutes, followed by full compliance by the Authority with all requirements made by the Commission pursuant to such statute. When approved as aforesaid the bonds and contracts shall be valid and binding and shall be incontestable for any cause.

All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees and sinking funds of cities, towns and villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons pertinent thereto.

Sec. 13. The Board of Directors shall designate one or more banks within the Authority to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks except that sufficient funds shall be remitted to the bank or banks of payment of principal of and interest on the outstanding bonds of the Authority and in time that such may be received by the said bank or banks of payment on or prior to the date of the maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

Sec. 14. A complete system of accounts shall be kept by the Authority and an audit of its affairs for each year shall be prepared by an independent certified public accountant, or a firm of independent certified public accountants, of recognized integrity and ability. The fiscal year of the Authority shall be from October 1 to September 30 of the following year, unless and until changed by the Board of Directors. A written report of the audit shall be delivered to each member of the Board of Directors not later than ninety (90) days after the close of each fiscal year; and a copy of such audit report shall be delivered upon request to the holder or holders of at least twenty-five per cent (25%) of the then outstanding bonds of the Authority; and at least five additional copies of said audit shall be delivered to the office of the Authority, one of which shall be kept on file, and shall constitute a public record open to inspection by any interested person or persons within normal office hours. The cost of such audit shall be paid for by the Authority.

Sec. 15. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and the industries thereof, the Authority in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on its properties or any part thereof, and the bonds issued hereunder and

their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 16. The Authority is hereby invested with the powers of the State under the Constitution of Texas to effectuate the powers herein granted subject to declarations of policy by the Legislature of Texas, and the laws of Texas; and such Authority shall cooperate to the fullest extent with the Texas Water Pollution Control Board, the Texas Water Commission and any other agency or agencies which may succeed to their principal duties, and with other political subdivisions of the State and municipal corporations in the accomplishment of the beneficial purposes herein set out. The Authority shall have the power to adopt reasonable rules and regulations designed to facilitate the exercise of its rights, duties and responsibilities.

Sec. 17. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Vernon's Texas Civil Statutes, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 18. The Legislature specifically finds and declares that the requirements of Article 16, Section 59, of the Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

Sec. 19. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article 16 of the Constitution of the State of Texas wherein it is required to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the State; that the Authority herein created is essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested. All of the terms and provisions of this Act are to be liberally construed, to effectuate the purposes, powers, rights and authorities herein set forth.

Sec. 20. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions and all acts done hereunder shall be done in such manner as may conform thereto whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the Authority shall have the power by resolution to provide an alternative procedure conformable to such Constitutions. If any provision of this Act shall be invalid such fact shall not affect the creation of the Authority or the validity of any other provision of this Act, and the Legislature hereby declares that it would have created the Authority and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions thereof. Acts 1965, 59th Leg., p. 1096, ch. 528, emerg. eff. June 16, 1965.

**Title of Act:**

An Act creating and establishing a Conservation and Reclamation District under Article 16, Section 59 of the Constitution of Texas, to be known as "Clear Creek Basin Authority"; defining the boundaries; determining and finding benefits to the land and other property within the Authority; finding that the boundaries of the Authority form a closure; conferring rights, powers, privileges, authorities and functions upon the Authority; providing that it shall not be necessary for the Authority to call a confirmation election or a hearing on the exclusion of lands; pro-

viding that the Authority shall not have the power to impose, levy, assess, or collect any taxes; conferring on the Authority the right, power and authority to plan, acquire and accomplish sanitary sewer systems and other facilities necessary or helpful in the processing of domestic, industrial or communal wastes, and providing for the issuance of bonds; providing for a Board of Directors and Advisory Board; providing for the use of public roadways, streets, alleys, and public easements; providing that the Authority shall bear the expense of relocation of certain properties and facilities; providing for the power to con-

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tract with the United States of America, the State of Texas and others, and making provision for such contracts; providing for the power to borrow money; providing for the appointment of a depository; providing for a system of accounts and an audit thereof; finding that the Authority will be carrying out an essential public function; investing the Authority with the powers of the State of Texas and providing for cooperation with other bodies; pro-

viding that the Municipal Annexation Act is not applicable to the creation of the Authority; finding that the requirements of Article 16, Section 59 of the Constitution have been accomplished; providing that the enactment of this Act is essential and necessary in the preservation and conservation of natural resources; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1096, ch. 528.

#### Art. 8280—312. Blue Water Municipal Utility District

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Brazoria County, Texas, to be known as "Blue Water Municipal Utility District of Brazoria County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

Said District shall be composed of a tract of land out of the S. F. Austin Peninsular League, Abstract No. 29, Brazoria County, Texas, said tract being hereinafter described by metes and bounds as follows:

BEGINNING at the water's edge of the Gulf of Mexico at mean high tide, elevation 0.70 feet, United States Coast and Geodetic Survey Datum, and in accordance with a survey made in June, 1962. Said beginning point occupies a position of  $X = 3,219,404.72$  feet and  $Y = 454,156.01$  feet, Texas Plane Coordinate System, South Central Zone, said beginning point also being the south corner of that 85.543 acres tract of land commonly known as Tract 19;

THENCE, North  $41^{\circ} 09'$  West along the southwest line of said Tract 19 to a point at the water's edge of Oyster Bay, said point occupying a position of  $X = 3,216,978.31$  feet and  $Y = 456,932.55$  feet, Texas Plane Coordinate System, South Central Zone, said point also being the west corner of said Tract 19;

THENCE, generally northeasterly along the water's edge of Oyster Bay and its meanders, said water's edge also being the northwest line of said Tract 19 and the northwesterly line of that 83.776 acres tract commonly known as Tract 20, to a point occupying a position of  $X = 3,218,654.55$  feet and  $Y = 458,053.39$  feet, Texas Plane Coordinate System, South Central Zone, said point also being the north corner of said Tract 20;

THENCE, South  $41^{\circ} 09'$  East along the northeast line of said Tract 20 to a point at the water's edge of the Gulf of Mexico at mean high tide, said point occupying a position of  $X = 3,220,954.21$  feet and  $Y = 455,421.90$  feet, Texas Plane Coordinate System, South Central Zone, said point also being the east corner of said Tract 20;

THENCE, southwesterly along said water's edge of the Gulf of Mexico at mean high tide and its meanders, said water's edge being along the southeast lines of said Tracts 20 and 19, to a point occupying a position of  $X = 3,219,404.72$  feet and  $Y = 454,156.01$  feet, Texas Plane Coordinate System, South Central Zone, said point also being the south corner of said Tract 19, the place of beginning, and containing 169.319 acres, more or less, all in Brazoria County, Texas.

Sec. 2. It is expressly determined, and the Legislature hereby finds that the boundaries of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 3. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, including all powers and authority relating to the navigation of its coastal and inland waters and the reclamation and drainage of overflowed lands and other lands needing drainage in said District, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in said Chapter, including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Article 7880—90a, Vernon's Texas Civil Statutes, as amended. Provided, however, that this District shall not perform or duplicate any function or service that is being performed by Folletts Island Water Supply District of Brazoria County, Texas, created by House Bill 1140, Acts of the 59th Legislature, Regular Session, 1965. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board of Directors shall include, but not be limited to, the right to enter into contracts on behalf of said District for the purchase and sale, or either, of water for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Directors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 4. The management and control of the District is hereby vested in a Board of five (5) directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be

Louis Pauls

Louis Pauls, Jr.

Winfield Atherton

H. W. Darst

Miles K. Burton.



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Said members shall become Directors immediately after this Act becomes effective, and said first Board of Directors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1967, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925, as amended. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 5 Land may be excluded from said District in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended. Land may be added to the District only by written request of an adjacent, or contiguous, landowner or landowners; and no land may be added without the consent of the owner thereof. No land may be added which is not adjacent or contiguous to the District when added. Said District may be dissolved by its Board of Directors in accordance with the provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880—77b, Vernon's Civil Statutes).

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all un-matured coupons appurtenant thereto. Said bonds may be in the denomination of \$1,000 or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both.

Sec. 7. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusion hearing or hearings pursuant to the provisions of the General Law. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 8. As soon as practicable after the qualification of the first Board of Directors of said District, said Board shall by resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of County funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been selected.

Sec. 9. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 10. If any word, phrase, clause, sentence, paragraph, Section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, Section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 11. Proof of publication of the Constitutional notice required in the enactment hereof under the provisions of paragraph (d) of Section 59 of Article XVI of the Texas Constitution has been made in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements. Acts 1965, 59th Leg., p. 1125, ch. 531, emerg. eff. June 16, 1965.

**Title of Act:**

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "Blue Water Municipal Utility District of Brazoria County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for its

governing body; containing provisions relating to addition and exclusion of land and dissolution of the District; providing that its bonds are legal and authorized investments; providing for selection of a depository; containing other provisions relating to the subject; providing a severability clause; reciting proof of publication of Constitutional notice; and declaring an emergency. Acts 1965, 59th Leg., p. 1125, ch. 531.

**Art. 8280—313. Treasure Island Municipal Utility District**

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Brazoria County, Texas, to be known as "Treasure Island Municipal Utility District of Brazoria County, Texas," hereinafter referred to as the "District," and said District shall consist of:

A tract containing 294.18 acres of land, more or less, being that tract of land commonly known as San Luis Island out of the S. F. Austin Peninsular League, Abstract 29, Brazoria County, Texas, being all of the land in such league lying north of the following described line:

BEGINNING at a concrete monument on the waters edge of what was formerly called "Little Pass" when it separated the island from the mainland, but whose easterly end is now filled by sand. Said beginning point occupies a position of X = 3,235,945.21 feet and Y = 470,168.66 feet, Texas Plane Coordinate System, South Central Zone;

THENCE, S. 88° 36' 07" E. (grid bearing), at 353.71 feet pass an iron rod in the northwest right of way line of a 120 foot road, at 482.25 feet pass an iron rod in the southeast right of way line of said 120 foot road,

For Annotations and Historical Notes, see V.A.T.S.

at 2112.25 feet pass a concrete monument a total distance of 2381.91 feet in all to the waters edge of the Gulf of Mexico at mean high tide.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, and including all powers and authority relating to the navigation of its coastal and inland waters and the reclamation and drainage of overflowed lands and other lands needing drainage in said District, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in said Chapter, including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Article 7880—90a, Vernon's Texas Civil Statutes, as amended. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. Provided, however, that this District shall not perform or duplicate any function or service that is being performed by Folletts Island Water Supply District of Brazoria County, Texas, created by House Bill 1140, Acts of the 59th Legislature, Regular Session, 1965. The powers of its Board of Directors shall include, but not be limited to, the right to enter into contracts on behalf of said District for the purchase and sale, or either, of water for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Directors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be

Frederick Wagner  
F. Davis Weaver  
Hazel Strong  
June Christian  
Teno Elliott

Said members shall become Directors immediately after this Act becomes effective, and said first Board of Directors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1967, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925, as amended. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 4. Land may be excluded from said District in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended. Land may be added to the District only by written request of an adjacent, or contiguous, landowner or landowners; and no land may be added without the consent of the owner thereof. No land may be added which is not adjacent or contiguous to the District when added. Said District may be dissolved by its Board of Directors in accordance with the provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880—77b, Vernon's Civil Statutes).

Sec. 5. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Said bonds may be in the denomination of \$1,000 or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both.

Sec. 6. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusion hearing or hearings pursuant to the provisions of the general law. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 7. As soon as practicable after the qualification of the first Board of Directors of said District, said Board shall by resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of county funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been selected.

Sec. 8. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 9. If any word, phrase, clause, sentence, paragraph, section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 10. Proof of publication of the Constitutional notice required in the enactment hereof under the provisions of paragraph (d) of Section 59 of Article XVI of the Texas Constitution has been made in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such Constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements. Acts 1965, 59th Leg., p. 1129, ch. 532, emerg. eff. June 16, 1965.

**Title of Act:**

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "Treasure Island Municipal Utility District of Brazoria County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for its

governing body; containing provisions relating to addition and exclusion of land and dissolution of the District; providing that its bonds are legal and authorized investments; providing for selection of a depository; containing other provisions relating to the subject; providing a severability clause; reciting proof of publication of Constitutional notice; and declaring an emergency. Acts 1965, 59th Leg., p. 1129, ch. 532.

**Art. 8280—314. Folletts Island Water Supply District**

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a Conservation and Reclamation District is hereby created and incorporated in Brazoria County, Texas, to be known as "Folletts Island Water Supply District of Brazoria County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

Said land being out of the S. F. Austin League, Abstract No. 29, Brazoria County, Texas, described as follows:

Beginning at the most easterly north corner of the 175 acre tract of Elliott and Waldron Title Guaranty Co., Trustee, the description of said 175 acres being in Vol. 745, Page 356 of the Deed Records of the County Clerk of Brazoria County, Texas, said beginning point being on the water's edge of Oyster Bay;

THENCE, along the water's edge of said Oyster Bay with the meanders of said Oyster Bay as follows: Reading across from left to right:

N 74° 34' E 918.59 ft.,	N 32° 55' E 410 ft.,	N 22° 40' W 110.0 ft.,
N 56° 00' E 167.0 ft.,	N 38° 47' E 303.0 ft.,	N 48° 52' E 221.0 ft.,
N 68° 09' E 177.0 ft.,	N 22° 03' E 203.0 ft.,	N 25° 01' W 198.0 ft.,
N 1° 40' W 272.0 ft.,	N 47° 45' W 106.0 ft.,	N 73° 55' W 228.0 ft.,
N 53° 58' W 78.0 ft.,	N 70° 20' W 90.0 ft.,	S 33° 40' W 72.0 ft.,
S 61° 05' W 37.0 ft.,	N 66° 00' W 75.0 ft.,	N 48° 05' E 53.0 ft.,
N 62° 35' E 97.0 ft.,	N 84° 15' E 70.0 ft.,	N 63° 30' E 100.0 ft.,
N 45° 05' E 58.0 ft.,	N 6° 55' W 145.0 ft.,	N 3° 08' E 167.0 ft.,
N 17° 35' W 60.0 ft.,	N 19° 45' E 152.0 ft.,	N 2° 06' E 168.0 ft.,
N 31° 00' W 73.0 ft.,	N 74° 11' W 115.0 ft.,	N 57° 15' W 116.0 ft.,
N 81° 30' W 182.0 ft.,	N 81° 25' E 483.0 ft.,	S 70° 50' E 230.0 ft.,
S 87° 20' E 110.0 ft.,	S 70° 16' E 162.0 ft.,	N 82° 24' E 178.0 ft.,
N 60° 08' E 204.0 ft.,	N 33° 04' E 100.0 ft.,	N 24° 03' E 182.0 ft.,
N 30° 35' W 191.0 ft.,	N 65° 40' W 137.0 ft.,	S 57° 00' W 118.0 ft.,
N 10° 31' E 204.61 ft.,	N 49° 11' E 146.0 ft.,	N 65° 57' E 535.0 ft.,
N 47° 25' E 100.0 ft.,	S 70° 06' E 136.0 ft.,	S 43° 03' W 70.0 ft.,
S 50° 20' W 128.0 ft.,	S 11° 00' W 157.0 ft.,	N 83° 04' W 100.0 ft.,
S 1° 35' W 142.0 ft.,	S 40° 25' E 287.0 ft.,	N 72° 58' E 338.0 ft.,
S 54° 35' E 102.0 ft.,	N 6° 37' W 110.0 ft.,	N 4° 35' E 178.0 ft.,
S 58° 26' E 165.0 ft.,	N 59° 08' E 130.0 ft.,	N 13° 51' W 361.0 ft.,
N 30° 45' W 133.0 ft.,	N 7° 40' E 108.0 ft.,	N 19° 27' W 165.0 ft.,
S 70° 33' W 82.0 ft.,	N 19° 27' W 87.0 ft.,	N 18° 14' E 60.0 ft.,
S 69° 43' E 74.0 ft.,	S 40° 56' E 93.0 ft.,	S 76° 33' E 171.0 ft.,
S 9° 16' W 98.0 ft.,	S 36° 00' E 158.0 ft.,	S 69° 59' E 158.0 ft.,
S 9° 35' W 115.0 ft.,	S 42° 50' E 150.0 ft.,	S 57° 40' E 88.0 ft.,
S 69° 07' E 303.0 ft.,	S 21° 31' E 182.0 ft.,	S 47° 00' E 111.0 ft.,
S 59° 35' E 197.0 ft.,	N 84° 12' E 638.0 ft.,	S 56° 20' E 153.0 ft.,
S 83° 25' E 268.0 ft.,	N 57° 26' E 564.0 ft.,	N 43° 50' E 117.0 ft.,
N 75° 30' E 122.0 ft.,	N 9° 45' E 117.0 ft.,	N 32° 54' E 236.0 ft.,
N 3° 41' E 234.0 ft.,	N 37° 25' E 1016.0 ft.,	N 69° 27' E 161.0 ft.,
N 33° 36' E 527.0 ft.,	N 46° 59' E 237.0 ft.,	N 45° 02' E 150.0 ft.,
N 85° 10' E 130.0 ft.,	N 17° 45' E 53.0 ft.,	N 57° 00' W 155.0 ft.,
S 82° 20' W 120.0 ft.,	N 69° 00' W 92.0 ft.,	N 25° 33' W 120.0 ft.,
N 15° 40' E 41.0 ft.,	N 37° 20' E 90.0 ft.,	N 74° 00' E 87.0 ft.,
N 47° 30' E 56.0 ft.,	N 6° 27' W 62.0 ft.,	S 57° 26' W 83.0 ft.,
S 72° 22' W 239.0 ft.,	S 2° 00' W 44.0 ft.,	S 84° 14' W 73.0 ft.,
N 72° 00' W 88.0 ft.,	N 50° 20' W 36.0 ft.,	N 26° 18' W 98.0 ft.,
N 4° 52' W 125.0 ft.,	N 54° 00' E 88.0 ft.,	N 69° 35' E 199.0 ft.,
N 60° 00' E 170.0 ft.,	N 0° 37' E 170.0 ft.,	N 45° 40' E 160.0 ft.,
S 38° 40' E 90.0 ft.,	S 57° 30' E 173.0 ft.,	N 76° 00' E 18.0 ft.,
N 38° 15' W 134.0 ft.,	N 21° 47' W 195.0 ft.,	N 25° 26' E 52.0 ft.,
N 23° 34' W 157.0 ft.,	N 20° 53' E 115.0 ft.,	N 38° 35' E 348.0 ft.,
N 74° 51' E 39.0 ft.,	N 34° 19' E 837.0 ft.,	N 42° 32' E 1013.0 ft.,
N 76° 35' E 302.0 ft.,	N 6° 11' E 249.0 ft.,	N 17° 34' E 172.0 ft.,
N 71° 40' E 48.0 ft.,	S 75° 24' E 190.0 ft.,	N 86° 30' E 179.0 ft.,
N 53° 01' E 226.0 ft.,	N 67° 21' E 180.0 ft.,	N 24° 30' E 93.0 ft.,
N 10° 43' W 246.0 ft.,	N 51° 32' E 121.0 ft.,	S 58° 32' E 218.0 ft.,
N 62° 00' E 144.0 ft.,	N 53° 01' E 340.0 ft.,	N 17° 00' E 300.0 ft.,
S 74° 00' E 148.0 ft.,	N 75° 38' E 318.0 ft.,	N 3° 53' E 268.0 ft.,
N 42° 49' E 192.0 ft.,	S 47° 05' E 160.0 ft.,	S 86° 17' E 277.0 ft.,
N 60° 31' E 474.0 ft.,	N 0° 06' E 287.0 ft.,	N 56° 12' E 42.0 ft.,
S 56° 44' E 416.0 ft.,	N 55° 55' E 459.0 ft.,	N 40° 27' E 338.0 ft.,
S 45° 29' E 335.0 ft.,	N 76° 06' E 225.0 ft.,	S 66° 49' E 145.0 ft.,
N 40° 39' E 458.0 ft.,	N 12° 10' W 253.0 ft.,	S 66° 04' E 259.0 ft.,
S 81° 10' E 408.0 ft.,	N 66° 35' E 792.0 ft.,	S 51° 46' E 198.0 ft.,
N 16° 41' E 194.0 ft.,	N 27° 50' E 570.0 ft.,	N 57° 51' E 162.0 ft.,
S 39° 15' E 168.0 ft.,	N 79° 14' E 257.0 ft.,	N 58° 09' E 613.0 ft.,

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N 32° 37' E 127.0 ft.,	S 78° 43' E 198.0 ft.,	N 55° 36' E 253.0 ft.,
N 71° 43' E 222.0 ft.,	N 59° 56' E 333.0 ft.,	N 5° 30' E 308.0 ft.,
N 40° 43' E 111.0 ft.,	N 27° 20' E 412.0 ft.,	N 41° 10' E 97.0 ft.,
N 56° 45' E 229.0 ft.,	S 85° 14' E 387.0 ft.,	N 37° 35' E 179.0 ft.,
N 39° 33' W 157.0 ft.,	N 69° 14' W 136.0 ft.,	N 32° 25' E 450.0 ft.,
N 69° 09' E 232.0 ft.,	N 50° 49' E 244.0 ft.,	N 26° 26' E 276.0 ft.,
N 39° 16' E 663.0 ft.,	N 7° 43' W 220.0 ft.,	N 66° 44' W 80.0 ft.,
N 23° 16' E 120.0 ft.,	N 56° 48' E 326.0 ft.,	N 30° 44' E 546.0 ft.,
N 13° 05' E 144.0 ft.,	N 23° 36' W 162.0 ft.,	N 3° 10' W 196.0 ft.,
N 37° 55' W 198.0 ft.,	N 82° 18' W 155.0 ft.,	N 61° 06' W 165.0 ft.,
N 35° 27' W 138.0 ft.,	N 72° 43' W 126.0 ft.,	N 37° 38' E 282.0 ft.,
S 88° 00' E 102.0 ft.,	N 84° 43' E 402.0 ft.,	S 82° 06' E 268.0 ft.,
N 76° 04' E 93.0 ft.,	S 84° 26' E 249.0 ft.,	N 83° 57' E 121.0 ft.,
N 77° 45' E 354.0 ft.,	N 29° 14' E 267.0 ft.,	N 6° 46' E 198.0 ft.,
N 39° 33' W 151.0 ft.,	N 63° 31' W 89.0 ft.,	N 42° 12' W 339.0 ft.,
N 12° 20' W 55.0 ft.,	N 61° 47' E 118.0 ft.,	N 29° 34' E 54.0 ft.,
N 13° 14' W 80.0 ft.,	N 73° 15' W 103.0 ft.,	N 56° 14' W 63.0 ft.,
N 11° 00' W 50.0 ft.,	N 5° 24' E 560.0 ft.,	N 20° 35' E 161.0 ft.,
N 24° 18' E 133.0 ft.,	N 31° 41' E 173.0 ft.,	N 36° 07' E 233.0 ft.,
N 24° 52' E 250.0 ft.,	N 2° 27' E 219.0 ft.,	N 4° 00' W 203.0 ft.,
N 10° 25' W 199.0 ft.,	N 15° 25' W 501.0 ft.,	N 0° 30' E 131.0 ft.,
N 16° 24' E 161.0 ft.,	N 23° 25' E 119.0 ft.,	N 68° 13' E 89.0 ft.,
S 87° 42' E 227.0 ft.,	S 73° 36' E 109.0 ft.,	S 68° 55' E 261.0 ft.,
S 52° 19' E 315.0 ft.,	S 49° 10' E 910.0 ft.,	S 54° 37' 30" E 107.82 ft.,
S 69° 10' E 1319.0 ft.,	N 86° 06' E 121.0 ft.,	S 63° 27' E 265.0 ft.,
N 70° 34' E 42.0 ft.,	S 72° 30' E 452.0 ft.,	S 86° 59' E 637.0 ft.,
N 75° 15' E 408.0 ft.,	N 68° 48' E 345.0 ft.,	N 59° 35' E 780.0 ft.,
N 56° 50' E 402.0 ft.,	N 67° 04' E 261.0 ft.,	N 68° 58' E 769.0 ft.,
N 88° 33' E 636.0 ft.,	N 78° 12' 40" E 570.82 ft.,	N 69° 05' E 330.0 ft.,

N 11° 30' E 69.0 ft., N 55° 00' E 455.0 ft. to San Luis Island, and continuing along the said water's edge of Oyster Bay N 82° 45' W 122.0 ft.,

N 74° 45' W 118.0 ft.,	S 87° 37' W 59.32 ft.,	N 80° 47' W 235.0 ft.,
S 87° 32' W 107.0 ft.,	N 84° 45' W 201.0 ft.,	N 86° 30' W 400.0 ft.,
N 88° 53' W 280.0 ft.,	S 83° 03' W 182.0 ft.,	N 77° 57' W 138.0 ft.,
N 70° 11' W 265.0 ft.,	N 33° 48' W 89.7 ft.,	N 2° 40' W 220.0 ft.,
N 15° 21' E 284.0 ft.,	N 5° 45' E 193.0 ft.,	N 1° 13' E 240.0 ft.,
N 4° 23' E 408.0 ft.,	N 9° 13' E 352.0 ft.,	N 18° 11' E 207.0 ft.,
N 7° 35' E 78.0 ft.,	N 22° 34' E 327.0 ft.,	N 26° 38' E 401.0 ft.,
N 27° 15' E 287.0 ft.,	N 56° 18' W 79.0 ft.,	N 15° 33' E 277.0 ft.,

N 18° 07' E 258.0 ft., N 48° 31' E 74.0 ft., to San Luis Pass, and continuing with the meanders of the water's edge of San Luis Pass

N 87° 37' E 207.0 ft.,	N 77° 01' E 208.0 ft.,	S 81° 16' E 192.0 ft.,
S 68° 53' E 149.0 ft.,	S 57° 44' E 373.0 ft.,	S 53° 35' E 602.0 ft.,
S 49° 15' E 593.0 ft.,	S 50° 24' E 201.0 ft.,	S 58° 45' E 200.0 ft.,
S 71° 10' E 413.0 ft.,	S 68° 55' E 204.0 ft.,	S 46° 12' E 204.0 ft.,
S 24° 16' E 177.0 ft.,	S 2° 50' E 300.0 ft.,	S 0° 21' W 218.0 ft.,

and continuing along the water's edge with the meanders of the Gulf of Mexico

S 13° 22' W 601.21 ft.,	S 18° 52' W 400.21 ft.,	S 16° 14' W 635.35 ft.,
S 29° 28' W 404.13 ft.,	S 41° 57' W 601.68 ft.,	S 42° 42' W 609.54 ft.,
S 43° 48' W 400.04 ft.,	S 48° 00' W 601.02 ft.,	S 43° 53' W 503.27 ft.,
S 47° 34' W 300.20 ft.,	S 49° 06' W 600.03 ft.,	S 52° 06' W 400.36 ft.,
S 48° 53' W 597.05 ft.,	S 50° 29' 30" W 1004.32 ft.,	S 51° 20' W 600.02 ft.,
S 50° 22' W 600.02 ft.,	S 50° 51' W 600.0 ft.,	S 49° 25' W 1200.37 ft.,
S 51° 20' W 600.02 ft.,	S 51° 42' W 2002.05 ft.,	S 53° 28' W 1000.0 ft.,
S 52° 31' W 600.08 ft.,	S 53° 28' W 1200.0 ft.,	S 53° 57' W 600.02 ft.,
S 52° 59' W 600.02 ft.,	S 53° 28' W 2400.0 ft.,	S 52° 59' W 600.70 ft.,

S 54° 39' W 1200.04 ft., S 53° 41' W 600.02 ft., S 53° 13' W 600.08 ft.,  
 S 53° 01' W 1800.29 ft., S 54° 44' W 600.03 ft., S 54° 33' W 1200.02 ft.,  
 S 54° 18' W 1800.0 ft., S 53° 47' W 600.01 ft., S 52° 38' W 599.65 ft.,  
 S 54° 36' W 600.05 ft., S 53° 10' W 600.04 ft., S 53° 33' W 600.01 ft.,  
 S 54° 47' W 600.08 ft., S 54° 36' W 600.05 ft., S 52° 41' W 600.12 ft.,  
 S 52° 07' W 600.27 ft., S 53° 56' W 600.0 ft., S 53° 22' W 600.02 ft.,  
 S 54° 18' W 600.02 ft., S 53° 16' W 600.03 ft., S 53° 50' W 1200.0 ft.,  
 S 52° 13' W 600.24 ft., S 52° 41' W 594.60 ft., S 53° 12' W 600.22 ft.,  
 S 52° 09' W 600.02 ft., S 52° 49' W 600.12 ft., S 53° 26' W 600.14 ft.,  
 and S 53° 29' 29" W 333.01 ft. to the most easterly corner of said 175 acre tract;

THENCE, N 38°00' W along the northeast line of said 175 acre tract a distance of 1958.04 ft. to the place of beginning, containing 3239.60 acres of land, more or less.

Sec. 2. It is expressly determined, and the Legislature hereby finds that the boundaries of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 3. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. By way of limitation, however, such District shall be authorized and empowered solely and only to conserve, store, transport, treat and purify, distribute, sell and deliver water, both surface and underground, with corporations, both public and private, and political subdivisions of the State and may purchase, construct or lease all property, works and facilities, both within and without the District, necessary for such purposes. The District is expressly authorized to acquire water supplies from sources both within or without the boundaries of the District and to sell, transport and deliver water to customers situated within or without the District and to acquire all properties and facilities necessary for such purposes, and for any or all of such purposes may enter into contracts with persons, corporations, both public and private, and political subdivisions of the State for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Directors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of



For Annotations and Historical Notes, see V.A.T.S.

the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 4. The management and control of the District is hereby vested in a Board of five (5) directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be

Lamar Golding

Fred Wyse

Gould Beech

Davis Doss

Carl Clark

Said members shall become directors immediately after this Act becomes effective, and said first Board of Directors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of directors of such District shall be held on the second Tuesday in January, 1967, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925, as amended. Thereafter, directors of the District shall be chosen, and elections for directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 5. Land may be excluded from said district in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended. Land may be added to the district only by written request of an adjacent, or contiguous, land-owner or land-owners; and no land may be added without the consent of the owner thereof. No land may be added which is not adjacent or contiguous to the district when added. Said district may be dissolved by its board of directors in accordance with the provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880—77b, Vernon's Texas Civil Statutes).

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Said bonds may be in the denomination of \$1,000 or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested

in direct obligations of the United States of America or may be placed on time deposit, either or both.

Sec. 7. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusion hearing or hearings pursuant to the provisions of the General Law. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 8. As soon as practicable after the election and qualification of the first Board of Directors of said District, said Board shall by resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of county funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been selected.

Sec. 9. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 10. If any word, phrase, clause, sentence, paragraph, section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 11. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of paragraph (d) of Section 59 of Article XVI of the Texas Constitution has been made in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements. Acts 1965, 59th Leg., p. 1132, ch. 533, emerg. eff. June 16, 1965.

**Title of Act:**

An Act creating a Conservation and Reclamation District under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "Folletts Island Water Supply District of Brazoria County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for its

governing body; containing provisions relating to addition of land; providing that its bonds are legal and authorized investments; providing for selection of a depository; containing other provisions relating to the subject; providing a severability clause; reciting proof of publication of Constitutional notice; and declaring an emergency. Acts 1965, 59th Leg., p. 1132, ch. 533.

**Art. 8280—315. Crosby Municipal Utility District**

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Harris County, Texas, to be known as "Crosby Municipal Utility District of Harris County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at the southwestern corner of the Lewis A. Levy Survey, Abstract No. 517, Harris County, Texas, same being a point on the northern line of the Humphrey Jackson League, Abstract No. 37;

THENCE in an easterly direction along said northern line of said Humphrey Jackson League, being also the southern line of said Lewis A. Levy Survey, and a projection easterly thereof to an intersection with the southwestern line of the San Jacinto River Authority canal right-of-way in the B. F. Tankersley Survey, Abstract No. 770;

THENCE in a southeasterly direction along said southwestern line of the San Jacinto River Authority canal right-of-way to the eastern line of the Adolph Erlund 59.24 acre tract;

THENCE in a southerly direction along said eastern line of said 59.24 acre tract, being also the western line of a 60.58 acre tract, to the northwestern line of the T & NO Railroad right-of-way;

THENCE in a northeasterly direction along said northwestern line of said T & NO Railroad right-of-way to an intersection with the projection northerly of the eastern line of the W. H. Miller 2.15 acre tract;

THENCE in a southerly direction along said projection northerly of said Miller 2.15 acre tract and said eastern line of said 2.15 acre tract, being also the western line of the F. R. Curtis 6.65 acre tract, to the southeastern corner of said 2.15 acre tract on the south line of said B. F. Tankersley Survey, being also the north line of the John Quinlan Survey, Abstract No. 641;

THENCE in an easterly direction along said south line of the B. F. Tankersley Survey, being also the north line of said John Quinlan Survey, to its intersection with the western line of the aforementioned San Jacinto River Authority canal right-of-way;

THENCE in a generally southerly and southwesterly direction along said western line of the San Jacinto River Authority canal right-of-way to its intersection with a line parallel to and 200 feet perpendicular northerly from the northern right-of-way line of the road along the southern line of the Robert Sebesta 38.68 acre tract in the Thos. Toby Survey, Abstract No. 791;

THENCE in an easterly direction along said line parallel to and 200 feet perpendicular northerly from the northern right-of-way line of the road along the southern line of the said Robert Sebesta 38.68 acre tract to an intersection with the northwestern line of the right-of-way of U. S. Highway No. 90;

THENCE in a southwesterly direction along said northwestern right-of-way line of U. S. Highway No. 90 to its intersection with the northern line of the Victor Adam 12.02 acre tract;

THENCE in a westerly direction along said northern line of the Victor Adam 12.02 acre tract and its projection westerly to the western line of the aforementioned San Jacinto River Authority canal right-of-way, being also the eastern line of a 1.97 acre tract;

THENCE in a southerly direction along said western line of the San Jacinto River Authority canal right-of-way to its intersection with the southern line of said 1.97 acre tract;

THENCE in a westerly direction along said southern line of said 1.97 acre tract and its projection westerly to the western right-of-way line of the Crosby-Lynchburg Road;

THENCE in a northerly direction along said western right-of-way line of the Crosby-Lynchburg Road to a point 200 feet perpendicular southerly from the southern line of the Ed Ulrich 44.70 acre tract;

THENCE in a westerly direction with a line parallel to and 200 feet perpendicular southerly from said south line of the Ed Ulrich 44.70 acre tract for a distance of 500 feet to a point for corner;

THENCE in a northerly direction along a line parallel to and 500 feet perpendicular westerly from the western right-of-way line of said Crosby-Lynchburg Road to an intersection with the northern line of the B. J. Kristynik 37.30 acre tract, being also the southern line of Crosby Townsite;

THENCE in a generally westerly direction along said northern line of said B. J. Kristynik 37.30 acre tract, being also the southern line of Crosby Townsite, to an intersection with the southeastern line of the T & NO Railroad right-of-way;

THENCE in a northwesterly direction perpendicular or at right angles to the centerline of said T & NO Railroad right-of-way to the northwestern line of said T & NO Railroad right-of-way;

THENCE in a northeasterly direction along said northwestern line of said T & NO Railroad right-of-way to the southern corner of Block Eleven (11) of said Crosby Townsite on the northeastern line of Avenue "C";

THENCE in a northwesterly direction along the southwestern line of said Block Eleven (11) and Block Ten (10) of Crosby Townsite, being also the northeastern line of Avenue "C", to the western corner of said Block Ten (10) on the southeastern line of First Street;

THENCE in a northeasterly direction along the northwestern line of said Block Ten (10) to the most northerly northwestern corner of said Block Ten (10) on the northern line of Crosby Townsite;

THENCE in a westerly direction along said northern line of Crosby Townsite to a point for corner at the intersection of said northern line of Crosby Townsite with a line which is parallel to and southwestwardly from the westerly right-of-way line of Farm-To-Market Road No. 2100 and passes through the southwestern corner of the aforementioned Lewis A. Levy Survey;

THENCE in a northwesterly direction along said line parallel to and southwestwardly from said westerly right-of-way line of Farm-To-Market Road No. 2100 to the southwestern corner of said Lewis A. Levy Survey on the north line of the Humphrey Jackson League, Abstract No. 37, the place of beginning, and containing 700 acres of land, more or less.

Sec. 2. It is expressly determined, and the Legislature hereby finds that the boundaries of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 3. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in con-

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flict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in said Chapter, including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Article 7880—90a, Vernon's Texas Civil Statutes, as amended; provided, however, that none of the provisions of Section 10, Chapter 280, Acts of the 41st Legislature of Texas, Regular Session, 1929 (codified by Vernon as Article 7880—77b), shall apply to this District. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board of Directors shall include, but not be limited to, the right to enter into contracts on behalf of said District for the purchase and sale, or either, of water for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Directors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 4. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be Larry A. Anderson, R. F. Bryant, Frank J. Mazac, H. K. May, and Tom Novosad. Said members shall become Directors immediately after this Act becomes effective, and said first Board of Directors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1967, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 5. Land may be added to said District in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended. Prior to voting any bonds or taxes in and for said District, its Board of Directors may exclude or discontinue territory therefrom as follows:

The Board of Directors shall give notice of its intention to hold a hearing on the question of excluding or discontinuing territory from the District. Such notice shall describe by metes and bounds the territory proposed to be excluded or discontinued and shall specify the date and place of such hearing. Said notice shall be published at least one time in a newspaper of general circulation within Harris County, Texas, the first publication to be at least ten days prior to the date set for said hearing. If, at said hearing, it is found by said Board that the proposed exclusion or discontinuance of said territory is to the advantage of the District and to the territory to be excluded or discontinued, then such Board by order duly entered upon its minutes may exclude or discontinue such territory from said District, and such territory shall no longer be a part of said District. In said order said Board of Directors shall also redefine the boundaries of said District to embrace all lands in said District not so excluded.

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Said bonds may be in the denomination of \$1,000 or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both.

Sec. 7. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusion hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provision; finds that all of the land and other property included therein are, and will be, benefited thereby and

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by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 9. If any word, phrase, clause, sentence, paragraph, Section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, Section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 10. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article XVI, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided. Acts 1965, 59th Leg., p. 1198, ch. 554, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "Crosby Municipal Utility District of Harris County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of

certain facilities under the provisions of this Act; providing for its governing body; containing provisions relating to addition and exclusion of land; providing that its bonds are legal and authorized investments; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1193, ch. 554.

**Art. 8280—316. Comanche Hills Utility District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59, Constitution of Texas, a conservation and reclamation district is hereby created and established in Bell County, Texas, to be known as Comanche Hills Utility District, hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

BEGINNING at the southeasterly corner of the Albert Gallatin Survey Abstract No. 363;

THENCE along its southerly boundary line, N. 71° 00' W. 3300 feet;

THENCE N. 19° 00' E. 2640 feet to a point on a southerly boundary line of Bell County W.C. & I.D. No. 4;

THENCE along a southerly boundary line of said Bell County W.C. & I.D. No. 4, S. 71° 00' E. 3300 feet to a southeasterly corner of said Bell County W.C. & I.D. No. 4, being a point on the westerly boundary line of the Isaac T. Bean Survey, Abstract No. 115;

THENCE along an easterly boundary line of said Bell County W.C. & I.D. No. 4, and the westerly boundary line of said Bean Survey, N. 19° 00' E. 1534 feet to an interior corner of said Bell County W.C. & I.D. No. 4, and the northwesterly corner of said Bean Survey;

THENCE along the northerly boundary line of said Bean Survey, S. 70° 04' 50" E., at 1757 feet the most easterly southeast corner of said Bell County W.C. & I.D. No. 4, in all 1859.2 feet;

THENCE S. 18° 43' 10" W. 535.4 feet to a post;

THENCE S. 71° 58' E. 846.2 feet to a post in the easterly boundary line of said Bean Survey and in the westerly boundary line of the H. B. Littlefield Survey Abstract No. 511;

THENCE along the easterly boundary line of said Bean Survey, the easterly boundary line of the Elizabeth Dawson Survey, Abstract No. 258, and the westerly boundary line of said Littlefield Survey, by the following three courses:

1. S. 19° 00' W. 2392.5 feet to a post;
2. S. 17° 19' W. 41.6 feet to a post;
3. S. 18° 09' 50" W. 2333.3 feet to a post at the southwesterly corner of said Littlefield Survey;

THENCE along the southerly boundary line of said Littlefield Survey S. 70° 32' E. 894.1 feet to a post;

THENCE S. 2° 36' 50" W. 247.4 feet to a post;

THENCE S. 11° 07' 10" W. 434.5 feet to a post;

THENCE N. 86° 52' 20" W. 1105.9 feet to a post;

THENCE N. 72° 49' 40" W. 132.1 feet to a post;

THENCE N. 20° 52' E. 995.7 feet to a post in the southerly boundary line of said Dawson Survey;

THENCE along a southerly boundary line of said Dawson Survey N. 69° 51' 40" W. 1336.6 feet to a post at the northeasterly corner of the W. E. Hall Survey, Abstract No. 1085;

THENCE along the easterly boundary line of said Hall Survey S. 18° 12' 40" W. 833.1 feet to a post at its southeasterly corner;

THENCE along the southerly boundary line of said Hall Survey N. 71° 09' 40" W. 743.6 feet to a post;

THENCE N. 18° 41' 40" E. 2584.0 feet to a post on the southerly boundary line of said Bean Survey;

THENCE along the southerly boundary line of said Bean Survey, and the northerly boundary line of said Dawson Survey, N. 69° 41' 20" W. 519.7 feet to a live oak tree at the southwesterly corner of said Bean Survey, being a point on the easterly boundary line of said Gallatin Survey;

THENCE along the easterly boundary line of said Gallatin Survey S. 19° 00' W. 656.6 feet to its southeasterly corner, the point of beginning, containing 533.5 acres, more or less, in Bell County, Texas.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions



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of Article 16, Section 59, Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of Bell County, Texas. Such Director shall be required to reside within the boundaries of the District and to own land therein. Each Director shall subscribe to the oath of office and shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age and own land within the District, shall be the Directors of the District and shall constitute the Board of Directors of the District: C. E. Aldrich, Dorothy Ann Aldrich, Barney Sissom, J. L. Deiselbrecht, and P. R. Cox. If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be appointed as provided for in this Act. The above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1967. Five Directors shall be elected in 1967 and the three Directors receiving the highest number of votes shall serve for two years and the two Directors receiving the lowest number of votes shall serve for one year. Two Directors shall be elected in 1968 and in each even-numbered year thereafter, and three in 1969 and in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice-president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice-president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The Secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, fiscal agents,

auditors and other employees. The Board shall adopt a seal for the District.

Sec. 7. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 8. The power of eminent domain of the District shall be limited to Bell County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 9. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Bell County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d), Constitution of Texas, have been fulfilled and accomplished as therein provided.

Sec. 10. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 11. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Bell County, Texas. In addition to the powers and purposes authorized

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by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 12. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 13. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 14. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 15. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 16. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 17. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion or provision. Acts 1965, 59th Leg., p. 1202, ch. 556, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as Comanche Hills Utility District, declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit, conferring on District the rights, powers, privileges, au-

thority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for terms and election of Directors and related matters; providing for Directors to fill vacancies; providing for organization of Board of Directors; providing for a secretary pro tem; providing for employment

of engineers, auditors, attorneys, fiscal agents, and other employees; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Bell County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the Dis-

trict, and related matters; providing additional powers of District within and without boundaries of District but limited to Bell County; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this state; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1202, ch. 556.

**Art. 8280—317. Harbor Improvement District of Galveston County**

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Galveston County, Texas, to be known as "Harbor Improvement District of Galveston County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

All of Lots 63, 78, 83, 98, 104, 119, 105, 118, 106, 117, 107, 116, 129, 138, 151, 160, 173, 182, 195, 204, 217, 226, 238, 247, 239, 246, 259, 225, 240, 245, 260, 202, 197, 219, 224, 241, 244, 261, 264, 280, 281, 262, and 263, and part of Lots 223, 242 and 243, and part of the intervening and adjoining 50-foot County Roads, all in Section Two of the Trimble and Lindsey Survey of Galveston Island, in Galveston County, Texas, more fully described by metes and bounds as follows;

BEGINNING at the Southwest corner of said Lot 119 and in the East line of a 50-foot County Road;

THENCE South 65° West, across said County Road, a distance of 50.0 feet to a point for corner in the West line of said road;

THENCE North 25° West, along and with the West line of said road, a distance of 3960.0 feet to the Southeast corner of said Lot 129;

THENCE South 65° West, along and with the South line of said Lots, 129, 138, 151, 160, 173, 182, 195, 204, 217 and 226, a distance of 3525.0 feet to a point for corner in the centerline of a 50-foot County Road;

THENCE South 25° East, along and with the centerline of said 50-foot road, a distance of 1320.0 feet to a point for corner;

THENCE South 65° West, across said road and along and with the South line of said Lots 238 and 247, a distance of 710.0 feet to a point for corner in the centerline of a 50-foot County Road;

THENCE North 25° West, along and with the centerline of said road, a distance of 1320.0 feet to a point for corner;

THENCE South 65° West, at 25.0 feet passing the Southeast corner of said Lot 259, and along and with the South line of said Lot 259, a distance of 355.0 feet to the Southwest corner of said Lot 259;

THENCE North 25° West, along and with the West line of said Lots 259 and 260, a distance of 2640.0 feet to the Southeast corner of said Lot 264;

THENCE South 65° West, along and with the South line of said Lot 264, at 330.0 feet passing its Southwest corner, a total distance of 355.0 feet to a point for corner in the centerline of a 50-foot County Road;

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THENCE South 25° East, along and with the centerline of said road, a distance of 1320.0 feet to a point for corner;

THENCE South 65° West, at 25.0 feet passing the Southeast corner of said Lot 280, and along and with the South line of said Lot 280, a total distance of 355.0 feet to the Southwest corner of said Lot 280;

THENCE North 25° West, along and with the West line of said Lot 280, a distance of 1792.13 feet to a point for corner on the Northerly shore of Oxen Bayou;

THENCE Northerly and Easterly, along and with the meanders of the waters edge of said Oxen Bayou, as follows:

North 65° 40' West, a distance of 579.0 feet;

North 72° 55' West, a distance of 510.0 feet;

North 69° East, a distance of 390.0 feet;

North 35° East, a distance of 490.0 feet;

North 32° 30' West, a distance of 620.0 feet;

North 64° East, a distance of 370.0 feet to the Northeast corner of said Lot 280;

THENCE North 25° West, along and with the West line of a 50-foot County Road, and across Gangs Bayou, a distance of 160.0 feet to a point for corner on the North shore of said Gangs Bayou;

THENCE Westerly and Easterly, along and with the meanders of Gangs Bayou, Oxen Bayou and Galveston West Bay, as follows;

South 60° West, a distance of 421.45 feet,

South 33° 20' West, a distance of 610.0 feet,

South 81° 40' West, a distance of 455.0 feet,

South 65° 45' West, a distance of 400.00 feet,

South 52° West, a distance of 320.0 feet,

South 66° 20' West, a distance of 645.0 feet,

North 23° 40' West, a distance of 110.0 feet,

North 53° 50' East, a distance of 455.0 feet,

North 24° 05' East, a distance of 520.0 feet,

South 62° 20' East, a distance of 250.0 feet,

North 10° East, a distance of 220.0 feet,

North 51° 35' East, a distance of 380.0 feet,

South 19° 15' East, a distance of 160.0 feet,

North 68° 15' East, a distance of 520.0 feet,

North 54° 50' East, a distance of 410.0 feet,

North 59° 45' East, a distance of 350.0 feet, and

North 65° East, a distance of 710.0 feet to a point for corner in the centerline of a 50-foot road which lies East of and adjoining said Lot 262;

THENCE South 25° East, along and with the centerline of said road, a distance of 58.50 feet to a point for corner;

THENCE North 63° East, along and with the South line of a road, a distance of 685.4 feet to a point for corner;

THENCE North 48° East, continuing along the South line of said road, a distance of 397.36 feet to a point for corner in the East line of said Lot 223;

THENCE South 25° East, along and with the East line of said Lot 223, a distance of 1261.6 feet to the Southeast corner of said Lot 223;

THENCE North 65° East, a distance of 1065.0 feet to a point for corner in the centerline of a 50-foot county road lying East of and adjoining said Lot 197;

THENCE South 25° East, along and with the centerline of said road, a distance of 1320.0 feet to a point for corner;

THENCE South 65° West, at 25.0 feet passing the Southeast corner of said Lot 197, and along and with the South line of said Lots 197, 202 and 219, a distance of 1065.0 feet to the Southwest corner of said Lot 219;

THENCE South 25° East, along and with the East line of said Lot 225, a distance of 1320.0 feet to its Southeast corner;

THENCE North 65° East, along and with the North line of said Lots 217, 204, 195, 182, 173, 160, 151, 138, 129, 116 and 107, a distance of 3930.0 feet to a point for corner in the East line of a 50-foot road lying East of and adjoining said Lot 107;

THENCE South 25° East, along and with the East line of said road, a distance of 3960.0 feet to the Northwest corner of said Lot 98;

THENCE North 65° East, along and with the North line of said Lots 98, 83, 78 and 63, a distance of 1420.0 feet to a point for corner in the East line of a 50-foot County Road lying East of and adjoining said Lot 63;

THENCE South 25° East, a distance of 1320.0 feet to a point for corner;

THENCE South 65° West, along and with the South line of said Lots 63, 78, 83, and 98, a distance of 2130.0 feet to the place of beginning.

Sec. 2. It is expressly determined, and the Legislature hereby finds that the boundaries of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 3. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to the navigation of its coastal and inland waters and the reclamation and drainage of overflowed lands and other lands needing drainage in said District, and including all power and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in said Chapter, including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Article 7880—90a, Vernon's Texas Civil Statutes, as amended. Said District shall have the power to make, construct, or otherwise acquire improvements (whether previously existing or to be made, constructed or acquired) either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board of Directors shall include, but not be limited to, the right to

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enter into contracts on behalf of said District for the purchase and sale, or either, of water for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Directors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 4. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be appointed, as soon as practicable after this Act becomes effective, by the County Judge of Galveston County, Texas, and said first Board of Directors shall meet and organize as soon as practicable after their appointment and shall file their official bonds. If any of the aforementioned members of said first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1967, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 5. Land may be excluded from said District, or added to said District, in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended. Land may also be added to the district by written request of any other landowner or other landowners when approved by the Board of Directors of the District. Said District may be dissolved by its Board of Directors in accordance with the provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880—77b, Vernon's Civil Statutes).

It is the intent of the Legislature that such District shall never be dissolved under Article 1182c—1, Revised Civil Statutes of Texas, except with the express consent of the Board of Directors, and annexation of the whole or any part of the area of the District by any city, town, or village shall not affect its creations, proceedings, or the validity of any bonds issued or to be issued by such District; but such District may be dissolved only by the express consent of the Board of Directors together with the act of annexation by a city, town or village affecting the whole of the area of the District.

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be

eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Said bonds may be in the denomination of \$1,000 or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both.

Sec. 7. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit.

It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusion hearing or hearings pursuant to the provisions of the General Law. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 8. As soon as practicable after the election and qualification of the first Board of Directors of said District, said Board shall by resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of county funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been selected.

Sec. 9. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 10. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Section 59(d), Article XVI, the Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.



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Sec. 11. If any Section, subsection, paragraph, sentence, clause or provision of this Act is declared unconstitutional or invalid, it shall not affect the constitutionality or the validity of the remainder thereof, and it is hereby declared that this Act would nevertheless have been passed without such Section, subsection, paragraph, sentence, clause or provision so declared unconstitutional, and to that end the provisions of this Act are hereby declared to be severable. Acts 1965, 59th Leg., p. 1212, ch. 559, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Harbor Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for terms and election of Directors and notice of Directors elections, and related matters; providing for Directors to fill vacancies; providing for organization of Board of Directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality,

validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Galveston County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Galveston County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this state; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1212, ch. 559.

**Art. 8280—318. Pirate's Cove Municipal Utility District**

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Galveston County, Texas, to be known as "Pirate's Cove Municipal Utility District of Galveston County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

A 444.1 acre tract of land, more or less, to be formed as a water control and improvement district consisting of three parts.

**PART 1.**

Beginning at a point which is South 65° West a distance of 25.0 feet from the most Southwest corner of lot number 87 in Section 3, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas; and being in the centerline of a 50 foot county road;

THENCE, North 25° West a distance of 1208.20 feet along and with the centerline of a 50-foot county road to a point for corner;

THENCE, North 63° 36' 30" East a distance of 2349.04 feet to a point;

THENCE, South 25° 47' East a distance of 1265.36 feet to a point for a corner;

THENCE, North 65° East a distance of 1,919.34 feet to a point for a corner; said corner being the most northwest corner of lot number 14;

THENCE, North 25° West a distance of 1,020.00 feet to a point for corner;

THENCE, North 65° East a distance of 250.00 feet to a point for corner;

THENCE, North 25° West a distance of 263.13 feet to a point for corner;

THENCE, North 64° 38' East a distance of 1,145.03 feet to a point for corner; said corner being in the centerline of a 50-foot county road;

THENCE, South 25° East a distance of 3141.49 feet along and with the centerline of a 50-foot county road to a point for corner;

THENCE, South 55° 58' West a distance of 3,619.90 feet to a point for a corner;

THENCE, South 56° 47' West a distance of 1409.48 feet to a point for corner; said corner being in the centerline of a 50 foot county road;

THENCE, North 25° West a distance of 2,620.81 feet to a point for corner, along and with the centerline of a county road;

THENCE, South 65° West a distance of 710.00 feet to the point of beginning containing 362.55 acres of land more or less.

## PART 2.

Beginning at a point which is the northwest corner of lot number 65 in Section 3, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas;

THENCE, South 65° West a distance of 1,965 feet to a point for corner; said corner being located South 65° West a distance of 165 feet from the most northwest corner of lot number 92;

THENCE, South 25° East a distance of 1,930 feet to a point for corner;

THENCE, North 65° East a distance of 275 feet to a point for corner;

THENCE, North 9° West a distance of 880 feet to a point for corner;

THENCE, North 13° 35' East a distance of 115 feet to a point for corner;

THENCE, North 65° 45' East a distance of 470 feet to a point for corner;

THENCE, North 47° East a distance of 250 feet to a point for corner;

THENCE, North 58° 38' East a distance of 730 feet to a point for corner;

THENCE, North 30° 05' East a distance of 730 feet to a point for corner;

THENCE, North 44° 52' East a distance of 660 feet to a point for corner;

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THENCE, North 65° East a distance of 94.2 feet to a point for corner;

THENCE, North 25° West a distance of 197.1 feet to a point for corner; said corner being the most northeast corner of lot number 50;

THENCE, South 65° West a distance of 1,040 feet to a point for corner; said corner being the common corner of lots 62, 65 and 64;

THENCE, North 25° West a distance of 1,585 feet to a point for corner; said point being the most northeast corner of lot number 64;

THENCE, South 60° 40' West a distance of 330.95 feet to a point for corner;

THENCE, South 25° West a distance of 1,560 feet to the Place of Beginning and containing 78.44 acres of land more or less.

### PART 3.

Beginning at a point which is South 65° West a distance of 165 feet from the most southeast corner of lot 96 in Section 3, Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas;

THENCE, North 25° West a distance of 200 feet to a point for corner;

THENCE, North 65° East a distance of 675 feet to a point for corner;

THENCE, South 25° East a distance of 200 feet to a point for corner;

THENCE, South 65° West a distance of 675 feet along and with the northerly line of Stewart Road to the point of beginning containing 3.1 acres of land more or less.

Sec. 2. It is expressly determined, and the Legislature hereby finds that the boundaries of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 3. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to the navigation of its coastal and inland waters and the reclamation and drainage of overflowed lands and other lands needing drainage in said District, and including all power and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in said Chapter, including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Article 7880—90a, Vernon's Texas Civil

Statutes, as amended. Said District shall have the power to make, construct, or otherwise acquire improvements (whether previously existing or to be made, constructed or acquired) either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board of Directors shall include, but not be limited to, the right to enter into contracts on behalf of said District for the purchase and sale, or either, of water for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Directors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 4. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be appointed, as soon as practicable after this Act becomes effective, by the County Judge of Galveston County, Texas, and said first Board of Directors shall meet and organize as soon as practicable after their appointment and shall file their official bonds. If any of the aforementioned members of said first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1967, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 5. Land may be excluded from said District, or added to said District, in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended. Land may also be added to the District by written request of any other landowner or other landowners when approved by the Board of Directors of the District. Said District may be dissolved by its Board of Directors in accordance with the provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880—77b, Vernon's Civil Statutes).

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associa-

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tions, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Said bonds may be in the denomination of \$1,000 or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both.

Sec. 7. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit.

It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusion hearing or hearings pursuant to the provisions of the General Law. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 8. As soon as practicable after the election and qualification of the first Board of Directors of said District, said Board shall by resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of county funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been selected.

Sec. 9. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said Constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 10. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were re-

ceived by the Texas Water Commission; and that all the requirements and provisions of Section 59(d), Article XVI, the Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 11. If any Section, subsection, paragraph, sentence, clause or provision of this Act is declared unconstitutional or invalid, it shall not affect the constitutionality or the validity of the remainder thereof, and it is hereby declared that this Act would nevertheless have been passed without such Section, Subsection, paragraph, sentence, clause or provision so declared unconstitutional, and to that end the provisions of this Act are hereby declared to be severable. Acts 1965, 59th Leg., p. 1218, ch. 560, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "Pirate's Cove Municipal Utility District of Galveston County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for its gov-

erning body; containing provisions relating to addition and exclusion of land; providing that its bonds are legal and authorized investments; providing for selection of a depository; containing other provisions relating to the subject; providing a severability clause; reciting proof of publication of constitutional notice; and declaring an emergency. Acts 1965, 59th Leg., p. 1218, ch. 560.

**Art. 8280—319. Village of San Luis Municipal Utility District**

Section 1. Under and pursuant to the provisions of Section 59, Article XVI, Constitution of the State of Texas, a conservation and reclamation district is hereby created and incorporated in Galveston County, Texas, to be known as "Village of San Luis Municipal Utility District of Galveston County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

A tract of land out of a 640 acre tract called the East One Half of Section No. 12, Hall & Jones Survey of Galveston Island, Galveston County, Texas, as described in a deed from William Gammon et ux to Stanley E. Kempner, recorded in Volume 427, pages 376-378, Galveston County, Texas, Deed Records, said District being described by metes and bounds as follows:

BEGINNING at a point on the shoreline of the Gulf of Mexico, said point being the south corner of said East One Half of Section No. 12;

THENCE North 34° 54' West along the southwest line of said East One Half of Section No. 12 to a point on the shoreline of West Bay;

THENCE in a generally northeasterly, northwesterly and northeasterly direction along said shoreline of West Bay and its meanders, to its intersection with the northwesterly projection of a line drawn parallel to and 1,600 feet, measured at right angles, from the southwest line of said East One Half of Section No. 12;

THENCE South 34° 54' East along said line parallel to and 1,600 feet, measured at right angles, from said southwest line of said East One Half of Section No. 12 to its intersection with the shoreline of the Gulf of Mexico;

THENCE in a southwesterly direction along said shoreline of the Gulf of Mexico and its meanders to the south corner of said East One Half of Section No. 12, the place of beginning, said tract containing 160 acres, more or less.

Sec. 2. The Legislature hereby declares that if any mistake is made in copying field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other

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manner affect the legality or operation of the District or its governing body.

Sec. 3. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to the navigation of its coastal and inland waters and the reclamation and drainage of overflowed lands and other lands needing drainage in said District, and including all power and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in said Chapter, including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Article 7880—90a, Vernon's Texas Civil Statutes, as amended. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board of Directors shall include, but not be limited to, the right to enter into contracts on behalf of said District for the purchase and sale, or either, of water for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Directors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 4. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be appointed, as soon as practicable after this Act becomes effective, by the County Judge of Galveston County, Texas, and said first Board of Directors shall meet and organize as soon as practicable after their appointment and shall file their official bonds. If any of the aforementioned members of said first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the

General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1967, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 5. Land may be excluded from said District in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended. Land may be added to the District only by written request of an adjacent, or contiguous, landowner or landowners; and no land may be added without the consent of the owner thereof. No land may be added which is not adjacent or contiguous to the District when added. Said District may be dissolved by its Board of Directors in accordance with the provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880—77b, Vernon's Civil Statutes).

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, then accompanied by all unmatured coupons appurtenant thereto. Said bonds may be in the denomination of \$1,000 or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusion hearing or hearings pursuant to the provisions of the General Law. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 8. As soon as practicable after the election and qualification of the first Board of Directors of said District, said Board shall by resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of county funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been selected.

Sec. 9. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited there-



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by and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 10. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least 30 days and not more than 90 days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within 30 days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Section 59(d), Article XVI, the Constitution of the State of Texas, have been fulfilled and accomplished as therein provided.

Sec. 11. If any Section, subsection, paragraph, sentence, clause or provision of this Act is declared unconstitutional or invalid, it shall not affect the constitutionality or the validity of the remainder thereof, and it is hereby declared that this Act would nevertheless have been passed without such Section, subsection, paragraph, sentence, clause or provision so declared unconstitutional, and to that end the provisions of this Act are hereby declared to be severable. Acts 1965, 59th Leg., p. 1223, ch. 561.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of the State of Texas, to be known as "Village of San Luis Municipal Utility District of Galveston County, Texas"; prescribing its rights, powers, privileges, and duties;

providing the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for its governing body; containing provisions relating to addition of land; providing that its bonds are legal and authorized investments; containing other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 1223, ch. 561.

**Art. 8280—320. Lazy River Improvement District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59, of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Montgomery County, Texas, to be known as "Lazy River Improvement District," hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Lying in Montgomery County, Texas, a part of the Edward Hall Survey, A-577, and the Edward Hall Survey, A-578, and being 657.11 acres, more or less, more particularly described as follows:

BEGINNING at the southwest corner of Tract 15 of the R. H. John Subdivision, said corner also being the southeast corner of Tract 14 of the R. H. John Subdivision and lying in the south line of the Edward Hall Survey, A-578; said beginning point being N 89° 32' 00" E 953.84 feet from the point of intersection of the south line of the Edward Hall Survey, A-578, with the east right-of-way line of a 40-foot road right-of-way which is adjacent to the Missouri Pacific Railroad east right-of-way line.

THENCE, N 0° 04' 00" E 5020.00 feet along the west lines of Tracts 15, 16 and 17 of the R. H. John Subdivision to the northwest corner of said Tract 17, lying in the north line of the Edward Hall Survey, A-577.

THENCE, S 89° 43' 00" E 3147.32 feet along the north lines of said Lot 17 and the Edward Hall Survey, A-577, to a point in the southwest bank of the San Jacinto River.

THENCE, starting in a southeasterly direction along the meanders of the west bank of the San Jacinto River the following courses:

- S 66° 18' 37" E 95.57 feet.
- S 51° 20' 00" E 310.50 feet.
- S 41° 54' 17" E 413.55 feet.
- S 41° 19' 52" E 536.26 feet.
- S 74° 12' 00" E 283.44 feet.
- N 51° 19' 39" E 240.98 feet.
- N 24° 26' 30" E 506.47 feet.
- S 52° 26' 00" E 215.08 feet.
- S 15° 49' 20" E 409.49 feet.
- S 8° 38' 06" E 365.39 feet.
- S 3° 03' 10" W 556.61 feet.
- S 26° 39' 32" E 306.12 feet.
- S 82° 26' 08" E 312.89 feet.
- S 77° 41' 40" E 175.48 feet.
- S 7° 32' 50" W 282.32 feet.
- S 33° 21' 31" W 327.93 feet.
- S 2° 56' 55" W 341.37 feet.
- S 14° 18' 27" E 228.42 feet.
- S 54° 01' 01" E 371.36 feet.
- N 78° 50' 15" E 408.28 feet.
- N 58° 25' 31" E 206.13 feet.
- N 54° 43' 38" E 295.34 feet.
- N 71° 49' 17" E 192.70 feet.
- S 37° 08' 58" E 800.34 feet.
- S 31° 09' 10" E 294.89 feet.
- S 4° 22' 53" W 495.44 feet.
- S 16° 38' 18" E 516.75 feet.

THENCE, departing from the West bank of the San Jacinto River N 89° 53' 00" W 5489.38 feet along the south line of the Edward Hall Survey, A-578, and the south lines of Tracts 21 and 20 of the R. H. John Subdivision to the southwest corner of said Tract 20.

THENCE, S 89° 32' 00" W 2088.89 feet along the south line of the Edward Hall Survey, A-578, and the south line of Tracts 19 and 15 of the R. H. John Subdivision to the place of BEGINNING.

The above-described tract of land contains 657.116 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

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Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

L. D. Carter  
Ernest Coker, Jr.  
John E. Kirkpatrick  
Harold F. Huff  
James K. McNatt.

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall

appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January, 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January, 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Montgomery County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Vernon's Texas Civil Statutes, and said Article 970a, shall have no application to this District.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Montgomery County, Texas; that a copy of such notice and a copy of this Act have been

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delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d), of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Vernon's Texas Civil Statutes, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed, and a finding by the Board of Directors of the District as to this additional requisite to annexation shall be conclusive for all purposes and shall not be judicially reviewed.

Sec. 17. In no manner limiting the right, power or authority of the District as heretofore granted, the District is specifically granted the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Montgomery County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Any kind of bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District, and may be sold at a private or public sale, but none of said bonds or refunding bonds shall be sold for less than ninety-five per cent of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety-five per cent of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified.

Sec. 19. The provisions of Article 7880—77b, Vernon's Texas Civil Statutes, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where

a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of thirty (30) days from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1270, ch. 584, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Lazy River Improvement District"; declaring the District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that the District is created to serve a public use and benefit; conferring on the District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for a hearing for exclusions in certain cases; providing for no hearing

on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of the District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for terms and election of Directors and related matters; providing for Directors to fill vacancies; providing for organization of Board of Directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of the District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited

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to Montgomery County; providing the District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to this District; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b, Vernon's Texas Civil Statutes, as amended, shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of the District within and without the boundaries of the District but limited to Montgomery County; providing

for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b, Vernon's Texas Civil Statutes, as amended, shall not be applicable to this District, and related matters; providing that notice of all elections shall be under the hand of the president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by the District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1270, ch. 584.

### Art. 8280—321. Rayburn Improvement District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Angelina County, Texas, to be known as "Rayburn Improvement District"; hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Being 551.48 acres, more or less, out of the H. T. & B. R. R. Section 12, Abstract 1009, and the H. T. & B. R. R. Section 14, Abstract 1078, Angelina County, Texas, more particularly described as follows:

BEGINNING at an iron stake at the Southwest corner of the H. T. & B. R. R. Section 14, said corner lying in the H. T. & B. R. R. Section 4, Northwest line.

THENCE, North 1503.91 feet along the West line of said Section 14 to an iron stake for corner.

THENCE, West, crossing the center line of State Highway 147 at 1726.40 feet, for a total distance of 2235.35 feet to an iron stake for corner.

THENCE, N 0° 30' W 2013.58 feet to an iron stake for corner.

THENCE, East 2183.88 feet to an iron stake in the West line of said Section 14.

THENCE, North 1192.35 feet along the West line of said Section 14 to a pine knot in the South line of H. T. & B. R. R. Section 11.

THENCE, East 740.72 feet along the South line of said Section 11 to an iron stake at the Southeast corner of said Section 11.

THENCE, N 0° 15' W 2995.80 feet along the East line of said Section 11 to an iron stake for corner.

THENCE, N 83° 30' E 2899.45 feet to a pine knot in the East line of said Section 14.

THENCE, S 0° 15' E, crossing the center line of State Highway 147 at 2840.30 feet, for a total distance of 4412.39 feet to an iron stake at the Southeast corner of said Section 14.

THENCE, S 44° 30' W 5077.22 feet along the Southeast line of said Section 14 to the point of BEGINNING.

Containing 551.48 acres, more or less.

Provided, however, there is hereby deleted from the area above-described the 100 acres, more or less, in the F. Hawkins Survey, Abstract 1009, the Zavalla Water District, thus leaving the District containing 441.48 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District nor to own land therein. Each Director shall subscribe to the oath of office and shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

Gene E. Young  
Gene Langham  
Tommy Doyle  
R. C. Greene, Jr.  
Janet Thompson



For Annotations and Historical Notes, see V.A.T.S.

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January, 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January, 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any Board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause, except fraud or palpable error.

Sec. 12. The power of eminent domain of the District shall be limited to Angelina County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Vernon's Texas Civil Statutes, and said Article 970a shall have no application to this District.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance

of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Angelina County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed, and a finding by the Board of Directors of the District as to this additional requisite to annexation shall be conclusive for all purposes and shall not be judicially reviewed.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Angelina County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Any kind of bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District, and may be sold at a private or public sale, but none of said bonds or refunding bonds shall be sold for less than ninety-five per cent of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety-five per cent of the face value of the

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bonds or refunding bonds so exchanged or used for payment as herein specified.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of thirty (30) days from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1278, ch. 587.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Rayburn Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and

duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for terms and election of Directors and notice of Directors elections, and related matters; providing for Directors to

fill vacancies; providing for organization of Board of Directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Angelina County; providing District shall bear expenses of relocating, raising or re-routing of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or deposi-

tories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Angelina County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1273, ch. 537.

**Art. 8280—322. Commodore Cove Improvement District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Brazoria County, Texas, to be known as "Commodore Cove Improvement District"; hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

The surface and surface only, of a tract of land containing 300 acres, more or less out of the Branch T. Archer Survey, Abstract No. 9, Brazoria County, Texas; said 300 acre tract lying in the Northwest portion of said survey and bounded as follows:

On the Northwest by the S. W. Hudgins, Trustee, 996 acre tract;

On the Northeast by the Northeast line of said survey;

On the Southeast by a tract of 233 acres owned by Sharon Equipment Co., R. F. Wheless, Wilbur S. and Robert Vance Davidson, Jr.;

On the Southwest by Oyster Creek (or Oyster Bayou).

Described by metes and bounds as follows:

BEGINNING at a stake on the Northeast line of the B. T. Archer League, Abstract No. 9, Brazoria County, Texas. Said beginning point bears S. 37 degrees 45' E. 2961.16 feet from a 1½ inch iron pipe on the North corner of said B. T. Archer League;

THENCE, S. 37 degrees 45' E. along the Northeast line of said B. T. Archer League, 1903.26 feet to a concrete monument on the North corner of the Sharon Equipment Company 231.05 acre tract (called 231.90 acres) as recorded in Volume 690, at Page 265 of the Deed Records of Brazoria County, Texas;

THENCE, S. 51 degrees 59' 05" W. along the Northwest line of said 231.05 acre tract, at 6647.25 feet pass a concrete monument, a total distance of 6692.25 feet to the waters edge of Oyster Creek;

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THENCE, along the waters edge of Oyster Creek with the following meanders: North 16 degrees 46' W. 385.00 feet; N 32 degrees 03' W. 143.00 feet, N. 56 degrees 36' W. 156.00 feet N. 81 degrees 44' W. 199.00 feet, N. 53 degrees 40' W. 169.74 feet, N. 63 degrees 03' W. 201.50 feet, N. 59 degrees 50' W. 317.00 feet, N. 70 degrees 00' W. 279.00 feet, N. 87 degrees 37' W. 182.50 feet, S. 67 degrees 25' W. 273.00 feet, and S. 72 degrees 54' W. 124.04 feet to a point for corner;

THENCE, N. 51 degrees 59' 49" E. along the Southeast line of the J. T. Suggs 591.61 acre tract as recorded in Volume 719, on Page 193 of the Deed Records of Brazoria County, Texas, a distance of 7648.60 feet to the Place of Beginning, being all of that certain 300 acres of land conveyed by the following three deeds to which reference is here made for all purposes;

(1) Deed dated July 10, 1959, from J. Ray Gayle, Jr., to J. T. Suggs and recorded in Volume 749, Page 283 of the Brazoria County Deed Records.

(2) Deed dated December 13, 1961 from Robert B. Taylor to Sharon Equipment Company and recorded in Volume 808, Page 106 of the Brazoria County Deed Records.

(3) Deed dated May 15, 1962 from Sharon Realty Co., to Sharon Equipment Company and recorded in Volume 822, Page 519 of the Brazoria County Deed Records.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

Roger J. Seaman, Jr., Carl A. Clark, Benny Brown, Mike Conlan, and M. H. Hawthorne.

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January, 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January, 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Notice of elections for directors shall be by publication at least one time in a newspaper of general circulation in Brazoria County, and such publication shall be at least thirty (30) days prior to such election. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice-president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice-president shall perform all duties and exercise all power conferred by this Act or the general law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission

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for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to the area of the District. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Vernon's Texas Civil Statutes, and said Article 970a shall have no application to the creation of the District.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Brazoria County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of all lienholders of record in Brazoria County and at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed, and a finding by the Board of Directors of the District as to this additional requisite to annexation shall be conclusive for all purposes and shall not be judicially reviewed.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services, the District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Brazoria County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Any kind of bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District, and may be sold at a private or public sale, but none of said bonds or refunding bonds shall be sold for less than ninety-five per cent (95%) of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety-five per cent (95%) of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six (6) months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees,



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guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their market value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1295, ch. 598, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Commodore Cove Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of directors; naming first board of directors; providing for terms and election of directors and notice of directors' elections, and related matters; providing for directors to fill vacancies; providing for organization of board of directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, in-

contestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to the area of the District; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Brazoria County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b, Revised Civil Statutes of Texas, as amended, shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1295, ch. 598.

**Art. 8280—323. Lakeside Beach Improvement District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59, of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Burnet County, Texas, to be known as "Lakeside Beach Improvement District," hereinafter called the "District," which shall be a governmental agency and a body politic

and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Lying wholly within Burnet County, Texas, and being 430.39 acres, more or less, out of the James H. Johnson Survey, A-16, and described by metes and bounds as follows:

Commencing for reference at the northwest corner of the James Carr Survey, A-261.

THENCE, due North 9881.67 feet along an east boundary line of the James H. Johnson Survey, A-16, to a point lying near the center-line of Alligator Creek and being the point of beginning of the herein described tract.

THENCE, due North 3674.80 feet along an east boundary line of the James H. Johnson Survey, A-16, to an iron pin.

THENCE, N 87° 00' W 1288.06 feet to an iron pin lying on the northwest right-of-way line of a county road.

THENCE, S 55° 11' W 1491.67 feet along said northwest right-of-way line of said county road to an iron pin.

THENCE, S 19° 30' W 1275.00 feet along said northwest right-of-way line of said county road to an iron pin.

THENCE, S 13° 15' W 700.00 feet along said northwest right-of-way line of said county road to an iron pin.

THENCE, S 18° 00' W 225.00 feet along said northwest right-of-way line of said county road to an iron pin.

THENCE, S 27° 15' W 143.89 feet to an iron pin lying on the north bank of Alligator Creek.

THENCE, S 62° 45' E 45.00 feet to the centerline of Alligator Creek.

THENCE, upstream in a generally westerly direction with the meanders of the centerline of Alligator Creek as follows:

S 34° 45' W 165.00 feet.

S 61° 00' W 100.00 feet.

N 73° 45' W 151.94 feet.

N 19° 00' W 131.94 feet.

N 38° 20' W 100.00 feet.

THENCE, due South 4280.00 feet to an iron pin lying on the southeast right-of-way line of a county road.

THENCE, N 82° 00' E 938.06 feet to an iron pin.

THENCE, N 72° 45' E 46.94 feet to an iron pin.

THENCE, S 40° 45' E 13.89 feet to an iron pin.

THENCE, S 81° 15' E 1415.97 feet to an iron pin.

THENCE, due North 3655.00 feet to an iron pin.

THENCE, due East 1242.41 feet to the point of beginning and containing 430.39 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District: E. R. Ammons, H. Langdon Reaves, Kenneth W. Morrow, John D. Baker and W. J. Patrick III.

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in

January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139, as amended.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Burnet County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, as amended, and said Article 970a shall have no application to the creation of the District.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Burnet County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant

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Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d), of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the District and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Burnet County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Any kind of bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District, and may be sold at a private or public sale, but none of said bonds or refunding bonds shall be sold for less than ninety-five per cent of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a

basis of less than ninety-five per cent of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1305, ch. 600, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Lakeside Beach Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and

adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of directors; naming first Board of Directors; providing for terms and election of directors and notice of directors elections, and related matters; providing for directors to fill vacancies; providing for organization of Board of Directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection

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during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Burnet County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring addi-

tional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Burnet County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1305, ch. 600.

#### Art. 8280—324. Clear Woods Improvement District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Clear Woods Improvement District"; hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Lying in Harris County, Texas, and being 457.6222 acres out of the Sarah McKissick Survey, A-549, and the Thomas Choate Survey, A-12, and more particularly described by metes and bounds as follows:

BEGINNING at the North corner of the Sarah McKissick Survey, A-549, the Southwest corner of the Thomas Choate Survey, A-12, in the Southeast Line of the Perry & Austin Survey, A-20, for a corner of the herein described tract.

THENCE, South 44° 26' 48" West 923.50 feet along the Northwest line of the Sarah McKissick Survey and the Southeast line of the Perry & Austin Survey, to a point in the center line of Clear Creek and in the county line between Harris County and Galveston County, said point also being the most Western corner of the herein described tract.

THENCE, starting in a Southeasterly direction, down the center line of Clear Creek (which is a common boundary line between Harris County and Galveston County) to the point of intersection with the West right-of-way line of Friendswood-Webster Road for the most Southern corner of the herein described tract.

(The traverse of the meanders of Clear Creek, commencing at the most Western corner of the herein described tract, is as follows:

- North 44° 26' 48" East 75.00 feet.
- South 53° 22' East 112.50 feet.
- South 71° 57' East 171.20 feet.
- South 24° 55' East 329.80 feet.
- South 52° 25' West 162.82 feet.
- South 18° 34' East 282.60 feet.

South 65° 23' East 115.80 feet.  
North 65° 17' East 193.20 feet.  
South 37° 23' East 535.10 feet.  
South 44° 17' West 84.50 feet.  
South 47° 04' West 147.00 feet.  
South 72° 23' West 87.00 feet.  
South 6° 24' East 196.00 feet.  
South 65° 36' East 151.60 feet.  
South 21° 31' East 156.40 feet.  
South 20° 11' West 172.00 feet.  
South 81° 48' West 411.90 feet.  
South 57° 34' West 104.40 feet.  
South 65° 50' West 95.40 feet.  
North 69° 19' West 149.40 feet.  
South 5° 28' East 88.70 feet.  
South 26° 56' East 248.00 feet.  
South 9° 19' West 168.50 feet.  
South 7° 44' West 86.70 feet.  
South 79° 25' East 210.70 feet.  
South 89° 41' East 254.70 feet.  
South 24° 54' East 168.50 feet.  
South 46° 47' East 91.80 feet.  
North 86° 41' East 236.85 feet.  
South 62° 21' East 180.90 feet.  
North 78° 39' East 27.40 feet.  
North 6° 45' West 110.40 feet.  
North 35° 42' East 132.00 feet.  
South 55° 54' East 133.75 feet.  
South 27° 21' East 151.10 feet.  
South 47° 23' East 97.55 feet.  
North 65° 09' East 52.75 feet.  
North 41° 39' East 183.20 feet.  
South 75° 47' East 118.25 feet.  
South 34° 34' East 401.95 feet.  
South 19° 10' East 179.25 feet.  
South 40° 26' West 137.80 feet.  
South 45° 24' East 54.80 feet.  
North 76° 17' East 145.25 feet.  
South 57° 24' East 176.00 feet.  
South 7° 33' East 113.50 feet.  
South 41° 17' West 105.80 feet.  
South 63° 58' West 305.55 feet.  
South 27° 39' West 185.70 feet.  
South 40° 56' West 111.10 feet.  
South 63° 49' West 134.75 feet.  
South 31° 54' West 61.60 feet.  
South 12° 55' East 252.80 feet.  
South 4° 24' West 147.45 feet.  
South 44° 56' West 89.45 feet.



For Annotations and Historical Notes, see V.A.T.S.

South 57° 04' West 119.90 feet.  
 South 65° 35' West 220.50 feet.  
 South 10° 42' West 50.40 feet.  
 South 29° 38' East 69.30 feet.  
 South 44° 32' East 141.30 feet.  
 South 45° 11' East 119.50 feet.  
 South 55° 36' East 84.75 feet.  
 South 44° 02' East 107.20 feet.  
 South 59° 41' East 160.00 feet.  
 South 71° 57' East 99.90 feet.  
 South 67° 44' East 134.60 feet.  
 South 52° 39' East 219.00 feet.  
 South 58° 37' East 97.30 feet.  
 South 3° 23' East 128.10 feet.  
 South 21° 54' West 114.30 feet.  
 South 61° 50' West 159.65 feet.  
 North 86° 21' West 127.90 feet.  
 North 56° 37' West 105.00 feet.  
 South 80° 55' West 232.70 feet.  
 South 53° 35' West 131.20 feet.  
 South 19° 57' West 44.70 feet.  
 South 41° 00' East 118.70 feet.  
 North 79° 11' East 68.55 feet.  
 North 54° 11' East 89.80 feet.  
 North 80° 39' East 261.65 feet.  
 South 82° 11' East 88.00 feet.  
 North 88° 16' East 175.25 feet.  
 North 66° 31' East 159.70 feet.  
 South 64° 02' East 105.60 feet.  
 South 8° 55' East 112.50 feet.  
 South 12° 52' West 236.00 feet.  
 South 16° 44' East 271.55 feet.  
 South 7° 15' West 192.45 feet.  
 South 32° 01' West 164.20 feet.  
 South 47° 48' West 328.00 feet.  
 South 58° 23' East 68.80 feet.  
 South 76° 17' East 171.55 feet.  
 South 46° 23' East 168.30 feet.  
 South 67° 14' East 98.66 feet.  
 South 31° 40' West 90.00 feet, to said most southern corner of the herein described tract.)

THENCE, North 31° 40' East 210.87 feet along the West right-of-way line of Friendswood-Webster Road to a point of curvature to the right.

THENCE, in a Northeasterly direction 422.07 feet along the West right-of-way line of Friendswood-Webster Road with the arc of the curve to the right having a radius of 912 feet and a central angle of 26° 31' to a point of tangency.

THENCE, North 58° 11' East 234.00 feet along the West right-of-way line of Friendswood-Webster Road to a point of curvature to the left.

THENCE, in a Northeasterly direction 227.46 feet along the West right-of-way line of Friendswood-Webster Road with the arc of the curve to the left having a radius of 925.4 feet and a central angle of  $14^{\circ} 05'$  to a point of tangency.

THENCE, North  $44^{\circ} 06'$  East 3284.07 feet along the West right-of-way line of Friendswood-Webster Road to a point in the Northeast line of the Sarah McKissick Survey and the Southwest line of the Thomas Choate Survey for the most Eastern corner of the herein described tract.

THENCE, North  $46^{\circ} 16' 24''$  West 5817.74 feet with the Northeast line of the Sarah McKissick Survey and the Southwest line of the Thomas Choate Survey to a point, being the South Corner of Lot 5, Block 2 of Sherman Place Subdivision out of the Thomas Choate Survey, for an interior corner of the herein described tract.

THENCE, North  $43^{\circ} 43' 36''$  East 1320.00 feet with the Southeasterly lines of Lot 5 and Lot 3, Block 2, Sherman Place Subdivision, to a point, being the East corner of said Lot 3, being a point for corner.

THENCE, North  $46^{\circ} 16' 24''$  West 1290.00 feet with the Northeast line of Lot 3, Block 2, of Sherman Place Subdivision to a point in the East right-of-way line of Friendswood-Choate Road, being the North corner of said Lot 3, for the most Northern corner of the herein described tract.

THENCE, South  $43^{\circ} 43' 36''$  West 1320 feet along the East right-of-way line of Friendswood-Choate Road and the Northwest lines of Lot 3 and Lot 4, Block 2, of Sherman Place Subdivision, to a point in the Northeast line of the Sarah McKissick Survey and the Southwest line of the Thomas Choate Survey for the West corner of said Lot 4 and an interior corner of the herein described tract.

THENCE, North  $46^{\circ} 16' 24''$  West 50.50 feet along the Northeast line of the Sarah McKissick Survey and the Southwest line of the Thomas Choate Survey to the place of BEGINNING, containing 457.6222 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

Joe R. Steele  
J. O. Goodman, Jr.  
Allen B. Gibson  
E. D. Ainsworth  
R. D. Huffman

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice

president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the district hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas; in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with The Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the

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proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the district and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this district. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the district lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Harris County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 5% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1315, ch. 604, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Clear Woods Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting

same by reference; providing for no election for confirmation; providing for no hearing for exclusions except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of directors; naming first Board of Directors; providing for terms and election of directors and notice of directors elections, and related matters; providing for directors to fill vacancies; providing for organization of Board of Directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection dur-

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ing construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Harris County; providing District shall bear expenses of relocating, raising or re-routing of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but re-

quiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Harris County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to be the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1315, ch. 604.

#### Art. 8280—325. Inverness Forest Improvement District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Inverness Forest Improvement District"; hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Lying in Harris County, Texas, and being 473.485 acres, more or less, out of the Benjamin Barrow Survey, Abstract 126, and more particularly described as follows:

Commencing at the point of intersection of the center line of the I. & G. N. (M. P.) Railroad and the center line of FM 1960.

THENCE, S 78° 18' W 116.00 feet to a point in the center line of FM 1960.

THENCE, N 11° 37' W 278.42 feet to a concrete right-of-way marker for the point of beginning.

THENCE, S 48° 06' W 155.90 feet along the North right-of-way line of FM 1960 to a concrete right-of-way marker.

THENCE, S 78° 18' W 1220.49 feet along the North right-of-way line of FM 1960 to a concrete right-of-way marker.

THENCE, S 49° 33' W 228.14 feet along the North right-of-way line of FM 1960 to a concrete right-of-way marker.

THENCE, S 78° 20' W 2286.98 feet along the North right-of-way line of FM 1960 to a 5/8" iron rod for the Southwest corner of this tract.

THENCE, N 1° 15' E 4592.82 feet to a point in the center line of Cypress Creek for the Northwest corner of the herein described tract.

THENCE, starting in an easterly direction and following the meanders of the center line of Cypress Creek a distance of 5960 feet, more or less, to the point of intersection with the West right-of-way line of Spring Road (Hardy Road).

(The traverse of the meanders to locate the center line of Cypress Creek, commencing at the Northwest corner of the herein described tract, is as follows: .

- S 1° 15' W 30.00 feet.
- N 75° 52' E 234.11 feet.
- N 83° 40' E 113.38 feet.
- N 63° 50' E 109.42 feet.
- N 86° 58' E 140.62 feet.
- S 79° 21' E 250.55 feet.
- S 56° 56' E 46.20 feet.
- S 37° 47' E 142.80 feet.
- S 4° 19' W 238.96 feet.
- S 54° 16' E 211.15 feet.
- N 82° 20' E 470.90 feet.
- S 74° 02' E 235.98 feet.
- S 52° 09' E 93.18 feet.
- S 18° 10' W 435.82 feet.
- S 7° 29' E 164.78 feet.
- N 57° 31' E 123.50 feet.
- S 78° 58' E 318.52 feet.
- S 66° 56' E 119.16 feet.
- S 44° 17' E 163.68 feet.
- S 23° 11' E 136.88 feet.
- S 10° 04' E 116.48 feet.
- S 56° 41' W 380.24 feet.
- S 19° 45' E 254.82 feet.
- S 52° 21' E 236.32 feet.
- S 73° 25' E 338.40 feet.
- S 36° 25' E 187.19 feet.
- S 75° 01' E 167.02 feet.
- N 80° 21' E 334.39 feet.

N 11° 37' W 40.00 feet to the center line of Cypress Creek).

THENCE, N 11° 37' W 5404.49 feet along the West right-of-way line of Spring Road (Hardy Road), to a point for corner.

THENCE, N 58° 32' 02" E 1311.84 feet to a ¾" iron pipe for the most northern corner of the herein described tract.

THENCE, S 31° 30' 11" E 4930.94 feet to a point in the center line of Cypress Creek for the most eastern corner of the herein described tract.

THENCE, starting in a westerly direction and following the meanders of the center line of Cypress Creek, as follows:

- S 52° 27' W 101.72 feet.
- S 33° 22' W 122.00 feet.
- S 68° 05' W 204.59 feet.
- N 67° 52' W 184.72 feet.
- N 2° 04' W 137.21 feet.
- N 80° 15' W 216.54 feet.
- S 88° 57' W 127.94 feet.
- S 55° 23' W 166.89 feet.
- S 26° 39' W 150.13 feet.
- S 38° 27' W 187.41 feet.



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S 36° 11' W 204.74 feet.

S 70° 58' W 192.62 feet.

S 36° 53' W 102.73 feet.

S 56° 56' W 201.32 feet.

S 65° 53' W 207.33 feet to a point in the center line of said creek for corner.

THENCE, N 31° 20' 32" W 2117.00 feet to a ¾" iron pipe in the East line of I. & G. N. Railroad (M. P.) 100-foot right of way.

THENCE, N 11° 37' W 26.00 feet along said right-of-way line to a point for corner.

THENCE, S 78° 23' W 100 feet crossing the I. & G. N. (M. P.) Railroad to a point for corner in the West right-of-way line of said railroad, said point also being in the East line of Spring Road (Hardy Road) 60-foot right of way.

THENCE, S 11° 37' E 4136.87 feet along the common right-of-way line of Spring Road (Hardy Road) and the I. & G. N. (M. P.) Railroad to a point for corner.

THENCE, S 78° 23' W 60.00 feet to the point of BEGINNING.

Containing 473.485 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to access, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a board of five (5) directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

Donald McGregor, Jr.

Ernest W. Roe

Bert B. Adkins

H. H. Dupre, Jr.

Donald McGregor, Sr.

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission

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for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, 1925, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on

the proposed annexation and for having an election within the District and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Harris County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 5% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a District where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1323, ch. 605, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Inverness Forest Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of directors; naming first board of directors; providing for terms and election of directors and notice of directors elections, and related matters; providing for directors to fill vacancies; providing for organization of board of directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be

approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Harris County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Harris County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and re-

funding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned sub-jects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1323, ch. 605.

**Art. 8280—326. Sequoia Improvement District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Sequoia Improvement District," hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Situated in Harris County, Texas, and being a 180.8434-acre, more or less, tract of land out of the M. E. Colby Survey, Abstract 1649, the W. C. R. R. Survey, Abstract 934, and the Thomas Normants Survey, Abstract 601, and described as follows:

BEGINNING at a point in the North line of said M. E. Colby Survey, said point being N 89° 41' W 330.00 feet from the Northeast corner of said M. E. Colby Survey.

THENCE, S 00° 28' W 1322.54 feet to a point for corner in the South line of said M. E. Colby Survey and the North line of said W. C. R. R. Survey.

THENCE, S 89° 32' E 576.92 feet along the North line of said W. C. R. R. Survey and the South line of said M. E. Colby Survey and the South line of the E. F. Marshall Survey, Abstract 1316, to a point for corner.

THENCE, S 00° 05' E 2590.23 feet to a point for corner in the centerline of Aldine-Bender Road, based on 80 feet in width, said point also being the most Northerly South line of said W. C. R. R. Survey and in the North line of said Thomas Normants Survey.

THENCE, East 817.45 feet along the centerline of said Aldine-Bender Road, the most Northerly South line of said W. C. R. R. Survey, the South line of the F. McCiverin Survey, Abstract 1482, and the North line of said Thomas Normants Survey, passing the common corner of said W. C. R. R. Survey and said F. McCiverin Survey at 760.10 feet, to a point for corner.

THENCE, S 00° 02' W 2619.00 feet to a point for corner.

THENCE, East 510.50 feet to a point for corner in the West line of Parkwood Estates, a subdivision in Harris County, Texas.

THENCE, S 00° 02' W 1728.00 feet along the West line of said Parkwood Estates to a point for corner.

THENCE, West 1510.50 feet to a point for corner.

THENCE, N 00° 02' E 4347.00 feet to a point for corner in the centerline of said Aldine-Bender Road, the North line of said Thomas Normants Survey, and the most Northerly South line of said W. C. R. R. Survey.

THENCE, West 670.34 feet along the centerline of said Aldine-Bender Road, the North line of said Thomas Normants Survey, and the most Northerly South line of said W. C. R. R. Survey to a point for corner.

THENCE, N 00° 05' W 2597.16 feet to a point for corner in the North line of said W. C. R. R. Survey and the South line of said M. E. Colby Survey.

THENCE, N 89° 32' W 54.00 feet along the South line of said M. E. Colby Survey and the North line of said W. C. R. R. Survey to a point for corner.

THENCE, N 00° 28' E 1321.69 feet to a point for corner in the North line of said M. E. Colby Survey.

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THENCE S 89° 41' E 330.00 feet along the North line of said M. E. Colby Survey to the place of beginning of the tract of land herein described.

Containing 180.8434 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the

faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

C. O. Beeler  
Robert C. Anderson  
L. C. Owens  
R. C. Middleton  
R. F. Beeler

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any high-



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way, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the District and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer

systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Harris County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 5% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages,

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counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1330, ch. 606, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Sequoia Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for terms and election of Directors and notice of Directors elections, and related matters; providing for Directors to fill vacancies; providing for organization of Board of Directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing

for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Harris County; providing District shall bear expenses of relocating, raising or re-routing of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Harris County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1330, ch. 606.

**Art. 8280—327. Flamingo Isles Municipal Utility District**

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Galveston County, Texas, to be known as "Flamingo Isles Municipal Utility District of Galveston County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

All that certain tract of land situated wholly within Galveston County, Texas, and being a part of the James Spillman League, Abstract #175, part

of the Arthur Burke Survey, Abstract #25, part of the J. Butler Survey #16, Abstract #194, part of the J. Butler Survey #18, Abstract #196, all of the J. Butler Survey #17, Abstract #195 and all of the R. M. Brackenridge Survey, Abstract No. 38, the boundaries of the herein described tract being more fully described as follows, to wit:

BEGINNING at a point where the Westerly line of said James Spillman League intersects the Southerly line of that certain tract of land conveyed to the G. C. & S. F. Railroad by deed of record in Vol. 387, Page 117, in said County Clerk's office;

THENCE, in an Easterly direction along the Southerly line of said G. C. & S. F. property to its most Southerly corner;

THENCE, in a Northerly direction along its most Easterly line to the Southerly line of the G. C. & S. F. Railroad right of way;

THENCE, in an Easterly direction along the Southerly line of said right of way to the most Northerly corner of a subdivision known as West Galveston, out of said James Spillman League, map of said Subdivision being of record in Vol. 92, Page 470, in said County Clerk's office;

THENCE, in a general Southerly direction along the Westerly line of said Subdivision to its West corner;

THENCE, in a Southeasterly direction along the Southerly line of said Subdivision passing the shore line of Galveston Bay and continuing on same course to the intersection with the Southeasterly line of said James Spillman League;

THENCE, in a general Southwesterly direction along the Southeast line of said League to the most Easterly corner of said R. M. Brackenridge Survey;

THENCE, in a general Southwesterly direction along the Southeasterly line of said Brackenridge Survey to its most Southerly corner;

THENCE, in a Westerly direction along the most Southerly line of said Brackenridge Survey to its most Westerly corner;

THENCE, in a general Northerly direction along the Westerly line of said Brackenridge Survey, same being the Easterly line of the L. T. Yowell Survey, Abstract 216, to the most Northerly corner of said Brackenridge Survey, same being the most Easterly corner of said Yowell Survey and on the Southerly line of said Spillman League;

THENCE, in a general Westerly direction along the Southerly line of said Spillman League, same being the Northerly line of said Yowell Survey to the Southwesterly corner of said Spillman League, same being the Northwest corner of said Yowell Survey and on the Easterly line of the J. Butler Survey #17, same being on the Easterly line of a tract of land conveyed to John W. Mecom by deed of record in Vol. 1537, Page 521, in said County Clerk's office;

THENCE, in a general Southerly direction along the Easterly line of said J. Butler Survey #17 to its Southeast corner, same being the Northeast corner of the Maco Stewart Survey Abstract #666;

THENCE, in a general Westerly direction along the Southerly line of the J. Butler Survey #17 and the J. Butler Survey #18 and along the Northerly line of said Maco Stewart Survey to the Southwesterly corner of the J. Butler Survey #18 same being the Southeasterly corner of the Wm. Rhodes Survey, Abstract 171, same being the Southwesterly corner of the aforesaid John W. Mecom Tract;

THENCE, in a general Northerly direction along the West line of said J. Butler Survey #18 same being the Easterly line of said Wm. Rhodes Survey to a re-entrant corner of said John W. Mecom Tract;

THENCE, in an Easterly direction along said Mecom Tract to another re-entrant corner in the J. Butler Survey #18;

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THENCE, in a general Northerly direction along the Westerly line of said Mecom Tract passing the Northerly line of the J. Butler Survey #18 same being the Southerly line of the J. Butler Survey #16 and continuing along the Westerly line of said Mecom Tract to the Southerly line of the Thomas Toby Survey, Abstract #193 same being another re-entrant corner in said John W. Mecom Tract;

THENCE, in a general Easterly direction along the Southerly line of said Toby Survey to its Southeast corner same being another re-entrant corner of said Mecom Tract;

THENCE, in a Northerly direction along the Easterly line of said Thomas Toby Survey and along a Westerly line of the J. Butler Survey #16 to the Southwesterly corner of the Arthur Burke Survey, Abstract #26 same being the most Northerly corner of said Mecom Tract;

THENCE, in a general Easterly direction along the Southerly line of said Arthur Burke Survey, Abstract #26 and along the Northerly line of said Butler Survey #16 same being a Northerly line of said Mecom Tract to the Southeast corner of said Arthur Burke Survey, Abstract #25 being another re-entrant corner of said Mecom Tract and a re-entrant of said J. Butler Survey #16;

THENCE, in a Southerly direction along the Westerly line of said Arthur Burke Survey, Abstract #25 and along a line in the J. Butler Survey #16 to the Southwest corner of said Arthur Burke Survey, Abstract #25 same being a re-entrant corner in said Mecom Tract and also a re-entrant corner of the J. Butler Survey #16;

THENCE, in a general Easterly direction along the Southerly line of said Arthur Burke Survey, Abstract #25 and along the Northerly line of said J. Butler Survey #16 same being along the most Southerly Northerly line of said Mecom Tract to the Northeast corner of said J. Butler Survey #16 same being the Southeasterly corner of said Arthur Burke Survey, Abstract #25, and being the Northeast corner of aforementioned Mecom Tract and on the Westerly line of the James Spillman League;

THENCE, in a general Northerly direction along the West line of said James Spillman League and the Easterly line of the Arthur Burke Survey, Abstract #25 to the place of beginning.

Sec. 2. It is expressly determined, and the Legislature hereby finds that the boundaries of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said District, or its right to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District or its governing body.

Sec. 3. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority re-

lating to the navigation of its coastal and inland waters and the reclamation and drainage of overflowed lands and other lands needing drainage in said District, and including all power and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in said Chapter, including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Article 7880—90a, Vernon's Texas Civil Statutes, as amended. Said District shall have the power to make, construct, or otherwise acquire improvements (whether previously existing or to be made, constructed or acquired) either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board of Directors shall include, but not be limited to, the right to enter into contracts on behalf of said District for the purchase and sale, or either, of water for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Directors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 4. The management and control of the District is hereby vested in a Board of five (5) directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be appointed, as soon as practicable after this Act becomes effective, by the County Judge of Galveston County, Texas, and said first Board of Directors shall meet and organize as soon as practicable after their appointment and shall file their official bonds. If any of the aforementioned members of said first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1967, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 5. Land may be excluded from said District in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended. Land may be added to the District only by written request of an adjacent, or contiguous, landowner or landowners; and no land may be added without the consent of the owner thereof. No land may be added which is not adjacent or contiguous to the District

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when added. Said District may be dissolved by its Board of Directors in accordance with the provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (Article 7880—77b, Vernon's Texas Civil Statutes).

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Said bonds may be in the denomination of \$1,000 or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both.

Sec. 7. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 8. As soon as practicable after the election and qualification of the first Board of Directors of said District, said Board shall by resolution designate one or more banks within or without the District to serve as the District's depository, and all funds of said District shall be secured in the manner now provided for the security of County funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been selected.

Sec. 9. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said Constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 10. If any word, phrase, clause, sentence, paragraph, section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 11. Proof of Publication of the Constitutional notice required in the enactment hereof under the provisions of paragraph (d) of Section 59 of Article XVI of the Texas Constitution has been made in the manner provided therein and a copy of said notice and the bill as originally intro-

duced have been delivered to the Governor of the State of Texas as required in such Constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements. Acts 1965, 59th Leg., p. 1352, ch. 613, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating a conservation and reclamation district under the provisions of Section 59, Article XVI, Constitution of Texas, to be known as "Flamingo Isles Municipal Utility District of Galveston County, Texas"; prescribing its rights, powers, privileges, and duties; providing the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for

its governing body; containing provisions relating to addition and exclusion of land and dissolution of the District; providing that its bonds are legal and authorized investments; providing for selection of a depository; containing other provisions relating to the subject; providing a severability clause; reciting proof of publication of Constitutional notice; and declaring an emergency. Acts 1965, 59th Leg., p. 1352, ch. 613.

**Art. 8280—328. South Concho River Flood Control District****District created**

Section 1. Pursuant to and expressly authorized by Section 59, Article XVI of the Constitution of the State of Texas and in addition to all other districts into which the State has been divided heretofore, there is hereby created a conservation and reclamation district to be known as "South Concho River Flood Control District" (hereinafter referred to as "District"), which shall be a governmental agency, a body politic and corporate, and a political subdivision of this State.

**District's powers**

Sec. 2. The District herein created shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force, or hereafter enacted, applicable to conservation and reclamation districts created under authority of Article XVI, Section 59 of the Constitution of Texas, but to the extent that the provisions of any such General Law may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

In no manner limiting the right, power and authority of the District, as heretofore granted, but specifically granting to the District herein created the right, power and authority, to control, store and distribute the waters and floodwaters within the District for the conservation, preservation, reclamation and improvement of the soil and lands or in aid thereof within the District; to carry out flood prevention measures; to prevent or aid in the prevention of damage to land and soil and the fertility thereof; to engage in land treatment measures; to prevent deterioration, erosion and loss of land and soil; to carry out preventative and control measures within the District; to construct, acquire, improve, carry out, maintain, repair and operate dams, structures, projects and works of improvement for flood prevention (including structural and land treatment measures) and for agricultural and land treatment measures and for agricultural phases of the conservation, development, utilization and disposal of water within the District and to purchase or acquire other facilities and equipment necessary in connection therewith and to engage in activities necessary to carry out these functions; to obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property, real or personal, or rights or interest therein within the District necessary to carry out the purposes of this Act, and to maintain, administer and improve any properties acquired; to purchase or acquire lands, easements or rights-of-way within the District necessary to carry out the



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purposes of this Act; to cooperate with, and be subject to any and all present rights, privileges and powers of any existing legally constituted freshwater supply districts situated adjacent to or within the territory of this District; to cooperate with other conservation districts, county officials, conservation officials and personnel of the county, State and Federal Government, State Soil Conservation Board, State Agricultural Department, Secretary of Agriculture of the United States and other county, State and Federal agencies and departments in order to carry out the purposes of this Act. Without limiting the generality of the foregoing, the District shall be and it is hereby empowered to cooperate with the State and Federal Government, their agencies, departments and representatives in obtaining assistance, aid, benefits, grants, credit and money as provided in Public Law 566, 83rd Congress of the United States, Chapter 656, and amendments thereto; and to have, exercise and be vested with all of the rights, powers, privileges and authority conferred and imposed by the General Laws of this State now in force, or hereafter enacted applicable to conservation and reclamation districts created under authority of Article XVI, Section 59 of the Constitution of Texas.

#### Territory comprising the District

Sec. 3. It is expressly determined and found that all of the territory included within the area of the District will be benefited by the works and improvements which are to be accomplished and provided by the District pursuant to the powers conferred by the provisions of Article XVI, Section 59 of the Constitution of Texas, and this Act. The area of the District shall consist of lands situated in Tom Green and Schleicher Counties, Texas, and enclosed within the following metes and bounds description, to wit:

BEGINNING at a point on the West Bank of the South Concho River, said point being at the NE corner of John C. Long Survey 92, Abstract 1635, patented to William W. Gant, October 15, 1879, Tom Green County, Texas, said point also being the SE corner of Mijamin Robbins Survey 94, Tom Green County, Texas;

THENCE, West along the North line of said John C. Long Survey 92 to its NW corner;

THENCE, South with the West line of said John C. Long Survey 92 to its SW corner;

THENCE, East with the South line of said John C. Long Survey 92 to the most Easterly NE corner of H. E. & W. T. R. R. Co. Survey 1201, Tom Green County, Texas;

THENCE, South along the East line of H. E. & W. T. R. R. Co. Survey 1201, to its most Easterly SE corner, said point being in the North line of W. C. Jones Survey 4, Block 22, H. & T. C., Tom Green County, Texas;

THENCE, West along North line of said W. C. Jones Survey 4, Block 22, H. & T. C. to its NW corner;

THENCE, South along West line of said W. C. Jones Survey 4, Block 22, H. & T. C. to the NW corner of H. & T. C. R. R. Co. Survey 3, Block 22, Tom Green County, Texas;

THENCE, South along the West line of said H. & T. C. R. R. Co. Survey 3, Block 22, to the NE corner of H. & T. C. R. R. Co. Survey 7, Block 22, Tom Green County, Texas;

THENCE, West with the North line of said H. & T. C. R. R. Co. Survey 7, Block 22, to its NW corner;

THENCE, South along the West line of said H. & T. C. R. R. Co. Survey 7, Block 22, the NE of H. & T. C. R. R. Co. Survey 19, Block 22, Tom Green County, Texas;

THENCE, West along the North line of said H. & T.C. R.R. Co. Survey 19, Block 22, to its NW corner;

THENCE, South along the West line of said H. & T.C. R.R. Co. Survey 19, Block 22, to the NE corner of H. & T.C. R.R. Co. Survey 1, Block 21, Tom Green County, Texas;

THENCE, West along the North line of said H. & T.C. R.R. Co. Survey 1, Block 21, to its NW corner;

THENCE, South with the West line of said H. & T.C. R.R. Co. Survey 1, Block 21, to the NE corner of H. & T.C. R.R. Co. Survey 9, Block 21, Tom Green County, Texas;

THENCE, West along the North line of said H. & T.C. R.R. Co. Survey 9, B. L. Thorr Survey 10 and H. & T.C. R.R. Co. Survey 17, Block 21, to the NW corner of said H. & T.C. R.R. Co. Survey 17, Block 21;

THENCE, South along the West lines of H. & T.C. R.R. Co. Survey 17 and B. L. Thorp Survey 16, Block 21, H. & T.C., Tom Green County, Texas, to the NE corner of Sam H. Henderson Survey 20, Block 21, H. & T.C., Tom Green County, Texas;

THENCE, West along the North line of said Sam H. Henderson Survey 20 and H. & T.C. R.R. Co. Survey 23, Block 21, H. & T.C., to the NW corner of said H. & T.C. R.R. Co. Survey 23, Block 21, H. & T.C.;

THENCE, South along the West line of said H. & T.C. R.R. Co. Survey 23 and J. D. Wagner Survey 22, Block 21, H. & T.C., Tom Green County, Texas, to the SW corner of said J. D. Wagner Survey 22, the same point being the NW corner of Dave McCrohan W/2 of Survey 10, Tom Green County, Texas;

THENCE, South along the West line of said Dave McCrohan W/2 of Survey 10, to NW corner of Dave McCrohan Survey 1194, Tom Green County, Texas;

THENCE, South along the West line of said Dave McCrohan Survey 1194, to its SW corner, the same being the NW corner of G.C. & S.F. R.R. Co. Survey 1193, Tom Green County and Schleicher County, Texas;

THENCE, South along the West line of said G.C. & S.F. R.R. Co. Survey 1193, crossing the Tom Green and Schleicher Counties line to a point in said West line of said G.C. & S.F. R.R. Co. Survey 1193, being the NE corner of Georgetown R.R. Co. Survey 1199, Schleicher County, Texas;

THENCE, West along the North line of said Georgetown R.R. Co. Survey 1199 and along the North line of Survey 1200, Emmett McCrohan Survey 1200, and along the North line of G.C. & S.F. R.R. Co. Survey 1157, Schleicher County, Texas, to its NW corner;

THENCE, South along the West line of said G.C. & S.F. R.R. Co. Survey 1157, to its SW corner, said point also being in the North line of Mrs. C. R. DeRamerez Survey 1157½, Schleicher County, Texas;

THENCE, West along the North line of Mrs. C. R. DeRamerez Survey 1157½ to its NW corner;

THENCE, South along the West line of said Mrs. C. R. DeRamerez Survey 1157½ to the most Westerly NW corner of J. H. DeLong Survey 1216½, Schleicher County, Texas;

THENCE, South along the West line of said J. H. DeLong Survey 1216½, to its most Westerly SW corner;

THENCE, along the South line of said J. H. DeLong Survey 1216½, and also being along the North line of T.C. Ry. Co. Survey 55, Block TT, Schleicher County, Texas, to the NE corner of said T.C. Ry. Co. Survey 55, Block TT;

THENCE, South along the East line of said T.C.R.R. Co. Survey 55, Block TT, to its SE corner, the same point being in the North line of T.C.R.R. Co. Survey 53, Block TT, Schleicher County, Texas;

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THENCE, East along the North line of said T.C.R.R. Co. Survey 53, Block TT, to its NE corner;

THENCE, South along the East line of said T.C.R.R. Co. Survey 53, Block TT, to its SE corner, said point also being in the North line of Walter Smith Survey 36, Block TT, Schleicher County, Texas;

THENCE, West along the North line of said Walter Smith Survey 36, Block TT, to its NW corner;

THENCE, South along the West line of said Walter Smith Survey 36, Block TT, to its SW corner, said point also being in the North line of J. W. Alexander Survey 24, Block TT, Schleicher County, Texas;

THENCE, East along the North line of said J. W. Alexander Survey 24, Block TT, to its NE corner;

THENCE, South along the East line of said J. W. Alexander Survey 24, Block TT, to its SE corner; the same point also being the SW corner of the T. C. R. R. Co. Survey 23, Block TT, Schleicher County Texas;

THENCE, along the South lines of T. C. R. R. Co. Survey 23 and Eugene McCrohan Survey 22, and T. C. R. R. Co. Survey 21, Block TT, Schleicher County, Texas, to the NE corner of T. C. R. R. Co. Survey 9, Block TT;

THENCE, South along the East line of said T. C. R. R. Co. Survey 9, Block TT, to its SE corner, the same point also being the SW corner of J. E. Jones Survey 10, Block TT, Schleicher County, Texas;

THENCE, East along the South line of said J. E. Jones Survey 10, Block TT, and also being the North line of J. E. Jones Survey 8, Block LL, Schleicher County, Texas, to its NE corner;

THENCE, South along the East line of said J. E. Jones Survey 8, Block LL, to its SE corner, said point also being in the North line of T. C. R. R. Co. Survey 19, Block LL, Schleicher County, Texas;

THENCE, East along the North line of said T. C. R. R. Co. Survey 19, Block LL, to its NE corner;

THENCE, South along the East line of said T. C. R. R. Co. Survey 19, Block LL, to its SE corner, said point also being in the North line of S. L. Craft Survey 24, Block LL, Schleicher County, Texas;

THENCE, West along North line of said S. L. Craft Survey 24, Block LL, to its NW corner;

THENCE, South along the West line of said S. L. Craft Survey 24, Block LL, to its SW corner;

THENCE, East along the South line of said S. L. Craft Survey 24, Block LL, to a point being the NW corner of T. C. R. R. Co. Survey 33, Block LL, Schleicher County, Texas;

THENCE, South along the West line of T. C. R. R. Co. Survey 33, Block LL, to its SW corner;

THENCE, East along the South line of said T. C. R. R. Co. Survey 33, Block LL, to a point being the NW corner of J. F. Craig Survey 34, Block LL, Schleicher County, Texas;

THENCE, South along the West line of said J. F. Craig Survey 34, Block LL, to its SW corner;

THENCE, East along the South line of said J. F. Craig Survey 34, Block LL, to a point being the NW corner of T. C. R. R. Co. Survey 41, Block LL, Schleicher County, Texas;

THENCE, South along the West line of T. C. R. R. Co. Survey 41, Block LL, to its SW corner;

THENCE, East along the South line of said T. C. R. R. Co. Survey 41, Block LL, to its SE corner, also being the NW corner of E/2 of T. W. Palmer Survey 44, Block LL, Schleicher County, Texas;

THENCE, South along the West line of said E/2 of T. W. Palmer Survey 44, Block LL, to its SW corner;

THENCE, East along the South lines of said E/2 of T. W. Palmer Survey 44, and G. C. & S. F. R. R. Co. Survey 45, and J. L. Allen Survey 46, and T. C. R. R. Co. Survey 77, and H. W. Gillis Survey 78, Block LL, Schleicher County, Texas, to its SE corner;

THENCE, North along the East line of said H. W. Gillis Survey 78, Block LL, to its NE corner, said point also being in the South line of G. C. & S. F. R. R. Co. Survey 65, Block LL, Schleicher County, Texas;

THENCE, East along the South lines of G. C. & S. F. R. R. Co. Survey 65, and C. L. Meador Survey 66, Block LL, Schleicher County, Texas, to its SE corner;

THENCE, North along the East line of said C. L. Meador Survey 66, Block LL, to a point being the most Southerly SW corner of C. L. Meador Survey 88, Block LL, Schleicher County, Texas;

THENCE, East along the South line of said C. L. Meador Survey 88, Block LL, to its SE corner;

THENCE, North along the East line of said C. L. Meador Survey 88, Block LL, to its NE corner, said point also being SE corner of T. C. R. R. Co. Survey 87, Block LL, Schleicher County, Texas;

THENCE, North along the East line of T. C. R. R. Co. Survey 87, Block LL, to a point in said line being the SW corner of A. F. Collins Survey 18, Block M, G. H. & S. A., Schleicher County, Texas;

THENCE, East along the South lines of said A. F. Collins Survey 18, and B. G. Miller, Jr. Survey 17, and A. F. Collins Survey 16, and G. B. Miller Survey 15, Block M, G. H. & S. A., Schleicher County, Texas, to its SE corner;

THENCE, North along the East line of said G. B. Miller Survey 15, Block M, to its NE corner, said point also being the SW corner of J. M. Lynn Survey 23, Block M, G. H. & S. A., Schleicher County, Texas;

THENCE, East along the South line of said J. M. Lynn Survey 23, Block M, to its SE corner;

THENCE, North along the East line of said J. M. Lynn Survey 23, to its NE corner, said point also being the SW corner of W. R. Cummings Survey 25, Block M, G. H. & S. A., Schleicher County, Texas;

THENCE, East along the South line of said W. R. Cummings Survey 25, Block M, to its SE corner;

THENCE, North along the East line of said W. R. Cummings Survey 25, Block M, to its NE corner, said point also being the SW corner of T. J. Ellis Survey 73, Block I, G. H. & S. A., Schleicher County, Texas;

THENCE, East along the South line of said T. J. Ellis Survey 73, Block I, to its SE corner;

THENCE, North along the East line of said T. J. Ellis Survey 73, Block I, to its NE corner, said point also being the SW corner of C. A. Buie Survey 69, Block I, G. H. & S. A., Schleicher County, Texas;

THENCE, East along the South line of said C. A. Buie Survey 69, Block I, to its SE corner;

THENCE, North along the East line of said C. A. Buie Survey 69, and H. W. Mills Survey 70, Block I, G. H. & S. A., and J. R. Murrah Survey 79, and J. B. Murrah Survey 78, Block H, G. H. & S. A., Schleicher County, Texas, to its NE corner, said point also being the SW corner of D. W. Berry Survey 72, Block H, G. H. & S. A., Schleicher County, Texas;

THENCE, East along the South line of said D. W. Berry Survey 72, Block H, to its SE corner;

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THENCE, North along the East line of said D. W. Berry Survey 72, Block H, to its NE corner, said point also being the SW corner of T. H. Taylor Survey 66, Block H, G. H. & S. A., Schleicher County, Texas;

THENCE, East along the South line of said T. H. Taylor Survey 66, Block H, to its SE corner;

THENCE, North along the East line of T. H. Taylor Survey 66, and W. M. Jackson Survey 65, Block H, G. H. & S. A., Schleicher County, Texas, to its NE corner, said point being also the NW corner of T. H. Taylor Survey 64, Block H, G. H. & S. A., Schleicher County, Texas;

THENCE, East along the North line of said T. H. Taylor Survey 64, Block H, to its NE corner, said point also being the NW corner of Survey 55, Block H, G. H. & S. A., Schleicher County, Texas;

THENCE, East along the North line of said Survey 55, Block H, to a point being the SW corner of E. W. Loftin Survey 6, G. C. & S. A., Block, Abstract 1317, Schleicher County, Texas;

THENCE, North along the West line of said E. W. Loftin Survey 6, to its NW corner, said point also being the NE corner of G. C. & S.A. R.R. Co. Survey 5, and said point also being in the South line of SW part of W. M. Jackson Survey 7½, patented on Sept. 18, 1913, No. 121, Vol. 47, to W. M. Jackson, Abstract 1883, Schleicher County, Texas;

THENCE, West along South line of said SW part of W. M. Jackson Survey 7½, patented to W. M. Jackson to its SW corner, said point also being the SE corner of 53.50 acre E. Mid. Pt. of Survey 7½, patented to A. B. Thomerson on June 29, 1916, No. 87, Vol. 51, Abstract 1900, Schleicher County, Texas;

THENCE, North along the West line of said SW Pt of W. M. Jackson Survey 7½, Abstract 1883, to its NW corner, said point being in the South line of E. W. Loftin Survey 68, Schleicher and Tom Green Counties, Texas;

THENCE, West along the South line of said E. W. Loftin Survey 68, to its SW corner, said point also being the SE corner of H. & T. C. R. R. Co. Survey 67, Schleicher and Tom Green Counties, Texas;

THENCE, North along the East lines of said H. & T. C. R. R. Co. Survey 67, crossing the Schleicher—Tom Green County line and along East line of A. E. Lock Survey 60, and H. & T. C. R. R. Co. Survey 57, Block 25, H. & T. C., Tom Green County, Texas, to its NE corner;

THENCE, West along the North line of H. & T. C. R. R. Co. Survey 57, and S. C. Martin Survey 56, Block 25, H. & T. C., Tom Green County, Texas, to its NW corner, said point also being the SE corner of T. D. Hornbock Survey 52, Block 25, H. & T. C., Tom Green County, Texas;

THENCE, North along the East line of said T. D. Hornbock Survey 52, Block 25, to its NE corner;

THENCE, West along the North line of said T. D. Hornbock Survey 52, Block 25, to its NW corner, said point also being the SE corner of T. D. Hornbock Survey 44, Block 25, H. & T. C., Tom Green County, Texas;

THENCE, North along the East lines of said T. D. Hornbock Survey 44, and H. & T. C. R. R. Co. Survey 43, and William Somerville Survey 34, Block 25, H. & T. C., Tom Green County, Texas, to its NE corner;

THENCE, West along the North lines of said William Somerville Survey 34, to its NW corner, said point also being the most Southerly SE corner of T. C. R. R. Co. Survey 547, Tom Green County, Texas;

THENCE, West along the South line of said T. C. R. R. Co. Survey 547 to its most Southerly SW corner, said point also being the SE corner of H. & T. C. R. R. Co. Survey 3, Block 24, Tom Green County, Texas;

THENCE, North along the East line of said H. & T. C. R. R. Co. Survey 3, Block 24 to its NE corner;

THENCE, West along the North line of said H. & T. C. R. R. Co. Survey 3, Block 24, to its NW corner, said point being the SE corner of H. & T. C. R. R. Co. Survey 1, Block 24, Tom Green County, Texas;

THENCE, North along the East line of said H. & T. C. R. R. Co. Survey 1, Block 24, to its NE corner, said point being in the South line of Maria Kuykendall Survey 7, Tom Green County, Texas;

THENCE, East along South line of said Maria Kuykendall Survey 7, to its most Easterly SE corner;

THENCE, North along the East line of said Maria Kuykendall Survey 7, to its most Northerly NE corner;

THENCE, West along the North line of said Maria Kuykendall Survey 7 to its most Northerly NW corner, said point also being the most Northerly NE corner of J. Swisher Survey 79½, and said point also being in the South line of J. W. Timmins Survey 2, Block 23, H. & T. C., Tom Green County, Texas;

THENCE, West along the South line of said J. W. Timmins Survey 2, Block 23, to its SW corner, said point also being in the boundary line of Joseph Jackson Survey 2, Tom Green County, Texas;

THENCE, South along the common line of said Joseph Jackson Survey 2 and said J. Swisher Survey 79½, to the most Southerly SE corner of said Joseph Jackson Survey 2;

THENCE, West along the common line of said Joseph Jackson Survey 2 and said J. Swisher Survey 79½ to the most westerly NW corner of said J. Swisher 79½ and said point being in the East line of James Webb Survey 83, Tom Green County, Texas;

THENCE, North along the East line of said James Webb Survey 83 to its NE corner, said point being in the South line of George Smith Survey 1825, Tom Green County, Texas;

THENCE, East along the South line of said George Smith Survey 1825 to its SE corner;

THENCE, North along the Eastline of said George Smith Survey 1825 to its NE corner, said point being in the South line of Charles S. Jackson Survey 1823, Tom Green County, Texas;

THENCE, East along the South line of said Charles S. Jackson Survey 1823 to its SE corner;

THENCE, North along the East line of said Charles S. Jackson Survey 1823 to its NE corner, said point being in the South line of Mary Harrison Survey 89, Tom Green County, Texas;

THENCE, East along the South line of said Mary Harrison Survey 89 to its SE corner;

THENCE, North along the East line of said Mary Harrison Survey 89 to its NE corner;

THENCE, West along North line of said Mary Harrison Survey 89 to a point being the SE corner of R. A. Abbott Survey 91, Abstract 14, Tom Green County, Texas;

THENCE, North along the East line of said R. A. Abbott Survey 91 to its NE corner;

THENCE, West along the North line of said R. A. Abbott Survey 91 to its NW corner, said point being on the East Bank of the South Concho River;

THENCE, in a Westerly direction crossing said South Concho River to the NE corner of John C. Long Survey 92, and being the Place of Beginning, and containing 245,930 acres of land, more or less.

**No confirmation election, hearing on exclusion of land or plan  
of taxation necessary**

Sec. 4. It being hereby found and determined that all of the land included within the boundaries of the District will be benefited and that the District is created to serve a public use and benefit, it shall not be necessary for the Board of Directors to call a confirmation election, or to hold a hearing on the exclusion of lands, or a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District; and said Board of Directors shall have the right to exclude any lands in said District.

**Governing body of district**

Sec. 5. (a) All powers of the District shall be exercised by a Board of seven (7) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be a Director unless he is a resident citizen of the State of Texas and at least twenty-one (21) years of age, and owns land in the territorial limits of the District. Such Directors shall subscribe to the Constitutional Oath of office. A majority shall constitute a quorum.

(b) Immediately after this Act becomes effective, the following named persons shall be the Directors of said District, and shall constitute the Board of Directors of said District: M. G. Shurley, Christoval, Texas; E. W. Jones, Jr., Christoval, Texas; Jimmie West, Eldorado, Texas; Dr. F. W. Rawls, Christoval, Texas; Gordon Kenley, San Angelo, Texas; Joe A. Wagley, Eldorado, Texas; and Ford M. Boulware, San Angelo, Texas. If any of the aforementioned persons shall become incapacitated or otherwise not qualified to assume his duties under this Act, the remaining Directors shall appoint his successor. Succeeding Directors shall be elected or appointed as provided for in this Act.

(c) The first three (3) Directors named above shall serve until the second Tuesday in January, 1966, and the remaining four (4) Directors shall serve until the second Tuesday in January, 1967. An election of Directors shall be held on the second Tuesday in January of each year beginning on the second Tuesday in January, 1966, and as herein provided. Three (3) Directors shall be elected in each even-numbered year and four (4) Directors shall be elected in each odd-numbered year. The annual election shall be ordered by the Board of Directors. Notice of the election shall be published in a newspaper of general circulation in said District one (1) time at least thirty (30) days before the election. The election order shall state the time, place and purpose of the election; and the Board of Directors of said District shall appoint a presiding judge who shall appoint two (2) clerks to assist in holding the election. Only qualified electors residing in the District shall be entitled to vote at said election. The candidates receiving the highest number of votes shall be declared elected. The returns of the election shall be made to and canvassed by the Board of Directors of said District, who shall enter an order declaring the results of the election.

(d) Any candidate for Director desiring to have his name printed on the ballot may do so by a petition so requesting, signed by not less than twenty-five (25) residents of the District who are qualified to vote at the election. Such petition shall be presented to the Secretary of the Board of Directors. The petition shall be presented on such date as will allow not less than twenty (20) days between the date of presentation and the date of election.

(e) Any vacancies occurring in the Board of Directors shall be filled for the unexpired term by a majority vote of the remaining Directors.

(f) The Board of Directors of the District shall elect from its number, a president and a vice president, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act. The Board shall also appoint a secretary and a treasurer, who may or may not be members of the Board, and it may combine those offices. The treasurer shall make bond in such amount as may be required by the Board of Directors of the District. The Board may adopt a seal for the District.

(g) The Board of Directors, from time to time, shall be authorized to make or cause to be made surveys and engineering investigations for the information of the District to facilitate the accomplishment of the purposes for which the District is created; and may employ a general manager, attorneys, accountants, engineers or other technical or nontechnical employees or assistants, fix the amount and manner of their compensation and provide for the payment of all expenditures deemed essential to the proper operation and maintenance of the District and its affairs.

#### **Exercise of power of eminent domain**

Sec. 6. For the purpose of carrying out any power or authority conferred by this Act, the District shall have the right to acquire land and easements within the District by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Board of Directors. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipelines, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

#### **District may issue bonds**

Sec. 7. (a) For the purpose of providing dams, structures, projects and works of improvement for flood prevention (including structural and land treatment measures), for the purchase and acquisition of lands, easements and rights-of-way and for agricultural phases of conservation, development and utilization and disposal of water, and for all other necessary facilities, equipment and properties in connection therewith and for the improvement, maintenance, repair and operation of same and for carrying out any other powers or authority conferred by this Act, the District is empowered to issue negotiable bonds payable from ad valorem taxes to be levied on all taxable property within the District. It shall be the duty of the Board of Directors to levy annual taxes sufficient to pay the bonds and interest thereon as such bonds and interest become due. Pending the use of bond proceeds for the purpose for which issued, the Board of Directors may invest same in obligations of or guaranteed by the United States of America. Such bonds shall be authorized by resolution of the



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Board of Directors, after having been voted as provided in Section 8 hereof, and shall be issued in the name of the District. Said bonds shall be signed by the president, attested by the secretary, with the seal of the District impressed thereon. The interest coupons shall be executed by facsimile signatures of the said president and secretary and the statute authorizing facsimile signatures and seals shall be applicable to the bonds if so provided in the resolution or resolutions authorizing same. They shall mature serially or otherwise in not to exceed forty (40) years from their date and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the District, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six per cent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registerable as to principal or as to both principal and interest. Bonds may be issued in more than one (1) series and from time to time as required for carrying out the purposes of this Act. From proceeds from the sale of the bonds the District may set aside an amount for the payment of interest to accrue during construction and one (1) year thereafter, and a reserve interest and sinking fund. Proceeds from the sale of the bonds may also be used for the payment of any and all expenses incurred in accomplishing the purposes for which the District is created including but not limited to the payment of attorneys' fees, fiscal agents' fees, engineers' fees and to pay the cost of printing and issuing the bonds.

(b) If the plans for works and improvements or amendments thereto, contemplated by the District are prepared by the Soil Conservation Service, United States Department of Agriculture, and approved by the District's directors, it shall not be necessary for an engineer's report covering the plans and improvements to be constructed, together with the maps, plats, profiles and data fully showing and explaining same, be filed in the office of the District before an election is held to authorize the issuance of bonds in connection with such works and improvements and it shall not be necessary for such plans and specifications, engineering reports, profiles, maps and other data, or subsequent amendments thereto, to be approved by the Texas Water Commission prior to the issuance of such bonds; provided, however, that before the expenditure of any funds for the construction of any works and improvements, the approval of the Texas Water Commission shall be secured for that portion of the works and improvements to be constructed and it shall not be necessary for advance approval to be given for the entire project contemplated by the District, but approval may be secured or given on a separate or individual basis for that portion of the entire project or works and improvements to be constructed at any particular time and on which plans and specifications of the Soil Conservation Service, United States Department of Agriculture, have been prepared and submitted by the District to the Texas Water Commission.

#### Bond elections

Sec. 8. No bonds, except refunding bonds, shall be issued unless authorized at an election at which only the qualified electors who reside in the District, and who own taxable property therein, and who have duly rendered the same for taxation, shall be qualified to vote at said election, and unless a majority of the votes cast at said election is in favor of the issuance of the bonds. Such election may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and place or places of holding the same, the purpose for which the bonds are to be issued, the maximum

amount thereof, the maximum maturity thereof, the maximum interest rate, the form of the ballot and the presiding judge for each voting place. The presiding judge serving at the voting place or places shall appoint at least two (2) clerks to assist in holding such election. The returns of the election shall be made to and canvassed by the Board of Directors of the District. Notice of elections for the issuance of bonds shall be given by publication of a substantial copy of the resolution calling the election in a newspaper of general circulation in the District once each week for two (2) consecutive weeks, the first publication to appear not less than fourteen (14) days prior to the date assigned for the election. Except as herein otherwise provided, the General Laws relating to elections shall be applicable.

#### **Refunding bonds authorized**

Sec. 9. The District is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon, without an election. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds. The provisions of this law with reference to the issuance of other bonds and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal and interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

#### **Bonds to be approved by attorney general of Texas**

Sec. 10. After any bonds (including refunding bonds) are authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. If he finds such bonds have been properly authorized in accordance with the Constitution and this Act, he shall approve such bonds and the same then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds shall be valid, binding and enforceable obligations of the District and shall be incontestable for any cause.

#### **Taxes and tax elections authorized**

Sec. 11. The Board of Directors may upon a favorable majority vote of the qualified property taxpaying electors of the District, voting at an election held for the purpose within the boundaries of such District, levy, assess and collect annual taxes to provide funds necessary to construct or acquire, maintain and operate works, plants and facilities deemed essential or beneficial to the District and its purposes, and also when so authorized may levy, assess and collect annual taxes to provide funds adequate to defray the cost of planning, maintenance, operation, organization and administration of the District. Elections for the levy of such taxes shall be ordered by the Board of Directors and notice thereof shall be given and same shall be held and conducted and the results thereof determined in the manner provided herein with relation to elections for the authorization of bonds. All taxes levied by the District for any purpose shall constitute a lien on the property against which levied and limitation shall not bar the enforcement or collection thereof. In calling an election for taxes under this Section 11, the Board of Directors shall specify the maximum rate of

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tax which is sought to be levied and no tax in excess of that amount may be levied without submitting the question of the increased rate of taxation at an election as provided.

#### Levy, assessment and collection of taxes

Sec. 12. The District shall have all the rights, powers, duties and functions and shall observe the procedures, insofar as the same may be applicable and not in conflict with this Act, in the levy, equalization and collection of ad valorem taxes as are provided for Water Control and Improvement Districts under Chapter 25, Acts of the Regular Session of the Thirty-ninth Legislature of Texas in 1925, as heretofore or hereafter amended and to provide anything necessary in the accomplishment of the foregoing in carrying out the purposes of this Act.

#### District depository

Sec. 13. The Board of Directors shall designate one or more banks to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that funds shall be remitted to the bank or banks of payment of principal of and interest on outstanding bonds of the District. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

#### Bonds eligible for investment and to secure deposits

Sec. 14. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians and sinking funds of cities, towns and villages, counties, school districts or other political subdivisions of the State of Texas, and for all public funds of the State of Texas, or its agencies including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

#### District and bonds exempt from taxation

Sec. 15. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

#### District declared essential

Sec. 16. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article XVI of the Constitution of Texas wherein it is required to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the State; that the District herein created is essential to the accomplishment of such purposes and that this Act there-

fore operates on a subject in which the State and the public at large are interested. All the terms and provisions of the Act are to be liberally construed to effectuate the purposes herein set forth.

Saving clause

Sec. 17. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be done in such a manner as will conform thereto, whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure conformable to such Constitutions. If any provisions of this Act shall be invalid, such fact shall not affect the creation of the District, or the validity of any other provisions of this Act, and the Legislature here declares that it would have created the District and enacted the valid provisions of this Act, notwithstanding invalidity of any other provision or provisions hereof. Acts 1965, 59th Leg., p. 1357, ch. 614.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act creating the South Concho River Flood Control District and providing for its administration, powers and duties, financing, and procedures; and declaring an emergency. Acts 1965, 59th Leg., p. 1357, ch. 614.

Art. 8280—329. Acres Homes Improvement District

Section 1. Under and pursuant to the provisions of Article 16, Section 59, of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Acres Homes Improvement District", hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Being 4199.5 acres of land, more or less, in the northwest section of Harris County, Texas, including all or parts of the following Surveys: H & T C R R, Abstract 430; Sam McClelland, Abstract 544; Ellis Benson, Abstract 110; James Love, Abstract 528; J. Erwin, Abstract 258; J. E. Durkee, Abstract 1068; T. A. Menefee, Abstract 565; P. Thompson, Abstract 768; and said 4199.5-acre tract being more particularly described by adjoinders (controlling) and metes and bounds as follows:

Starting at the Southeast corner of the H & T C R R Survey, Abstract 430, Harris County, Texas, said corner also being a corner in the city limit line of the City of Houston.

THENCE, West 4644 feet along the South line of said H & T C R R Survey, Abstract 430 (said line also being the city limit line of the City of Houston for approximately 650 feet), to a point for a corner, said point being in the East line of the Sam McClelland Survey, Abstract 544.

THENCE, South 13 feet along said East line of the Sam McClelland Survey to a point for corner, said point being the intersection of the Easterly extension of the South line of the Highland Heights Annex No. 4 Subdivision.

THENCE, West 10,107 feet along said South line extended, and the South line of Highland Heights Annex No. 4 Subdivision, to a point for corner, said point being in the centerline of White Oak Bayou.

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THENCE, in a Northerly direction following the meanders of the centerline of White Oak Bayou as follows:

N 23° 00' W 260 feet

N 8° 30' E 420 feet

N 9° 00' W 220 feet

N 38° 30' W 210 feet

N 46° 30' W 900 feet

N 8° 30' W 190 feet

N 33° 00' E 200 feet

N 42° 00' E 160 feet

N 9° 00' E 200 feet

N 37° 30' W 200 feet

N 61° 00' W 390 feet

N 18° 30' W 210 feet

N 26° 00' E 231 feet

N 44° 00' E 1120 feet

N 1° 00' W 260 feet

N 55° 30' W 260 feet to the intersection of centerline of ditch flowing from the North.

THENCE, following the centerline of said ditch N 18° 15' E 1930 feet to the North line of Ellis Benson Survey, Abstract 110, said line also being the South line of the James Love Survey, Abstract 528, and also the approximate centerline of West Little York Road.

THENCE, East 1940 feet along said North line of the Ellis Benson Survey, Abstract 110, to a point for corner, said point also being in the South line of the James Love Survey, Abstract 528, and the centerline of West Little York Road.

THENCE, North 7792 feet to a point for a corner, said point being in the North line of the Philip Thompson Survey, Abstract 768.

THENCE, East 8294.93 feet along said North line of the Philip Thompson Survey to point for corner, said point being the Northeast corner of said Philip Thompson Survey.

THENCE, South 1016 feet along the East line of the said Philip Thompson Survey to point for corner, said point being the Northwest corner of the J. E. Durkee Survey (H & T C R R), Abstract 1068, said point also being the Northwest corner of the Lincoln City Subdivision, Section 3.

THENCE, East 2670 feet along said North line of the J. E. Durkee Survey (H & T C R R), Abstract 1068, to a point for corner, said point being the most Northerly Northeast corner of said J. E. Durkee Survey, said point also being in the West line of the T. A. Menefee Survey, Abstract 565.

THENCE, South 1730 feet along an East line of said J. E. Durkee Survey (H & T C R R), Abstract 1068, said line also being the West line of said T. A. Menefee Survey, Abstract 565, to a point for corner, said point being in the centerline of a 60-foot drainage easement.

THENCE, East 1680 feet along the centerline of said drainage easement and its extension to a point for a corner, said point being the intersection of the centerline of said drainage easement with the Northerly extension of the East right-of-way line of Banjo Street.

THENCE, South 3480.63 feet along said Northerly extension of the East right-of-way line of Banjo Street, the East right-of-way line of Banjo Street, and the Southerly extension of said East right-of-way line of Banjo Street, to a point for corner, said point being in the Southerly right-of-way line of West Little York Road.

THENCE, N 68° 00' E 22 feet along said South right-of-way line of West Little York Road, to a point for corner, said point also being the intersection of the Northerly extension of the West right-of-way line of Don Street and a corner in said City of Houston city limit line.

THENCE, South 790 feet along said Northerly extension of the West right-of-way line of Don Street, said extension of the West right-of-way line also being the City of Houston city limit line, to a point for a corner, said point being the intersection with the North line of the Melrose Gardens Subdivision, said point also being a corner of said city limit line.

THENCE, West 801 feet along said North line of the Melrose Gardens Subdivision, said North line also being the City of Houston city limit line, to a point for corner, said point being the Northwest corner of the Melrose Gardens Subdivision, said point also being a corner of said city limit line.

THENCE, South a distance of 1643 feet along the West line of said Melrose Gardens Subdivision and the West line of the Stuebner-Airline Road Addition, said West line also being the City of Houston city limit line, to a point for corner, said point also being the Southwest corner of said Stuebner-Airline Road Addition, said point also being a corner of said city limit line.

THENCE, East 850 feet along the South line of the Stuebner-Airline Road Addition, said South line also being the City of Houston city limit line, to a point for a corner, said point being in the East line of the H & T C R R Survey, Abstract 430, said point also being a corner of said city limit line.

THENCE, South a distance of 5255 feet along said east line of the H & T C R R Survey, Abstract 430, said East line also being the City of Houston city limit line, to the point of Beginning, and containing 4199.5 acres, more or less.

Sec. 2A. Any territory of this District, as described by the field notes of this Act, which overlaps any area of Harris County Water Control and Improvement District Number 23 of Harris County, Texas, shall be and is, as of the effective date of this Act, deleted and eliminated from the area and boundaries of said Harris County Water Control and Improvement District Number 23.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or incon-

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sistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. After the Directors of District have qualified by giving bond and taking the oath of office, and before such District shall incur any indebtedness, and within 30 days after the date of the first meeting of said Board of Directors they shall make and publish an order calling an election within and for such District for the purpose of confirming the organization of the District by a vote of the qualified resident property taxpaying voters. The ballots for such election shall contain the proposition: "For confirmation of District" and "Against confirmation of District."

The aforesaid election shall be held as provided in Chapter 3A, Title 128, Revised Civil Statutes of the State of Texas. Provided, however, that the proposition for the issuance of preliminary bonds or any bonded indebtedness may not be submitted at such confirmation election.

If the majority of those voting at such confirmation election vote in favor of the confirmation of the District, the same will finally thereby be confirmed and ratified. If the majority of those voting at such election vote against the District, it shall have no authority or validity.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

O. L. Dawson  
F. N. Williams  
Theodore C. R. Randle  
Albert B. Brewer  
R. H. Ward

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of

a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The Directors named in this Section shall serve until the day of the confirmation election held under Section 6 of this Act. In the call for confirmation, the Directors shall call an election for Directors. Two of the Directors elected at the time of the confirmation election, to be designated by lot, shall serve until the second Tuesday in January, 1966, and the other three Directors shall serve until the second Tuesday in January, 1967. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all powers conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Vernon's Texas Civil Statutes, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the Dis-



For Annotations and Historical Notes, see V.A.T.S.

trict hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d), of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the District and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Harris County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 5% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. This Act expires on the day after the day the results of the first bond election held under this Act are finally determined, if it is finally determined that the proposition for the bonds failed to carry at the election.

Sec. 25. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remain-

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der of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1371, ch. 617, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Acres Homes Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; deleting from Harris County Water Control and Improvement District Number 23 all area which overlaps the territory of this District; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for an election for confirmation, and related matters; providing for no hearing for exclusions except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of Directors; naming first Board of Directors; providing for terms and election of Directors and notice of Directors elections, and related matters; providing for Directors to fill vacancies; providing for organization of Board of Directors; providing for a secretary tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Pub-

lic Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Harris County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d), Constitution of Texas, as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880-75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Harris County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880-77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; providing an expiration date upon failure of bond election; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1371, ch. 617.

**Art. 8280—330. Wilcrest Improvement District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Wilcrest Improvement District"; hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Situated in Harris County, Texas, and being a 370.87-acre, more or less, tract of land in the Christiana Williams Survey, A-834, described as follows:

BEGINNING at a point in the north right-of-way line of Westheimer Road, 120 feet wide, which point is S 89° 49' W 180.00 feet from the

center line of Walnut Bend Lane at its intersection with the north right-of-way line of Westheimer Road, 120 feet wide, as shown on the map of Extension and Replat of Walnut Bend, Section 1, recorded in Volume 64, Page 40, Harris County Map Records, Harris County, Texas, said point of beginning being the southeast corner of the herein described tract.

THENCE, along the north right-of-way line of Westheimer Road, 120 feet wide, S 89° 49' W 1793.57 feet to a point for corner the southwest corner of the herein described tract, said point also being in the easterly line of a 150-foot wide Houston Lighting & Power Company fee strip.

THENCE, along the east line of the said 150-foot wide Houston Lighting & Power Company fee strip, N 00° 02' W 9534.53 feet to a point for corner, the northwest corner of the herein described tract.

THENCE, S 53° 28' 28" E 573.87 feet to a point for corner.

THENCE, S 36° 31' 32" W 50.00 feet to a point for corner.

THENCE, S 53° 28' 28" E 743.10 feet to a point for corner.

THENCE, S 89° 06' 34" E 793.84 feet to a point for corner, the northeast corner of the herein described tract.

THENCE, S 00° 09' 10" W 8692.46 feet to the place of beginning.

Containing 370.87 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own mo-

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tion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

Denzil F. Taylor,  
 Gerald A. Cox,  
 Sharon Locher,  
 Robert A. Harrison, and  
 J. Brown Cutbirth, Jr.

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a director of the District under this Act, the remaining directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting.

The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880-139, Revised Civil Statutes of Texas, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880-139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

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Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the District and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Harris County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 5% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and

operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1379, ch. 618, emerg. eff. June 17, 1965.

Title of Act:

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Wilcrest Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions, except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of

directors; naming first board of directors; providing for terms and election of directors and notice of directors elections, and related matters; providing for directors to fill vacancies; providing for organization of board of directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Harris County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act



For Annotations and Historical Notes, see V.A.T.S.

shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59 (d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District and related matters; providing that Article 7880-75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Harris County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of

bonds at such sale or exchange; providing that Article 7880-77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1379, ch. 618.

#### Art. 8280—331. Briarwick Improvement District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Briarwick Improvement District"; hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Situated wholly within Harris County, Texas, and being a tract of land containing 246.6366 acres, more or less, in the C. V. Uglow Survey, A-819, the T. T. R. R. Co. Survey No. 13, A-1009, and the T. T. R. R. Co. Survey No. 15, A-1023, and described by metes and bounds as follows:

BEGINNING at a point, said point being the southeast corner of Lot 1, Block 24, Mayfair Park Addition, an addition in Harris County, Texas, the plat of which is recorded in Volume 42, Pages 65 and 66, of the Map Records of Harris County, Texas, and said point being in the Harris County-Fort Bend County line.

THENCE, N 0° 03' 02" W 1239.68 feet along the east line of said Lot 1, Block 24, and continuing in the same direction across a street and along the east line of Block 12 of said Mayfair Park Addition, to a point.

THENCE, N 89° 55' 57" E, at a distance of 1396.92 feet pass the southwest corner of Lot 28, Nedderhut Subdivision, a subdivision in Harris County, Texas, in all a distance of 1652.70 feet to a point in the south line of Lot 27 of said subdivision.

THENCE, N 0° 02' 52" W 220.12 feet to a point in the north line of said Lot 27, said point being located N 89° 55' 57" E 57.89 feet from the northwest corner of said Lot 27.

THENCE, N 89° 55' 57" E 70.00 feet along the north line of said Lot 27 to a point.

THENCE, S 0° 02' 52" E 220.12 feet to a point in the south line of said Lot 27.

THENCE, N 89° 55' 57" E 465.78 feet along the south lines of said Lot 27 and of Lots 26 and 25 of said Nedderhut Subdivision, to a point, the southwest corner of Lot 24 of said Nedderhut Subdivision.

THENCE, N 0° 02' 52" W 220.12 feet along the west line of said Lot 24 to a point, the northwest corner of said Lot 24.

THENCE, N 89° 55' 57" E 98.22 feet along the north line of said Lot 24, to a point.

THENCE, S 0° 02' 52" E 220.12 feet to a point in the south line of said Lot 24.

THENCE, N 89° 55' 57" E 390.22 feet along the south line of said Lot 24, the deadend of Park Manor Street, and the south line of Lot 23 of said Nedderhut Subdivision to a point, the southeast corner of said Lot 23.

THENCE, N 0° 02' 52" W 140.12 feet along the east line of said Lot 23 to a point.

THENCE, S 89° 55' 57" W 232.00 feet to a point in the west line of said Lot 23.

THENCE, N 0° 02' 52" W 70.00 feet along the west line of said Lot 23 to a point.

THENCE, N 89° 55' 57" E 232.00 feet to a point in the east line of said Lot 23.

THENCE, N 0° 02' 52" W 703.25 feet along the east line of said Lot 23, and the east lines of Lots 22, 21, 20 and 19 of the said Nedderhut Subdivision, to a point, said point being located S 0° 02' 25" E 211.63 feet from the northeast corner of said Lot 19.

THENCE, N 89° 57' 52" W 116.00 feet to a point.

THENCE, N 0° 02' 52" W 211.63 feet to a point in the north line of said Lot 19, on the south side of Anderson Road.

THENCE, S 89° 57' 52" E 1174.42 feet along the south line of Anderson Road, to a point.

THENCE, S 0° 06' 08" W 2582.40 feet to a point in the south line of the C. V. Uglow Survey, A-819, and the north line of the T. T. R. R. Co. Survey No. 13, A-1009.

THENCE, S 89° 05' 52" E 1576.05 feet along the south line of the C. V. Uglow Survey, A-819, and the north line of the T. T. R. R. Co. Survey No. 13, A-1009, to a point, the southeast corner of the C. V. Uglow Survey, A-819, and the northeast corner of the T. T. R. R. Co. Survey No. 13, A-1009, in the west line of a Houston Lighting & Power Company right-of-way.

THENCE, S 0° 08' 43" E 1023.72 feet along the west line of said Houston Lighting & Power Company right-of-way, to a point, the southeast corner of the T. T. R. R. Co. Survey No. 15, A-1023.

THENCE, N 89° 50' 32" W 2964.61 feet along the south line of the T. T. R. R. Co. Survey No. 15, A-1023, to a point in the Harris County-Fort Bend County line.

THENCE, N 61° 48' 35" W 2657.90 feet along said Harris County-Fort Bend County line, to the place of BEGINNING.

Containing 246.6366 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16,

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Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successors shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

Ernest A. Jordan  
Fred Wyse  
E. C. Rottersmann  
Leon Deutser  
George D. Dean.

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January

1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice-president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice-president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

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Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the District and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Harris County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. Refunding bonds shall bear interest at a rate of more than 5% per annum. Refunding bonds shall be applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional,

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the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1385, ch. 619, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Briarwick Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of directors; naming first board of directors; providing for terms and election of directors and notice of directors elections, and related matters; providing for directors to fill vacancies; providing for organization of board of directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing

for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Harris County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Harris County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1385, ch. 619.

**Art. 8280—332. Bender Road Improvement District**

**Section 1.** Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Bender Road Improvement District"; hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

**Sec. 2.** The District shall comprise all of the territory contained within the following described area:

Lying in Harris County, Texas, and being 478.769 acres, more or less, out of the Simon Contreras Survey, A-220, and more particularly described as follows:

Beginning at the point of intersection of the East right-of-way line of U. S. Highway 75 and the North line of the Simon Contreras Survey,

A-220, marked by a one-inch galvanized iron pin, said point of beginning being the Northwest corner of the herein described tract.

THENCE, N 89° 52' E 3499.66 feet to a point.

THENCE, S 0° 16' W 126.04 feet to a 1½ inch iron pipe.

THENCE, S 58° 13' 30" E 175.45 feet to a 1-inch galvanized iron pin.

THENCE, S 89° 47' 30" E 2319.04 feet to a 1-inch galvanized iron pin.

THENCE, S 0° 04' W 1630.98 feet to a 1-inch iron pin.

THENCE, S 28° 26' 06" E 125.40 feet to a 1-inch pin.

THENCE, S 0° 04' W 1899.26 feet to a "T" rail.

THENCE, S 89° 58' 30" W 5043.77 feet to a 1-inch galvanized iron pin.

THENCE, N 16° 30' W 2002.15 feet to a 1-inch iron pin.

THENCE, N 16° 30' W 114.99 feet to a 1-inch iron pin.

THENCE, N 16° 30' W 287.38 feet to a point in the east right-of-way line of U. S. Highway 75.

THENCE, N 0° 22' E 540.16 feet to a point in the east right-of-way line of U. S. Highway 75.

THENCE, N 16° 26' W 1059.04 feet to the point of BEGINNING.

Containing 478.769 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.



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Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the directors of the District and shall constitute the Board of Directors of the District:

Norman R. Dobbins,  
E. J. Chromcak,  
George Paul,  
Ed Russell, and  
L. D. Brooks.

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission

for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as a depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on

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the proposed annexation and for having an election within the District and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Harris County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 5% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1392, ch. 620, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Bender Road Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions, except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of directors; naming first board of directors; providing for terms and election of directors and notice of directors elections, and related matters; providing for directors to fill vacancies; providing for organization of board of directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection dur-

ing construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Harris County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Harris County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds

For Annotations and Historical Notes, see V.A.T.S.

of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be

eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1392, ch. 620.

#### Art. 8280—333. West Road Improvement District

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "West Road Improvement District"; hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Situated in Harris County, Texas, and being a tract of land containing 406.9345 acres, more or less, in the S. Contreras Survey, A-220, lying on the east side of Airline Road, out of the southeast portion of said S. Contreras Survey, and being a portion of that certain tract conveyed to Ralph A. Johnston by E. W. Ogden by deed dated September 7, 1948, recorded in Volume 1819, Page 651, Deed Records of Harris County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod at the southeast corner of the S. Contreras Survey, A-220.

THENCE, S 89° 48' 22" W following a fence along the south line of said S. Contreras Survey, a distance of 3834.12 feet to a ½" iron rod on the easterly right-of-way line of Airline Road, 100 feet wide, for the southwest corner of the herein described tract.

THENCE, N 16° 28' 59" W along the easterly right-of-way line of Airline Road, 100 feet wide, a distance of 4171.07 feet to a 1" galvanized iron pipe for the northwest corner of the herein described tract.

THENCE, S 89° 59' 50" E following the trace of an old fence line, a distance of 5042.49 feet to a point in the east line of said S. Contreras Survey for the northeast corner of the herein described tract.

THENCE, S 00° 21' 30" W along the east line of said S. Contreras Survey, a distance of 3986.53 feet to the place of BEGINNING.

Containing 406.9345 acres, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

Anne Q. Holcombe  
Marietta Pickens  
Ewing R. Hill  
Robert W. Reynolds  
Rudene Graham.

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be

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held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This district is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of the creation of the district only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and

not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, 1925, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the district and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this district. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the district lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Harris County, Texas. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less



For Annotations and Historical Notes, see V.A.T.S.

than 100% of their face value nor shall bear interest at a rate of more than 5% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1398, ch. 621, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Tex-

as, known as "West Road Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field

notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the General Laws of Texas applicable to water control and improvement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of directors; naming first board of directors; providing for terms and election of directors and notice of directors elections, and related matters; providing for directors to fill vacancies; providing for organization of board of directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Harris

County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Harris County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1398, ch. 621.

**Art. 8280—334. Bordersville Improvement District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Bordersville Improvement District"; hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area:

Situated in Harris County, Texas, and being a tract of land containing 408.4315 acres, more or less, out of the A. R. Bodman Survey, A-139, the William Hobby Survey, A-345, the C. C. Shelby Survey, A-693, and the Jacob Armstrong Survey, A-89; said 408.4315 acres being described by metes and bounds as follows:

**BEGINNING** at the point of intersection of the center line of State Road FM 1960 and the center line as extended of West Main Street in Humble, Texas, said point being in the east line of said C. C. Shelby Survey, and in the west line of the Wherry B. Adams Survey, A-95.

**THENCE**, N 2° 29' E 573.5 feet along the east line of said C. C. Shelby Survey and the west line of said Wherry B. Adams Survey to the northeast corner of said C. C. Shelby Survey and the southeast corner of the Jesse Pruitt Survey, A-1304, for a corner of the herein described tract.

**THENCE**, N 89° 21' W 2308.3 feet along the south line of said Jesse Pruitt Survey to a point for corner, said point being the southwest corner

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of said Jesse Pruitt Survey and the southeast corner of said William Hobby Survey, and being in the north line of said C. C. Shelby Survey.

THENCE, N 1° 00' E 708.4 feet to a point for corner in the west line of said Jesse Pruitt Survey and the east line of said William Hobby Survey.

THENCE, N 89° 00' W 2761.4 feet to a point for corner in the west line of said William Hobby Survey and the east line of said A. R. Bodman Survey.

THENCE, N 1° 00' E 381.40 feet along the west line of said William Hobby Survey and the east line of said A. R. Bodman Survey to a point for corner.

THENCE, N 89° 22' W 1594.00 feet to a point for corner.

THENCE, S 0° 38' W 1681.20 feet to a point for corner in the center line of State Road FM 1960, said point being in the south line of said A. R. Bodman Survey and in the north line of said Jacob Armstrong Survey.

THENCE, S 89° 22' E 343.60 feet along the center line of State Road FM 1960 to a point for corner.

THENCE, S 0° 38' W 1956.00 feet to a point for corner.

THENCE, S 89° 22' E 1250.40 feet to a point for corner in the east line of said Jacob Armstrong Survey and in the west line of said C. C. Shelby Survey.

THENCE, N 1° 00' E 404.00 feet along the west line of said C. C. Shelby Survey and the east line of said Jacob Armstrong Survey to a point for corner.

THENCE, S 89° 22' E 4991.46 feet to a point for corner in the east line of said C. C. Shelby Survey and in the west line of said Wherry B. Adams Survey.

THENCE, N 2° 29' E 1552.72 feet along the east line of said C. C. Shelby Survey and the west line of said Wherry B. Adams Survey to the place of BEGINNING.

Containing 408.4315 acres of land, more or less.

Sec. 3. It is determined and found that the boundaries and field notes of the District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of the District, or the right of the District to issue any type or kind of bonds or refunding bonds for the purposes for which the District is created, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or the legality or operation of the District or its governing body, which shall be a Board of Directors as hereinafter provided.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and project which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Such Director shall not be required to own land in the District prior to the awarding of construction contracts by the District, but before any such contract is awarded, each Director shall be required to own land situated within the District and subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the following named persons, all of whom are twenty-one (21) years of age or over and residents of the State of Texas, shall be the Directors of the District and shall constitute the Board of Directors of the District:

Thomas Phillips  
Teroy Hooper  
Allen W. Jones  
George Junior Hawkins  
J. H. Stewart.

If any of the aforementioned persons shall fail or refuse to serve, die, become incapacitated or otherwise not be qualified to assume the duties of a Director of the District under this Act, the remaining Directors shall appoint a successor or successors. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the above-named Directors shall serve until the second Tuesday in January 1966, or as herein provided; and the following three of the above-named Directors shall serve until the second Tuesday in January 1967, or as herein provided. An election for Directors shall be held on the second Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. The annual elections shall be ordered by the Board of Directors. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform

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all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Article 7880—139, Revised Civil Statutes of Texas, 1925, as amended; and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Harris County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the

District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Article 7880—75b, Revised Civil Statutes of Texas, 1925, as amended, shall be applicable to this District in all respects except that no territory may be annexed to this District pursuant to said Article without the written consent of at least a three-fourths majority of the landowners within the territory to be annexed, such three-fourths majority to be both in number of landowners and in value of land as shown by the tax rolls of the county in which is situated the territory to be annexed. The provisions of said Article 7880—75b pertaining to the holding of a hearing on the proposed annexation and for having an election within the District and a separate election within the territory to be annexed and requiring said annexation to be ratified by the vote required in said Act, shall be applicable to this District. Anyone owning land or an interest in land affected by such annexation may within thirty (30) days of the date of the canvassing order of such elections file a petition to review, set aside, modify or suspend such annexation in the district court in the county where the District lies. After said thirty (30) days has expired for the filing of such suit, there shall be no judicial review of said annexation and said annexation shall be conclusive for all purposes.

Sec. 17. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct, or to purchase or construct, or otherwise to acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase or acquire all necessary land, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services. The District may exercise any of the rights, powers, and authorities granted in this Act within or without the boundaries of the District, but only within the boundaries of Harris County, Texas. In addition to the powers and purposes authorized by the General Law, pertaining to water control and improvement districts, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Bonds of the District other than refunding bonds may be sold at a price and upon the terms determined by the Board of Directors of the District, but shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than 100% of their face value nor shall bear interest at a rate of more than 5% per annum. Refunding bonds shall be sold at a price and under the terms of the General Law applicable to water control and improvement districts. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds shall not be on a basis of less than 100% of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified; provided that no notice given pursuant to Article 7880—117, Revised Civil Statutes of Texas, 1925, as amended, shall be predicated upon or require the exchange of bonds or refunding bonds, and said Article shall otherwise be applicable to this District in all respects.

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Sec. 19. The provisions of Article 7880—77b, Revised Civil Statutes of Texas, 1925, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a District where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of six months from the date of the bond election which failed.

Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1404, ch. 622, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article 16, Section 59, Constitution of Texas, known as "Bordersville Improvement District"; declaring District a governmental agency, body politic and corporate; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding a benefit to all land and other property within the District; finding that District is created to serve a public use and benefit; conferring on District the rights, powers, privileges, authority and duties of the general laws of Texas applicable to water control and im-

provement districts created under Article 16, Section 59, Constitution of Texas, where not in conflict with this Act and adopting same by reference; providing for no election for confirmation; providing for no hearing for exclusions except under certain conditions; providing for no hearing on plan of taxation and adopting ad valorem plan of taxation for the District; providing for governing body of District; providing for qualifications and bonds of directors; naming first board of directors; providing for terms and election of directors and notice of directors elections, and related matters; providing for directors to fill vacancies; providing for organization of board

of directors; providing for a secretary pro tem; providing for employment of engineers, auditors, attorneys, and other employees; providing for approval of District's plans and specifications by the Texas Water Commission and inspection during construction by said Commission; providing for bonds and refunding bonds to be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas and providing for negotiability, legality, validity, obligation, incontestability of the bonds and refunding bonds; providing the power of eminent domain shall be limited to Harris County; providing District shall bear expenses of relocating, raising or rerouting of any highway, railroad, or utility lines or pipelines made necessary by its exercise of the power of eminent domain; providing that the Municipal Annexation Act shall have no application to the creation of this District; determining and finding the requirements of Article 16, Section 59(d) as to notice of intention to introduce this Act have been fulfilled and accomplished; providing for the selection of a depository

or depositories for the District, and related matters; providing that Article 7880—75b shall be applicable to this District but requiring additional requisites prior to annexation of territory, and related matters; providing additional powers of District within and without boundaries of District but limited to Harris County; providing for the sale of bonds of the District and the exchange of bonds for property and for the minimum price of bonds at such sale or exchange; providing that Article 7880—77b shall not be applicable to this District, and related matters; providing that notice of all elections shall be under hand of president or secretary; providing for canvassing election returns; providing the bonds of this District and their transfer and income therefrom and profits thereon and purchases made by District shall be tax-free in this State; providing the bonds and refunding bonds of this District shall be eligible investments; enacting other provisions related to the aforementioned subjects; providing for a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1404, ch. 622.

#### Art. 8280—335. Lipan Creek Flood Control District

##### District created

Section 1. Pursuant to and expressly authorized by Section 59, Article XVI of the Constitution of the State of Texas and in addition to all other districts into which the State has been divided heretofore, there is hereby created a conservation and reclamation district to be known as "Lipan Creek Flood Control District" (hereinafter referred to as "District"), which shall be a governmental agency, a body politic and corporate, and a political subdivision of this State.

##### District's powers

Sec. 2. The District herein created shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force, or hereafter enacted, applicable to conservation and reclamation districts created under authority of Article XVI, Section 59 of the Constitution of Texas, but to the extent that the provisions of any such General Law may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

In no manner limiting the right, power and authority of the District, as heretofore granted, but specifically granting to the District herein created the right, power and authority, to control, store and distribute the waters and floodwaters within the District for the conservation, preservation, reclamation and improvement of the soil and lands or in aid thereof within the District; to carry out flood prevention measures; to prevent or aid in the prevention of damage to land and soil and the fertility thereof; to engage in land treatment measures; to prevent deterioration, erosion and loss of land and soil; to carry out preventative and control measures within the District; to construct, acquire, improve, carry out, maintain, repair and operate dams, structures, projects and works of improvement for flood prevention (including structural and land treatment measures) and for agricultural and land treatment measures and for agricultural phases of the conservation, development, utilization and disposal



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of water within the District and to purchase or acquire other facilities and equipment necessary in connection therewith and to engage in activities necessary to carry out these functions; to obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property, real or personal, or rights or interest therein within the District necessary to carry out the purposes of this Act, and to maintain, administer and improve any properties acquired; to purchase or acquire lands, easements or rights-of-way within the District necessary to carry out the purposes of this Act; to cooperate with other conservation districts, county officials, conservation officials and personnel of the county, State and Federal Government, State Soil Conservation Board, State Agricultural Department, Secretary of Agriculture of the United States and other county, State and Federal agencies and departments in order to carry out the purposes of this Act. Without limiting the generality of the foregoing, the District shall be and it is hereby empowered to cooperate with the State and Federal Government, their agencies, departments and representatives in obtaining assistance, aid, benefits, grants, credit and money as provided in Public Law 566, Eighty-third Congress of the United States, Chapter 656, and amendments thereto; and to have, exercise and be vested with all of the rights, powers, privileges and authority conferred and imposed by the General Laws of this State now in force, or hereafter enacted applicable to conservation and reclamation districts created under authority of Article XVI, Section 59 of the Constitution of Texas.

#### Territory comprising the district

Sec. 3. It is expressly determined and found that all of the territory included within the area of the District will be benefited by the works and improvements which are to be accomplished and provided by the District pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas, and this Act. The area of the District shall consist of lands situated in Tom Green and Concho Counties, Texas, and enclosed within the following metes and bounds description, to wit:

BEGINNING at the NE corner of John Sanderson Survey 96, S. P. R. R. Co., District 11, Abstract 7367, Tom Green County, Texas, said point also being the NW corner of Pat Flynn Survey 76, Tom Green County, Texas;

THENCE, West along the North line of said John Sanderson Survey 96 to its NW corner;

THENCE, South along the West line of said John Sanderson Survey 96, to its SW corner, said point also being the NE corner of S. P. R. R. Co., Survey 75, Tom Green County, Texas;

THENCE, West along the North line of said S. P. R. R. Co. Survey 75; to its NW corner;

THENCE, South along the West lines of said S. P. R. R. Co. Survey 75 and Absalom Jett Survey 75½, Tom Green County, Texas, to its most westerly SW corner;

THENCE, East along the South line of said Absalom Jett Survey 75½ to a point in said line being the most easterly NE corner of Mrs. H. R. Ten Eyck Survey 9, Tom Green County, Texas;

THENCE, South along the East line of said Mrs. H. R. Ten Eyck Survey 9 to its SE corner, said point also being in the North line of Washington County School Land Survey 105, Tom Green County, Texas;

THENCE, East along the North line of said Washington County School Land Survey 105, to its NE corner;

THENCE, South along the East line of said Washington County School Land Survey 105 to its SE corner;

THENCE West along the South line of said Washington County School Land Survey 105 to a point being the NE corner of Washington County School Land Survey 103, Tom Green County, Texas;

THENCE, South along the East line of said Washington County School Land Survey 103 to its SE corner;

THENCE, West along the South line of said Washington County School Land Survey 103, to a point being the NW corner of H. & T. C. R. R. Co. Survey 1, Block 25, Tom Green County, Texas;

THENCE, South along the West lines of said H. & T. C. R. R. Co. Survey 1, and Will Adams Survey 4, and H. & T. C. R. R. Co. Survey 7, Block 25, Tom Green County, Texas, to its SW corner;

THENCE, East along South line of said H. & T. C. R. R. Co. Survey 7 to its SE corner, said point also being the NW corner of H. & T. C. R. R. Co. Survey 9, Block 25, Tom Green County, Texas;

THENCE, South along the West line of said H. & T. C. R. R. Co. Survey 9 to its SW corner;

THENCE, East along the South line of said H. & T. C. R. R. Co. Survey 9 to its SE corner, said point also being the NW corner of John W. Blue Survey 3, Tom Green County, Texas;

THENCE, South along the West line of said John W. Blue Survey 3 to its SW corner;

THENCE, East along the South line of said John W. Blue Survey 3 to a point being the NW corner of H. & T. C. R. R. Co. Survey 15, Block 25, Tom Green County, Texas;

THENCE, South along the West line of said H. & T. C. R. R. Co. Survey 15, to its SW corner;

THENCE, East along the South line of said H. & T. C. R. R. Co. Survey 15 to its SE corner, said point also being the NW corner of H. & T. C. R. R. Co. Survey 21, Block 25, Tom Green County, Texas;

THENCE, South along the West line of said H. & T. C. R. R. Co. Survey 21 to its SW corner;

THENCE, East along the South line of said H. & T. C. R. R. Co. Survey 21 to its SE corner, said point also being the NW corner of H. & T. C. R. R. Co. Survey 27, Block 25, Tom Green County, Texas;

THENCE, South along the West line of said H. & T. C. R. R. Co. Survey 27 to its SW corner;

THENCE, East along the South lines of said H. & T. C. R. R. Co. Survey 27, and E. T. Abbott Survey 28, Block 25, Tom Green County, Texas, to its SE corner, said point also being in the West line of H. A. Wooten S  $\frac{7}{8}$  Survey 10, Tom Green County, Texas;

THENCE, South along the West line of said H. A. Wooten Survey 10, to its SW corner;

THENCE, East along the South line of said H. A. Wooten Survey 10, to its SE corner, said point also being in the West line of J. W. Nosworthy Survey 22, Block A, H. & G. N. R. R. Co., Tom Green County, Texas;

THENCE, North along the West line of said J. W. Nosworthy Survey 22, to its NW corner;

THENCE, East along the North lines of said J. W. Nosworthy Survey 22, and H. & G. N. R. R. Co. Survey 21, and W. A. Threadgill, Jr. Survey 20, and John Gibson Survey 19, Block A, Tom Green County, Texas, to its NE corner, said point also being the SW corner of B. S. & F. Survey 17, Block A, Tom Green County, Texas;

THENCE, North along the West line of said B. S. & F. Survey 17, to its NW corner;

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THENCE, East along the North line of said B. S. & F. Survey 17, to its NE corner, said point also being the SW corner of A. E. Lock Survey 20, Tom Green County, Texas;

THENCE, East along the South lines of said A. E. Lock Survey 20 and James Downing Survey 916, Tom Green County, Texas, to its SE corner;

THENCE, North along the East line of said James Downing Survey 916 to a point being the most Northerly NW corner of Lucinda Byfield Survey 3, Tom Green County, Texas;

THENCE, East along the North line of said Lucinda Byfield Survey 3, to its most northerly NE corner, said point also being the NW corner of H. E. & W. T. R. R. Co. Survey 1, Tom Green County, Texas;

THENCE, East along the North line of said H. E. & W. T. R. R. Co. Survey 1, to its most northerly NE corner, said point being in the West line of W. F. C. Vernon Survey 2, Tom Green County, Texas;

THENCE, South with the West line of said W. F. C. Vernon Survey 2, to its SW corner;

THENCE, East along the South line of said W. F. C. Vernon Survey 2, to its most southerly SE corner;

THENCE, North along the East line of said W. F. C. Vernon Survey 2, to a corner being also the NW corner of David Welsh Survey 18, Tom Green County, Texas;

THENCE, East along the common line of said W. F. C. Vernon Survey 2 and the David Welsh Survey 18, to the most easterly SE corner of said W. F. C. Vernon Survey 2;

THENCE, North along the East line of said W. F. C. Vernon Survey 2, to its NE corner;

THENCE, West along the North line of said W. F. C. Vernon Survey 2, to its NW corner, said point being in the West line of Fisher & Miller Survey 907, Tom Green County, Texas;

THENCE, North along the East line of Fisher & Miller Survey 907, and J. L. Kosse Survey 908, Tom Green County, Texas, to its NE corner, said point also being the South line of W. D. Hillyer Survey 3;

THENCE, East along the South line of said W. D. Hillyer Survey 3, to its SE corner;

THENCE, North along the East line of said W. D. Hillyer Survey 3, and S. P. R. R. Co. Survey 177, Tom Green County, Texas, to a point in its East line, the same being the SW corner of L. C. DeRenne Survey 176, Tom Green County, Texas;

THENCE, East along the South line of said L. C. DeRenne Survey 176, to its SE corner;

THENCE, North along the East lines of said L. C. DeRenne Survey 176, and S. P. R. R. Co. Survey 173, and C. Von Carlowitz Survey 146, and S. P. R. R. Co. Survey 143, and Thomas Dolan Survey 116, and S. P. R. R. Co. Survey 41, Tom Green County, Texas, to its NE corner, said point also being in the South line of Joseph Bays Survey, Abstract 7752, Tom Green & Concho Counties, Texas;

THENCE, East along the South line of said Joseph Bays Survey, crossing the Tom Green—Concho Counties line to the SW corner of S. H. Henderson Survey 34, Concho County, Texas;

THENCE, North along the West line of said S. H. Henderson Survey 34 and S. P. R. R. Co. Survey 33, and Gustav Werner Survey 1675, and Jacob Schwend Survey 1673, and Deitrich Bohls Survey 1636, Concho County, Texas, to its NW corner;

THENCE, East along the North line of said Dietrich Bohls Survey 1636, to its NE corner, said point also being the SE corner of J. H. W. Klausen Survey 1635, Concho County, Texas;

THENCE, North along the East line of J. H. W. Klausen Survey 1635, to its NE corner, said point also being the SW corner of W. T. Brown Survey 204, Concho County, Texas;

THENCE, East along the South lines of said W. T. Brown Survey 204, and M. M. Burke Survey 204, to its SE corner, said point also being the SW corner of S. P. R. R. Co. Survey 13, Concho County, Texas;

THENCE, North along the West line of said S. P. R. R. Co. Survey 13, and Henry Ford Survey 12, Concho County, Texas, to its NW corner, said point also being the SW corner of Franz V. Wamelm Survey 1621, Concho County, Texas;

THENCE, East along the South line of said Franz V. Wamelm Survey 1621, to its SE corner;

THENCE, North along the East line of Franz V. Wamelm Survey 1621, to its NE corner, said point also being in the South line of Christina Diehl Survey 1622, Concho County, Texas;

THENCE, East along the South line of the Christina Diehl Survey 1622, to its SE corner;

THENCE, North along the North line of said Christina Diehl Survey 1622, to its NE corner;

THENCE, West along the North line of said Christina Diehl Survey 1622 to a point being the most southerly SE corner of M. D. McDaniel Survey, Concho County, Texas;

THENCE, North along the East line of said M. D. McDaniel Survey to a point being the most northerly NW corner of Louis Gaethel Survey 4, Concho County, Texas;

THENCE, East along the North line of said Louis Gaethel Survey 4, to a point being the most westerly SW corner of D. E. Sims Survey 1, Concho County, Texas;

THENCE, North along the West line of said D. E. Sims Survey 1, to a point in the South line of Johann Frey Survey 1600;

THENCE, East along the South line of Johann Frey Survey 1600 to its SE corner;

THENCE, North along the East line of said Johann Frey Survey 1600 to the SW corner of German Emigration Co. Survey 132;

THENCE, East along the South line of said German Emigration Co. Survey 132, to its SE corner;

THENCE, North along the East line of said German Emigration Co. Survey 132, to the SW corner of German Emigration Co. Survey 131;

THENCE, East along the South line of said German Emigration Co. Survey 131, to its SE corner, said point being in the West line of German Emigration Co. Survey 130;

THENCE, South along the West line of said German Emigration Co. Survey 130, to its SW corner;

THENCE, East along the South line of German Emigration Co. Survey 130, to its SE corner;

THENCE, North along the East line of said German Emigration Co. Survey 130, to the SW corner of German Emigration Co. Survey 129;

THENCE, East along the South line of German Emigration Co. Survey 129, to its SE corner;

THENCE, North along the East line of said German Emigration Co. Survey 129, to its NE corner, also being a point on the South Bank of the Concho River;

THENCE, Westerly upstream with the meanders of the said Concho River along its South Bank for an approximate distance of 5 miles to a point on said South Bank of said Concho River, said point being the NE

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corner of German Emigration Co. Survey 143, Concho County, Texas, and said point also being the NW corner of German Emigration Co. Survey 142, Concho County, Texas;

THENCE, South along the East line of said German Emigration Co. Survey 143, to its SE corner;

THENCE, West along the South line of said German Emigration Co. Survey 143, to its SW corner, Concho County, Texas, said point being in the East line of German Emigration Co. Survey 546, Concho County, Texas;

THENCE, South along the East line of said German Emigration Co. Survey 546, to its SE corner;

THENCE, West along the South line of said German Emigration Co. Survey 546, to its SW corner;

THENCE, North along the West line of said German Emigration Co. Survey 546, to a point at which the North line of Jacob A. Metzger Survey 1605, Concho County, Texas, intersects said line;

THENCE, in a westerly and southerly direction along and following the common line of said Jacob A. Metzger Survey 1605 and N. B. Giddings Survey 1605½, Concho and Tom Green Counties, Texas, and crossing the Concho-Tom Green County line, to the most westerly SW corner of said Jacob A. Metzger Survey 1605, said point being in the North line of the M. W. Schaw Survey 1606, Tom Green and Concho Counties, Texas;

THENCE, in a westerly direction along and following the common line of said M. W. Schaw Survey 1606 and said N. B. Giddings Survey 1605½ to the most easterly NE corner of the H. P. Brewster Survey 1607, Tom Green County, Texas;

THENCE, in a westerly and northerly direction along and following the common line of said H. P. Brewster Survey 1607 and said N. B. Giddings Survey 1605½, to the most easterly SE corner of Peter Kappes Survey 1609, Tom Green County, Texas;

THENCE, westerly and southerly along and following the common line of said Peter Kappes Survey 1609 and said H. P. Brewster Survey 1607, to the NE corner of Jacob Kreit Survey 1608, Tom Green County, Texas;

THENCE, South along the East lines of said Jacob Kreit Survey 1608 and Jacob Kreit Survey 1608½, Tom Green County, Texas, to its SE corner, said point being the NE corner of Peter Metzger Survey 1614, Tom Green County, Texas;

THENCE, West along the North lines of said Peter Metzger Survey 1614, and Leon Halfin Survey 1, and Anna Mertz Survey 1612, Tom Green County, Texas, to its NW corner;

THENCE, South along the West lines of said Anna Mertz Survey 1612, and M. S. Behringer Survey 1628, and Johann Danem Survey 1629, Tom Green County, Texas, to its SW corner, said points also being the NE corner of Jacob Banker Survey 1652, Tom Green County, Texas;

THENCE, West along the North line of said Jacob Banker Survey 1652, to its NW corner;

THENCE, South along the West line of said Jacob Banker Survey 1652, to the NE corner of the S/2 of A. D. Grigsby Survey 106, Tom Green County, Texas;

THENCE, West along the North line of said S/2 of A. D. Grigsby Survey 106, to its NW corner, said point being the NE corner of the S/2 of S. P. R. R. Co. Survey 107, Tom Green County, Texas;

THENCE, West along the North line of said S/2 of S. P. R. R. Co. Survey 107, to its NW corner, said point also being the NE corner of S/2 of C. H. Rathje Survey 108, Tom Green County, Texas;

THENCE, West along the North line of said S/2 of C. H. Rathje Survey 108, to its NW corner, said point being in the East line of S. P. R. R. Co. Survey 109, Tom Green County, Texas;

THENCE, South along the East line of said S. P. R. R. Co. Survey 109, to its SE corner;

THENCE, West along the South line of said S. P. R. R. Co. Survey 109, to its SW corner, said point being the NE corner of S. P. R. R. Co. Survey 101, Tom Green County, Texas;

THENCE, South along the East line of said S. P. R. R. Co. Survey 101, to the NE corner of S/2 of said S. P. R. R. Co. Survey 101;

THENCE, West along the North line of said S/2 of S. P. R. R. Co. Survey 101, to its NW corner, said point being the NE corner of the S/2 of Irving Eggleston Survey 100, Tom Green County, Texas;

THENCE, West along the North line of said S/2 of Irving Eggleston Survey 100, to its NW corner, said point being in the East line of S. P. R. R. Co. Survey 99, Tom Green County, Texas;

THENCE, South along the East line of said S. P. R. R. Co. Survey 99, to its SE corner;

THENCE, West along the South lines of said S. P. R. R. Co. Survey 99, and Irving Eggleston Survey E/2 of 98; and W. R. Butt Survey W/2 of 98; and S. P. R. R. Co. Survey 97, and H. T. & B. R. R. Co. Survey 1, Tom Green County, Texas, to its SW corner, said point being the NW corner of S. P. R. R. Co. Survey 95;

THENCE, South along the West line of said S. P. R. R. Co. Survey 95, to its SW corner, said point being the NE corner of John Sanderson Survey 96, and being the Place of Beginning, and containing 189,440 acres of land, more or less.

**No confirmation election, hearing on exclusion of land,  
plan of taxation necessary**

Sec. 4. It being hereby found and determined that all of the land included within the boundaries of the District will be benefited and that the District is created to serve a public use and benefit, it shall not be necessary for the Board of Directors to call a confirmation election, or to hold a hearing on the exclusion of lands, or a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District; and said Board of Directors shall have the right to exclude any lands in said District.

**Governing body of district**

Sec. 5. (a) All powers of the District shall be exercised by Board of seven (7) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be a Director unless he is a resident citizen of the State of Texas and at least twenty-one years of age, and owns land in the territorial limits of the District. Such Directors shall subscribe to the Constitutional Oath of office. A majority shall constitute a quorum.

(b) Immediately after this Act becomes effective, the following named persons shall be the Directors of said District, and shall constitute the Board of Directors of said District: Carl H. Feist, Route 3, San Angelo, Texas; E. G. Wilde, Wall Route, San Angelo, Texas; Frank J. Holik, Jr., Route 3, San Angelo, Texas; C. S. Calahan, Wall Route, San Angelo, Texas; Ben Book, Van Court, Texas; N. J. Dierschke, Route 3, San Angelo, Texas; and Fred R. Campbell, Route 1, Paint Rock, Texas.

If any of the aforementioned persons shall become incapacitated or otherwise not qualified to assume his duties under this Act, the remaining

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Directors shall appoint his successor. Succeeding Directors shall be elected or appointed as provided for in this Act.

(c) The first three Directors named above shall serve until the second Tuesday in January, 1966, and the remaining four Directors shall serve until the second Tuesday in January, 1967. An election of Directors shall be held on the second Tuesday in January of each year beginning on the second Tuesday in January, 1966, and as herein provided. Three Directors shall be elected in each even-numbered year and four Directors shall be elected in each odd-numbered year. The annual election shall be ordered by the Board of Directors. Notice of the election shall be published in a newspaper of general circulation in said District one (1) time at least thirty (30) days before the election. The election order shall state the time, place and purpose of the election; and the Board of Directors of said District shall appoint a presiding judge who shall appoint two clerks to assist in holding the election. Only qualified electors residing in the District shall be entitled to vote at said election. The candidates receiving the highest number of votes shall be declared elected. The returns of the election shall be made to and canvassed by the Board of Directors of said District, who shall enter an order declaring the results of the election.

(d) Any candidate for Director desiring to have his name printed on the ballot may do so by a petition so requesting, signed by not less than twenty-five residents of the District who are qualified to vote at the election. Such petition shall be presented to the Secretary of the Board of Directors. The petition shall be presented on such date as will allow not less than twenty (20) days between the date of presentation and the date of election.

(e) Any vacancies occurring in the Board of Directors shall be filled for the unexpired term by a majority vote of the remaining Directors.

(f) The Board of Directors of the District shall elect from its number, a president and a vice president, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act. The Board shall also appoint a secretary and a treasurer, who may or may not be members of the Board, and it may combine those offices. The treasurer shall make bond in such amount as may be required by the Board of Directors of the District. The Board may adopt a seal for the District.

(g) The Board of Directors, from time to time, shall be authorized to make or cause to be made surveys and engineering investigations for the information of the District to facilitate the accomplishment of the purposes for which the District is created; and may employ a general manager, attorneys, accountants, engineers or other technical or nontechnical employees or assistants, fix the amount and manner of their compensation and provide for the payment of all expenditures deemed essential to the proper operation and maintenance of the District and its affairs.

#### Exercise of eminent domain

Sec. 6. For the purpose of carrying out any power or authority conferred by this Act, the District shall have the right to acquire land and easements within the District by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Board of Directors. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the

relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

#### District may issue bonds

Sec. 7. (a) For the purpose of providing dams, structures, projects and works of improvement for flood prevention (including structural and land treatment measures), for the purchase and acquisition of lands, easements and rights-of-way and for agricultural phases of conservation, development and utilization and disposal of water, and for all other necessary facilities, equipment and properties in connection therewith and for the improvement, maintenance, repair and operation of same and for carrying out any other powers or authority conferred by this Act, the District is empowered to issue negotiable bonds payable from ad valorem taxes to be levied on all taxable property within the District. It shall be the duty of the Board of Directors to levy annual taxes sufficient to pay the bonds and interest thereon as such bonds and interest become due. Pending the use of bond proceeds for the purpose for which issued, the Board of Directors may invest same in obligations of or guaranteed by the United States of America. Such bonds shall be authorized by resolution of the Board of Directors, after having been voted as provided in Section 8, hereof, and shall be issued in the name of the District. Said bonds shall be signed by the President, attested by the Secretary, with the seal of the District impressed thereon. The interest coupons shall be executed by facsimile signatures of the said President and Secretary and the statute authorizing facsimile signatures and seals shall be applicable to the bonds if so provided in the resolution or resolutions authorizing same. They shall mature serially or otherwise in not to exceed forty (40) years from their date and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the District, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six per cent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest. Bonds may be issued in more than one (1) series and from time to time as required for carrying out the purposes of this Act. From proceeds from the sale of the bonds the District may set aside an amount for the payment of interest to accrue during construction and one (1) year thereafter, and a reserve interest and sinking fund. Proceeds from the sale of the bonds may also be used for the payment of any and all expenses incurred in accomplishing the purposes for which this District is created including but not limited to the payment of attorneys' fees, fiscal agents' fees, engineers' fees, and to pay the cost of printing and issuing the bonds.

(b) If the plans for works and improvements or amendments thereto contemplated by the District are prepared by the Soil Conservation Service, United States Department of Agriculture, and approved by the District's directors, it shall not be necessary for an engineer's report covering the plans and improvements to be constructed, together with the maps, plats, profiles and data fully showing and explaining same, be filed in the office of the District before an election is held to authorize the issu-



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ance of bonds in connection with such works and improvements and it shall not be necessary for such plans and specifications, engineering reports, profiles, maps and other data, or subsequent amendments thereto, to be approved by the Texas Water Commission prior to the issuance of such bonds; provided, however, that before the expenditure of any funds for the construction of any works and improvements, the approval of the Texas Water Commission shall be secured for that portion of the works and improvements to be constructed and it shall not be necessary for advance approval to be given for the entire project contemplated by the District, but approval may be secured or given on a separate or individual basis for that portion of the entire project or works and improvements to be constructed at any particular time and on which plans and specifications of the Soil Conservation Service, United States Department of Agriculture, have been prepared and submitted by the District to the Texas Water Commission.

#### Bond elections

Sec. 8. No bonds, except refunding bonds, shall be issued unless authorized at an election at which only the qualified electors who reside in the District, and who own taxable property therein, and who have duly rendered the same for taxation, shall be qualified to vote at said election, and unless a majority of the votes cast at said election is in favor of the issuance of the bonds. Such election may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and place or places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the maximum interest rate, the form of the ballot and the presiding judge for each voting place. The presiding judge serving at the voting place or places shall appoint at least two (2) clerks to assist in holding such election. The returns of the election shall be made to and canvassed by the Board of Directors of the District. Notice of elections for the issuance of bonds shall be given by publication of a substantial copy of the resolution calling the election in a newspaper of general circulation in the District once each week for two (2) consecutive weeks, the first publication to appear not less than fourteen (14) days prior to the date assigned for the election. Except as herein otherwise provided, the General Laws relating to elections shall be applicable.

#### Refunding bonds authorized

Sec. 9. The District is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon, without an election. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds. The provisions of this law with reference to the issuance of other bonds and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal and interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

#### Bonds to be approved by Attorney General of Texas

Sec. 10. After any bonds (including refunding bonds) are authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to

the validity thereof. If he finds such bonds have been properly authorized in accordance with the Constitution and this Act, he shall approve such bonds and the same then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds shall be valid, binding and enforceable obligations of the District and shall be incontestable for any cause.

#### **Taxes and tax elections authorized**

Sec. 11. The Board of Directors may upon a favorable majority vote of the qualified property taxpaying electors of the District, voting at an election held for the purpose within the boundaries of such District, levy, assess and collect annual taxes to provide funds necessary to construct or acquire, maintain and operate works, plants and facilities deemed essential or beneficial to the District and its purposes, and also when so authorized may levy, assess and collect annual taxes to provide funds adequate to defray the cost of the planning, maintenance, operation, organization and administration of the District. Elections for the levy of such taxes shall be ordered by the Board of Directors and notice thereof shall be given and same shall be held and conducted and the results thereof determined in the manner provided herein with relation to elections for the authorization of bonds. All taxes levied by the District for any purpose shall constitute a lien on the property against which levied and limitation shall not bar the enforcement or collection thereof. In calling an election for taxes under this Section 11, the Board of Directors shall specify the maximum rate of tax which is sought to be levied and no tax in excess of that amount may be levied without submitting the question of the increased rate of taxation at an election as provided.

#### **Levy, assessment and collection of taxes**

Sec. 12. The District shall have all the rights, powers, duties and functions and shall observe the procedures, insofar as the same may be applicable and not in conflict with this Act, in the levy, equalization and collection of ad valorem taxes as are provided for Water Control and Improvement Districts under Chapter 25, Acts of the Regular Session of the Thirty-ninth Legislature of Texas in 1925, as heretofore or hereafter amended and to provide anything necessary in the accomplishment of the foregoing in carrying out the purposes of this Act.

#### **District depository**

Sec. 13. The Board of Directors shall designate one or more banks to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that funds shall be remitted to the bank or banks of payment of principal of and interest on outstanding bonds of the District. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

#### **Bonds eligible for investment and to secure deposits**

Sec. 14. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians and sinking funds of cities, towns and villages, counties, school districts or other political subdivisions of the State of Texas, and for all public funds of the State of Texas, or its agencies including the State Permanent School Fund.

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Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

#### District and bonds exempt from taxation

Sec. 15. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

#### District declared essential

Sec. 16. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article XVI of the Constitution of Texas wherein it is required to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the State; that the District herein created is essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested. All the terms and provisions of the Act are to be liberally construed to effectuate the purposes herein set forth.

#### Savings clause

Sec. 17. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be done in such a manner as will conform thereto, whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure conformable to such Constitutions. If any provisions of this Act shall be invalid, such fact shall not affect the creation of the District, or the validity of any other provisions of this Act, and the Legislature here declares that it would have created the District and enacted the valid provisions of this Act, notwithstanding invalidity of any other provision or provisions hereof. Acts 1965, 59th Leg., p. 1419, ch. 628.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### Title of Act:

An Act creating the Lipan Creek Flood Control District and providing for its administration, powers and duties, financing and procedures; and declaring an emergency. Acts 1965, 59th Leg., p. 1419, ch. 628.

#### Art. 8280—336. Mason County River Authority

Section 1. Under and pursuant to the provisions of Article 16, Section 59, of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Mason County, Texas, to be known as Mason County River Authority, hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within, and have the same boundaries as, Mason County, Texas.

Sec. 3. The District is empowered to accept grants or to contract with the United States Government or the State of Texas or any agency, arm, branch, department, or political subdivision thereof, or any municipality, city, town, or any public or private corporation, or firm or person in connection with the exercise of any right, power, privilege, function or authority of this District or in aid thereof.

Sec. 4. It is determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59, of the Constitution; but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call or hold a confirmation election for the confirmation of the District.

Sec. 7. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusions of land or other property from the District.

Sec. 8. It shall not be necessary for the Board of Directors to call or hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 9. All powers of the District shall be exercised by a Board of six (6) Directors. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one (21) years of age or over and a resident of Mason County and own land therein. Each Director shall subscribe to the oath of office and shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of Directors shall constitute a quorum. Immediately after this Act becomes effective, the initial Board of Directors shall be appointed by a majority vote of the City Commission of the City of Mason, Texas. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two of the Directors appointed by such City Commission shall serve until the general election held in November, 1966, or as herein provided; and the next following two of the Directors appointed by such City Commission shall serve until the general election held in November, 1968, or as herein provided; and the next following two Directors appointed by such City Commission shall serve until the general election held in November, 1970, or as herein provided. An election for Directors shall be held at the same time in November of each year that a general election is held beginning in 1966, and two Directors shall be elected in each year that a general election is held. Except for initial terms herein stated, the terms of a Director shall be for six years and a third of said Board shall be elected every two years. The biennial elections shall be ordered by the Board of Directors. Notice of elections for Directors shall be by publication at least one time in a newspaper of general circula-

For Annotations and Historical Notes, see V.A.T.S.

tion in Mason County, and such publication shall be at least thirty (30) days prior to such election. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president, a vice president and a secretary of the Board of Directors and of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice president shall perform all duties and exercise all power conferred by this Act or the General Law upon the president when the president is absent or fails or declines to act. The secretary shall keep and sign the minutes of the meetings of the Board of Directors; and in his absence at any Board meeting, a secretary pro tem shall be named for that meeting who may exercise all the duties and powers of the secretary for such meeting, sign the minutes thereof, and attest all orders passed or other action taken at such meeting. The secretary shall be the custodian of all minutes and records of the District. The Board shall appoint all necessary engineers, attorneys, auditors and other employees. The Board shall adopt a seal for the District.

Sec. 10. Before issuing any construction bonds, the District shall submit plans and specifications therefor to the Texas Water Commission for approval in the manner required by Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended (codified as Article 7880—139, Vernon's Texas Civil Statutes); and District's project and improvements during the course of construction shall be subject to inspection in the manner provided by Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended (codified as Article 7880—139, Vernon's Texas Civil Statutes).

Sec. 11. When any kind of bonds or refunding bonds have been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of the State of Texas, and issued by the District, such bonds or refunding bonds shall be negotiable, legal, valid and binding obligations of the District and shall be incontestable for any cause.

Sec. 12. In the event that the District, in the exercise of the power of eminent domain or police power, or any other power, requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties or facilities, or pipelines, all such relocation, raising, lowering, rerouting, or changes in grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Chapter 160, Acts of the 58th Legislature, 1963 (Article 970a, Vernon's Texas Civil Statutes), and said Municipal Annexation Act shall have no application to this District.

Sec. 14. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Mason County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its

recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article 16, Section 59(d), of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided.

Sec. 15. The Board of Directors of the District shall select any bank or trust company in the State of Texas to act as depository of the proceeds of the bonds or revenues derived from the operation of the facilities of the District, and said depository shall furnish such indemnity bonds or pledge such securities or meet such other requirements as determined by the Board of Directors of the District. The District may select one or more depositories.

Sec. 16. Without limiting the powers granted to the District by this Act, the District shall specifically have the right, power, privilege, function, and authority to control, develop, store and preserve the waters and flood waters of the Llano and San Saba Rivers and their tributaries within Mason County, and to distribute same within or without the boundaries of the District for any beneficial or useful purpose and to purchase, acquire, build, construct, improve, extend, reconstruct, repair and maintain any and all dams, structures, waterworks systems, sanitary or storm sewer or drainage or irrigation systems, buildings, waterways, pipelines, distribution systems, ditches, lakes, ponds, reservoirs, plants, and facilities and any and all other facilities or equipment in aid thereof, and to purchase or acquire the necessary sites, easements, rights-of-way, land or other properties necessary therefor and to do any and all acts and things which may be necessary to the exercise of any or all of the rights, powers, privileges, functions and authority of the District; and same may be accomplished by any and all practical means, and the District may sell water and other services.

Sec. 17. In addition to the powers and purposes authorized by the General Law pertaining to water control and improvement districts created under Article 16, Section 59, of the Constitution of Texas, the District may issue any kind of bonds or refunding bonds for any or all of such purposes herein provided and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 18. Any kind of bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District, and may be sold at a private or public sale, but none of said bonds or refunding bonds shall be sold for less than ninety-five per cent of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price of work done or materials furnished or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase or in payment of the contract price for work done or materials furnished or services furnished shall not be on a basis of less than ninety-five per cent of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified.

Sec. 19. The provisions of Section 77b, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as added (codified as Article 7880—77b, Vernon's Texas Civil Statutes), or any other general law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election. Upon the failure of any bond election, a subsequent bond election may be called after the expiration of thirty (30) days from the date of the bond election which failed.

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Sec. 20. Notice of all elections may be given under the hand of either the president or the secretary of the District.

Sec. 21. The returns of all elections may be canvassed by the Board of Directors of the District at any time within seven (7) days after the holding of an election, or as soon thereafter as reasonably practicable.

Sec. 22. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution, and the District shall not be required to pay any tax or assessment on the project or any part thereof or on any purchases made by the District, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 23. All bonds and refunding bonds of the District shall be and are hereby declared to be legal, eligible and authorized investments for banks, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 24. The District may acquire the authority to levy an ad valorem tax if the Board of Directors calls an election to submit such question to the resident qualified property taxpaying voters; and a majority of the qualified property taxpaying voters participating in the election vote in favor of such tax.

The election shall be called, conducted, held, and the returns made thereof and all notices shall be given in the same mode and manner as required by General Law for bond elections in water control and improvement districts.

If the election carries, the Board shall have the authority to levy the amount or not to exceed the amount of tax specified in the order calling the election. The tax so authorized to be levied may be used to accomplish the purpose of the creation of the District or may be pledged without the necessity of another election to the payment of tax bonds for such purpose in accordance with the General Law governing water control and improvement districts.

If taxes are levied, the values of the property in said District shall be the same values as are shown on the county tax rolls, and the provisions of the General Law with reference to water control and improvement districts shall govern the appointment, qualification and duties of the District's tax assessor.

Sec. 25. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1965, 59th Leg., p. 1431, ch. 629, emerg. eff. June 17, 1965.

**Title of Act:**

An Act relating to the creation, organization, powers, and functions of a con-

servation and reclamation district in Mason County; and declaring an emergency. Acts 1965, 59th Leg., p. 1431, ch. 629.

**Art. 8280—337. Newton County Navigation District**

Section 1. There is hereby created within the State of Texas, in addition to the Districts into which the State has heretofore been divided, a Conservation and Reclamation District to be known as the "Newton County Navigation District" (hereinafter called the "District"). Such District shall be and is hereby declared to be a governmental agency and body politic and corporate with the powers of government and with the authority to exercise the rights, privileges and functions hereinafter specified, and the creation of such District is hereby determined to be essential to the accomplishments of the purposes of Section 59 of Article XVI of the Constitution of the State of Texas.

Sec. 2. The Newton County Navigation District shall include all of the territory lying within the watershed of the Sabine River and its tributary streams lying within the boundaries of Newton County as the same is made certain by the State contour maps now on file in the office of the Texas Water Commission, to which maps and records reference is here made, and it is hereby found and determined that all of the land included in the District shall be benefited by the exercise of the powers conferred by this Act. It is recognized that this boundary overlaps, in part, an area included within the Sabine River Authority of Texas as created by Chapter 110, page 193, Acts of the 51st Legislature, 1949, and nothing herein is intended to alter in any manner the rights, duties, privileges, powers and immunities of that agency.

Sec. 3. Except as expressly limited by this Act, the District shall have and is vested with all powers, rights, privileges and functions conferred upon navigation districts created pursuant to Section 59, Article XVI, of the Constitution of the State of Texas, and shall, likewise, have and is vested with all powers, rights, privileges and functions conferred upon navigation districts by General Law. Without limitations of the generality of the foregoing, the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions:

(a) The right, power and authority to promote, construct, maintain and operate and/or to make practicable, promote, aid and encourage the construction, maintenance and operation of navigable canals or waterways and all navigational systems or facilities auxiliary thereto, using the natural beds and banks of the Sabine River in so doing where practicable.

(b) The right, power and authority to acquire, purchase, improve, extend, take over, construct, maintain, repair, operate, develop and regulate ports, levees, wharves, docks, locks, warehouses, grain elevators, dumping facilities, belt railways, lands and all other facilities or aids to navigation or aids consistent with or necessary to the operation or development of ports or waterways within the District.

(c) To construct, extend, improve, repair, maintain and reconstruct or cause to be constructed, extended, improved, repaired, maintained and reconstructed, and own, use and operate any and all facilities of any kind necessary to the exercise of such powers, rights, privileges and functions as are herein granted.

(d) To sue and be sued in its corporate name.

(e) To adopt, use and alter a corporate seal.

(f) To make bylaws, rules and regulations for the management, control and regulation of its affairs.

(g) To employ officers, attorneys, agents and employees, to prescribe their duties and to fix their compensation.

(h) To make contracts and execute instruments necessary to the exercise of the powers, rights, privileges and functions conferred upon the District by this Act.



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(i) To borrow money for its corporate purpose consistent with the Constitution and General Laws of the State and, without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America or from any corporation or agency created or designated by the United States of America, and, in connection with any such loan or grant, to enter into such agreements as the United States of America or such corporation or agency may require and issue its bonds payable from revenues only for such money so borrowed.

(j) To acquire by gift or purchase any and all properties of any kind, including lighters, tugs, barges and other floating equipment of any nature, real, personal or mixed, or any interest therein within or outside of the boundaries of the District necessary to the exercise of the powers, rights, privileges and functions conferred upon it by this Act and by condemnation within the boundaries of the District in the manner provided by General Law for condemnation by counties, provided that the District shall not be required to give bond for appeal or bond for costs in any judicial proceedings.

(k) To expend all sums reasonably necessary or expedient for seeking cooperation in accomplishing the objects of this Act from the Federal Government and/or any and all other persons, creatures or entities, whether natural or creatures of law or contract.

(l) From time to time, to sell or otherwise dispose of any property of any kind, real, personal or mixed, or any interest therein which shall not be deemed necessary to the carrying on of the business of the District.

Sec. 4. All powers of the District shall be exercised by a Board of Directors (hereinafter called "Board"), each of whom shall serve for a period of two (2) years except for the Directors initially appointed. The Board shall consist of five (5) members. One member shall be appointed from each Commissioners Precinct of Newton County and one member shall be appointed from the county-at-large. The members initially appointed from Commissioners Precincts No. 2 and No. 4 shall serve until January 1, 1966, and the members initially appointed from Commissioners Precincts No. 1 and No. 3, and from the county-at-large shall serve until January 1, 1967. If a member of the Board shall die, become incapacitated or otherwise not be qualified to assume his duties under this Act, the Commissioners Court shall designate and appoint his successor who shall serve until his successor shall have been appointed and qualified for office.

Within not less than ten (10) or more than thirty (30) days prior to the expiration of the term of office of each Director, the Commissioners Court shall designate a successor, and each successor so appointed shall serve for a term of two years. All Directors shall hold office until their successors have been designated and have qualified as required by law. Before entering upon the duties of his office, each Director:

(a) Shall take the constitutional oath of office and the same shall be filed in writing with the Secretary of the Board; and

(b) Enter into a good and sufficient bond executed by a surety company authorized to do business in Texas as surety thereon in the sum of One Thousand Dollars (\$1,000), payable to the District, conditioned upon the faithful performance of his duties as Director. The cost of entering into said bond shall be paid by the District. The bond of the first Board of Directors shall be approved by the County Judge of Newton County and the bonds of all Directors thereafter appointed shall be approved by the Board of Directors.

Vacancies occurring on the Board shall be filled by appointment by the Commissioners Court. Any person over the age of twenty-one (21) years residing within the District and within the Commissioners Precinct

from which he is appointed and possessing the qualifications of a juror shall be eligible for appointment and to serve as a Director.

Sec. 5. No Director shall be paid any sum whatsoever for his services as a Board member or as a member of any committee authorized by the Board. Actual expense incurred by any member of the Board in performing any service for the District may be reimbursed if authorized and approved by the Commissioners Court.

Sec. 6. Any Director or officer shall be subject to removal or suspension from office by the affirmative vote of three (3) Directors for incompetency, official misconduct, official gross negligence, habitual drunkenness or for nonattendance at six (6) consecutive regular meetings of the Board, provided that no Director or officer shall be removed or suspended from office until charges in writing are filed against him and he is given opportunity for a fair hearing before the Board of Directors.

Sec. 7. At the first meeting of the Board after this Act becomes effective and the initial Board of Directors has qualified for and has taken office, and at the first meeting of the Board held in the month of January of each odd-numbered year commencing with the year 1967, there shall be appointed by a majority of the Board of Directors from its membership a Chairman, a Vice Chairman, a Secretary-Treasurer (these two offices to be combined) and, if deemed proper, an Assistant Secretary and an Assistant Treasurer who need not be a member of the Board of Directors and who may be granted limited powers in the bylaws. The officers so appointed shall serve for a term of two (2) years and until their successors have been appointed except that the Assistant Secretary and the Assistant Treasurer, if such officers are appointed, shall hold office at the pleasure of the Board. A quorum at all meetings of the Board of Directors shall consist of not less than three (3) members. All regular and special meetings of the Board of Directors shall be held as provided for by the bylaws and notice of all such meetings shall be given as required by the bylaws.

Sec. 8. Nothing in this Act shall be construed to authorize the levy or collection of ad valorem taxes upon any property, real, personal or mixed, lying within the District.

Sec. 9. The Board shall cause to be kept complete and accurate accounts conforming to approved methods of bookkeeping. Said accounts and all contracts, documents and records existing shall be kept at its principal office, all of which shall be open to public inspection at all reasonable times. The Board shall cause to be made and completed within ninety (90) days after the end of each calendar year or fiscal year, if the fiscal year shall be different from the calendar year, an audit of the books and accounts and financial records of the District for each year, such audit to be made by an individual certified public accountant or firm of certified public accountants. Copies of such audit, certified by said accountant or accountants, shall be filed with the County Clerk of Newton County, Texas, and at the principal office of the District and shall be open to public inspection at all reasonable times. The moneys of the District shall be distributed only on checks, vouchers, drafts, orders or other written instruments signed by such persons as shall be authorized to sign the same by a resolution of the Board of Directors.

Sec. 10. All officers, agents and employees of the District who shall be charged with the collection, custody or payment of any funds of the District shall give bond conditioned on the faithful performance of their duties and accounting for all funds and properties of the District coming into their respective hands, each of which bonds shall be in form and manner and with a surety authorized to do business in the State of Texas and approved by the Board of Directors. The premiums on such bonds shall be paid by the District and charged as operating expenses.

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Sec. 11. The Sabine River Authority of Texas heretofore created by the State of Texas, with powers provided in Section 59 of Article XVI of the Constitution of the State of Texas, shall have the authority, power and right to coordinate its plans with the District herein created, and shall have full authority, power and right to enter into joint undertakings for the purposes for which the District is created; provided, however, that all such acts must be approved by a majority vote of the Board of Directors of each District involved and by the Texas Water Commission or its successor. By this provision, the coordination of navigational planning functions and the joint undertaking of projects at the local and watershed levels are hereby encouraged as necessary for sound and orderly watershed development.

Sec. 12. The District shall have the authority, power and right to coordinate its plans with the Orange County Navigation and Port District and shall have full authority, power and right to enter into joint undertakings for the purposes for which the District is created; provided, however, that all such acts must be approved by a majority vote of the Board of Directors of each District involved and by the Texas Water Commission or its successor.

Sec. 13. For the purpose of providing funds for any of the purposes provided by this Act or other laws relating to navigation districts, the Board of Directors shall have the power from time to time to: (a) issue bonds for and on behalf of the District, which bonds may be secured solely by a pledge of and payable from the net revenues derived from the operation of all or a designated part of the improvements and facilities of the District then in existence or to be constructed or acquired, with the duty on the Board of Directors to charge and collect fees, tolls, and charges, so long as the bonds are outstanding, sufficient to pay all maintenance and operation expenses of the improvements and facilities (the income of which is pledged), the interest on such bonds as it accrues, the principal of such bonds as it matures, and to make any and all other payments as may be prescribed in the bond order or resolution; (b) issue bonds secured by a pledge of all or a part of the proceeds of any one or more contracts theretofore or thereafter made or other revenues or income specified by resolution of the Board of Directors.

Net revenues as used herein shall mean the gross revenues derived from the operation of those improvements and facilities of the District the income of which is pledged to the payment of the bonds less the reasonable expense of maintaining and operating said improvements and facilities, and said maintenance and operation expenses shall include, among other things, necessary repair, upkeep, and insurance of said improvements and facilities.

In the resolution or order adopted by the Board of Directors authorizing the issuance of bonds payable from net revenues or from the proceeds of a contract or contracts the Board may provide for the flow of funds, the establishment and maintenance of an interest and sinking fund, reserve funds, and other funds, and may make such additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of those improvements and facilities (the income of which is pledged), including provision for the leasing of all or a part of said improvements and facilities and the use or pledge of moneys derived from leases thereof, as it may deem appropriate. Said resolution or order may also prohibit the further issuance of bonds or other obligations payable from the pledged net revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said net revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said resolution or order. Such resolution or

order may contain such other provisions and covenants, as the Board of Directors shall determine, not prohibited by the Constitution of Texas or by this Act, and the Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of said bonds.

Bonds payable solely from net revenues may be issued by resolution or order of the Board of Directors, and no election therefor shall be necessary.

All bonds of the District shall be authorized by resolution or order of the Board of Directors, shall be issued in the name of the District, shall be signed by the Chairman and attested by the Secretary, and shall have the seal of the District impressed thereon; provided, that the resolution or order authorizing such bonds may provide for the bonds to be signed by the facsimile signatures of said Chairman and Secretary, either or both, and for the seal of the District on the bonds to be a printed facsimile seal of the District; and provided further, that the interest coupons, if any, attached to said bonds may also be executed by the facsimile signatures of said officers. Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and may be sold at a price and under terms determined by the Board of Directors to be most advantageous reasonably obtainable, provided that the interest cost to the District, does not exceed six per cent (6%) per annum calculated to the absolute maturity of the bonds, and within the discretion of the Board such bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the resolution or order authorizing the bonds. Such bonds may be made registerable as to principal, or as to both principal and interest.

After such bonds have been authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General of Texas for his examination as to the validity thereof, and after the Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of Texas. When such bonds have been approved by the Attorney General and registered by the Comptroller they shall thereafter be incontestable. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the District and another party or parties (public agencies or otherwise), a copy of such contract or contracts and of the proceedings authorizing the same shall be submitted to the Attorney General along with the bond record, and the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable.

From the proceeds of the sale of any bonds of the District, the Board of Directors may appropriate or set aside amounts for the payment of interest expected to accrue during the period of construction of the improvements or facilities, for reserve funds, and for expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds.

The Board shall have the power to borrow funds for current expenses and to evidence same by notes or warrants payable not later than the close of any calendar year for which loans are made, provided that all of such notes or warrants shall never exceed the anticipated revenue and may bear, not to exceed, six per cent (6%) interest.

Sec. 14. The Board of Directors shall have the power to issue refunding bonds of the District for the purpose of refunding any outstanding bonds of the District and accrued interest thereon. Such refunding bonds may be issued to refund more than one series or issue of such outstanding bonds and combine pledges for the outstanding bonds for the

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security of the refunding bonds, and such refunding bonds may be secured by other and additional revenues; provided, that such refunding will not impair the contract rights of the holders of any of the outstanding bonds which are not to be refunded.

Refunding bonds shall be authorized by resolution or order of the Board of Directors, and shall be executed and mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution or order authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option or maturity date, and the Comptroller shall register them without the surrender and cancellation of the original bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller, shall be incontestable.

Sec. 15. All bonds issued under this Act shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Sec. 16. (a) District shall apply to and obtain from the Texas Water Commission such permits as it may be required to do by the General Law.

(b) District shall fully comply with the Sabine River Compact and the creation of the Newton County Navigation District shall not in any way affect or alter such Compact.

(c) Prior to the issuance of any revenue bond or bonds, the proceeds of which are to be used in payment of any of the construction provided for or authorized by this Act, District shall submit to the Texas Water Commission or its successor plans and specifications for such construction, and obtain the approval of such Board.

(d) This Act and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

Sec. 17. The provisions of this Act are separable, and if any Section, or part thereof, shall be held unconstitutional or void by any court of competent jurisdiction for any reason, such holding shall not affect the validity of any other Section or part of this Act, and the same shall remain and be in full force and effect, and the Legislature hereby declares that it would have passed the remaining part or parts of this Act.

Sec. 18. It is hereby found that notice of intention to introduce this bill has been published at least thirty (30) days and not more than ninety (90) days prior to its introduction in newspapers having general circulation in counties in which said Authority is situated and in the manner provided by Article XVI, Section 59(d) of the Constitution, that a copy of said notice and of this bill as introduced were delivered to the Governor,

and the time, form and manner of giving said notice is hereby approved and ratified. The evidence of the foregoing was exhibited in the Legislature before the passage of this Act. Acts 1965, 59th Leg., p. 1475, ch. 645.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating a Conservation and Reclamation District under Article XVI, Section 59, of the Constitution, comprising the territory lying within the watershed of the Sabine River and its tributary streams lying within the boundaries of Newton County as the same is made certain by the State contour maps now on file in the office of the Texas Water Commission, to be known as the "Newton County Navigation District," for the purpose of promoting, constructing, maintaining and operating, or to make practicable, promote, aid and encourage the construction, maintenance, and operation of navigable canals or waterways and all navigational systems or facilities auxiliary thereto, using the natural bed and banks of the Sabine River in so doing where practicable; authorizing said District to acquire, purchase, improve, extend, take over, construct, maintain, repair, operate, develop and regulate ports, levees, wharves, docks, locks, warehouses, grain elevators, dumping facilities, belt railways, lands and all other facilities or aids to navigation or aids consistent with or necessary to the operation or development of ports or waterways within said District; authorizing the acquisition of other properties and equipment; providing that nothing in this Act shall in any manner alter the rights, duties, privileges, powers and immunities of the Sabine River

Authority of Texas; authorizing the Sabine River Authority of Texas to coordinate its plans with the District created by this Act and to enter into joint undertakings for such purpose upon certain terms and conditions; authorizing the Newton County Navigation District to coordinate its plans with the Orange County Navigation and Port District and to enter into joint undertakings for such purpose upon certain terms and conditions; requiring the District created by this Act to obtain such permits as are required by General Law from the Texas Water Commission or its successor; requiring that the District created by this Act shall fully comply with the Sabine River Compact; requiring the submission to and the approval by the Texas Water Commission, or its successor, of all plans and specifications for construction prior to the issuance of revenue bonds to obtain funds for the payment of such construction; conferring the power of eminent domain; providing for a Board of Directors for the government of said District; authorizing said District to borrow funds for its corporate purpose; authorizing the issuance of revenue bonds and providing for the payment and security thereof; prescribing other powers and duties of the District; enacting other provisions relating to the District; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1475, ch. 645.

**Art. 8280—338. Braeburn West Utility District**

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a Conservation and Reclamation District is hereby created and established in Harris County, Texas, to be known as "Braeburn West Utility District" (hereinafter called "the District") which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise an area in Harris County, Texas, a more particular description of the area of the District being as follows:

A tract of land out of the HT & B RR Co. Survey, Section 5, Block 10, A-397, Harris County, Texas, and the HT & B RR Co. Survey, Section 6, Block 10, A-1184, Harris County, Texas, said tract being described by metes and bounds as follows:

COMMENCING at the southeast corner of the said HT & B RR Co. Survey, Section 5, Block 10;

THENCE, S 89° 23' W a distance of 275.00 feet to a point;

THENCE, N 0° 57' W a distance of 30.01 feet to the POINT OF BEGINNING of the tract being described, said point being located in a curve in the north right-of-way line of Ruffino Road, and also being located N 0° 27' W a distance of 1.12 feet from an iron rod;

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THENCE, in a westerly direction along the arc of said curve, having a radius of 2698.67 feet and a central angle of 3° 33', a distance of 167.21 feet to an iron rod at the end of said curve;

THENCE, S 89° 23' W along the said north right-of-way line of Ruffino Road, based on a width of 70.00 feet, a distance of 2280.76 feet, more or less, to an iron rod;

THENCE, N 1° 19' W a distance of 2365.21 feet, more or less, to a 3-inch metal post;

THENCE, N 0° 35' W a distance of 1305.89 feet, more or less, to an iron rod in the south easement line of the drainage easement for Keegan's Bayou;

THENCE, along the said south easement line the following courses and distances;

N 79° 53' E, 136.11 feet;

N 33° 51' E, 373.05 feet;

N 50° 42' E, 369.53 feet;

N 78° 57' E, 290.64 feet;

N 63° 22' E, 293.06 feet;

S 75° 31' E, 407.84 feet;

N 62° 43' E, 273.13 feet;

N 85° 43' E, 365.71 feet;

N 54° 23' E, 140.78 feet;

N 23° 03' E, 177.14 feet;

N 33° 53' E, 192.82 feet;

N 44° 01' E, 341.40 feet to an iron rod in the east boundary line of the said HT & B RR Co. Survey, Section 5, Block 10 and the west boundary line of the E. R. Campbell Survey, A-1632, Harris County, Texas;

THENCE, S 0° 57' E, along the said east boundary line of the HT & B RR Co. Survey, Section 5, Block 10, passing at 1200 feet, more or less, the southwest corner of the said E. R. Campbell Survey and the northwest corner of the said HT & B RR Co. Survey, Section 6, Block 10, and continuing for a total distance of 1477.46 feet, more or less, to a ¾" iron pipe in the south boundary line of a Houston Lighting & Power Company fee strip;

THENCE, N 89° 09' E, along the said south boundary line of the Houston Lighting & Power Company fee strip a distance of 2598.33 feet, more or less, to an iron rod in the west right-of-way line of Riceville Road, based on a width of 60.00 feet;

THENCE, S 0° 57' E along the said west right-of-way line of Riceville Road a distance of 724.07 feet to an iron rod;

THENCE, S 89° 09' W a distance of 2598.33 feet, more or less, to an iron rod in the east boundary line of the said HT & B RR Co. Survey, Section 5, Block 10 and the west boundary line of the said HT & B RR Co. Survey, Section 6, Block 10;

THENCE, S 0° 57' E along the said east boundary line of the HT & B RR Co. Survey, Section 5, Block 10, and the said west boundary line of the HT & B RR Co. Survey, Section 6, Block 10, a distance of 311.17 feet to an iron rod;

THENCE, S 89° 16' W a distance of 275.00 feet to an iron rod;

THENCE, S 0° 57' E a distance of 2589.67 feet, more or less, to the POINT OF BEGINNING and containing 299.2 acres of land, more or less, SAVE AND EXCEPT, however, one tract of land containing approximately 8.7 acres, described hereafter as Exception 1, and leaving a net acreage of 290.5 acres of land, 247.3 acres being out of the said HT & B RR

Co. Survey, Section 5, Block 10, and 43.2 acres being out of the said HT & B RR Co. Survey, Section 6, Block 10.

#### EXCEPTION 1

A tract or parcel of land out of the George McCloud tract in the HT & B RR Co. Survey, Section 5, Block 10, A-397, Harris County, Texas, said tract or parcel being called Tract 2 of the partition of the George McCloud tract of land and being the same tract or parcel of land described in a deed from Rachel McCloud et al to R. C. Bufford et al, dated November 17, 1928 and recorded in Volume 781, page 591 of the Deed Records of Harris County, Texas.

Sec. 3. It is expressly determined and found that all of the land and other property included within the area and boundaries will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers herein conferred under the provisions of Article 16, Section 59, of the Constitution of Texas, and that such District was and is created to serve a public use and benefit.

Sec. 4. It is determined, and the Legislature hereby finds, that the boundaries of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said District, or the right of the District to issue bonds or refunding bonds, or to pay the principal and interest thereon, or any other manner affect the legality or operation of the District or its governing body.

Sec. 5. Subject to the specific limitations hereafter set out, the District shall have and exercise and is hereby vested with, all of the rights, powers and privileges, authorities and functions conferred and imposed by the General Laws of this State now in force and hereafter enacted, applicable to water control and improvement districts created under the authority of Article 16, Section 59 of the Constitution of Texas, but to the extent that the provisions of any such General Laws may be in conflict with or inconsistent with the provisions of this Act, the provisions in this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. The Board of Directors shall not call a confirmation election or a hearing on the adoption of a plan of taxation. The ad valorem plan of taxation shall be used. It shall not be necessary for the Board of Directors to call or hold a hearing on the exclusion of land or other property from the District; provided, however, that the Board of Directors shall hold such hearing upon the written request of any land or other property owner within the District filed with the Secretary of the Board prior to the calling of the first bond election for the District. Nothing in this Section shall be construed to prevent the Board on its own motion from calling and holding an exclusions hearing or hearings pursuant to the provisions of the General Law.

Sec. 7. The District is specifically granted the right, power and authority to purchase and construct, or purchase or construct, or otherwise plan, acquire and accomplish by any and all practical means waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, and any and all works, facilities, plants, equipment, and appliances in any and all manner incident to, helpful or necessary to such purposes, and to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase within or without the District, or to acquire by eminent domain within the District only, all necessary land, right of way, easements, sites, equipment,



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buildings, plants, structures and facilities therefor and to operate and maintain the same, and to sell its services and by-products, and to fix rates therefor; and the District may issue its bonds (whether funding or refunding) for such purposes and provide and make payment therefor and for necessary expenses in connection therewith; and subject to the limitations contained herein, the District shall have and exercise and is hereby vested with, all of the rights, powers, privileges, authority and functions conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under the authority of Article 16, Section 59, of the Constitution of Texas, and such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 8. All powers of the District shall be exercised by a Board of Directors consisting of five persons. Each Director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless such person is twenty-one years of age or over and a resident of the State of Texas. Such Director shall not be required to reside within the boundaries of the District. Before any contract for the construction of any of the facilities of the District is awarded, each Director shall be required to own land situated within the District and to be subject to taxation by the District. Each Director shall subscribe to the oath of office and give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. Immediately after this Act becomes effective, the following named persons shall be Directors of said District:

Phillip A. Masquelette

David Pollan

Gibson Gayle

James B. Sales

Wayne Fisher

If any of the foregoing persons shall die, become incapacitated, refuse to serve or otherwise not be qualified to assume their duties under this Act, the remaining Directors shall appoint his successor. The first two of the above-named Directors shall serve until the 2nd Tuesday in January, 1966; and the last three of the above-named Directors shall serve until the 2nd Tuesday in January, 1967, as provided herein. An election for Directors shall be held on the 2nd Tuesday in January of each year beginning in 1966, and two Directors shall be elected in that year and in each even-numbered year thereafter, and three in each odd-numbered year thereafter. Such election shall be ordered by the Board of Directors, shall be held in compliance with the Texas Election Code and notice of election shall be published once a week for three consecutive weeks in a newspaper of general circulation published in the county in which the District is located with the first publication to be at least twenty-one days prior to the election and no more than thirty-five days prior thereto. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a President and Secretary and such other officers as in the judgment of the Board are necessary. The Treasurer may be appointed by the Board and shall give bond in such amount as may be required by the Board, conditioned that he or it will faithfully account for all money which shall come into his or its custody as Treasurer of the District. The Board shall appoint all necessary engineers, attorneys, fiscal agents, managers, employees or other personnel as may be needed, and shall adopt a seal for the District.

Sec. 9. The District shall have the right, power and authority to use any and all public roadways, streets, alleys and public easements within

the boundaries of the District in the accomplishment of its purpose, without the necessity of securing a franchise, but only after permission in writing has been obtained from the appropriate government agency having jurisdiction over the public property being used.

Sec. 10. In the event that the District in the exercise of the power of eminent domain or a power of relocation or any other power, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipelines, all such necessary relocation, raising, re-routing, change of grade or alteration of construction and any additional expenses required thereby shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or changing grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the agreed net salvage value derived from the old facility, together with any additional or different facility that may be required as a result of such relocation, raising, lowering, re-routing or change in grade or alteration of construction in any such facilities.

Sec. 11. The District shall have the right, power and authority to enter into contracts with the United States of America, the State of Texas or any subdivision thereof, municipal corporations, owners of land, developers or lessees of land and properties and others, as may be necessary or appropriate in connection with the facilities, works or improvements as the District may be authorized and empowered to perform so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, the area may be placed in position ultimately to receive the services of such facilities, works or improvements. No election shall be required of any city or town for approval of contracts with the District, but such contracts may be entered into without the necessity of an election by any contracting party. Such contracts may be for any term not to exceed fifty (50) years.

The District shall have the power and authority to enter into a contract with the City of Houston with respect to compliance with the policy of the City on the formation of water control and improvement districts within such City's extraterritorial jurisdiction, generally to the effect that:

(a) Bonds may be issued by the District only for the purpose of purchasing and constructing, or purchasing or constructing, or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities, or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase or acquire all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services within or without the boundaries of the District. Such bonds issued by the District, other than refunding bonds, shall only be sold after the taking of public bids therefor, and none of such bonds, other than refunding bonds, shall be sold for less than one hundred per cent (100%) of their face value and shall bear interest at the rate of not more than five per cent (5%) per annum.

(b) The District shall submit the plans and specifications for the construction of water, sanitary sewer and drainage facilities to serve such District to such City for approval and such District must obtain the approval thereof by such City before commencing construction thereof. The construction of the District's water, sanitary sewer and drainage facilities shall be in accordance with the approved plans and specifications and with applicable standards and specifications of the City of Houston, and during the progress of the construction and installation of such facilities,

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the Director of Public Works of the City of Houston, or an employee thereof, shall make periodic on the ground inspections, and no such construction shall be started or undertaken by the District unless it has in its possession the following:

(c) A certificate of the District's engineer, who shall be a registered professional engineer under the laws of the State of Texas, that, in his opinion, such construction conforms to said City's established standards and specifications; and a letter or certificate of the Director of the Department of Public Works of said City of Houston (or the successor, department, or agency of said Department of Public Works) that, in his opinion, such construction conforms to said City's established standards and specifications.

Sec. 12. The District is fully empowered to borrow money for its corporate purposes including the power to borrow money and accept grants, gratuities, or other support from the United States of America, or the State of Texas, or from any corporation or agency created or designated by the United States of America or the State of Texas, or from any other source, and in connection with any such loan, grant or other support, to enter into such arrangements as the Board of Directors may deem advisable. The District is granted full powers to authorize, execute, and sell bonds, to be supported solely by revenues, to evidence any indebtedness it may lawfully incur and in such connection the Board of Directors may proceed as permitted under the General Laws pertaining to the issuance of bonds by water control and improvement districts, including refunding bonds. Bonds payable solely from net revenues of the District's operation or from the proceeds of any contract for the District's services may be issued by resolution of the Board of Directors and no hearing or election therefor shall be required of any contracting party. All bonds issued by the District pursuant to the provision of this Act shall constitute negotiable instruments within the meaning of the Negotiable Instruments Law of this State. Before any bonds shall be sold by the District, a certified copy of the proceedings for the issuance thereof, including the form of such bonds, together with any other information which the Attorney General of Texas may require, shall be submitted to the Attorney General, and if he shall find that such bonds have been issued in accordance with the law, he shall approve such bonds and execute a certificate of approval which shall be filed in the office of the Comptroller of Public Accounts of the State of Texas, and be recorded in a record kept for that purpose. No bonds shall be issued until the same shall have been registered by the Comptroller of Public Accounts, who shall so register the same if the Attorney General shall have filed with the Comptroller of Public Accounts his certificate approving the bonds, and the proceedings for the issuance thereof, as hereinabove provided. When bonds or the proceedings pertaining thereto recite that they are secured by a pledge of the proceeds of a contract theretofore made between the District and any city, district, or other user, a copy of such contract and proceedings of the contracting parties shall be submitted to the Attorney General with the bond record and if such bonds have been duly authorized and such contracts made in compliance with the law, he shall approve the bonds and contracts and the bonds shall then be registered by the Comptroller of Public Accounts. When approved as aforesaid, the bonds and contracts shall be valid and binding and shall be incontestable for any cause. No bonds shall be issued until the same have been submitted to and reviewed by the Texas Water Commission as provided by Article 7880—139, Vernon's Texas Civil Statutes, as amended, followed by full compliance by the District with all requirements made by the Commission pursuant to such Statute.

All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance

companies, fiduciaries, trustees and sinking funds of cities, towns and villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons pertinent thereto.

Sec. 13. The Board of Directors shall designate one or more banks within or without the District to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that sufficient funds shall be remitted to the bank or banks of payment of principal of and interest on the outstanding bonds of the District and in time that such may be received by the said bank or banks of payment on or prior to the date of the maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

Sec. 14. A complete system of accounts shall be kept by the District and an audit of its affairs for each year shall be prepared by an independent certified public accountant, or a firm of independent certified public accountants, of recognized integrity and ability. The fiscal year of the District shall be from October 1 to September 30 of the following year, unless and until changed by the Board of Directors. A written report of the audit shall be delivered to each member of the Board of Directors not later than ninety (90) days after the close of each fiscal year; and a copy of such audit report shall be delivered upon request to the holder or holders of at least twenty-five per cent (25%) of the then outstanding bonds of the District; and at least five (5) additional copies of said audit shall be delivered to the office of the District, one of which shall be kept on file, and shall constitute a public record open to inspection by any interested person or persons within normal office hours. The cost of such audit shall be paid for by the District.

Sec. 15. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and the industries thereof, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on its properties or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 16. This District is hereby created notwithstanding any of the provisions of the Municipal Annexation Act, being Article 970a, Vernon's Texas Civil Statutes, and to the extent of the creation of the District only, said Article 970a shall have no application. In all other respects, the District hereby created is expressly made subject to all provisions of said Article 970a.

Sec. 17. The Legislature specifically finds and declares that the requirements of Article 16, Section 59, of the Constitution of Texas, have been done and accomplished in due course and time, and in due order, and that the Legislature has the power and authority to enact this Act.

Sec. 18. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article 16 of the Constitution of the State of Texas wherein it is required to pass

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such laws as may be appropriate in the preservation and conservation of the natural resources of the State; that the District herein created is essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested. All of the terms and provisions of this Act are to be liberally construed, to effectuate the purposes, powers, rights and authorities herein set forth.

Sec. 19. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions and all acts done hereunder shall be done in such manner as may conform thereto whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power of resolution to provide an alternative procedure conformable to such Constitutions. If any provision of this Act shall be invalid such fact shall not affect the creation of the District or the validity of any other provision of this Act, and the Legislature hereby declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions thereof. Acts 1965, 59th Leg., p. 1491, ch. 648, emerg. eff. June 17, 1965.

**Title of Act:**

An Act creating and establishing a Conservation and Reclamation District under Article 16, Section 59 of the Constitution of Texas, to be known as "Braeburn West Utility District"; defining the boundaries; determining and finding benefits to the land and other property within the District; finding that the boundaries of the District form a closure; conferring rights, powers, privileges, authorities and functions upon the District; providing that the District shall not call a confirmation election; providing for no hearing for exclusions except under certain conditions; providing that the District shall use the ad valorem plan of taxation; providing for the issuance of bonds; providing for a Board of Directors; providing for the use of public roadways, streets, alleys, and public easements; providing that the District shall bear the expense of relocation

of certain properties and facilities; providing for the power to contract with the United States of America, the State of Texas and others, and making provision for such contracts; providing for the power to borrow money; providing for the appointment of a depository; providing for a system of accounts and an audit thereof; finding that the District will be carrying out an essential public function; providing that the Municipal Annexation Act is not applicable to the creation of the District; finding that the requirements of Article 16, Section 59 of the Constitution have been accomplished; providing that the enactment of this Act is essential and necessary in the preservation and conservation of natural resources; enacting other provisions related to the subject; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1491, ch. 648.

**Art. 8280—339. Galveston County Water Authority**

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a Conservation and Reclamation District is hereby created and incorporated in Galveston County, Texas, to be known as "Galveston County Water Authority of Galveston County, Texas," hereinafter referred to as "District," which shall be a governmental agency and body politic and corporate and a municipal corporation.

Sec. 2. The District shall be comprised of all of the territory contained within Galveston County, Texas, and its boundaries shall be the same as and coextensive with the boundaries of Galveston County, Texas.

Sec. 3. The District shall have and exercise and is hereby vested with all rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Without in any way limiting the generalization of the foregoing, it is expressly provided that the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District, nor shall said District have the power of eminent domain as to all or any part of the water supply, property, works or facilities of any private person or persons, or of any private or public corporation or association engaged in the business of supplying water in Galveston County, Texas, to any class of consumers for any use upon the effective date of this Act, but this provision shall not restrict the power of the District to acquire necessary crossing easements and rights-of-way. Not by way of limitation, such District shall be authorized and empowered to conserve, store, transport, treat and purify, distribute, sell and deliver water, both surface and underground, to persons, corporations, both public and private, political subdivisions of the State and others, and may purchase, construct or lease all property, works and facilities, both within and without the District, necessary or useful for such purposes. The District is expressly authorized to acquire water supplies from sources both within or without the boundaries of the District and to sell, transport and deliver water to customers situated within or without the District and to acquire all properties and facilities necessary or useful for such purposes, and for any or all of such purposes may enter into contracts with persons, corporations, both public and private, and political subdivisions of the State for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Directors may deem desirable. Nothing herein shall be construed as impairing or affecting the powers, authority, rights or duties of any municipal corporation or conservation and reclamation district heretofore or hereafter created within, or partially within, the boundaries of the Authority or to require any such corporation or district to contract with the Authority for its water supply. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 4. The District shall have no power or authority to levy and collect taxes on any property real, personal or mixed, within the boundaries of said District, nor shall the District have power or authority to issue bonds or create indebtedness which would in any way be payable from ad valorem taxes levied upon property within said District; and provided further that said District shall have none of the powers conferred by said Chapter 3A of Title 128 for the purposes of the collection, transportation, processing, disposal and control of domestic, industrial or communal wastes, and the gathering, conducting, directing and controlling of local storm waters, or other local harmful excesses or water.

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Sec. 5. The management and control of the District is hereby vested in a Board of seven (7) directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 25, Acts of the 39th Legislature, passed in 1925, and amendments thereto incorporated in Title 128, Chapter 3A of Vernon's Civil Statutes of the State of Texas and amendments thereto. Upon the effective date of this Act, the following named persons shall be and constitute the Board of Directors of said District:

- Position 1: Arthur Alpert
- Position 2: Alvin Kelso
- Position 3: A. R. Anderson
- Position 4: W. R. Nisbet
- Position 5: C. J. Holgrave
- Position 6: Charles Kilgore
- Position 7: Gaddis Wittjen

who shall serve until May 1, 1967, and shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds and subscribe to the Constitutional Oath of office. Vacancies on the Board of Directors, whether by death, resignation or termination of the term of office, shall be filled by appointment by the Commissioners Court of Galveston County. All terms of office shall be for a period of two (2) years except that the first term of office after May 1, 1967, for Positions 2, 4 and 6 shall be for a term of one (1) year. Three (3) of the members appointed by the Commissioners Court shall be registered professional engineers under the laws of Texas.

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking fund of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons pertinent thereto.

Sec. 7. Said District is hereby authorized to issue its negotiable revenue bonds to provide funds for any or all of the purposes set out in Section 3 hereof, including the acquisition of land therefor, and said bonds shall be issued in the manner provided and as authorized by said Chapter 3A of Title 128, as presently or hereafter amended, except as provided herein; provided, however, that nothing contained herein shall relieve said District from complying with the provisions of Article 7880—139 of said Chapter 3A of Title 128 in the issuance of any bonds. Such revenue bonds may be issued when duly authorized by an order or orders passed by the District's Board of Directors, and the bonds issued hereunder may be payable from all or any designated part or parts of the revenues of said District's properties and facilities, as may be provided in said order or orders authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 3A, as presently or hereafter amended, shall apply to revenue bonds issued under the provisions of this Act (the provisions of this Act to govern and take precedence in the event of any such inconsistency or conflict). In the order or orders authorizing the issuance of any revenue or revenue refunding bonds au-

thorized hereunder, the District's Board of Directors may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged) including provisions for the operation or for the leasing of all or any part of said improvements and facilities and the use or pledge of moneys derived from such operation contracts and leases, as such Board may deem appropriate. Such order or orders may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge and support of the bonds being issued, subject to such conditions as are set forth in said order or orders. Such order or orders may contain other provisions and covenants, as the District's Board may determine, not prohibited by the Constitution of Texas or by this Act, and said Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any such bonds. From the proceeds of sale of any bonds issued hereunder, the District may appropriate or set aside out of the bond proceeds an amount for the payment of interest expected to accrue during the period of construction, an amount or amounts to be deposited into the reserve fund or funds as may be provided in the bond order or orders, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale and delivery of the bonds. Moneys in the interest and sinking fund or funds, and the reserve fund or funds, and in the other fund or funds established or provided for in the bond order or orders may be invested in such manner and in such securities as may be provided in the bond order or orders. Such bonds may be in the denomination of \$100, or in multiples thereof, and until such time as the bond proceeds are needed to carry out the bond purpose, such proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both. Any such revenue bonds or the revenue refunding bonds hereinafter mentioned may be registrable as to principal, or as to both principal and interest. All revenue bonds issued hereunder and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When said bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. By order or orders duly adopted by its Board of Directors, said District shall have the power and authority to issue revenue refunding bonds to refund revenue bonds (either original bonds or refunding bonds) theretofore issued by such District, and such refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Said refunding bonds shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the order or orders authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller of Public Ac-



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counts, shall be incontestable except for forgery or fraud. The owners or holders of such revenue or revenue refunding bonds shall never have the right to demand payment of either the principal or interest on such bonds out of any funds raised or to be raised by taxation.

Sec. 8. When any of such revenues are pledged to the payment of any bonds issued by said District, it shall be the right and duty of the District's Board of Directors to cause to be fixed, maintained and enforced charges, fees or tolls for services rendered by properties and facilities, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants and provisions contained in the order or orders authorizing the issuance of said bonds. The District shall have the right to impose penalties for failure to pay, when due, such charges, fees or tolls.

Sec. 9. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district, but having the limitations of its powers, as hereinbefore set out in this Act.

Sec. 10. As soon as practicable after the qualification of the first Board of Directors of said District, said Board shall by resolution designate one or more banks within the District to serve as the District's depository, and all funds of said District shall be secured in the manner provided for the security of county funds. Such bank or banks shall serve for a period of two (2) years and until a successor has been selected.

Sec. 11. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said Constitutional provision; finds that all of the land and other property included in the area and boundaries of the District are, and will be, benefited by the improvements that the District will purchase, construct or otherwise acquire; and that the District is created to serve a public use and benefit; and declares the District to be a governmental agency, a body politic and corporate and a municipal corporation.

Sec. 12. If any word, phrase, clause, sentence, paragraph, section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Act to other persons or circumstances shall not be affected thereby.

Sec. 13. It is determined and found that a proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this Act in the Legislature of Texas, in a newspaper having general circulation in Galveston County, Texas; that a copy of such notice and a copy of this Act have been delivered to the Governor of Texas who has submitted such notice and Act to the Texas Water Commission, and said Texas Water Commission has filed its recommendation as to such Act with the Governor, Lieutenant Governor and Speaker of the House of Representatives of Texas within thirty (30) days from the date such notice and Act were received by the Texas Water Commission; and that all the requirements and provisions of Article XVI, Section 59(d) of the Constitution of the State of Texas have been fulfilled and accomplished as therein provided. Acts 1965, 59th Leg., p. 1648, ch. 712, emerg. eff. June 18, 1965.

**Title of Act:**

An Act creating a Conservation and Reclamation District under the provisions of Section 59, Article XVI, Constitution of

Texas, to be known as "Galveston County Water Authority of Galveston County, Texas"; prescribing its rights, powers, privileges, duties; providing said District

shall have no power to levy taxes; providing other limitations on the District's powers; providing that the District shall bear the sole expense of the relocation of certain facilities under the provisions of this Act; providing for its governing body; providing that its bonds are legal and au-

thorized investments; containing provisions relating to revenue bonds of the District; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1648, ch. 712.

**Art. 8280—340. Cypress Valley Navigation District**

Section 1. There is hereby created within the State of Texas, in addition to the Districts into which the State has heretofore been divided, a Navigation, Conservation and Reclamation District to be known as the "Cypress Valley Navigation District" (hereinafter called the "District"). Such District shall be and is hereby declared to be a governmental agency and body politic and corporate with the powers of government and with the authority to exercise the rights, privileges and functions hereinafter specified, and the creation of such District is hereby determined to be essential to the accomplishments of the purposes of Section 59 of Article XVI of the Constitution of the State of Texas.

Sec. 2. This Cypress Valley Navigation District shall include all of the territory lying within the watershed of the Cypress River, and its tributary streams lying within the boundaries of Harrison County and Marion County, as the same is made certain by the State contour maps now on file in the office of the Texas Water Commission, to which maps and records reference is here made, and it is hereby found and determined that all of the land included in the District shall be benefited by the exercise of the power conferred by this Act.

It is recognized that this boundary overlaps, in part, an area included within the Northeast Texas Municipal Water District as created by the 53rd Legislature, Acts of 1953, page 114, Chapter 78 and amendments thereto, and nothing herein is intended to alter in any manner the rights, duties, privileges, powers and immunities of that agency.

Sec. 3. Except as expressly limited by this Act, the District shall have and is vested with all powers, rights, privileges and functions conferred upon navigation districts created pursuant to Section 59, Article XVI of the Constitution of the State of Texas, and shall likewise have and is vested with all powers, rights, privileges and functions conferred upon navigation districts by General Law. Without limitation of the generality of the foregoing, the District shall have and is hereby authorized to exercise the following powers, rights, privileges, and functions:

(a) The right, power and authority to promote, construct, maintain, and operate and/or to make practicable, promote, aid and encourage the construction, maintenance and operation of navigable canals or waterways and all navigational systems or facilities auxiliary thereto, using the natural bed and banks of the Cypress River, its tributary streams and Caddo Lake in so doing where practicable.

(b) The right, power and authority to acquire, purchase, improve, extend, take over, construct, maintain, repair, operate, develop and regulate ports, levees, wharves, docks, locks, warehouses, grain elevators, dumping facilities or aids to navigation or aids consistent with or necessary to the operation or development of ports or waterways within the District.

(c) To construct, extend, improve, repair, maintain and reconstruct or cause to be constructed, extended, improved, repaired, maintained and reconstructed, and own, use and operate any and all facilities of any kind necessary or convenient to the exercise of such powers, rights, privileges and functions as are herein granted.

(d) To sue and be sued in its corporate name.

(e) To adopt, use and alter a corporate seal.

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(f) To make bylaws, rules and regulations for the management, control and regulation of its affairs.

(g) To employ officers, attorneys, agents and employees, to prescribe their duties and to fix their compensation.

(h) To make contracts and execute instruments necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon the District by this Act.

(i) To borrow money for its corporate purpose consistent with the Constitution and General Laws of the State and, without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America or from any corporation or agency created or designated by the United States of America, and, in connection with any such loan or grant, to enter into such agreements as the United States of America or such corporation or agency may require and issue its bonds payable from revenues only for such money so borrowed.

(j) To enter into contracts with the Government of the United States or any of its agencies and without limitation of the foregoing, to so contract for the purpose of consummating or aiding any navigation project approved or undertaken by said Government or agencies; to assume and become responsible for valid obligations of the United States, and to enter into agreements with the United States Government or its proper agencies to hold and save said Government and agencies free from damages due to the construction and maintenance of navigation works within the District.

(k) To acquire by gift or purchase any and all properties of any kind, including lighters, tugs, barges and other floating equipment of any nature, real, personal or mixed, or any interest therein, within or outside of the boundaries of the District necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this Act and by condemnation within the boundaries of the District in the manner provided by General Law for condemnation by Counties, provided that the District shall not be required to give bond for appeal or bond for costs in any judicial proceedings.

(l) To expend all sums reasonably necessary or expedient for seeking cooperation in accomplishing the objects of this Act from the Federal Government and/or any and all other persons, creatures or entities, whether natural or creatures of law or contract.

(m) From time to time, to sell or otherwise dispose of any property of any kind, real, personal or mixed, or any interest therein which shall not be deemed necessary to the carrying on of the business of the District.

Sec. 4. (a) All powers of the District shall be exercised by a Board of Directors (herein called "Board"), each of whom shall serve for a period of two (2) years except for the Directors hereinafter initially appointed. The Board shall consist of ten (10) members, all of whom shall be from Harrison County and Marion County.

(b) Before entering upon their duties, each of such Directors shall make and enter into a good and sufficient bond in the sum of One Thousand Dollars (\$1,000), payable to the County Judge of Harrison County and Marion County, for the use and benefit of the Navigation District conditioned upon the faithful performance of their duties, and the cost of which shall be paid by the District.

(c) The initial Board shall consist of the following persons who shall serve until the dates indicated after their names:

Will M. Power, January 1, 1967;

Franklin Jones, Sr., January 1, 1966;

Piggy Byrne, January 1, 1967;  
Z. T. Craver, January 1, 1966;  
W. M. Woodie, January 1, 1967;  
W. F. Myers, January 1, 1967;  
Milton Jones, January 1, 1966;  
Tom Morris, January 1, 1967;  
W. R. Westbrook, January 1, 1966;  
U. L. Williamson, January 1, 1967.

If any of the aforementioned persons shall die, become incapacitated or otherwise not be qualified to assume their duties under this Act, the Commissioners Court of the county of residence of person to be replaced shall designate and appoint his successor who shall serve until his successor shall have been appointed and qualified for office.

Within not less than ten (10) nor more than thirty (30) days prior to the expiration of the term of office of each Director, the Commissioners Court of the County of residence of the retiring Director shall designate a successor, and each successor so appointed shall serve for a term of two (2) years. All Directors shall hold office until their successors have been designated and have qualified by taking the oath of office. Before entering upon the duties of his office, each member of the Board shall take the Constitutional Oath of office and the same shall be filed in writing with the Secretary of the Board. Vacancies occurring on the Board shall be filled by appointment by the Commissioners Court of the County of residence of the retiring Director. Any person over the age of twenty-one (21) years residing within the District and within Harrison County or Marion County and possessing the qualifications of a juror shall be eligible for appointment and to serve as Director.

Sec. 5. No Director shall be paid any sum whatsoever for his services as a Board member or as a member of any committee authorized by the Board. Actual expense incurred by any member of the Board in performing any service for the District may be reimbursed; provided, however, that all such reimbursement shall be paid out of funds raised in the County of residence of the Director.

Sec. 6. Any Director or officer shall be subject to removal or suspension from office by the affirmative vote of ten (10) Directors for incompetency, official misconduct, official gross negligence, habitual drunkenness or for nonattendance at six (6) consecutive regular meetings of the Board, provided that no Director or officer shall be removed or suspended from office until charges in writing are filed against him and he is given opportunity for a fair hearing before the Board of Directors.

Sec. 7. At the first meeting of the Board after this Act becomes effective and the initial Board of Directors, as herein designated, have qualified for and have taken office, and at the first meeting of the Board held in the month of January of each odd-numbered year commencing with the year 1965, there shall be appointed by majority of the Board of Directors from its membership a Chairman, a Vice Chairman, a Secretary-Treasurer (these two offices to be combined) and, if deemed proper, an Assistant Secretary and an Assistant Treasurer who need not be a member of the Board of Directors and who may be granted limited powers in the bylaws. The officers so appointed shall serve for a term of two (2) years and until their successors have been appointed except that the Assistant Secretary and the Assistant Treasurer, if such officers are appointed shall hold office at the pleasure of the Board. A quorum at all meetings of the Board of Directors shall consist of not less than eight (8) members. All regular and special meetings of the Board of Directors shall be held as provided for by the bylaws and notice of all such meetings shall be given as required by the bylaws.

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Sec. 8. Nothing in this Act shall be construed to authorize the levy or collection of ad valorem taxes upon any property, real, personal or mixed, lying within the District.

Sec. 9. The Board shall cause to be kept complete and accurate accounts conforming to approved methods of bookkeeping. Said accounts and all contracts, documents and records existing shall be kept at its principal office, all of which shall be open to public inspection at all reasonable times. The Board shall cause to be made and completed within ninety (90) days after the end of each calendar year or fiscal year, if the fiscal year shall be different from the calendar year, an audit of the books and accounts and financial records of the District for each year, such audit to be made by an individual Certified Public Accountant or firm of Certified Public Accountants. Copies of such audit, certified by said Accountant or Accountants, shall be filed with the County Clerk of Harrison County and Marion County, Texas, and at the principal office of the District and shall be open to public inspection at all reasonable times. The moneys of the District shall be distributed only on checks, vouchers, drafts, orders or other written instruments signed by such persons as shall be authorized to sign the same by a resolution of the Board of Directors.

Sec. 10. All officers, agents and employees of the District who shall be charged with the collection, custody or payment of any funds of the District shall give bond conditioned on the faithful performance of their duties and accounting for all funds and properties of the District coming into their respective hands, each of which bonds shall be in form and manner and with a surety authorized to do business in the State of Texas and approved by the Board of Directors. The premiums on such bonds shall be paid by the District and charged as operating expenses.

Sec. 11. For the purpose of providing funds for any of the purposes provided by this Act or other laws relating to navigation districts, the Board of Directors shall have the power from time to time to: (a) issue bonds for and on behalf of the District, which bonds may be secured solely by a pledge of and payable from the net revenues derived from the operation of all or a designated part of the improvements and facilities of the District then in existence or to be constructed or acquired, with the duty of the Board of Directors to charge and collect fees, tolls, and charges, so long as the bonds are outstanding, sufficient to pay all maintenance and operation expenses of the improvements and facilities (the income of which is pledged), the interest on such bonds as it accrues, the principal of such bonds as it matures, and to make any and all other payments as may be prescribed in the bond order or resolution; (b) issue bonds secured by a pledge of all or part of the proceeds of any one or more contracts theretofore or thereafter made or other revenues or income specified by resolution of the Board of Directors.

Net revenues as used herein shall mean the gross revenues derived from the operation of those improvements and facilities of the District the income of which is pledged to the payment of the bonds less the reasonable expense of maintaining and operating said improvements and facilities, and said maintenance and operation expenses shall include, among other things, necessary repair, upkeep, and insurance of said improvements and facilities.

In the resolution or order adopted by the Board of Directors authorizing the issuance of bonds payable from net revenues or from the proceeds of a contract or contracts the Board may provide for the flow of funds, the establishment and maintenance of an interest and sinking fund, reserve funds, and other funds, and may make such additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of those improvements and facilities (the

income of which is pledged), including provision for the leasing of all or a part of said improvements and facilities and the use or pledge of moneys derived from leases thereof, as it may deem appropriate. Said resolution or order may also prohibit the further issuance of bonds or other obligations payable from the pledged net revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said net revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said resolution or order. Such resolution or order may contain such other provisions and covenants, as the Board of Directors shall determine, not prohibited by the Constitution of Texas or by this Act, and the Board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of said bonds.

Bonds payable solely from net revenues may be issued by resolution or order of the Board of Directors, and no election therefor shall be necessary.

All bonds of the District shall be authorized by resolution or order of the Board of Directors, shall be issued in the name of the District, shall be signed by the Chairman and attested by the Secretary, and shall have the seal of the District impressed thereon; provided, that the resolution or order authorizing such bonds may provide for the bonds to be signed by the facsimile signatures of said Chairman and Secretary, either or both, and for the seal of the District on the bonds to be a printed facsimile seal of the District; and provided further that the interest coupons, if any, attached to said bonds may also be executed by the facsimile signatures of said officers. Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and may be sold at a price and under terms determined by the Board of Directors to be most advantageous reasonably obtainable, provided that the interest cost to the District does not exceed six per cent (6%) per annum calculated to the absolute maturity of the bonds, and within the discretion of the Board such bonds may be callable prior to maturity at such time or times and such price or prices as may be prescribed in the resolution or order authorizing the bonds. Such bonds may be made registrable as to principal, or as to both principal and interest.

After such bonds have been authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General of Texas for his examination as to the validity thereof, and after the Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of Texas. When such bonds have been approved by the Attorney General and registered by the Comptroller they shall thereafter be incontestable. When any bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the District and another party or parties (public agencies or otherwise), a copy of such contract or contracts and of the proceedings authorizing the same shall be submitted to the Attorney General along with the bond record, and the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable.

From the proceeds of the sale of any bonds of the District, the Board of Directors may appropriate or set aside amounts for the payment of interest expected to accrue during the period of construction of the improvements or facilities, for reserve funds, and for expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds.

The Board shall have the power to borrow funds for current expenses and to evidence same by notes or warrants payable not later than the close of any calendar year for which loans are made, provided that all of such

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notes or warrants shall never exceed the anticipated revenue and may bear, not to exceed six per cent (6%) interest.

Sec. 12. The Board of Directors shall have the power to issue refunding bonds of the District for the purpose of refunding any outstanding bonds of the District and accrued interest thereon. Such refunding bonds may be issued to refund more than one series or issue of such outstanding bonds and combine pledges for the outstanding bonds for the security of the refunding bonds, and such refunding bonds may be secured by other and additional revenues; provided, that such refunding will not impair the contract rights of the holders of any of the outstanding bonds which are not to be refunded.

Refunding bonds shall be authorized by resolution or order of the Board of Directors, and shall be executed and mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution or order authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option or maturity date, and the Comptroller shall register them without the surrender and cancellation of the original bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller, shall be incontestable.

Sec. 13. All bonds issued under this Act shall be and hereby are declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Sec. 14. (a) District shall apply to and obtain from the Texas Water Commission such permits as it may be required to do by the General Law.

(b) District shall fully comply with the provisions of such Red River Compact as may be finally determined and the creation of the Cypress Valley Navigation District shall not in any way affect or alter such Compact.

(c) The Cypress Valley Navigation District created hereby shall cooperate with such commissions, agencies, districts and other governmental entities as may be concerned with navigation on the Big Cypress River to all practical extent.

Sec. 15. This Act and all the terms and provisions hereof shall be liberally construed to effectuate the purpose set forth herein.

Sec. 16. The provisions of this Act are separable, and if any Section, or part thereof, shall be held unconstitutional or void by any court of competent jurisdiction for any reason, such holding shall not affect the validity of any other Section or part of this Act, and the same shall remain and be in full force and effect, and the Legislature hereby declares that it would have passed the remaining part or parts of this Act.

Sec. 17. It is hereby found that notice of intention to introduce this bill has been published at least thirty (30) days and not more than ninety

(90) days prior to its introduction in newspapers having general circulation in Harrison County and Marion County and in the manner provided by Article XVI, Section 59(d) of the Constitution, that a copy of said notice and of this bill as introduced were delivered to the Governor, and the time, form and manner of giving said notice is hereby approved and ratified. The evidence of the foregoing was exhibited in the Legislature before the passage of this Act. Acts 1965, 59th Leg., p. 1656, ch. 715.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act creating a Navigation, Conservation and Reclamation District under Article XVI, Section 59, of the Constitution comprising the territory contained within Harrison and Marion Counties, to be known as the "Cypress Valley Navigation District," for the purpose of promoting, constructing, maintaining, and operating or to make practicable, promote, aid and encourage the construction, maintenance and operation of navigable canals or waterways and all navigational systems or facilities auxiliary thereto, using the natural beds and banks of the Cypress River, its tributary streams and Caddo Lake in so doing where practicable, authorizing said District to acquire, purchase, improve, extend, take over, construct, maintain, repair, operate, develop and regulate ports,

levees, wharves, docks, locks, warehouses, grain elevators, dumping facilities, belt railways, lands and all other facilities or aids to navigation or aids consistent with or necessary to the operation or development of ports or waterways within said District; authorizing the acquisition of other properties and equipment; conferring the power of eminent domain; providing for a Board of Directors for the government of said District; authorizing said District to contract with the United States Government and its subdivisions and agencies; authorizing said District to borrow money for its corporate purpose; authorizing the issuance of revenue bonds and providing for the payment and security thereof; prescribing other powers and duties of the District; enacting other provisions related to the subject; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1656, ch. 715.

**Art. 8280—341. Franklin County Water District**

**District created**

Section 1. Pursuant to, as expressly authorized by Section 59, Article XVI of the Constitution of the State of Texas, and in addition to all other districts into which the State has been divided heretofore, there is hereby created a conservation and reclamation district to be known as "Franklin County Water District" (hereinafter referred to as the "District"), which shall be recognized to be a governmental agency, a body politic and corporate, and a political subdivision of this State. The area of the District shall consist of all of the County of Franklin, State of Texas, and the boundaries of said District shall be identical with the boundaries of said County.

**No confirmation election, hearing on exclusion of land or plan of taxation necessary**

Sec. 2. It being hereby found and determined that all of the land included within the boundaries of the District will be benefited and that the District is created to serve a public use and benefit, it shall not be necessary for the Board of Directors to call a confirmation election or to hold a hearing on the exclusion of lands or a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

**Governing body of the district**

Sec. 3. (a) All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve a term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be a Director unless he is at least twenty-one years of age, resides in and owns land in the territorial limits of the District. Said Directors shall subscribe to the Constitutional Oath of office and each shall give bond in the amount of Five Thousand Dol-



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lars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District.

(b) Immediately after this Act becomes effective, the following named persons (all at least twenty-one years of age and residing and being owners of land within said District) shall be the Directors of said District, and shall constitute the Board of Directors of said District:

W. C. Newsome

Horris Morris

A. J. Laws

D. O. Aldridge

Landon Ramsay

If any of the aforementioned persons shall become incapacitated or otherwise not be qualified to assume his duties under this Act, the remaining Directors shall appoint his successor. Succeeding Directors shall be elected or appointed as hereinafter provided.

(c) The first two (2) named Directors in Section 3(b), above, shall serve until the first Tuesday in April, 1966, and thereafter until their successors have been declared elected and qualified, and the following three (3) named Directors shall serve until the first Tuesday in April, 1967, and thereafter until their successors have been declared elected and qualified. Regular elections for Directors shall be held on the first Tuesday in April of each year beginning in 1966. Two (2) Directors shall be elected in each even-numbered year and three (3) in each odd-numbered year. Notice of the election shall be published in accordance with the General Law applicable to water control and improvement districts. The election order shall state the time, the place or places and purpose of the election, and the Board of Directors shall appoint a presiding judge who shall appoint one (1) assistant judge and at least two (2) clerks to assist in holding such election. Only qualified electors residing in the District shall be entitled to vote at said election. The candidates receiving the highest number of votes shall be declared elected. Returns of the election shall be made to and canvassed by the Board of Directors of said District, which shall enter its order declaring the results of the election.

(d) Any candidate for Director desiring to have his name printed on the ballot may do so by a petition so requesting signed by not less than ten (10) residents of the District who are qualified to vote at the election. Such petition shall be presented to the Secretary of the Board of Directors not less than ten (10) full days prior to the date of the election.

(e) Any vacancies occurring in the Board of Directors shall be filled for the unexpired term by majority vote of the remaining Directors.

(f) The Directors shall receive such fees for attending Board meetings as may be established by unanimous vote of the Board, but not to exceed Ten Dollars (\$10) for each meeting and not more than Twenty Dollars (\$20) for all meetings held in any one calendar month. Said Directors shall also be entitled to receive reimbursement for actual expenses incurred in attending to District business, provided that such expenses are approved by the Board.

(g) The Board of Directors of the District shall elect from its number a President and a Vice President, and such other officers as in the judgment of the Board are necessary. The President shall be the chief executive officer, and the presiding officer of the Board, and shall have the same right to vote as any other Director. The Vice President shall perform all duties and exercise all power conferred by this Act upon the President when the President is absent or fails to or declines to act. The

Board shall also appoint a Secretary, who may or may not be a member of the Board. Three (3) members of the Board shall constitute a quorum for the transaction of all business and a favorable vote of a majority of a quorum present shall be sufficient for the enactment of all measures. The Directors shall hold regular meetings at least once a month at such time and place as is fixed by resolution or bylaws of the Board. The President or any two (2) members may call such special meetings as may be necessary in the administration of the District's business provided that at least five (5) days prior to the meeting date the Secretary shall have mailed notice to each member, and notice of special meetings may be waived in writing by any Director.

(h) The Directors shall carefully keep and preserve a true and full account of all their meetings and proceedings, and preserve their minutes, contracts, records, notices, accounts, receipts and records of all kinds. The same shall be the property of the District and subject to public inspection. A regular office shall be established and maintained within the District for the conduct of its business. All records and accounts shall conform to approved methods of bookkeeping. The Board shall cause to be made and completed annually, as soon as practicable after the expiration of each calendar year, an audit of the books of account and financial records of the District for such calendar year, such audit to be made by an individual public accountant or firm of public accountants. The report on said audit shall be submitted at the first regular meeting of the Board of Directors thereafter. One copy of said report shall be filed with the office of the District, one with the depository of the District, and one in the office of the auditor, all of which shall be open to public inspection. Additional copies of said report shall be filed with any State or governmental agencies as may be required by law.

#### **District powers**

Sec. 4. The District herein created shall have and possess and is hereby vested with all the rights, powers and privileges conferred by the General Laws of this State now in force and effect or hereafter enacted applicable to water control and improvement districts created under the authority of Article XVI, Section 59, of the Texas Constitution, but to the extent that said General Laws may be inconsistent or in conflict herewith, the provisions of this Act shall prevail. It is further the intention of the Legislature that the District herein created shall have all the power and authority necessary to fully qualify and gain the benefits of any and all laws which are in any wise helpful in carrying out the purposes for which the District is created and the provisions of all such laws of which the District may lawfully avail itself are hereby adopted by this reference and made applicable to the District.

Without limiting the generality of the foregoing, the District shall and is hereby empowered to exercise the following powers, privileges and functions:

(1) To control, store, preserve and distribute its waters and flood waters, the waters of its rivers and streams, for all useful purposes and to accomplish these ends by all practicable means including the construction, maintenance and operation of all appropriate improvements, plants, works and facilities, the acquisition of water rights and all other properties, lands, tenements, easements and all other rights necessary to the purpose of the organization of the District.

(2) To process and store such waters and distribute same for municipal, domestic, irrigation and industrial purposes, subject to the requirements of Chapter 1, Title 128, Revised Civil Statutes of Texas, 1925, as amended.

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(3) To dispose of property or rights therein when the same are no longer needed for the purposes for which the District is created or to lease same for purposes which will not interfere with the use of the property of the District.

(4) To cooperate with and contract with the State of Texas, the United States of America, or with any of their departments or agencies now existing, or which may hereafter be created, to carry out any of the powers or to further any of the purposes of the District and, for such purposes, to receive grants, loans or advancements therefrom.

(5) To make or cause to be made surveys and engineering investigations for the information of the District to facilitate the accomplishment of its purposes and to employ a general manager, attorneys, accountants, engineers, financial experts, or other technical or nontechnical employees or assistants; further to fix the amount and manner of their compensation and to provide for the payment of all expenditures deemed essential to the proper operation and maintenance of the District and its affairs.

(6) To exercise all functions to permit the accomplishment of its purposes including the acquisition within or without said District of land, easements, and rights-of-way and any other character of property incident to, or necessary in carrying out the purposes and work of the District by way of gift, device, purchase, leasehold or condemnation. The right of eminent domain is hereby expressly conferred on said District and the procedure with reference to condemnation, the assessment of and estimating of damages, payment, appeal, the entering upon the property pending appeal and other procedures prescribed in Title 52 of the Revised Civil Statutes of Texas, 1925, as heretofore or hereafter amended, shall apply to said District. In the event the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder makes necessary the taking of any property or the relocation, raising, re-routing or changing the grade, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary taking, relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the expense of the District. It is provided, however, that the expense of the District shall be strictly confined to that amount which is equal to the actual cost of the property taken or work required without enhancement thereof and after deducting the net salvage value which may be derived from any property taken.

(7) To do any and all other acts or things necessary or proper to carry into effect the purpose for which the District is created and organized.

#### Awarding construction or purchase contracts

Sec. 5. Any construction contract or contracts for the purchase of materials, equipment or supplies requiring an expenditure of more than Two Thousand Dollars (\$2,000) shall be made to the lowest and best bidder after publication of a notice to bidders once a week for two (2) weeks before awarding the contract. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and shall state where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper published in Franklin County and designated by the Board of Directors.

#### May issue bonds

Sec. 6. (a) For the purpose of providing funds for purchasing or otherwise providing works, plants, facilities or appliances necessary to

the accomplishment of the purposes authorized by this Act, and for the purpose of carrying out any other power or authority conferred by this Act, the District is hereby empowered to borrow money and issue its negotiable bonds to be payable from ad valorem taxes or revenues or both taxes and revenues of the District, as are pledged by resolution of the Board of Directors. Pending the issuance of definitive bonds, the Board may authorize the delivery of negotiable interim bonds or notes eligible for exchange or substitution by use of definitive bonds. Such bonds shall be issued in the name of the District, signed by the President, attested by the Secretary, and shall bear the seal of the District. It is provided, however, that the signatures of the President or Secretary, or of both, may be printed or lithographed on the bonds authorized by the Board of Directors and that the seal of the District may be impressed on the bonds or may be printed or lithographed thereon, if so authorized. The bonds shall mature serially or otherwise, in not to exceed forty (40) years and may be sold at a price and under terms as determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the District, calculated by the use of standard bond interest tables, currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the Board may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest.

(b) Bonds may be issued in one or more than one series, and from time to time, as required for carrying out the purposes of this Act.

(c) The bonds may be secured by a pledge of all or part of the net revenues of the District, or by the net revenues of any one or more contracts theretofore or thereafter made or other revenues and income specified by the resolution of the Board of Directors or in the trust indenture. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which would be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues of the District after deduction of the amount necessary to pay the reasonable cost of maintaining and operating the District and its properties.

(d) Where bonds are issued, payable wholly or partially from ad valorem taxes, it shall be the duty of the Board of Directors to levy, assess and cause to be collected a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, and in levying such tax shall take into consideration reasonable delinquencies and costs of collection. In the case of bonds payable partially from ad valorem taxes, the rate of the tax for any year may be fixed after giving consideration to the money reasonably to be received from the pledged revenues available for payment of principal and interest and to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

(e) Where bonds payable wholly from revenues are issued, it shall be the duty of the Board of Directors to fix, establish and from time to time as necessary revise the rates of compensation for the sale of water and other services furnished, supplied and rendered by the District and collect same in amounts sufficient to pay the expenses of operating and maintaining the facilities of the District and to pay the bonds as they mature and the interest as it accrues, and to maintain the reserve and other funds as provided in the resolution authorizing the bonds. Where bonds payable partially from revenues are issued, it shall be the duty of the Board to fix, establish and from time to time as necessary revise the rates of compensation for the sale of water and other services furnished, supplied and

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rendered by the District and to collect same in amounts sufficient to assure compliance with the resolution authorizing the bonds.

(f) From the proceeds of the sale of bonds, the District may set aside an amount for the payment of interest expected to accrue during construction and a reserve interest and sinking fund, and such provision may be made in the resolution authorizing the bonds. Proceeds from the sale of bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purpose for which the District is created, including expenses of its organization, engineering investigations and of the issuance and sale of the bonds. The proceeds from the sale of the bonds may be placed on time deposit with the District's depository bank or may be temporarily invested in direct obligations of the United States Government maturing in not more than one (1) year from the date of investment.

(g) In the event of a default or a threatened default in the payment of principal of or interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, upon petition of the holders of the outstanding bonds, appoint a receiver with authority to collect and receive all income of the District except taxes, employ and discharge agents and employees of the District, take charge of funds on hand (except funds received from taxes unless commingled) and manage the proprietary affairs of the District without consent or hindrance by the Directors. Such receiver may also be authorized to sell or make contracts for the sale of water or other services furnished by the District or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds. The resolution authorizing the issuance of the bonds or the trust indenture securing them may limit or qualify the rights of less than all of the outstanding bonds payable from the same source to institute or prosecute any litigation affecting the District's property or income.

(h) The provisions of Section 139, Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925, as amended, relating to Texas Water Commission approval of plans and specifications for projects to be financed by the sale of bonds, apply to the sale of bonds under this Act.

#### Refunding bonds authorized

Sec. 7. The District is authorized to issue refunding bonds for the purpose of refunding any of the outstanding bonds authorized by this Act and the interest thereon. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues and mortgage liens. The provisions of this law with reference to the issuance by the District of other bonds, their security, and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller of Public Accounts of the State of Texas upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds were payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and interest on the original bonds to their effective option date or maturity date; and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

**Provisions for trust indenture as to bonds secured partially by revenues**

Sec. 8. Any bonds (including revenue bonds) authorized by this Act, not payable wholly from ad valorem taxes, may be additionally secured by a trust indenture under which the trustee may be a bank having trust powers, situated either within or without the State of Texas. Such bonds, within the discretion of the Board of Directors, may be additionally secured by a deed of trust or mortgage lien upon physical properties of the District and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain any provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend District money or sell District property upon approval of a registered professional engineer selected as provided therein, and may make provision for the investment of funds of the District. Any purchaser under a sale under the deed of trust lien, where one is given, shall be the absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate the same.

**Bond elections**

Sec. 9. (a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized at an election at which only the qualified voters, who reside in the District and own taxable property therein and have duly rendered the same for taxation, are permitted to vote, and unless a majority of such votes cast is in favor of the issuance of the bonds. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

(b) Such bond elections may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and place or places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum interest rate, the maximum maturity thereof, the form of the ballot, and the presiding judge for each voting place. The presiding judge serving at each voting place shall appoint one (1) assistant judge and at least two (2) clerks to assist in holding such election. Notice of election for the issuance of bonds shall be given by publication of a substantial copy of the resolution calling the election in a newspaper of general circulation in the District once each week for at least four (4) consecutive weeks, the first publication to appear not less than twenty-eight (28) days prior to the date assigned for the election. The returns of the election shall be made to and canvassed by the Board of Directors of the District. Except as herein otherwise provided, the General Laws relating to elections shall be applicable. In the event a bond issue election fails, another bond election shall not be called for a period of six (6) months.

**Bonds to be approved by the Attorney General of Texas**

Sec. 10. After any bonds (including refunding bonds) are authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the District and any city or other governmental agency, authority or district, a copy of such contract and the proceedings of the city or other governmental agency, au-

For Annotations and Historical Notes, see V.A.T.S.

thority or district authorizing such contract shall also be submitted to the Attorney General. If such bonds have been authorized and if such contracts have been made in accordance with the Constitution and laws of the State of Texas, he shall approve the bonds and such contracts and the bonds shall then be registered by the Comptroller of Public Accounts. Thereafter the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

#### Taxes and tax elections authorized

Sec. 11. The Board of Directors may, upon a favorable majority vote of the qualified property taxpaying voters of the District, voting at an election held for the purpose within the boundaries of such District, levy, assess and collect annual taxes to provide funds necessary to construct or acquire, maintain and operate works, plants and facilities deemed essential or beneficial to the District and its purposes, and also when so authorized may levy, assess and collect annual taxes to provide funds adequate to defray the cost of the maintenance, operation and administration of the District. Elections for the levy of such taxes shall be ordered by the Board of Directors and notice thereof shall be given and same shall be held and conducted and the results thereof determined in the manner provided herein with relation to elections for the authorization of bonds. All taxes levied by the District for any purpose shall constitute a lien on the property against which levied and limitation shall not bar the enforcement or collection thereof. In calling an election for taxes under this Section 11, the Board of Directors shall specify the maximum rate of tax which is sought to be levied and no tax in excess of that amount may be levied without submitting the question of the increased rate of taxation at an election as provided.

#### Bonds eligible for investment and to secure deposits

Sec. 12. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and sinking funds of cities, towns and villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

#### District depository

Sec. 13. The Board of Directors shall designate one or more banks within the District to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that sufficient funds shall be remitted to the bank or banks of payment of principal of and interest on the outstanding bonds of the District and in time that such may be received by the said bank or banks of payment on or prior to the date of the maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

**District and bonds exempt from taxation**

Sec. 14. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and the industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

**District authorized to enter into water supply contracts**

Sec. 15. The District is authorized to enter into contracts with cities and others for supplying water services to them. The District may also contract with any city for the rental or leasing, or for the operation of such city's water production, water supply, water filtration, or purification and water supply facilities. Any such contract may be upon such terms, for such consideration and for such time as the parties may agree and it may provide that it shall continue in effect until bonds specified therein and any refunding bonds issued in lieu of such bonds are paid.

**District empowered to acquire storage capacity in reservoirs**

Sec. 16. The District is hereby empowered to lease or acquire rights in and to storage and storage capacity in any reservoir constructed or to be constructed by any person, firm, corporation or public agency, or from the United States Government or any of its agencies. The District is also empowered to purchase or make contracts for the purchase of water or a water supply from any person or firm, corporation, or public agency, or from the United States Government or from any of its agencies.

**District declared essential**

Sec. 17. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article XVI of the Constitution of the State of Texas wherein it is required to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the State; that the District herein created is essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested. All the terms and provisions of this Act are to be liberally construed to effectuate the purposes herein set forth.

**Savings clause**

Sec. 18. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions and all acts done hereunder shall be done in such manner as may conform thereto whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure conformable to such Constitutions. If any provision of the Act shall be invalid, such fact shall not affect the creation of the District or the validity of any other provision of this Act, and the Legislature hereby declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

**Proper notice published and given**

Sec. 19. It is hereby found and determined that in conformity with Article XVI, Section 59, of the Constitution of Texas (as amended in 1964) notice of the intention to introduce this bill setting forth the general sub-



For Annotations and Historical Notes, see V.A.T.S.

stance of this contemplated bill and law has been published at least thirty (30) days and not more than ninety (90) days prior to the introduction of this bill in the Legislature in a newspaper or newspapers having general circulation in Franklin County and by delivering a copy of such notice and such bill to the Governor, who has submitted such notice and bill to the Texas Water Commission, which has filed its recommendations as to such bill with the Governor, Lieutenant Governor and Speaker of the House of Representatives within thirty (30) days from date notice was received by the Texas Water Commission. The evidence of the foregoing was exhibited in the Legislature before the passage of this Act. The time, form and manner of giving said notices and the performance of said acts as required by the Constitution are hereby found to be sufficient to comply with the Constitution and such notices and all acts in relation thereto are hereby approved and ratified. Acts 1965, 59th Leg., p. 1668, ch. 719, emerg. eff. June 19, 1965.

**Title of Act:**

An Act creating and establishing a conservation and reclamation district under Article XVI, Section 59, of the Constitution of Texas, comprising all the territory contained within the boundaries of Franklin County, Texas, to be known as "Franklin County Water District"; constituting the same a governmental agency and body politic and corporate and a political subdivision of the State; defining the boundaries thereof and finding that all land and property therein will be benefited and no exclusion hearing shall be held, and that no election shall be necessary to confirm the organization of the District nor shall hearings be held on a plan of taxation but the ad valorem plan shall be used; prescribing the rights, powers, privileges and duties of said District and incorporating the General Law pertaining to water control and improvement districts not in conflict or inconsistent with the provisions of this Act; providing for a Board of Directors, their terms, the filling of vacancies, the election of successors, and prescribing the duties and qualifications for such Directors and related matters; providing for the awarding of certain contracts; prescribing the purpose for which bonds may be issued; the methods of securing the payment and the procedure for the issuance of such bonds; requiring all bonds payable in whole or in part from taxes, except refunding bonds, to be approved by the resident qualified property taxpaying voters whose property has been

duly rendered for taxation and providing terms and conditions for the issuance of bonds and the sale thereof; providing for approval by the Texas Water Commission of plans and specifications of projects to be financed by the sale of bonds; prescribing the manner in which such elections shall be called, held and notice thereof given; exempting the District's bonds from taxation; providing that the District shall have the power to fix rates and charges for services furnished; providing for a District depository and its selection; making applicable to the District Title 52, Revised Civil Statutes of Texas, as amended, relating to eminent domain and providing that the cost of relocation, raising, rerouting, or changing the grade or altering the construction of any highway, railroad, electric transmission line or telegraph properties and facilities or pipelines shall be borne by District; enacting provisions relating to contracts with a City and providing that the District may acquire water rights under certain terms and conditions; providing that bonds of the District shall be authorized investments in certain instances and shall be eligible to secure the deposit of certain funds; declaring the District essential; making certain findings relating to the publication of the notice of intention to apply for the passage of this Act; enacting provisions incident and relating to the subject; providing a savings clause; and declaring an emergency. Acts 1965, 59th Leg., p. 1668, ch. 719.

## TITLE 130—WORKMEN'S COMPENSATION LAW

## PART 4

Art.  
8309e—1. Employees of independent school  
districts in counties of 1,200,000  
population or more [New].

## PART 1.

## Art. 8306. Damages and compensation for personal injuries

## Funeral expenses

Sec. 9. If the deceased employee leaves no legal beneficiaries, the association shall pay all expenses incident to his last sickness as a result of the injury, and in addition a funeral benefit not to exceed Five Hundred Dollars (\$500).

"If the deceased employee leaves a legal beneficiary or beneficiaries, and is buried at the expense of the beneficiary or beneficiaries, or is buried at the expense of his employer or any other person, the expense of such burial, not to exceed Five Hundred Dollars (\$500), shall be payable without discount for present payment to the person or persons at whose expense the burial occurred, subject to the approval of the Board; and such burial expense, regardless of to whom it is paid, shall be in addition to the compensation due the beneficiary or beneficiaries of such deceased employee. As amended Acts 1961, 57th Leg., p. 1032, ch. 455, § 1; Acts 1965, 59th Leg., p. 818, ch. 396, § 1.

Effective Aug. 30, 1965, 90 days after  
date of adjournment.

## PART 4.

## Art. 8309. Definitions and general provisions

## Executive officers as employees of corporation

Sec. 1a. Every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation which is a subscriber to this law, other than a charitable, religious, educational or other non-profit corporation, shall be an employee of such corporation under this law. Any such executive officer of a charitable, religious, educational or other non-profit corporation which is a subscriber to this law, other than any such educational corporation specified in Articles 8309b or 8309d, may, notwithstanding any other provision of this law, be brought within the coverage of its insurance contract by any such corporation by specifically including such executive officer in such contract of insurance and the election to bring such executive officer within the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus brought within the coverage of the insurance contract shall be employees of such corporation under this law. Under no circumstance shall any executive officer of any corporation be counted in determining whether or not the employer has three or more employees so as to be subject to the provisions of the Workmen's Compensation Law as specified in Section 2, Part 1, of this Act. As amended Acts 1965, 59th Leg., p. 1625, ch. 695, § 1.

**Art. 8309e—1. Employees of independent school districts in counties of 1,200,000 population or more**

**Counties of 1,200,000 population or more; authority to provide insurance for employees**

Section 1. In all counties having a population of one million, two hundred thousand (1,200,000) or more, all independent school districts located therein are hereby permitted and authorized to provide insurance for all employees of such independent school districts, such power and authority to be exercised in accordance with the provisions of Article 8309e, Vernon's Texas Civil Statutes, as it now exists or as it may be hereafter amended. The provisions of this Act authorizing such independent school districts to provide Workmen's Compensation benefits or to take out Workmen's Compensation Insurance is permissive only, and the provisions hereof, as well as the provisions of Article 8309e, with respect to either self-insurance or insurance under a policy of insurance, is not mandatory.

**Adoption of provisions of article 8309e; rules and regulations; forms**

Sec. 2. The Board of Trustees of any such independent school district may, by an order or resolution duly adopted and entered in its minutes, adopt the provisions of Article 8309e, Vernon's Texas Civil Statutes, and may by the terms of such order or resolution make all the provisions of said Article as it now exists, or as it may be hereafter amended, applicable to such school districts and its employees. Said Board of Trustees is authorized to promulgate and publish such rules and regulations and to prescribe and furnish such forms as may be necessary to the effective administration of said statute when so adopted, and said Board shall have authority to make and enforce such rules for the prevention of accidents and injuries as may be deemed necessary.

**Construction of terms "City" or "Cities"**

Sec. 3. When said Article 8309e, Vernon's Texas Civil Statutes, shall have been adopted by such independent school districts, wherever the words "City" or "Cities" occurs therein, such word or words shall be read and construed as "Independent School District."

**Budget; expenditures of funds**

Sec. 4. The Board of Trustees of such independent school districts which have adopted this Act shall make proper budget provisions for the expenditures involved in connection with such insurance. All funds required in connection with the administration of any such insurance plan shall be budgeted and paid out of the local maintenance funds of such districts. Acts 1965, 59th Leg., p. 1006, ch. 493, emerg. eff. June 16, 1965.

**Title of Act:**

An Act to authorize all independent school districts, whether created under Special or General Laws, in all counties having a population of 1,200,000 or more, according to the last preceding Federal Census, to provide for Workmen's Compensation Insurance, and providing that all of

the provisions of Article 8309e, Vernon's Texas Civil Statutes, shall apply and extend to all such independent school districts; further providing that the words "City" or "Cities" used in Article 8309e shall include all such independent school districts; and declaring an emergency. Acts 1965, 59th Leg., p. 1006, ch. 493.



# PENAL CODE

## TITLE 4—OFFENSES AGAINST THE STATE, ITS TERRITORY, AND REVENUE

### CHAPTER TWO—MISAPPLICATION OF PUBLIC MONEY

Arts. 107a, 107b. Repealed. Acts 1965, 59th Leg., p. 830, ch. 402, § 11.  
Eff. July 1, 1965

See, now, V.A.T.S. Tax-Gen. arts. 14.13,  
14.14.

### CHAPTER FOUR—COLLECTION OF TAXES AND OTHER PUBLIC MONEY

Art. 140. Repealed. Acts 1965, 59th Leg., p. 830, ch. 402, § 11. Eff.  
July 1, 1965

See, now, V.A.T.S. Tax-Gen. arts. 14.14,  
14.15.

## TITLE 7—RELIGION AND EDUCATION

### CHAPTER THREE—TEACHERS AND SCHOOLS

Art. 297. School attendance requirements

Every child in this State who is seven years and not more than 17 years of age, other than a high school graduate, shall be required to attend the public schools in the district of his residence, or in some other district to which he may be transferred as provided by law, for the entire regular school term of the district in which said child attends school. As amended Acts 1963, 58th Leg., p. 937, ch. 367, § 2; Acts 1965, 59th Leg., p. 183, ch. 75, § 2.

Effective Aug. 30, 1965, 90 days after date  
of adjournment.

## TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE

## CHAPTER FOUR—ARREST AND CUSTODY OF PRISONERS

Art.  
353d. Escape from jail of prisoner charged with or convicted of misdemeanor [New].

Art. 353b. Escape from prison of prisoner charged with or convicted of felony

Section 1. (a) The term "prison," as used in this Act, means any place designed by law for the keeping of persons held in custody under process of law or under lawful arrest, including but not limited to county jails, city jails, and the state penitentiary.

(b) The term "prisoner," as used in this Act, means any person who has been formally charged with or convicted of a felony.

(c) The term "officer," as used in this Act, includes all peace officers, jailers, turnkeys, and matrons of any jail; Texas Rangers, members of Texas Highway Patrol; the officers, guards, and employees of the Texas Department of Corrections; and any other person authorized by law to have in his custody a prisoner.

Sec. 2. If a prisoner while confined in prison or while he is permitted at large as trusty, or while in the lawful custody of any officer shall escape or attempt to escape, he shall upon conviction for such escape or attempt to escape be confined in the penitentiary for not more than five (5) years. Provided, if such prisoner shall use a firearm or other deadly weapon in his escape, or attempt to escape, he shall be punished by confinement in the penitentiary for not less than five (5) nor more than fifteen (15) years. As amended Acts 1965, 59th Leg., p. 306, ch. 138, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Art. 353d. Escape from jail of prisoner charged with or convicted of misdemeanor

Section 1. (a) The term "jail" as used in this Act, means any place designated by law for the keeping of persons held in custody under process of law or under lawful arrest including, but not limited to, county jails, county workhouses, county farms, city jails, city workhouses, city farms and city houses of correction.

(b) The term "prisoner" as used in this Act, means a person who has been formally charged with or convicted of a misdemeanor.

(c) The term "officer" as used in this Act, includes all peace officers, jailers, turnkeys and matrons of any jail; Texas Rangers, members of Texas Highway Patrol; and any other person authorized by law to have in his custody a prisoner.

Sec. 2. If any prisoner confined in jail or while he is permitted at large as trusty, or while in the lawful custody of any officer shall escape or attempt to escape, he shall upon conviction for such escape or attempt to escape be confined in jail for not more than two (2) years. Provided, if such prisoner shall use a firearm or other deadly weapon in his escape, or attempt to escape, he shall be punished by confinement in the penitentiary.

ary for not less than five (5) nor more than fifteen (15) years. Acts 1965, 59th Leg., p. 222, ch. 93.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act making it unlawful for any person formally charged with or convicted of a misdemeanor and confined in jail to escape therefrom, or the lawful custody of an offi-

cer, or any other person authorized by law to have such person in his custody; defining terms; prescribing a penalty for violation thereof; enacting other provisions relating to the subject; and declaring an emergency. Acts 1965, 59th Leg., p. 222, ch. 93.

**CHAPTER SEVEN—FAILURE OF DUTY**

Art.

405. Consent of parents [New].

**Art. 405. Consent of parents**

If both parents of any minor be alive, the consent of the father alone shall be sufficient to authorize the issuance of a marriage license to the minor, provided, however, that the consent of the mother of said minor alone shall be sufficient to authorize the issuance of a marriage license to said minor upon a written affidavit subscribed and sworn to by said mother before the County Clerk issuing the license that she and said minor have lived in the county continuously for a period exceeding one year and that the father of the minor has been continuously absent from said county for a period exceeding six months; or that she and the father of said minor are divorced and that she has had sole custody and control of said minor for a period exceeding six months. Added Acts 1965, 59th Leg., p. 1522, ch. 663, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Repeal**

*Acts 1965, 59th Leg., p. 1151, ch. 543, which amended Vernon's Ann.Civ.St. art. 4605 and which added rule 50b to Vernon's Ann. Civ.St. art. 4477, provided in section 3: "All laws or parts of laws in conflict with the provisions of this Act are hereby repealed, including but not limited to Article 405, Penal Code of Texas."*

*Present article 405 was added by Acts 1965, 59th Leg., p. 1522, ch. 663, § 1.*

**TITLE 9—OFFENSES AGAINST THE PUBLIC PEACE****CHAPTER THREE—AFFRAYS AND DISTURBANCES OF THE PEACE****Art. 476. Profane language, harassment or intimidation over telephone**

Whoever uses any vulgar, profane, obscene, or indecent language over or through any telephone or whoever uses any telephone in any manner with intent to harass, annoy, torment, abuse, threaten or intimidate another, except if such call be for a lawful business purpose, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than One Hundred Dollars (\$100.00) Dollars nor more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not less than one (1) month nor more than twelve (12) months, or by both such fine and imprisonment. As amended Acts 1965, 59th Leg., p. 1254, ch. 575, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 480a. Shooting on public road**

Section 1. Any person who shoots or discharges any gun, pistol, or firearm in, on, along, or across any public road in this state shall be fined not more than \$100. This Act is enforceable by peace officers or Game Warden who is an employee of and paid by the Parks and Wildlife Department. As amended Acts 1965, 59th Leg., p. 378, ch. 182, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**TITLE 10—OFFENSES AGAINST MORALS, DECENCY AND CHASTITY****CHAPTER SEVEN—MISCELLANEOUS OFFENSES**

Arts. 532, 533. Repealed. Acts 1965, 59th Leg., p. 853, ch. 413, § 1.  
Emerg. Eff. June 14, 1965



**TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND  
ECONOMY****CHAPTER ONE—BANKING****Art. 567b. Giving check, draft or order without sufficient funds****Prima facie evidence**

Sec. 2. Failure on the part of the maker or drawer thereof or the person causing the making, drawing, uttering or delivering of any check, draft or order, payment of which has been refused by the drawee, to pay the holder thereof the amount due thereon within ten (10) days after receiving notice that such check, draft or order has not been paid by the drawee, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with such bank, person, firm or corporation. Provided that nothing contained in this Section shall prevent the state from establishing intent to defraud or knowledge of insufficient funds in, or on deposit with, such bank, firm, person or corporation by direct evidence. As amended Acts 1965, 59th Leg., p. 1521, ch. 662, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Penalties**

Sec. 4(a). For the first conviction of a violation of this Act, in the event the amount of the check, draft or order given on any bank, person, firm or corporation is less than Fifty Dollars (\$50), punishment shall be by imprisonment in the county jail for not exceeding two (2) years, or by a fine not exceeding One Thousand Dollars (\$1,000), or by both such fine and imprisonment. As amended Acts 1965, 59th Leg., p. 1521, ch. 662, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**CHAPTER FIVE—PRIZE FIGHTING, ROPING CONTESTS, ETC.****Art. 614. 1511 Engaging in roping contest**

Any person, who shall engage in a roping contest with other persons or alone, in which cattle or other animals are roped as a test or trial of skill of the person or persons engaged in such roping contest, for any money or prize of any character, or for any championship, for anything of value, or upon the result of which, any money or anything of value is bet or wagered, shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500). Each animal roped, or attempted to be roped, shall be a separate offense; provided however, that nothing in this Act shall prevent roping contests without betting or wagering wherein grown cattle, calves, goats or other animals are roped as a test or trial of skill. As amended Acts 1959, 56th Leg., p. 807, ch. 364, § 1; Acts 1965, 59th Leg., p. 775, ch. 366, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

CHAPTER SIX—GAMING

Art. 630. 562 Permitting device on premises

(a) If any person shall knowingly permit any gaming paraphernalia, table, or device or equipment of a gaming house, of any character whatever, to remain in his possession or on premises under his control or of which he is owner and to be used for gaming purposes, he shall be imprisoned in jail not less than 30 days nor more than one year.

(b) An immediate and unrecorded right of replay, mechanically conferred on players of pinball machines and similar devices, is not intended to be included in the phrase "money, property, or other valuable thing" in this Chapter or any other related Statute of this state. As amended Acts 1965, 59th Leg., p. 690, ch. 329, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

CHAPTER EIGHT—TEXAS LIQUOR CONTROL ACT

I. INTOXICATING LIQUORS

Art. 666—17. Unlawful acts of permittees and others enumerated

(14)

\* \* \* \* \*

(b) It shall be unlawful to purchase an alcoholic beverage for or give, or knowingly make available, an alcoholic beverage to a person under the age of 21 years unless the purchaser, person making available, or giver is the parent, legal guardian, adult husband, or adult wife of the person for whom the alcoholic beverage is purchased, made available, or to whom it is given. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Ten Dollars (\$10) nor more than One Hundred Dollars (\$100). Added Acts 1965, 59th Leg., p. 1570, ch. 681, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

(c) It shall be further unlawful for any parent, legal guardian, adult husband, or adult wife of a person under 21 years of age to purchase for, or knowingly make available to, or give to, any person under 21 years of age any alcoholic beverage except for consumption in the actual, visible and personal presence of said parent, legal guardian, adult husband, or adult wife. A person who violates a provision of this paragraph is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Ten Dollars (\$10) nor more than One Hundred Dollars (\$100). Added Acts 1965, 59th Leg., p. 1570, ch. 681, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## TITLE 12—PUBLIC HEALTH

## CHAPTER THREE—DRUGS, NARCOTICS AND POISONS

## Art. 726d. Dangerous drugs

## Definitions

Sec. 2. (a) The term "dangerous drug" means any drug unsafe for self-medication, except preparations of drugs defined in Subdivisions (a) (5), (a) (6), (a) (8), and (a) (9) hereof, designed for the purpose of feeding or treating animals (other than man) or poultry, and so labeled, and includes the following:

(1) Any barbiturate or other hypnotic drug. "Barbiturate or hypnotic drug" includes acetyluria derivatives, barbituric acid derivatives, chloral, paraldehyde, sulfonmethane derivatives, or any compounds or mixtures or preparation that may be used for producing hypnotic effects.

(2) Amphetamine, desoxyephedrine, or compounds or mixtures thereof, except preparations for use in the nose and unfit for internal use.

(3) Aminopyrine, or compounds or mixtures thereof.

(4) Cantharidin or a compound related structurally to cantharidin; or cinchophen, neocinchophen, or compounds or mixtures thereof.

(5) Diethyl-stilbestrol, or compounds or mixtures thereof.

(6) Ergot, cotton root, or their contained or derived active compounds or mixtures thereof.

(7) Oils of croton, rue, savin or tansy or their contained or derived compounds or mixtures thereof.

(8) Sulfanilamide or substituted sulfanilamides, or compounds or mixtures thereof, except preparations for topical application only containing not more than five per cent (5%) strength.

(9) Thyroid and its contained or derived active compounds or mixtures thereof.

(10) Phenylhydantoin derivatives.

(11) Thallium or any compound thereof.

(12) Any drug which bears the legend: "Caution: Federal law prohibits dispensing without prescription."

(13) Barbiturates or hypnotic drugs when combined and compounded with non-barbiturates or non-hypnotic drugs.

Provided, however, that preparations which contain certain other drugs, not covered by the provisions of this Act, other than those dangerous drugs specified in Section 2(a) (2) through (12) inclusive, in sufficient proportion to confer upon the preparation qualities other than those possessed by the dangerous drugs alone are exempt from the provisions of this Act. As amended Acts 1965, 59th Leg., p. 971, ch. 466, §. 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

CHAPTER FOUR—BARBER SHOPS AND BEAUTY PARLORS

Art. 734b. Hairdressers and cosmetologists

Meetings and examinations; issuance of certificate or license; display; health certificates

Sec. 4(a) The Board shall hold regular meetings for the examination of applicants in Austin, Texas, beginning on the first Tuesday in May, and on the first Tuesday in August and November during the calendar year of 1953, and on and after January 1, 1954, it shall hold regular meetings for the examination of applicants on the first Tuesday of each month thereafter, provided that if such Tuesday shall be a legal holiday, such examination shall be held on the following day. Applicants for license to engage in the occupation of hairdresser and cosmetologist, or manicurist, shall be required to satisfactorily pass an examination given by the Board at its meetings above provided for. The application for examination shall be accompanied by the following, and shall be filed at least 10 days prior to such examination.

(1) Birth certificate, or other evidence suitable to the Board, showing that the applicant is 16 years of age or over;

(2) Evidence that such applicant is a graduate of a beauty culture school which has been licensed by the Board and has completed the hours and months of instruction in a licensed beauty culture school or schools required by this Act, or evidence that such applicant holds either a current or expired license of this state or any other state having requirements similar to the provisions of this Act; all school hours shall count up to the time of the examination;

(3) A certificate of health issued and personally signed by a licensed doctor of medicine showing the applicant to be free from any contagious or infectious disease as determined by an examination, which shall include a Wasserman blood test. No public vocational cosmetology student shall be required to present more than two doctor's health certificates and Wasserman blood tests during completion of the course, provided attendance is continuous except for summer vacation;

(4) Cashier's check or Post Office Money Order in the amount of \$15 payable to the Board. As amended Acts 1965, 59th Leg., p. 1229, ch. 564, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Disposition of funds

Sec. 13

\* \* \* \* \*

(f) Five Dollars of the application fee received under Section 4(a) of this Act shall be deposited in a special "examination facilities" account which is hereby created within the Board of Hairdressers and Cosmetologists Fund established by this Act. All receipts in the account are hereby appropriated to the Board for the biennium beginning September 1, 1965, for the purpose of renting, providing, or acquiring adequate examination facilities, and for the proportional parts of any refunds to applicants as authorized by this Act. Added Acts 1965, 59th Leg., p. 1229, ch. 564, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY**

**CHAPTER ONE—HIGHWAYS AND VEHICLES**

Art.

799a. Sale of motor vehicle ignition keys  
[New].

**799a. Sale of motor vehicle ignition keys**

Section 1. No person may sell or offer to sell any motor vehicle master key knowingly designed to fit the ignition switch on more than one motor vehicle. A person who violates this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$200. Acts 1965, 59th Leg., p. 1444, ch. 633.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act prohibiting the sale or offer of sale of certain types of motor vehicle keys; and declaring an emergency. Acts 1965, 59th Leg., p. 1444, ch. 633.

**Art. 827a. Regulating operation of vehicles on highways**

**Width, length and height**

**Sec. 3.**

\* \* \* \* \*

(c) No motor vehicle, commercial motor vehicle, truck-tractor, trailer or semi-trailer shall exceed a length of forty (40) feet, except it shall be lawful for refrigeration equipment installed in a trailer or semi-trailer for the purpose of refrigerating the cargo thereof to overhang the front of such vehicle, even though such overhang would make the total length of such vehicle more than 40 feet; when any such truck-tractor and semi-trailer are operated in combination no such combination of a truck-tractor and semi-trailer coupled together shall exceed a total length of fifty-five (55) feet; and when operated in any other combination of such vehicles coupled together including but not limited to a truck and semi-trailer, truck and trailer, truck-tractor and semi-trailer and trailer, truck-tractor and two trailers, then no such other combination of such vehicles coupled together shall exceed a length of sixty-five (65) feet, unless in either case such vehicle or combination of vehicles is operated exclusively within the limits of an incorporated city or town; provided, however, the limit of forty (40) feet on a semi-trailer shall not apply when such semi-trailer is operated in a tractor-semi-trailer combination if such combination does not exceed fifty (50) feet in total length; and unless, in the case of any combination of such vehicles, same be operated by municipal corporations in adjoining suburbs wherein said municipal corporation has heretofore been using such or like equipment in connection with an established service to such suburbs of the municipality; provided, however, that the provisions of this Subsection shall not apply to any disabled vehicle being towed by another vehicle to the nearest intake place for repairs; provided further, that motor buses as defined in Acts of the 41st Legislature, 2nd Called Session, 1929, Chapter 88, as amended, exceeding thirty-five (35) feet in length, but not exceeding forty (40) feet in length, may be lawfully operated over the highways of this state if such motor buses are equipped with air brakes and have a minimum of four (4) tires on the rear axle; and provided further, that the above limitations shall not apply to any mobile home or to any combination of a mobile home and a motor vehicle, but no mobile

home and motor vehicle combination shall exceed a total length of fifty-five (55) feet. "Mobile home" as used herein means a living quarters equipped and used for sleeping and eating and which may be moved from one location to another over a public highway by being pulled behind a motor vehicle. No mobile home, as the same is defined herein, shall be entitled to the exemption contained in this Subsection unless the owner thereof shall have paid all taxes, including ad valorem taxes, and fees due and payable under the laws of this state, levied on said mobile home. As amended Acts 1965, 59th Leg., p. 123, c. 50, § 1, eff. Sept. 1, 1965.

\* \* \* \* \*

**Repeal of Conflicting Laws**

*Acts 1965, 59th Leg., p. 298, ch. 130, §§ 1, 2 repealed Vernon's Ann.Civ.St., art. 6701d, section 106(a) to the extent, and only to the extent of its conflict with Acts 1965, 59th Leg., p. 123, ch. 50 (S.B. No. 3) which, inter alia, amended section 3(c) of this article relating to lengths of motor vehicles, truck-tractors, trailers and combinations thereof, and repealed all other laws and parts of laws in conflict with Chapter 50 (S.B. No. 3) to the extent of such conflict.*

**Limitation as to trailers**

**Sec. 7.**

(a) Repealed. Acts 1965, 59th Leg., p. 123, ch. 50, § 2, eff. Sept. 1, 1965.

\* \* \* \* \*

**Art. 827a—3. Length of vehicles transporting poles, piling or unrefined timber**

Section 1. Notwithstanding other provisions of the statutes governing the length of motor vehicles and combinations thereof which may be operated over the highways and roads, it shall be lawful to operate such vehicles and combinations not to exceed ninety (90) feet in length where such vehicles and combinations are used exclusively for transporting poles, piling or unrefined timber from the point of origin of such timber (the forest where such timber is felled) to a wood processing mill. No such vehicles and combinations as covered by the provisions of this Act shall be permitted to travel in excess of one hundred and twenty-five (125) miles from their point of origin to destination or delivery point.

Sec. 2. Such vehicles may be operated only between the hours of sunrise and sunset as defined by law. As amended Acts 1965, 59th Leg., p. 1454, ch. 641, § 1, emerg. eff. June 17, 1965.

**Art. 827b. Temporary registration for out of state visitors**

**Trucks, trailers, etc., used in movement of farm products; temporary registration permit to non-resident owners**

Sec. 2A. To expedite and facilitate, during the harvesting season, the harvesting and marketing of wheat, oats, rye, barley, grain sorghums, flax, rice, cotton; vegetables in bulk, field crates, or bags, produced in this State, the Department is authorized to issue to a nonresident owner a 30-day temporary registration permit for any truck, truck-tractor, trailer or semitrailer to be used in the movement of such farm commodities from the place of production to market, storage or railhead, not more than seventy-five (75) miles distant from such place of production.

To expedite and facilitate, during the harvesting season, the harvesting and movement of farm products produced outside of Texas but marketed or processed in Texas or moved to points in Texas for shipment, the Department is authorized to issue to a nonresident owner a 30-day temporary registration permit for any truck, truck-tractor, trailer or semi-trailer to be used in the movement of such farm commodities from the point of entry into Texas to market, storage, processing plant, railhead or seaport not more than eighty (80) miles distant from such point of entry into Texas. All mileages and distances referred to herein are State Highway mileages. Before such temporary registration provided for in this paragraph may be issued, the applicant must present satisfactory evidence that such motor vehicle is protected by such insurance and in such amounts as may be described in Section 5 of the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes) as it is now written or as it may hereafter be amended, and such policies must be issued by an insurance company or surety company authorized to write Motor Vehicle Liability Insurance in this State; and that such vehicle has been inspected as required under the Uniform Act Regulating Traffic on Highways in Texas (Article XV of Article 6701d, Vernon's Texas Civil Statutes) as it is now written or as it may hereafter be amended.

The Department is authorized to prescribe the form of the application and the information to be furnished therein for such temporary registration permits. If the application is granted, the Department shall issue a special distinguishing insignia which must be attached to such vehicle in lieu of the regular Texas Highway registration plates. Such special insignia shall show its expiration date. The temporary registration permit fee shall be one-twelfth (1/12) of the annual Texas registration fee for the vehicle for which the special permit is secured.

The temporary permits herein authorized shall be issued only when the vehicle for which said permit is issued is legally registered in the nonresident owner's home state or country for the current registration year; and said permit will remain valid only so long as the home state or country registration is valid; but in any event the Texas temporary registration permit will expire 30 days from the date of issuance. Not more than three (3) such temporary registration permits may be issued to a nonresident owner during any one (1) vehicle registration year in the State of Texas. A vehicle registered under the terms of this Act may not be operated in Texas after the expiration of the temporary permit unless the nonresident owner secures a second temporary permit as provided above, or unless the nonresident owner registers the vehicle under the appropriate Texas vehicular registration statutes, applicable to residents, for the remainder of the registration year. No such vehicle may be registered with a Texas farm truck license.

Any person who shall transport any of the commodities described in this Act, under a temporary permit provided for herein, to a market, place of storage, processing plant, railhead or seaport, which is a greater distance from the place of production of such commodity in this State, or the point of entry into the State of Texas than is provided for in said temporary permit, or shall follow a route other than that prescribed by the Highway Commission, shall be punished by a fine of not less than Twenty-five Dollars (\$25), nor more than Two Hundred Dollars (\$200).

Nothing in this Act shall be construed to authorize such nonresident owner or operator to operate or cause to be operated any of such vehicles in this State in violation of Acts, 1929, Forty-first Legislature, Chapter 314, as amended (Article 911b, Vernon's Civil Statutes) or any of the other laws of this State. As amended Acts 1965, 59th Leg., p. 479, ch. 243, § 1, emerg. eff. May 21, 1965.

CHAPTER TWO—PUBLIC ROADS AND IRRIGATION

Arts. 828-830. Repealed. Acts 1965, 59th Leg., p. 945, ch. 459, § 1.

Arts. 835, 835a. Repealed. Acts 1965, 59th Leg., p. 945, ch. 459, § 1.

CHAPTER SIX—GAME, FISH AND OYSTERS

Art.  
879h-6. Hunting with .22 caliber fire-  
arm using rimfire ammunition  
[New].  
937b. Taking sponge crabs from coastal  
waters [New].

Art.  
952aa-5. Fishing in Angelina River and  
Mud Creek [New].  
952aa-6. Fishing in Sulphur River [New].  
978f-7. Reciprocal agreements; hunting  
and fishing license fees [New].

Art. 879h-1. Archery season on buck, deer, bear, turkey and collared peccary or javelina

Acts 1965, 59th Leg., p. 765, ch. 356, § 1, amending Acts 1959, 56th Leg., p. 423, ch. 189, § 2A, as last amended by Acts 1961, 57th Leg., p. 684, ch. 320, § 1, read as follows: "The provisions of this Act shall not be applicable in whole or in part to the following counties: Angelina, Armstrong, Atascosa, Austin, Bailey, Bandera, Baylor, Bee, Bell, Blanco, Borden, Bosque, Bowie, Brazoria, Brewster, Burnet, Caldwell, Calhoun, Callahan, Camp, Carson, Cass, Castro, Colorado, Comanche, Comal, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Deaf Smith, Delta, DeWitt, Dickens, Dimmit, Eastland, Ector, Edwards, Ellis, Erath, Fannin, Fayette, Fisher, Ford, Fort Bend, Franklin, Freestone, Frio, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gregg, Grimes, Guadalupe, Hamilton, Hansford, Hardeman, Hardin, Harrison, Hartley, Haskell, Hays, Hemp-

hill, Hill, Hood, Hopkins, Houston, Howard, Hutchinson, Irion, Jackson, Jasper, Johnson, Jones, Karnes, Kendall, Kent, Kerr, Kleberg, Kimble, King, Kinney, Knox, Lamar, Lamb, Lampasas, LaSalle, Lavaca, Leon, Lipscomb, Live Oak, Llano, McCulloch, McMullen, Marion, Martin, Mason, Matagorda, Maverick, Medina, Menard, Mitchell, Montgomery, Moore, Morris, Nacogdoches, Newton, Nolan, Nueces, Ochiltree, Oldham, Panola, Parmer, Polk, Rains, Reagan, Real, Red River, Roberts, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Sterling, Stonewall, Sutton, Taylor, Terrell, Throckmorton, Titus, Tom Green, Trinity, Tyler, Upshur, Val Verde, Victoria, Walker, Waller, Washington, Wharton, Wilbarger, Wilson, Wood, Zavala."

Art. 879h-6. Hunting with .22 caliber firearm using rimfire ammunition

Section 1. No person shall use any .22 caliber firearm which utilizes rimfire ammunition in the taking or shooting of, or in attempting to take or shoot, wild deer, wild elk, wild antelope, wild Aoudad sheep, or wild desert bighorn sheep.

Sec. 2. Any person who shall violate the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). Each wild deer, wild elk, wild antelope, wild Aoudad sheep, or wild desert bighorn sheep taken or shot in violation of this Act shall constitute a separate offense. Each attempt to take or shoot a wild deer, wild elk, wild antelope, wild Aoudad sheep, or wild desert bighorn sheep in violation of this Act shall constitute a separate offense. Acts 1965, 59th Leg., p. 1269, ch. 583.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act making it unlawful to take or attempt to take or shoot wild deer, wild

elk, wild antelope, wild Aoudad sheep, and wild desert bighorn sheep with any .22 caliber firearm using rimfire ammunition; providing a penalty; repealing laws in conflict; and declaring an emergency. Acts 1965, 59th Leg., p. 1269, ch. 583.



For Annotations and Historical Notes, see V.A.T.S.

**Art. 892. Certain animals declared to be game animals**

Wild deer, wild elk, wild antelope, wild Desert Bighorn sheep, wild black bear, wild gray or cat squirrels, wild fox squirrels or red squirrels, collared peccary or javelina, and the American Bison or buffalo are hereby declared to be game animals within the meaning of this Act. However, no species of any of these animals or any other animals is classified as a game animal if it is not indigenous to the state or any part of the state. Aoudad sheep are game animals in Armstrong, Briscoe, Randall, Floyd, and Motley Counties. As amended Acts 1963, 58th Leg., p. 8, ch. 6, § 1; Acts 1965, 59th Leg., p. 782, ch. 372, § 1, emerg. eff. June 9, 1965.

**Art. 895c. Hunting licenses; necessity; form; exemptions, etc.****Exemptions**

Sec. 8. No citizen of this state who is under 17 years of age or 65 years of age or over shall be required to pay the fee prescribed for the license provided for in Section 1 of this Act; nor shall any citizen be required to pay that fee before taking, killing, or hunting on land on which he is residing. Provided, however, that any person exempted by this section, before hunting deer or wild turkey, shall first register with the Parks and Wildlife Department or one of its authorized agents, on a form to be furnished by the Department, and receive from the Department a hunting license, for which he shall pay a fee of 25 cents, 15 cents of which is to be retained by the issuing officer and 10 cents of which is to be forwarded to the Parks and Wildlife Department to be used as other license fees, and which shall be in the form and signed by the exempted licensee as prescribed in this Act for licenses for which a regular fee is charged; but in addition thereto, such exemption license shall clearly show on its face that it is an exemption license. As amended Acts 1965, 59th Leg., p. 617, ch. 306, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Art. 923m. Fur-bearing animals****Mink; hunting with dogs; exception**

Sec. 4. No person shall hunt, take, or kill or attempt to hunt, attempt to take, or attempt to kill wild mink in the State of Texas with dogs, and no person shall have in his possession a mink pelt while hunting with dogs. This Section shall not apply, however, to the counties of Hopkins, Delta, Franklin, Camp, Rains, and Fannin. As amended Acts 1965, 59th Leg., p. 311, ch. 142, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

*Amendment of section 4 by Acts 1965, 59th Leg., p. 848, c. 410, § 1, see section 4 post.*

Sec. 4. No person shall hunt, take, or kill or attempt to hunt, attempt to take, or attempt to kill wild mink in the State of Texas with dogs, and no person shall have in his possession a mink pelt while hunting with dogs. This section shall not apply, however, to the counties of Hopkins, Delta, Franklin, Camp, Rains, Grayson, and Fannin. As amended Acts 1965, 59th Leg., p. 848, ch. 410, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

*Amendment of section 4 by Acts 1965, 59th Leg., p. 311, ch. 142, § 1, see section 4 ante.*

**Art. 937b. Taking sponge crabs from coastal waters**

Section 1. (a) No person, firm, or corporation shall take by any means any sponge crabs from the coastal waters of this State.

(b) In this Act, the term "coastal waters" has the same meaning as is assigned to it by the Texas Shrimp Conservation Act (Section 3, Article 4075b, Vernon's Texas Civil Statutes).

Sec. 2. A person, firm, or corporation which violates any provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$200.

Sec. 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable. Acts 1965, 59th Leg., p. 1349, ch. 611.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act prohibiting the taking of sponge crabs from the coastal waters of this State; and declaring an emergency. Acts 1965, 59th Leg., p. 1349, ch. 611.

**Art. 952aa—4. Fishing in Murvaul Lake in Panola County****Fishing from dam or near spillway**

Sec. 5. Repealed. Acts 1965, 59th Leg., p. 1348, ch. 610, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment.

**Designation as wildlife sanctuary; hunting; possession of firearms**

Sec. 8. Repealed. Acts 1965, 59th Leg., p. 1348, ch. 610, § 1. Eff. Aug. 30, 1965, 90 days after date of adjournment.

**Art. 952aa—5. Fishing in Angelina River and Mud Creek**

Section 1. This Act applies to the Angelina River and Mud Creek in Rusk, Nacogdoches, and Cherokee Counties.

Sec. 2. No person may place any lime, poison, drug, dynamite, nitroglycerin, giant powder, or any other explosive or substance harmful to fish in the waters of the river or creek for the purpose of catching or attempting to catch fish.

Sec. 3. No person may catch or attempt to catch fish by the aid of what is commonly known as "telephoning," or by using any other electricity-producing apparatus designed for shocking fish. Possession of any such equipment in a boat or along the bank or shore of the River or Creek is prima facie evidence of a violation of this Section.

Sec. 4. A person who violates any provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$300 nor more than \$750. A person who has been once before convicted of a violation of this Act is punishable by a fine of not less than \$500 nor more than \$1,000 and by confinement in the county jail for not less than 30 days nor more than six months; and a person who has been at least twice before convicted of a violation of this Act is punishable by a fine of not less than \$1,000 nor more than \$2,000 and by confinement in the county jail for not less than six months nor more than one year. Acts 1965, 59th Leg., p. 855, ch. 415.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act relating to certain illegal means of taking fish in the Angelina River and

Mud Creek in Rusk, Nacogdoches, and Cherokee Counties; providing penalties for violations; and declaring an emergency. Acts 1965, 59th Leg., p. 855, ch. 415.

**Art. 952aa—6. Fishing in Sulphur River**

Section 1. (a) Except as provided in Subsection (b), it is lawful to employ any means to take fish from submerged hollow logs in all of the waters of the Sulphur River lying within the boundaries of Red River and Bowie Counties, between the western boundary of Red River County and the Sulphur River Bridge located on U.S. Highway 67.

(b) This Act does not authorize the use of substances or equipment prohibited by Article 924, Penal Code of Texas, 1925, as amended, or Section 1, Chapter 163, Acts of the 54th Legislature, Regular Session, 1955 (codified as Article 924a, Vernon's Texas Penal Code). Acts 1965, 59th Leg., p. 1250, ch. 571, emerg. eff. June 17, 1965.

**Title of Act:**

An Act relating to certain methods of taking fish from the Sulphur River in certain counties; and declaring an emergency. Acts 1965, 59th Leg., p. 1250, ch. 571.

**Art. 965. Repealed. Acts 1965, 59th Leg., p. 1575, ch. 683, § 15. Eff. Aug. 30, 1965, 90 days after date of adjournment**

See, now, Vernon's Ann.Civ.St. art. 4050f.

**Art. 972. Repealed. Acts 1965, 59th Leg., p. 1575, ch. 683, § 15. Eff. Aug. 30, 1965, 90 days after date of adjournment**

See, now, Vernon's Ann.Civ.St. art. 4050f.

**Art. 978f—7. Reciprocal agreements; hunting and fishing license fees**

Section 1. The Parks and Wildlife Department may negotiate an agreement with any other state, under which the residents of the other state are extended the privilege of obtaining sports hunting and fishing licenses on payment of the same fees as those paid by residents of this State, in return for the other state's granting of the same privilege to the residents of this State. Acts 1965, 59th Leg., p. 995, ch. 481.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act authorizing the Parks and Wildlife Department to negotiate reciprocity agreements with other states relating to hunting and fishing license fees; and declaring an emergency. Acts 1965, 59th Leg., p. 995, ch. 481.

**Art. 978j. Local game and fish laws**

For fish and game law applicable only to the named counties, see notes under Vernon's Ann.Pen.Code, art. 978j.

## TITLE 14—TRADE AND COMMERCE

## CHAPTER FOUR—WAREHOUSES AND COTTON

## Art. 1034. Pink bollworm laws

Whoever shall transport any cotton or cotton products by any means from any territory in this State which has been quarantined and placed under restrictions by proclamation of the Governor of the State, in accordance with the authority conferred by the laws of this State relating to the pink bollworm; or whoever shall violate any proclamation or any rule, regulation or other restriction authorized by said laws or bring into the State any material contaminated with said worm or its eggs; or whoever shall plant, cultivate, grow, allow to grow, gather, transport or market cotton in or from any territory in this State, that has been quarantined or declared a non-cotton zone or placed under restrictions by any of the proclamations authorized by said laws; or whoever shall fail to comply with any of the said rules and regulations so promulgated for the control and direction of cotton growing and marketing in any restricted or regulated zone; or shall violate any proclamation, regulation or restriction authorized by said laws, or any ginner who shall fail or refuse to disinfect cotton seed as provided for in said laws; or whoever shall wilfully refuse or knowingly neglect to comply with any such proclamation, restriction or regulation promulgated and maintained for the protection of the cotton industry, shall be fined not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500), or shall be imprisoned in jail for not less than ten (10) days nor more than thirty (30) days, or may be punished by both such fine and imprisonment. Each transaction of each product so shipped or transported, and each act in violation of the restrictions herein authorized governing the planting, growing, marketing and cleaning the fields, shall constitute a separate offense. The District Court of the county in which any criminal case is filed under the provisions of this article may, upon the application of either the State or of the defendant and a showing that the applicant cannot obtain a fair trial in that county, order a change of venue to an adjoining county or district; provided, however, that it shall be a complete defense to any alleged violation of the provisions hereof, if the act or failure denounced has been in accordance with the rules and regulations promulgated by the Commissioner of Agriculture. As amended Acts 1965, 59th Leg., p. 36, ch. 13, § 1, emerg. eff. March 3, 1965.

## CHAPTER FIVE—WEIGHTS AND MEASURES

## Art. 1042b. Sale of wheat and other flours or corn meal in other than standard packages forbidden

## Sec. 4. This Act does not apply to

(1) the retailing of wheat flour, whole wheat flour, graham flour, other cereal flour, or corn meal directly to the consumer from bulk stock;

(2) the sale of flour to a bakery for its exclusive use;

(3) the exchange of flour or meal for wheat or corn between a grist-mill and another mill grinding for toll for producers;

(4) the packing for sale, offer for sale, or sale of a prepared flour or meal designed for a special or limited use and packed and distributed in an identified original package the net weight of which is five pounds or less. As amended Acts 1965, 59th Leg., p. 828, ch. 400, § 1, emerg. eff. June 9, 1965.

**CHAPTER TWELVE—MISCELLANEOUS OFFENSES**

Art.  
1137p. Debt pooling [New].

**Art. 1137p. Debt pooling**

**Definition**

Section 1. The term "debt pooling" as used in this Act shall mean the act of entering into a contract by any person, firm, corporation or association with a debtor by the terms of which contract the debtor agrees to deposit periodically or otherwise with such person, firm, corporation or association a specified sum of money and said person, firm, corporation or association agrees to distribute said sum of money among creditors of the debtor, for which service the debtor agrees to pay a valuable consideration.

**Debt pooling prohibited**

Sec. 2. No person, firm, corporation or association shall engage in the act or business of debt pooling as defined in Section 1. Contracts for debt pooling shall be void and of no effect.

**Exceptions**

Sec. 3. The provisions of this Act shall not apply to attorneys at law, state or national banks, judicial officers or others acting under court orders, any retail merchants' trade association or a nonprofit association formed for the purpose of collecting accounts and exchanging credit information. The provisions of this Act shall not apply to any lawful debt pooling contract in existence on or before the effective date of this Act. The provisions of this Act shall not apply to any credit union doing business under the authority of Articles 2461 through 2484c, Revised Civil Statutes of Texas, 1925, as amended, and any credit union doing business under the laws of the United States relating to federal credit unions.

**Penalty**

Sec. 4. Whoever either individually or as an officer, director, employee or agent of a person, firm, corporation or association, violates the provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each conviction. Each act of debt pooling as defined in Section 1 shall constitute a separate offense. Acts 1965, 59th Leg., p. 409, ch. 199.

Effective Aug. 30, 1965, 90 days after date of adjournment.

**Title of Act:**

An Act defining and prohibiting debt pooling; declaring debt pooling contracts

to be void; providing exceptions; prescribing a penalty for violation; providing a severability clause; and declaring an emergency. Acts 1965, 59th Leg., p. 409, ch. 199.

## TITLE 15—OFFENSES AGAINST THE PERSON

## CHAPTER ONE—ASSAULT AND ASSAULT AND BATTERY

## Art. 1145. [1019] [598] [495] Punishment

The punishment for a simple assault or for assault and battery shall be a fine of not less than \$5 nor more than \$200. As amended Acts 1965, 59th Leg., p. 609, ch. 301, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER FIVE—MAIMING, DISFIGURING AND CASTRATION

Art.

1167a. Tattooing [New].

## Art. 1167a. Tattooing

Section 1. It shall be unlawful to tattoo any person under the age of twenty-one (21) years.

Sec. 2. "Tattooing" means the practice of marking the skin with indelible patterns or pictures by making punctures and inserting pigments.

Sec. 3. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than ten dollars (\$10) nor more than two hundred dollars (\$200), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment. Acts 1965, 59th Leg., p. 847, ch. 409.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act prohibiting the tattooing of any person under the age of twenty-one (21) years; defining tattooing; providing a penalty; and declaring an emergency. Acts 1965, 59th Leg., p. 849, ch. 409.

## CHAPTER SIX—FALSE IMPRISONMENT

Art.

1176a. Aid and compensation to person wrongfully imprisoned [New].

## Art. 1176a. Aid and compensation to persons wrongfully imprisoned

## Legislative finding and statement of policy

Section 1. The Legislature finds that the people of Texas by adding to the Constitution of the State of Texas, Article III, Section 51-c, on November 6, 1956, have adopted the policy that persons who have served sentences in prison for crimes of which they are not guilty should not bear the loss occasioned by this error, but that the people of the State should provide such persons with compensation to reimburse and compensate them for their losses. It is the purpose of this Act to provide the means whereby such compensation may be obtained by persons so wronged.

## Claimants entitled to compensation

Sec. 2. A person is entitled to compensation provided by this Act:

(a) if he has served, in whole or in part, a sentence in prison under the laws of this State; and

(b) if he pleaded "not guilty" to the charge for which he was convicted and which led to the imprisonment; and

(c) if he is not guilty of the crime for which he was sentenced; and

(d) if he has received a full pardon for the crime and punishment for which he was sentenced.

**Permission to sue state granted—venue—service**

Sec. 3. Any person who by verified petition alleges that he is entitled to compensation under this Act may bring suit against the State of Texas. This Act grants permission to such persons to sue the State and the State's immunity from suit is hereby waived as to all actions brought under this Act. A person who sues the State under this Act shall bring suit in a court of competent jurisdiction either in the county of his residence at the time such suit is commenced or in a court of competent jurisdiction for Travis County. Service of citation upon the State shall be accomplished by service upon the Attorney General. The Attorney General shall represent the State in any proceeding brought under this Act.

**Proof required**

Sec. 4. In order to obtain a judgment in his favor, a person who brings suit under this Act must establish by a preponderance of the evidence that he is entitled to compensation under this Act and the amount of compensation to which he is entitled. The judgment of conviction in the trial which resulted in the imprisonment in question is not a defense on the part of the State to a suit brought under this Act, nor is an indictment, information, complaint or other formal accusation any defense.

**Admissible evidence**

Sec. 5. The record of the trial at which the person bringing suit under this Act was convicted, and the pardon or proclamation issued to him by the Governor are admissible as evidence, and all court papers, orders, docket notations or other writings of record in any court in this State are admissible in evidence in a trial of a suit brought under this Act as proof of the facts set out therein.

**Measure of damages for compensation**

Sec. 6. If the jury, or the judge where the case is tried before the judge without a jury, finds that the claimant is entitled to compensation, then the jury or the judge, as the case may be, shall assess the claimant's damages at such a sum of money as will fairly and reasonably compensate him:

(a) for the physical and mental pain and suffering sustained by him as a proximate result of the erroneous conviction or imprisonment from the time of conviction by the trial court;

(b) for all reasonable and necessary medical expenses incurred by him as a proximate result of the erroneous conviction or imprisonment from the time of the conviction in the trial court.

It is provided, however, that the judge or jury, as the case may be, shall not assess the claimant's damages under Subsection (a) of this Section 6 at an amount greater than Twenty-five Thousand Dollars (\$25,000). It is further provided that the judge or jury, as the case may be, shall not assess the claimant's total damages under this Act at an amount greater than Fifty Thousand Dollars (\$50,000).

Limitation of action

Sec. 7. Any person claiming compensation under this Act whose claim is based upon a sentence served before the effective date of this Act must bring his action within two years after the effective date of this Act or within two years after he discovered or should have discovered the evidence substantiating his innocence. Any person claiming compensation under this Act whose claim is based upon a sentence served in whole or in part, after the effective date of this Act must bring his action within two years after he ceased serving the sentence of imprisonment or after his release from custody, or within two years after he discovered or should have discovered the evidence substantiating his innocence. Acts 1965, 59th Leg., p. 1022, ch. 507.

Effective Aug. 30, 1965, 90 days after date of adjournment.

Title of Act:

An Act concerning the payment of aid and compensation to persons who have paid

fines, or served sentences for crimes of which they are not guilty; and declaring an emergency. Acts 1965, 59th Leg., p. 1022, ch. 507.



## TITLE 17—OFFENSES AGAINST PROPERTY

### CHAPTER TWO—OTHER WILFUL BURNING

Art. 1325. [1223] [779] [674] When death ensues, murder

Where death is occasioned by any offense described in this and the preceding Chapter the offender is guilty of murder; provided, however, that in the event the evidence fails to show that the death was occasioned by the malice aforethought of the offender, then, in such event, the punishment shall be confinement in the penitentiary for life or any term of years not less than 2. As amended Acts 1965, 59th Leg., p. 489, ch. 251, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

### CHAPTER EIGHT—THEFT IN GENERAL

Art. 1436—1. Motor vehicles; Certificate of Title Act

#### “Certificate of Title” defined

Sec. 24. The term “Certificate of Title” means a written instrument which may be issued solely by and under the authority of the department, and which must give the following data together with such other data as the department may require from time to time:

(a) The name and address of the purchaser and seller at first sale or transferee and transferer at any subsequent sale.

(b) The make.

(c) The body type.

(d) The motor number.

At such time as the stamping of permanent identification numbers on motor vehicles in a manner and place easily accessible for physical examination is universally adopted by motor vehicle manufacturers as the permanent vehicle identification, the department is authorized to use such permanent identification number as the major identification of motor vehicles subsequently manufactured. The motor number will continue to be the major identification of vehicles manufactured before such change is adopted.

(e) The serial number.

(f) The license number of the current Texas plates.

(g) The names and addresses and dates of any liens on the motor vehicle, in chronological order of recordation.

(h) If no liens are registered on the motor vehicle, a statement of such fact.

(i) A space for the signature of the owner and the owner shall write his name with pen and ink in such space upon receipt of the certificate.

(j) A statement indicating “rights of survivorship” when an agreement providing that the motor vehicle is to be held between a husband and his wife jointly with the interest of either spouse who dies to survive to the surviving spouse is surrendered with the application for certificate of title. This agreement is valid only if signed by both husband and wife and,

if signed, the certificate shall be issued in the name of both. As amended Acts 1965, 59th Leg., p. 1514, ch. 658, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

#### **Transfer by operation of law; new certificate**

Sec. 35. Whenever the ownership of a motor vehicle registered or licensed within this state is transferred by operation of law, as upon inheritance, devise or bequest, bankruptcy, receivership, judicial sale, or any other involuntary divestiture of ownership, the department shall issue a new certificate of title upon being provided with a certified copy of the order appointing a temporary administrator or of the probate proceedings, or letters testamentary or of administration, if any (if no administration is necessary, then upon affidavit showing such fact and all of the heirs at law and specification by the heirs as to in whose name the certificate shall issue), or order, or bill of sale from the officer making the judicial sale, except however, that where foreclosure is had under the terms of a lien, the affidavit of the person, firm, association, corporation, or authorized agent, of the fact of repossession and divestiture of title in accordance with the terms of the lien, shall be sufficient to authorize the issuance of a new certificate of title in the name of the purchaser at such sale, and except further that in the case of the foreclosure of any constitutional or statutory lien, the affidavit of the holder of such lien, or if a corporation, its agent, of the fact of the creation of such lien and the divestiture of title by reason thereof in accordance with law, shall be sufficient to authorize the issuance of a new certificate of title in the name of the purchaser. If an agreement providing for right of survivorship is signed by the husband and wife, upon the death of either spouse the department shall issue a new certificate of title to the surviving spouse upon being provided with a copy of the death certificate of the deceased spouse. As amended Acts 1965, 59th Leg., p. 1514, ch. 658, § 2.

Effective Aug. 30, 1965, 90 days after date of adjournment.

### **Art. 1436e. Shoplifting**

#### **Definition**

Section 1. Any person while legally in a retail business establishment as an invitee or licensee who removes from its place, goods, edible meat or other corporeal personal property of any kind or character kept, stored or displayed for sale with the intent to fraudulently take and to deprive the owner of the value of the same and to appropriate the same to the use and benefit of the person taking is guilty of shoplifting. Altering of label or marking on goods, edible meat or other corporeal personal property or transferring same from one container to another with intent to defraud the owner also constitutes the crime of shoplifting.

#### **Prevention of consequences of shoplifting**

Sec. 2. All persons have a right to prevent the consequences of shoplifting by seizing any goods, edible meat or other corporeal property which has been so taken, and bringing it, with the supposed offender, if he can be taken, before a magistrate for examination, or delivering the same to a peace officer for that purpose. To justify such seizure, there must, however, be reasonable ground to suppose the crime of shoplifting to have been committed and the property so taken, and the seizure must be openly made and the proceeding had without delay.

#### **Detention of persons**

Sec. 3. Any merchant, his agent or employee, who has reasonable ground to believe that a person has wrongfully taken or has wrong-

**OFFENSES AGAINST PROPERTY Art. 1436e**  
 For Annotations and Historical Notes, see V.A.T.S.

ful possession of merchandise, may detain such person in a reasonable manner and for a reasonable length of time for the purpose of investigating the ownership of such merchandise. Such reasonable detention shall not constitute an arrest nor shall it render the merchant, his agent or employee, liable to the person detained.

**Conviction; penalties**

Sec. 4. (a) For the first conviction of a violation of this Act, in the event the value of the goods, edible meat or other corporeal property which has been so taken, is less than Fifty Dollars (\$50), punishment shall be by imprisonment in the county jail not exceeding two (2) years, and by a fine not exceeding One Thousand Dollars (\$1,000).

(b) If it be shown, in the trial of a case involving a violation of this Act, in which the value of the goods, edible meat or other corporeal property is less than Fifty Dollars (\$50), that the defendant has been once before convicted of the same offense, he shall, on his second conviction, be punished by confinement in the county jail for not less than thirty (30) days nor more than two (2) years, and by a fine not exceeding Two Thousand Dollars (\$2,000).

(c) If it be shown upon the trial of a case involving a violation of this Act, where the value of the goods, edible meat or other corporeal personal property is less than Fifty Dollars (\$50), that the defendant has two (2) or more times before been convicted of the same offense, regardless of the value of the goods, edible meat or other corporeal personal property involved in the first two (2) convictions, upon the third or any subsequent conviction, the punishment shall be by confinement in the penitentiary for not less than two (2) nor more than ten (10) years.

(d) For a violation of this Act, in the event the value of the goods, edible meat or other corporeal property is Fifty Dollars (\$50), or more, punishment shall be by confinement for not less than two (2) years nor more than ten (10) years.

**Prosecutions; process and witnesses**

Sec. 5. In all prosecutions under this Act, process shall be issued and served in the county or out of the county where prosecution is pending and have the same binding force and effect as though the offense being prosecuted were a felony; and all officers issued and serving such process in or out of the county wherein the prosecution is pending, and all witnesses from within or without the county wherein the prosecution is pending shall be compensated in like manner as though the offense were a felony in grade.

**Savings clause**

Sec. 6. If any section, subsection, clause, phrase or sentence of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, clause, phrase or sentence thereof, irrespective of the fact that one or more of the sections, subsections, clauses, phrases or sentences be declared unconstitutional. Acts 1959, 56th Leg., p. 72, ch. 34, as amended Acts 1965, 59th Leg., p. 942, ch. 457, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

## CHAPTER FOURTEEN—DISEASES OF ANIMALS AND BEES

## Art. 1525b. Eradicating diseases among live stock and domestic fowls

Diseases of swine; testing; slaughter of infected swine; payments to owners; feeding garbage to swine; inspections

Sec. 22a. (1) The Texas Animal Health Commission is hereby authorized to cooperate with the United States Department of Agriculture, for the eradication of vesicular exanthema, foot and mouth disease of swine, hog cholera, and other diseases of swine.

(2) The Commission shall provide in its rules and regulations the manner, method and system of testing swine for such diseases in such cooperative eradication work.

(3) It shall be the duty of the Texas Animal Health Commission to provide applicable rules and regulations for the use of biologicals as a protection against dissemination of contagious, infectious, or communicable swine diseases.

(4) The Commission shall have the authority to order swine infected with, or exposed to, vesicular exanthema, foot and mouth disease, hog cholera and other diseases of swine to be sold for immediate slaughter at public slaughtering establishments where federal post mortem inspection is maintained; or the Commission may authorize such slaughter upon the owner's property, premises or other place under the direction of said Commission. Provided however, the owner shall have the right to appeal such order by the Commission, to the County Court, in the county where such swine are located.

(5) After such sale and slaughter of swine infected with or exposed to vesicular exanthema, foot and mouth disease, and hog cholera, the Commission is authorized to pay the owner of such swine out of funds appropriated by the Legislature for that purpose in an amount not to exceed fifty per cent (50%) of the appraised value of such animals after deducting the amount of salvage received for them by the owner. No payment shall be made unless the owner or owners of such swine have complied with Subsection (7) of this Section and the rules and regulations of the Texas Animal Health Commission applicable to the particular swine for which payment is made nor shall any compensation be paid in excess of the amount of compensation paid such owner for such swine by the United States Department of Agriculture.

(6) The value of such animals shall be appraised by a representative of the Commission or of the United States Department of Agriculture, and a representative of the owner or owners thereof. If they cannot agree, then a third appraiser shall be appointed by these two appraisers, and the value is that amount agreed to by two of the three appraisers. If either party is not satisfied with the value as appraised, he shall have the right to appeal to the court having jurisdiction of the amount in controversy in the county of the residence of the owner. The trial shall be de novo as that term is used in appeals from the justice court to the county court.

(7) It shall be unlawful for any person to feed garbage to swine unless such garbage has been heated to a temperature of 212 degrees Fahrenheit (boiling point) for a period of thirty (30) consecutive minutes within forty-eight (48) hours prior to such feeding. This subsection does not apply to an individual who feeds to his own swine the garbage from his own household, farm, or ranch.

(8) The term "garbage" includes all of the refuse matter, animal or vegetable, and all putrescible animal and vegetable wastes resulting

For Annotations and Historical Notes, see V.A.T.S.

from the handling, preparation, cooking and consumption of foods containing animal carcasses or parts thereof, and all waste material by-products of a restaurant, kitchen, cookery, or slaughter house, and every refuse accumulation of animal or vegetable matter, liquid or otherwise.

(9) The term "person" means and includes any individual, firm, corporation, partnership, association and any other entity.

(10) Representatives of the Commission, including the members of the Commission, may enter upon the premises of any person for the purpose of making inspections of swine and of the heating or cooking equipment required under this Section, or to perform any other duty provided in this Section. No person may refuse to permit an inspection authorized under this Section.

(11) The Commission shall provide rules and regulations for the enforcement of this Section.

(12) A person who violates any provision of this Section or any rule or regulation of the Commission authorized by this Section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$200, and each day of violation shall constitute a separate offense. As amended Acts 1959, 56th Leg., p. 262, ch. 152, § 1; Acts 1965, 59th Leg., p. 141, ch. 57, § 1; Acts 1965, 59th Leg., p. 530, ch. 274, §§ 1, 2, emerg. eff. May 28, 1965.

Section 2 of the amendatory act of 1965 §§ 1-3, which earlier purported to amend repealed Acts 1965, 59th Leg., p. 140, ch. 57, section 22a of this article.

## CHAPTER SIXTEEN—SWINDLING AND CHEATING

### Art. 1546a. False written statement of financial condition

Section 2. Any person who shall, with intent to defraud, either

(i) substitute one instrument in writing for another and by this means cause the making of a loan or the extension of credit, or

(ii) induce by any fraudulent instrument in writing the making of a loan or the extension of credit as a part of a transaction whereby either the title to real property is transferred or valuable improvements are placed on real property in this State, whether for the benefit of himself or another, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by confinement in the county jail not exceeding six months, or by a fine not exceeding \$1,000, or by both such fine and confinement. Any person who has been convicted of the misdemeanor offense prescribed in this Section shall, for each subsequent violation of this Section, be guilty of a felony and upon conviction shall be punished by a fine of not less than \$1,000, nor more than \$5,000 or by confinement in the state penitentiary for not more than five years or by both such fine and confinement. Added Acts 1965, 59th Leg., p. 439, ch. 223, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

### Art. 1550. [1427] [948] [798] Punishment for swindling

Section 1. Where property, money, goods, services, instrument of writing conveying or securing a valuable right, or any other thing of value, of the value of fifty dollars or over is acquired in such manner that the acquisition thereof constitutes swindling, the punishment for such swindling shall be confinement in the penitentiary not less than two nor more than ten years.

Sec. 2. Where property, money, goods, services, instrument of writing conveying or securing a valuable right, or any other thing of value,

under the value of fifty dollars and over the value of five dollars is acquired in such manner that the acquisition thereof constitutes swindling, the punishment for such swindling shall be imprisonment in jail not exceeding two years and by fine not exceeding five hundred dollars or by such imprisonment without fine.

Sec. 3. Where property, money, goods, services, instrument of writing conveying or securing a valuable right, or any other thing of value, of the value of five dollars or under is acquired in such manner that the acquisition thereof constitutes swindling, the punishment for such swindling shall be a fine not exceeding two hundred dollars. As amended Acts 1965, 59th Leg., p. 916, ch. 450, § 1, eff. Jan. 1, 1966.

**Art. 1551. [1428] Obtaining board or lodging by trick, etc.; failure or refusal to pay**

(a) Every person who shall obtain board or lodging in any hotel or boardinghouse by means of any trick or deception or false or fraudulent representations, or statement or pretense, and shall fail or refuse to pay therefor, shall be held to have obtained the same with the intent to cheat and defraud such hotel or boardinghouse keeper, and shall be fined not exceeding One Hundred Dollars (\$100), or be imprisoned in jail not exceeding one month or both.

(b) It shall be unlawful for any person who has obtained lodging, meals or other lawful service at any hotel, motor hotel, inn, tourist court, or mobile home park to depart from the premises thereof with the intent not to pay for such services. Failure of any person who has departed from such premises without paying the amount due for such services, and without personally appearing before the room clerk or other agent of the establishment before departing and protesting the amount alleged to be due, to pay the amount due within ten (10) days after being given written notice of the amount due, shall be prima facie evidence of departure with intent not to pay for such services. Any person who violates any provision of this paragraph shall be punished by a fine of not more than Five Hundred Dollars (\$500), or by confinement in the county jail for not more than one year, or by both such fine and confinement. As amended Acts 1963, 58th Leg., p. 1193, ch. 476, § 1; Acts 1965, 59th Leg., p. 1004, ch. 491, § 1, emerg. eff. June 16, 1965.

## TITLE 19—MISCELLANEOUS OFFENSES

### CHAPTER FIFTEEN 9A—WATER SAFETY ACT

#### Art. 1722a. Texas Water Safety Act

##### Declaration of policy

Section 1. This Act shall be referred to as the "Texas Water Safety Act." It is the policy of this State to promote safety for persons and property in and connected with the use, operation and equipment of vessels and to promote uniformity of laws relating thereto.

##### Definitions

Sec. 2. As used in this Act, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on water, used or capable of being used as transportation on water or which operates at night, and uses any means of locomotion other than paddle, oars, or poling.

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government, or any Federal agency successor thereto, or any vessel propelled by sail alone.

(3) "Owner" means the person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

(4) "Waters of this State" means any public waters within the territorial limits of this State; provided, however, privately owned waters shall be excluded from the provisions of this Act.

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity.

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel.

(7) "Department" means State Highway Department.

(8) "Dealer" means a person, firm, or corporation engaged in the business of selling motorboats.

(9) "Boat Livery" means a business establishment engaged in renting or hiring out motorboats for profit.

##### Operation of unnumbered motorboats

Sec. 3. Every motorboat on the waters of this State shall be numbered, except as provided by exemptions in this Act. No person shall operate or give permission for the operation of any motorboat on such waters unless the motorboat is numbered as required by this Act which numbering system shall be in accord with the Federal Boating Act of 1958 and subsequent amendments thereto, and unless (1) the certificate of number awarded to such motorboat is in full force and effect, and (2) the identifying number set forth in the certificate is properly displayed on each side of the bow of such motorboat.

**Identification number**

Sec. 4. (a) The owner of each motorboat requiring numbering by this State shall file an application for number with the Department on forms approved by it. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee for which is hereinafter provided. Upon receipt of the application in approved form, the Department shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the motorboat or vessel near the bow thereof the identification number in such manner as may be prescribed by the Department. The number shall be clearly visible and maintained in legible condition. The certificate of number shall be pocket size. The form of certificate of number, application form, and manner of renewal shall be prescribed by the Department, provided, however, that the certificate of number does not have to physically be on the person of the operator. Partial fees for newly purchased watercraft or other boats not previously operated within this State may be paid on a yearly basis.

(b) The owner of any vessel or motorboat for which a current certificate of number has been awarded pursuant to any Federal law or a federally approved numbering system of another state shall, if such motorboat, or vessel is operated on the waters of this State in excess of ninety (90) days, make application for a certificate of number in the manner prescribed in this Act for a resident of this State.

(c) The owner shall furnish the Department notice of the transfer of all or any part of his interest other than the creation of a security interest in a motorboat numbered in this State or of the destruction or abandonment of such motorboat, within a reasonable time thereof. In all such cases, the notice shall be accompanied by a surrender of the certificate of number. When the surrender of the certificate is by reason of the motorboat being destroyed or abandoned, the Department shall cancel the certificate and enter such fact in the records. The purchaser of a motorboat shall within a reasonable time after acquiring same present evidence of ownership thereof and make application to the Department for transfer to him of the certificate of number issued to such motorboat, giving his name, address, and number of the motorboat and shall at the same time pay to the Department a fee of One Dollar (\$1). Upon receipt of the application and fee the Department shall transfer the certificate of number issued for such motorboat to the new owner. Unless such application is made and fee paid within a reasonable time, such motorboat shall be deemed to be without certificate of number, and it shall be unlawful for any person to operate such motorboat until the certificate is issued.

(d) The Department may award any certificate of number directly or may authorize any person to act as agent for awarding of certificates. In the event that a person accepts authorization he shall execute a faithful performance bond of not less than One Thousand Dollars (\$1,000) in favor of the State of Texas, and may be assigned a block or blocks of numbers and certificates which upon award, in conformity with this Act and with any rules and regulations of the Department, shall be valid as if awarded directly by the Department. Such agent shall be entitled to a fee for his services not to exceed ten per cent (10%) of the fee for each original certificate.

(e) All ownership records of the Department made or kept pursuant to this Act shall be public records. Copies of all rules and regulations pursuant to this Act shall be furnished without cost with each certificate of number issued.



(f) Every certificate of number awarded pursuant to this Act shall continue in full force and effect for a period of two (2) years unless sooner terminated or discontinued in accordance with the provisions of this Act. Certificates of number shall be valid for the biennium from April 1 of one year to March 31 of the first succeeding year, both days inclusive.

(g) Any holder of a certificate of number shall notify the Department within a reasonable time, if his address no longer conforms to the address appearing on the certificate, and shall, as a part of the notification, include his new address. The Department may provide in its regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of the outstanding certificate to show the new address of the holder. Changes of address shall be noted on the records of the Department.

(h) In the event that any certificate of number becomes lost, mutilated or illegible, the owner of the motorboat for which the certificate was issued may obtain a duplicate upon application to the Department and the payment of a fee of One Dollar (\$1).

(i) It shall be unlawful for any person to paint, attach, or otherwise display on either side of the bow of any motorboat any number other than the number awarded to said motorboat or granted reciprocity pursuant to this Act.

(j) It shall be unlawful for any person to deface or alter the certificate of number or number assigned and appearing on the bow of any boat.

(k) An application for renewal of a certificate of number shall be made by the owner on an application therefor which must be received by the Department within a period consisting of the last ninety (90) days before the expiration date on the certificate of number and the same number will be issued upon renewal. Any application not so received shall be treated in the same manner as an original application.

#### Manufacturer's or builder's serial number

Sec. 5. (a) All new boats manufactured for sale in Texas after the effective date of this Act must carry a manufacturer's serial number clearly imprinted on the structure of the boat or displayed on a plate attached to the boat in a permanent manner.

(b) The owner of any vessel not required to carry a manufacturer's serial number may file an application for a serial number with the Department on forms approved by it. The application shall be signed by the owner of the vessel and shall be accompanied by a fee of One Dollar (\$1). Upon receipt of the application in approved form, the Department shall enter the same upon the records of its office and issue to the applicant a serial number.

(c) No person shall wilfully destroy, remove, alter, cover, or deface the manufacturer's serial number, or plate bearing such serial number, or the serial number issued by the Department, on any boat. The possession of a boat with a serial number which has been altered, defaced, mutilated or removed, is forbidden, and any person who obtains or comes into possession of such a boat is required to file with the Department a sworn statement describing the boat, proving legal ownership and, if known, the reason for the destruction, removal or defacement of the serial number.

#### Dealer's and manufacturer's number

Sec. 6. (a) Any dealer or manufacturer of motorboats in this State may, instead of securing a certificate of number for each motorboat he may wish to show or demonstrate or test on waters of this State, procure a dealer's and manufacturer's number which shall be attached to any

motorboat which he sends temporarily on the waters. The two-year fee for a dealer's and manufacturer's number shall be Twenty-Five Dollars (\$25). Every dealer or manufacturer applying for such a number shall apply on forms provided by the Department. The application shall state that the applicant is a dealer or manufacturer within the meaning of this Act, and the facts stated on the application shall be sworn before an officer authorized to administer oaths. No such number shall be issued until the provisions of this Article have been satisfied.

(b) Each dealer or manufacturer holding a dealer's or manufacturer's number may issue a reasonable temporary facsimile of such number which may be used by any authorized person. A person purchasing a motorboat may use the dealer's number for a period not to exceed ten (10) days, prior to filing application for number. The form of the facsimile of the dealer's and manufacturer's number and the manner of display shall be prescribed by the Department.

#### Classification and required equipment

Sec. 7. (a) Motorboats subject to the provisions of this Act shall be divided into four (4) classes as follows:

Class A. Less than sixteen (16) feet in length.

Class 1. Sixteen (16) feet or over and less than twenty-six (26) feet in length.

Class 2. Twenty-six (26) feet or over and less than forty (40) feet in length.

Class 3. Forty (40) feet or over.

(b) Every vessel or motorboat when not at dock in all weathers from sunset to sunrise shall carry and exhibit at least one (1) bright light, lantern, or flare up and the following lights when under way, and during such time no other lights which may be mistaken for those prescribed shall be exhibited:

(1) Every motorboat of classes A and 1 shall carry the following lights:

First. A bright white light aft to show all around the horizon.

Second. A combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two (2) points abaft the beam on their respective sides.

(2) Every motorboat of classes 2 and 3 shall carry the following lights:

First. A bright white light in the fore part of the vessel as near the stem as practicable, so constructed as to show an unbroken light over an arc of the horizon of twenty (20) points of the compass, so fixed as to throw the light ten (10) points on each side of the vessel; namely from right ahead to two (2) points abaft the beam on either side.

Second. A bright white light aft to show all around the horizon and higher than the white light forward.

Third. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten (10) points of the compass, so fixed as to throw the light from right ahead to two (2) points abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten (10) points of the compass, so fixed as to throw the light from right ahead to two (2) points abaft the beam on the port side. The said side lights shall be fitted with inboard screens of sufficient length so set as to prevent these lights from being seen across the bow.

(3) Motorboats of Classes A and 1 when propelled by sail alone shall carry the combined lantern, but not the white light aft, prescribed by this Section. Motorboats of classes 2 and 3 when so propelled, shall carry the colored side lights, suitably screened, but not the white lights. Motorboats of all classes, when so propelled, shall carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

(4) Every white light prescribed by this Section shall be of such character as to be visible at a distance of at least two (2) miles. Every colored light prescribed by this Section shall be of such character as to be visible at a distance of at least one (1) mile. The word "visible" in this subsection, when applied to lights, shall mean visible on dark nights with clear atmosphere.

(5) When propelled by sail and machinery any motorboat shall carry the lights required by this Section for a motorboat propelled by machinery only.

(c) Any motorboat may carry and exhibit the lights required by the Regulations for Preventing Collisions at Sea, 1948, Act of October 11, 1951 (65 Stat. 406-420), as amended, in lieu of the lights required by Subsection (b) of this Section.

(d) Every motorboat of class 1, 2, or 3 shall be provided with an efficient whistle or other sound-producing mechanical appliance.

(e) Every motorboat of class 2 or 3 shall be provided with an efficient bell.

(f) Every motorboat shall carry at least one (1) life preserver, or life belt, or ring buoy, or other device of the sort prescribed by the regulations of the Commandant of the Coast Guard for each person on board, so placed as to be readily accessible. Provided, that every motorboat carrying passengers for hire shall carry so placed as to be readily accessible at least one (1) life preserver of the sort prescribed by the regulations of the Commandant of the Coast Guard for each person on board.

(g) Every motorboat shall be provided with such number, size, and type of fire extinguishers, capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by the regulations of the Commandant of the Coast Guard, which fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed as to be readily accessible.

(h) The provisions of Subsections (d), (e) and (g) of this Section shall not apply to motorboats while competing in any race conducted pursuant to this Act or, if such boats be designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

(i) Every motorboat shall have the carburetor or carburetors of every engine therein (except outboard motors) using gasoline as fuel, equipped with such efficient flame arrestor, backfire trap, or other similar device as may be prescribed by the regulations of the Commandant of the Coast Guard.

(j) Every such motorboat and every such vessel, except open boats, using as fuel any liquid of a volatile nature, shall be provided with such means as may be prescribed by the regulations of the Commandant of the Coast Guard for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

(k) No person shall operate or give permission for the operation of a vessel which is not equipped as required by this Section or modification thereof

(l) It is hereby declared to be a policy of the State of Texas that all equipment rules and regulations enacted pursuant to the authority granted in this Act shall be uniform and not inconsistent with the equipment provisions of this Act.

**Exemption from numbering provisions of this act**

Sec. 8. A motorboat shall not be required to be numbered under this Act if it is:

(1) Already covered by a number in full force and effect which has been awarded to it pursuant to Federal law or federally approved numbering system of another state; provided, that such motorboat shall not have been within this State for a period in excess of ninety (90) consecutive days.

(2) A motorboat from a country other than the United States temporarily using the waters of this State.

(3) A motorboat whose owner is the United States, a state or subdivision thereof.

(4) A ship's lifeboat.

(5) A motorboat belonging to a class of motorboats which has been exempted from numbering by the Department after said agency has found that the numbering of motorboats of such class will not materially aid in their identification; or if an agency of the Federal Government has a number system applicable to the class of motorboats to which the motorboat in question belongs, after the Department has further found that the motorboat would also be exempt from the numbering if it were subject to the Federal law.

All motorboats fourteen (14) feet in length or under and propelled by motors ten (10) horsepower or less, shall be exempt from the numbering provisions, and from the safety equipment provisions except insofar as they shall be required to have one (1) Coast Guard approved life preserver for each person aboard, and a white light to exhibit between the hours of sunset and sunrise.

**Boat liveries**

Sec. 9. (a) The owner of a boat livery shall keep a record of: the name and address of the persons hiring any vessel which is designed or permitted by him to be operated as a motorboat; the certificate of number thereof; the time and date of departure and the expected time of return. The record shall be kept six (6) months.

(b) Boat liveries shall make application directly to the Department on forms provided by the Department. The application shall state the applicant livery is within the meaning of this Act, and the facts stated in the application shall be sworn before an officer authorized to administer oaths.

**Prohibited operation**

Sec. 10. It shall be unlawful for any person to operate any motorboat or vessel or manipulate any water skis, aquaplane, or similar device in a wilfully or wantonly reckless or negligent manner so as to endanger the life, limb, or property of any person.

**Application of act**

Sec. 11. The provisions of this Act shall apply to all the public waters of this State and to all watercraft navigated or moving thereon.

**Operating boat at excessive speed prohibited**

Sec. 12. No person shall operate any boat at a rate of speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit him, in the exercise of reasonable care, to bring such boat to a stop within the assured clear distance ahead.

**Rules of the road**

Sec. 13. The United States Coast Guard Inland Rules are hereby adopted and shall apply to all public waters of this State insofar as they are applicable.

**Operation so as to create hazardous wake or wash prohibited**

Sec. 14. No person shall operate any motorboat so as to create a hazardous wake or wash.

**Operation in circular course around fisherman or swimmer prohibited**

Sec. 15. No person shall operate any motorboat in a circular course around any other boat any occupant of which is engaged in fishing or any person swimming. No swimmer or diver shall come within two hundred (200) yards of any sight-seeing or excursion boat except for maintenance purposes or unless within an enclosed area.

**Buoy, beacon or light marker—mooring to or removing prohibited**

Sec. 16. No person shall moor or attach any boat to any buoy, beacon, light marker, stake, flag or other aid to safe operation placed upon the public waters of this State by, or by others under the authority of, the United States or the State of Texas, or shall move, remove, displace, tamper with, damage or destroy the same.

**Anchoring in traveled portion of river or channel prohibited**

Sec. 17. No person shall anchor any boat in the traveled portion of any river or channel so as to prevent, impede or interfere with the safe passage of any other boat through the same.

**Restricted areas**

Sec. 18. No person shall operate a boat within a water area which has been clearly marked by buoys or some other distinguishing device as a bathing, fishing, swimming or otherwise restricted area by the Department or by a political subdivision of the State; provided, that this Section shall not apply in case of an emergency, or to patrol or rescue craft.

**Local regulation**

Sec. 19. (a) The Governing Body of any incorporated city or town, with respect to public waters within its corporate limits and all lakes owned by it, is hereby authorized by city ordinance to designate certain areas to be bathing, fishing, swimming or otherwise restricted areas, and to make such rules and regulations relating to the operation and equipment of boats as it may deem necessary for the public safety, the provisions of which are consistent with the provisions of this Act.

(b) The Commissioners Court of any county, with respect to public waters within the territorial limits of the county but outside the corporate limits of any incorporated city or town or political subdivision as contained in (c) below, except lakes owned by an incorporated city or town, is hereby authorized by order of the Commissioners Court entered

upon its records to designate certain areas to be bathing, fishing, swimming or otherwise restricted areas, and to make such rules and regulations relating to the operation and equipment of boats as it may deem necessary for the public safety, the provisions of which are consistent with the provisions of this Act.

(c) The Governing Board of any political subdivision of the State created pursuant to the provisions of Section 59, Article 16, of the Constitution of the State of Texas, for the purpose of conserving and developing the public waters of this State, is, with respect to public waters impounded within lakes and reservoirs owned or operated by such political subdivision, authorized by resolution or other appropriate order to designate certain areas to be bathing, fishing, swimming or otherwise restricted areas; and to make such rules and regulations relating to the operation and equipment of boats as it may deem necessary for the public safety, the provisions of which are consistent with the provisions of this Act. Provided that a copy of any rule or regulation enacted pursuant to this Section shall be summarily filed with the Texas Highway Department and with the Texas Parks and Wildlife Department.

#### Collisions, accidents and casualties

Sec. 20. (a) It shall be the duty of the operator of a vessel involved in a collision, accident or casualty, so far as he can do without serious danger to his own vessel, crew and passengers (if any), to render to other persons affected by the collision, accident or casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident or casualty and also to give his name, address and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty.

(b) In the case of collision, accident or other casualty involving a vessel, the operator thereof, if the collision, accident or other casualty results in death or injury to a person or damage to property in excess of Fifty Dollars (\$50), shall file with the Department a full description as said agency may, by regulation, require on or before thirty (30) days.

(c) These accident reports shall be confidential and shall not be admissible in court as evidence.

#### Water skis and aquaplanes

Sec. 21. (a) No person shall operate a vessel on any waters of this State for towing a person or persons on water skis, aquaplane or similar device unless the vessel is equipped with a rearview mirror of a size no less than four inches (4") in measurement from bottom to top or across from one side to the other. Such mirror shall be mounted firmly so as to give the boat operator a full and complete view beyond the rear of his boat at all times.

(b) No person shall operate a vessel on any waters of this State towing a person or persons on water skis, surfboard, or similar devices, nor shall any person engage in water-skiing, surfboarding or similar activity at any time between the hours from one (1) hour after sunset to one (1) hour before sunrise.

(c) The provisions of Subsections (a) and (b) of this Section shall not apply to motorboats or vessels used in water ski tournaments, competitions, exhibitions or trials therefor, provided that adequate lighting is provided.

(d) All motorboats having in tow or otherwise assisting in towing a person on water skis, aquaplane or similar contrivance, shall be operated in a careful and prudent manner and at a reasonable distance from

persons and property so as not to endanger the life or property of any person.

#### Transmittal of information

Sec. 22. In accordance with any request duly made by an authorized official or agency of the United States any information compiled or otherwise available to the Department pursuant to Section 20(b) shall be transmitted to said official or agency of the United States.

#### Penalties

Sec. 23. (a) Every person who violates or fails to comply with any provision of this Act, shall be guilty of a misdemeanor.

(b) Every person convicted of a misdemeanor for which another penalty is not provided shall be punished by a fine of not more than Two Hundred Dollars (\$200).

(c) Every person who violates or fails to comply with any city ordinance or any order of the Commissioners Court or order of any political subdivision of this State entered pursuant to this Act, shall be guilty of a misdemeanor. Every person convicted of a misdemeanor for which another penalty is not provided shall be punished by a fine of not more than Two Hundred Dollars (\$200).

(d) Any person who operates any vessel or manipulates any water skis, aquaplane or similar device, upon the waters of this State in a careless or imprudent manner while such person is intoxicated, or under the influence of intoxicating liquor, or while under the influence of any narcotic drugs or barbiturates or marijuana shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500) or by imprisonment of not to exceed six (6) months, or both.

(e) Any person who operates any vessel or manipulates any water skis, aquaplane or similar device, upon the waters of this State in willful or wanton disregard of the rights or safety of others or without due caution or circumspection, and at a speed or in a manner so as to endanger or be likely to endanger a person or property shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500).

#### Enforcement

Sec. 24. (a) All peace officers and game wardens of this State and its political subdivisions shall have and are hereby given authority as enforcement officers for the purposes of this Act, and they and each of them shall have the power and authority to enforce the provisions of this Act by arrest and the taking into custody any person who may commit any act or offense prohibited by this Act or any person who may violate any provision of this Act.

(b) Any such officer in order to enforce the provisions of this Act is hereby given the power and the authority to stop and to board any vessel subject to this Act which does not have proper identifying number or is being operated in a reckless manner. Officers so boarding any vessel shall first identify themselves by presenting proper credentials and it shall be unlawful for any person operating a boat on the waters of this State to refuse to obey the directions of such officer when such officer is acting pursuant to the provisions of this Act. Provided, however, that the safety of the vessel shall always be the paramount consideration of any arresting officer.

(c) Any such officer arresting a person for a violation of this Act may deliver to such alleged violator a written notice to appear (within

thirty (30) days) from and after the date of such alleged violation, before the justice court having jurisdiction of the offense. Such person so arrested shall sign said written notice to appear and thereby promise to make his appearance in accordance with the requirements therein set forth, whereupon he may be released. It shall be unlawful for any person who has made such written promise to appear before the court in the county having jurisdiction to fail to appear, and such failure to appear at the time specified shall constitute a misdemeanor and warrant for his arrest may be issued.

(d) Venue for any alleged violation or offense under the terms and provisions of this Act shall be in the justice court or county court having jurisdiction where such alleged violation or offense shall have been committed. For any offense under this Act there shall be a presumption that such offense was committed in the justice precinct and county wherein the dam containing such body of water is located.

**Fines and penalties**

Sec. 25. It shall be the duty of any justice of the peace, clerk of any court, or any other officer of this State receiving any fine or penalty imposed by any court for violation of this Act within ten (10) days after receipt of such fine or penalty, to remit same to deposit of Special Boat Fund, giving the docket number of the case, name of the person fined, and the section of article of the law under which conviction was secured. All costs of the court shall be retained by the court having jurisdiction of the offense, to be deposited as other fees in the proper county fund.

**Fees**

Sec. 26. (a) There is hereby levied a two-year fee in Section 4 of this Act as follows:

Class of Motorboats	two-year fee	
Class A	\$ 3.00	less than 16' in length
Class—1	6.00	16' or over & less than 26'
Class—2	9.00	26' or over & less than 40'
Class—3	12.00	40' and over

Such fee shall accompany the original and/or renewal application for certificate of number as required by this Act; provided that any boat less than sixteen (16) feet in length owned by a boat livery and used for rental purposes shall be required to pay a fee of One Dollar (\$1) for the original and/or renewal application for certificate of number as required by this Act.

(b) Partial fees for newly purchased motorboats or other motorboats not previously operated within this State, which according to Section 4, must now be registered, may be paid on a prorated basis reduced each year.

(c) All fees shall be collected by the Department or through its duly authorized agents and deposited in the State Treasury to the credit of the Special Boat Fund. The Department shall use the fees deposited in the Special Boat Fund for administering the provisions of this Act and purchasing all necessary forms and supplies including the reimbursement of the Highway Department for any such material produced by its existing facilities or work performed by other divisions of said Department, and any remaining funds shall be used to purchase, construct, or maintain boat ramps and comfort stations on or near public waters.

**Applicability of fees to commercial fishing or shrimping**

Sec. 27. None of the fees of this Act shall apply to commercial fishing or shrimping boats having a boat license issued by the State of Texas as to shrimp or fish commercially in the salt waters of this State.



For Annotations and Historical Notes, see V.A.T.S.

**Boat ramps and comfort stations**

Sec. 28. The State Highway Department is authorized to construct and maintain boat ramps and comfort stations by the use of existing or additional services or facilities of said Department. Upon the completion of such work, said Department is authorized to prepare and transmit vouchers to the Comptroller of Public Accounts payable to the State Highway Department or to any person, firm, or corporation for reimbursement for such work and the Comptroller of Public Accounts is hereby authorized and directed to issue warrants on the Special Boat Fund to reimburse the Highway Department or any person, firm, or corporation for the work performed.

**Uniformity**

Sec. 29. In the interest of uniformity it is hereby declared to be a basic policy of the State of Texas that the basic authority for the enactment of boating regulations is reserved to the State.

**Reciprocity**

Sec. 30. Out-of-state registered motorboats are hereby granted full reciprocity for up to one (1) year. Acts 1959, 56th Leg., p. 369, ch. 179, as amended Acts 1965, 59th Leg., p. 1540, ch. 676, § 1.

Effective Aug. 30, 1965, 90 days after date of adjournment.

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# CODE OF CRIMINAL PROCEDURE

Acts 1965, 59th Leg., Chapter 722

Effective January 1, 1966

*Cross Reference Table, see p. —*

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PART I  
CODE OF CRIMINAL PROCEDURE OF 1965

*INTRODUCTORY*

CHAPTER ONE

**GENERAL PROVISIONS**

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**Article 1.01 Short Title**

This Act shall be known, and may be cited, as the "Code of Criminal Procedure". Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.02 Effective Date**

This Code shall take effect and be in force on and after January 1, 1966. The procedure herein prescribed shall govern all criminal proceedings instituted after the effective date of this Act and all proceedings pending upon the effective date hereof insofar as are applicable. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.03**    [1] [1] **Objects of this Code**

This Code is intended to embrace rules applicable to the prevention and prosecution of offenses against the laws of this State, and to make the rules of procedure in respect to the prevention and punishment of offenses intelligible to the officers who are to act under them, and to all persons whose rights are to be affected by them. It seeks:

1. To adopt measures for preventing the commission of crime;
2. To exclude the offender from all hope of escape;
3. To insure a trial with as little delay as is consistent with the ends of justice;
4. To bring to the investigation of each offense on the trial all the evidence tending to produce conviction or acquittal;
5. To insure a fair and impartial trial; and
6. The certain execution of the sentence of the law when declared. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.04**    [2] [3] **Due course of law**

No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.05**    [3] [4] **Rights of accused**

In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself. He shall have the right of being heard by himself, or counsel, or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor. No person shall be held to answer for a felony unless on indictment of a grand jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.06**    [4] [5] **Searches and seizures**

The people shall be secure in their persons, houses, papers and possessions from all unreasonable seizures or searches. No warrant to search any place or to seize any person or thing shall issue without describing them as near as may be, nor without probable cause supported by oath or affirmation.

**Art. 1.07**    [5] [6] **Right to bail**

All prisoners shall be bailable unless for capital offenses when the proof is evident. This provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.08**    [6] [7] **Habeas Corpus**

The writ of habeas corpus is a writ of right and shall never be suspended. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.



**Art. 1.09** [7] [8] **Cruelty forbidden**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.10** [8] [9] **Jeopardy**

No person for the same offense shall be twice put in jeopardy of life or liberty; nor shall a person be again put upon trial for the same offense, after a verdict of not guilty in a court of competent jurisdiction. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.11** [9] [20] [21] **Acquittal a bar**

An acquittal of the defendant exempts him from a second trial or a second prosecution for the same offense, however irregular the proceedings may have been; but if the defendant shall have been acquitted upon trial in a court having no jurisdiction of the offense, he may be prosecuted again in a court having jurisdiction. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.12** [10] [10] **Right to jury**

The right of trial by jury shall remain inviolate. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.13** [10a] **Waiver of trial by jury**

The defendant in a criminal prosecution for any offense classified as a felony less than capital shall have the right, upon entering a plea, to waive the right of trial by jury, conditioned, however, that such waiver must be made in person by the defendant in writing in open court with the consent and approval of the court, and the attorney representing the State. The consent and approval by the court shall be entered of record on the minutes of the court, and the consent and approval of the attorney representing the State shall be in writing, signed by him, and filed in the papers of the cause before the defendant enters his plea. Before a defendant who has no attorney can agree to waive the jury, the court must appoint an attorney to represent him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.14** [11] [22] [23] **Waiver of rights**

The defendant in a criminal prosecution for any offense may waive any rights secured him by law except the right of trial by jury in a capital felony case in which the State has made known in open court in writing at least 15 days prior to trial that it will seek the death penalty. No case in which the State seeks the death penalty shall be tried until 15 days after such notice is given. When the State makes known to the court in writing in open court that it will not seek the death penalty in a capital case, the defendant may enter a plea of guilty before the court and waive trial by jury as provided in Article 1.13, and in such case under no circumstances may the death penalty be imposed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.15** [12] [21] [22] **Jury in felony**

No person can be convicted of a felony except upon the verdict of a jury duly rendered and recorded, unless in felony cases less than capital the defendant, upon entering a plea, has in open court in

person waived his right of a trial by jury in writing; provided, however, that it shall be necessary for the State to introduce evidence into the record showing the guilt of the defendant and said evidence shall be accepted by the court as the basis for its judgment and in no event shall a person charged be convicted upon his plea without sufficient evidence to support the same. The evidence may be stipulated if the defendant in such case consents in writing, in open court, to waive the appearance, confrontation, and cross-examination of witnesses, and further consents to the introduction of testimony by affidavits, written statements of witnesses, and any other documentary evidence in support of the judgment of the court. Such waiver and consent must be approved by the court in writing, and be filed, with all of such evidence, in the file of the papers of the cause. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.16**    [13] [11] **Liberty of speech and press**

Every person shall be at liberty to speak, write or publish his opinion on any subject, being liable for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers investigating the conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. In all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.17**    [14] [12] **Religious belief**

No person shall be disqualified to give evidence in any court of this State on account of his religious opinions, or for the want of any religious belief; but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.18**    [15] [13] **Outlawry and transportation**

No citizen shall be outlawed, nor shall any person be transported out of the State for any offense committed within the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.19**    [16] [14] **Corruption of blood, etc.**

No conviction shall work corruption of blood or forfeiture of estate. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.20**    [17] [15] **Conviction of treason**

No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on confession in open court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.21**    [18] [16] **Privilege of legislators**

Senators and Representatives shall, except in cases of treason, felony or breach of the peace, be privileged from arrest during the session of the Legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may re-

side from the place at which the Legislature is convened. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.22** [19] [17] **Privilege of voters**

Voters shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.23** [20] [19] **Dignity of State**

All judges of the Supreme Court, Court of Criminal Appeals and District Courts, shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas". All prosecutions shall be carried on in the name and by authority of "The State of Texas", and conclude, "against the peace and dignity of the State". Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.24** [21] [23] [24] **Public trial**

The proceedings and trials in all courts shall be public. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.25** [22] [24] [25] **Confronted by witnesses**

The defendant, upon a trial, shall be confronted with the witnesses, except in certain cases provided for in this Code where depositions have been taken. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.26** [23] [25] [26] **Construction of this Code**

The provisions of this Code shall be liberally construed, so as to attain the objects intended by the Legislature: The prevention, suppression and punishment of crime. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 1.27** [24] [26] [27] **Common law governs**

If this Code fails to provide a rule of procedure in any particular state of case which may arise, the rules of the common law shall be applied and govern. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**CHAPTER TWO**

**GENERAL DUTIES OF OFFICERS**

- Art.  
2.01 Duties of district attorneys.  
2.02 Duties of county attorneys.  
2.03 Neglect of duty.  
2.04 Shall draw complaints.  
2.05 When complaint is made.  
2.06 May administer oaths.  
2.07 Attorney pro tem.  
2.08 Disqualified.  
2.09 Who are magistrates.  
2.10 Duty of magistrates.  
2.11 Examining court.  
2.12 Who are peace officers.  
2.13 Duties and powers.  
2.14 May summon aid.  
2.15 Person refusing to aid.  
2.16 Neglecting to execute process.  
2.17 Conservator of the peace.  
2.18 Custody of prisoners.  
2.19 Report as to prisoners.  
2.20 Deputy.  
2.21 Duty of clerks.  
2.22 Power of deputy clerks.  
2.23 Report to Attorney General.

**Article 2.01**    [25] [30] [31] **Duties of district attorneys**

Each district attorney shall represent the State in all criminal cases in the district courts of his district, except in cases where he has been, before his election, employed adversely. When any criminal proceeding is had before an examining court in his district or before a judge upon habeas corpus, and he is notified of the same, and is at the time within his district, he shall represent the State therein, unless prevented by other official duties. It shall be the primary duty of all prosecuting attorneys, including any special prosecutors, not to convict, but to see that justice is done. They shall not suppress facts or secrete witnesses capable of establishing the innocence of the accused. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.02**    [26] [32] [33] **Duties of county attorneys**

The county attorney shall attend the terms of court in his county below the grade of district court, and shall represent the State in all criminal cases under examination or prosecution in said county; and in the absence of the district attorney he shall represent the State alone and, when requested, shall aid the district attorney in the prosecution of any case in behalf of the State in the district court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.03**    [27] [33] [34] **Neglect of duty**

(a) It shall be the duty of the attorney representing the State to present by information to the court having jurisdiction, any offi-

cer for neglect or failure of any duty enjoined upon such officer, when such neglect or failure can be presented by information, whenever it shall come to the knowledge of said attorney that there has been a neglect or failure of duty upon the part of said officer; and he shall bring to the notice of the grand jury any act of violation of law or neglect or failure of duty upon the part of any officer, when such violation, neglect or failure is not presented by information, and whenever the same may come to his knowledge.

(b) It is the duty of the trial court, the attorney representing the State, the attorney representing the accused, and all peace officers to so conduct themselves as to insure to the defendant a fair trial upon the presumption of innocence and at the same time afford the public the benefits of a free press. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.04** [28] [34] [35] **Shall draw complaints**

Upon complaint being made before a district or county attorney that an offense has been committed in his district or county, he shall reduce the complaint to writing and cause the same to be signed and sworn to by the complainant, and it shall be duly attested by said attorney. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.05** [29] [35] [36] **When complaint is made**

If the offense be a misdemeanor, the attorney shall forthwith prepare an information based upon such complaint and file the same in the court having jurisdiction; provided, that in counties having no county attorney, misdemeanor cases may be tried upon complaint alone, without an information, provided, however, in counties having one or more criminal district courts an information must be filed in each misdemeanor case. If the offense be a felony, he shall forthwith file the complaint with a magistrate of the county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.06** [30] [36] [37] **May administer oaths**

For the purpose mentioned in the two preceding Articles, district and county attorneys are authorized to administer oaths. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.07** [31] [38] [39] **Attorney pro tem**

Whenever any district or county attorney fails to attend any term of the district, county or justice court, the judge of said court or such justice may appoint some competent attorney to perform the duties of such district or county attorney, who shall be allowed the same compensation for his services as is allowed the district attorney or county attorney. Said appointment shall not extend beyond the term of the court at which it is made, and shall be vacated upon the appearance of the district or county attorney. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.08** [32] [40] [41] **Disqualified**

District and county attorneys shall not be of counsel adversely to the State in any case, in any court, nor shall they, after they cease to be such officers, be of counsel adversely to the State in any case in which they have been of counsel for the State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.09** [33] [41] [42] **Who are magistrates**

Each of the following officers is a magistrate within the meaning of this Code: The judges of the Supreme Court, the judges of the Court of Criminal Appeals, the judges of the District Court, the county judges, the judges of the county courts at law, judges of the county criminal courts, the justices of the peace, the mayors and recorders and the judges of the city courts of incorporated cities or towns. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.10** [34] [42] [43] **Duty of magistrates**

It is the duty of every magistrate to preserve the peace within his jurisdiction by the use of all lawful means; to issue all process intended to aid in preventing and suppressing crime; to cause the arrest of offenders by the use of lawful means in order that they may be brought to punishment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.11** [35] [62] [63] **Examining court**

When the magistrate sits for the purpose of inquiring into a criminal accusation against any person, this is called an examining court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.12** [36] [43] [44] **Who are peace officers**

The following are peace officers: The sheriff and his deputies, constable, marshal or policemen of an incorporated town or city, the officers, noncommissioned officers and privates of the State Ranger Force and Department of Public Safety, law enforcement agents of the Texas Liquor Control Board, and any private persons specially appointed to execute criminal process. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.13** [37] [44] [45] **Duties and powers**

It is the duty of every peace officer to preserve the peace within his jurisdiction. To effect this purpose, he shall use all lawful means. He shall in every case where he is authorized by the provisions of this Code, interfere without warrant to prevent or suppress crime. He shall execute all lawful process issued to him by any magistrate or court. He shall give notice to some magistrate of all offenses committed within his jurisdiction, where he has good reason to believe there has been a violation of the penal law. He shall arrest offenders without warrant in every case where he is authorized by law, in order that they may be taken before the proper magistrate or court and be tried. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.14** [38] [45] [46] **May summon aid**

Whenever a peace officer meets with resistance in discharging any duty imposed upon him by law, he shall summon a sufficient number of citizens of his county to overcome the resistance; and all persons summoned are bound to obey. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.15** [39] [46] [47] **Person refusing to aid**

The peace officer who has summoned any person to assist him in performing any duty shall report such person, if he refuse to

obey, to the proper district or county attorney, in order that he may be prosecuted for the offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.16** [40] [47] [48] **Neglecting to execute process**

If any sheriff or other officer shall wilfully refuse or fail from neglect to execute any summons, subpoena or attachment for a witness, or any other legal process which it is made his duty by law to execute, he shall be liable to a fine for contempt not less than ten nor more than two hundred dollars, at the discretion of the court. The payment of such fine shall be enforced in the same manner as fines for contempt in civil cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.17** [41] [48] [49] **Conservator of the peace**

Each sheriff shall be a conservator of the peace in his county, and shall arrest all offenders against the laws of the State, in his view or hearing, and take them before the proper court for examination or trial. He shall quell and suppress all assaults and batteries, affrays, insurrections and unlawful assemblies. He shall apprehend and commit to jail all offenders, until an examination or trial can be had. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.18** [42] [50] [51] **Custody of prisoners**

When a prisoner is committed to jail by warrant from a magistrate or court, he shall be placed in jail by the sheriff. It is a violation of duty on the part of any sheriff to permit a defendant so committed to remain out of jail, except that he may, when a defendant is committed for want of bail, or when he arrests in aailable case, give the person arrested a reasonable time to procure bail; but he shall so guard the accused as to prevent escape. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.19** [43] [51] **Report as to prisoners**

On the first day of each month, the sheriff shall give notice, in writing, to the district or county attorney, where there be one, as to all prisoners in his custody, naming them, and of the authority under which he detains them. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.20** [44] [54] [55] **Deputy**

Wherever a duty is imposed by this Code upon the sheriff, the same duty may lawfully be performed by his deputy. When there is no sheriff in a county, the duties of that office, as to all proceedings under the criminal law, devolve upon the officer who, under the law, is empowered to discharge the duties of sheriff, in case of vacancy in the office. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.21** [45] [55] [56] **Duty of clerks**

Each clerk of the district or county court shall receive and file all papers in respect to criminal proceedings, issue all process in such cases, and perform all other duties imposed upon them by law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.22**    [46] [56] [57] **Power of deputy clerks**

Whenever a duty is imposed upon the clerk of the district or county court, the same may be lawfully performed by his deputy. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 2.23**    [47] [57] [58] **Report to Attorney General**

The clerks of the district and county courts shall, when required by the Attorney General, report to him at such times, and in accordance with such forms as he may direct, such information in relation to criminal matters as may be shown by their records.

When any district clerk has failed, neglected or refused to make any such report after being requested in writing by the Attorney General to make such report, the Attorney General shall notify in writing the Comptroller of Public Accounts of such failure, neglect or refusal, and said Comptroller shall not thereafter draw any warrant in favor of said clerk until said report has been filed with the Attorney General. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER THREE

### DEFINITIONS

Art.

3.01 Words and phrases.

3.02 Criminal action.

3.03 Officers.

**Article 3.01**    [48] [58-59] **Words and phrases**

All words, phrases and terms used in this Code are to be taken and understood in their usual acceptation in common language, except where specially defined; and, unless herein specially excepted have the meaning which is given to them in the Penal Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 3.02**    [49] [60] [61] **Criminal action**

A criminal action is prosecuted in the name of the State of Texas against the accused, and is conducted by some person acting under the authority of the State, in accordance with its laws. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 3.03**    [50] [61] [62] **Officers**

The general term "officers" includes both magistrates and peace officers. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.



# COURTS AND CRIMINAL JURISDICTION

## CHAPTER FOUR

### COURTS AND CRIMINAL JURISDICTION

Art.

- 4.01 What courts have criminal jurisdiction.
- 4.02 Existing courts continued.
- 4.03 Court of Criminal Appeals.
- 4.04 Mandamus, certiorari, and contempt.
- 4.05 Jurisdiction of district courts.
- 4.06 When felony includes misdemeanor.
- 4.07 Jurisdiction of county courts.
- 4.08 Appellate jurisdiction of county courts.
- 4.09 Appeals from inferior court.
- 4.10 To forfeit bail bonds.
- 4.11 Jurisdiction of justice courts.
- 4.12 Misdemeanor cases; precinct in which defendant to be tried in justice court.
- 4.13 Justice may forfeit bond.
- 4.14 Corporation court.
- 4.15 May sit at any time.
- 4.16 Concurrent jurisdiction.

#### **Article 4.01 [51] [63] [64] What courts have criminal jurisdiction**

The following courts have jurisdiction in criminal actions:

1. The Court of Criminal Appeals;
2. The district courts;
3. The criminal district courts;
4. Courts of domestic relations where they have criminal jurisdiction by legislative enactment;
5. The county courts;
6. All county courts at law with criminal jurisdiction;
7. County criminal courts;
8. Justice courts; and
9. Corporation courts. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 4.02 [52] Existing courts continued**

No existing courts shall be abolished by this Code and shall continue with the jurisdiction, organization, terms and powers currently existing unless otherwise provided by law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 4.03 [53] [68-86-87] Court of Criminal Appeals**

The Court of Criminal Appeals shall have appellate jurisdiction coextensive with the limits of the State in all criminal cases. This

Article shall not be so construed as to embrace any case which has been appealed from any inferior court to the county court, the county criminal court, or county court at law, in which the fine imposed by the county court, the county criminal court or county court at law shall not exceed one hundred dollars. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.04**      [53a] **Mandamus, certiorari, and contempt**

Sec. 1. In addition to the power and authority now vested in the Court of Criminal Appeals of the State of Texas, said court and each member thereof shall have, and is hereby given, power and authority to grant and issue and cause the issuance of writs of mandamus and certiorari agreeable to the principles of law regarding said writs, whenever in the judgment of said court or any member thereof the same should be necessary to enforce the jurisdiction of said court.

Sec. 2. The Court of Criminal Appeals of Texas, and each of the judges thereof, are hereby empowered to punish disobedience of any of the above-named writs and to hold in contempt any party found by said court to have wilfully disobeyed any of said writs so issued by said court or any of the members thereof. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.05**      [54] [88] [87] **Jurisdiction of district courts**

District courts and criminal district courts shall have original jurisdiction in criminal cases of the grade of felony, and of all misdemeanors involving official misconduct. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.06**      [55] [89] [88] **When felony includes misdemeanor**

Upon the trial of a felony case, the court shall hear and determine the case as to any grade of offense included in the indictment, whether the proof shows a felony or a misdemeanor. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.07**      [56] [98] [91] **Jurisdiction of county courts**

The county courts shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justice court, and when the fine to be imposed shall exceed two hundred dollars. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.08**      [57] [101-897] **Appellate jurisdiction of county courts**

The county courts shall have appellate jurisdiction in criminal cases of which justice courts and other inferior courts have original jurisdiction. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.09**      [58] [105] [95] **Appeals from inferior court**

If the jurisdiction of any county court has been transferred to the district court or to a county court at law, then an appeal from a justice or other inferior court will lie to the court to which such appellate jurisdiction has been transferred. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.10** [59] [99] [92] **To forfeit bail bonds**

County courts and county courts at law shall have jurisdiction in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which said courts have jurisdiction. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.11** [60] [106] [96] **Jurisdiction of justice courts**

Justices of the peace shall have jurisdiction in criminal cases where the fine to be imposed by law may not exceed two hundred dollars. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.12** [60a] **Misdemeanor cases; precinct in which defendant to be tried in justice court**

A misdemeanor case to be tried in justice court shall be tried in the precinct in which the offense was committed, or in which the defendant or any of the defendants reside, or, with the written consent of the State and each defendant or his attorney, in any other precinct within the county; provided that in any misdemeanor case in which the offense was committed in a precinct where there is no qualified justice precinct court, then trial shall be had in the next adjacent precinct in the same county which may have a duly qualified justice precinct court, or in the precinct in which the defendant may reside; provided that in any such misdemeanor case, upon disqualification for any reason of all justices of the peace in the precinct where the offense was committed, such case may be tried in the next adjoining precinct in the same county, having a duly qualified justice of the peace. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.13** [61] [107] [97] **Justice may forfeit bond**

A justice of the peace shall have the power to take forfeitures of all bonds given for the appearance of any party at his court, regardless of the amount. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.14** [62] [108] [98] **Corporation court**

The corporation court in each incorporated city, town or village of this State shall have jurisdiction within the corporate limits in all criminal cases arising under the ordinances of such city, town or village, and shall have concurrent jurisdiction with any justice of the peace in any precinct in which said city, town or village is situated in all criminal cases arising under the criminal laws of this State, in which punishment is by fine only, and where the maximum of such fine may not exceed two hundred dollars, and arising within such corporate limits. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.15** [63] [109] [99] **May sit at any time**

Justice courts and corporation courts may sit at any time to try criminal cases over which they have jurisdiction. Any case in which a fine may be assessed shall be tried in accordance with the rules of evidence and this Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.16** [64] [63] **Concurrent jurisdiction**

When two or more courts have concurrent jurisdiction of any criminal offense, the court in which an indictment or a complaint shall first be filed shall retain jurisdiction except as provided in Article 4.12. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

# ***PREVENTION AND SUPPRESSION OF OFFENSES***

## **CHAPTER FIVE**

### **PREVENTING OFFENSES BY THE ACT OF A PRIVATE PERSON**

Art.

- 5.01 May prevent.
- 5.02 Resistance to protect person.
- 5.03 To protect property.
- 5.04 Limit to resistance.
- 5.05 Excessive force.
- 5.06 Other person may prevent.
- 5.07 Defense of another.

#### **Article 5.01 [65] [110] [100] May prevent**

The commission of offenses may be prevented either by lawful resistance or by the intervention of the officers of the law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 5.02 [66] [111] [101] Resistance to protect person**

Resistance by the party about to be injured may be used to prevent the commission of any offense which, in the Penal Code, is classed as an offense against the person. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 5.03 [67] [112] [102] To protect property**

Resistance may also be made by the person about to be injured, to prevent any illegal attempt by force to take or injure property in his lawful possession. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 5.04 [68] [113] [103] Limit to resistance**

The resistance which the person about to be injured may make to prevent the commission of the offense must be proportioned to the injury about to be inflicted. It must be only such as is necessary to repel the aggression. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 5.05 [69] [114] [104] Excessive force**

If the person about to be injured, in respect either to his person or property, uses a greater amount of force to resist such injury than is necessary to repel the aggressor and protect his own person or property, he is himself guilty of an illegal act, according to the nature and degree of the force which he has used. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 5.06** [70] [115] [105] **Other person may prevent**

Any person other than the party about to be injured may also, by the use of necessary means, prevent the commission of the offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 5.07** [71] [116] [106] **Defense of another**

The same rules which regulate the conduct of the person about to be injured, in repelling the aggression, are also applicable to the conduct of him who interferes in behalf of such person. He may use a degree of force proportioned to the injury about to be inflicted, and no greater. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER SIX

PREVENTING OFFENSES BY THE ACT OF  
MAGISTRATES AND OTHER OFFICERS

Art.

- 6.01 When magistrate hears threat.
- 6.02 Threat to take life.
- 6.03 On attempt to injure.
- 6.04 May compel offender to give security.
- 6.05 Duty of peace officer as to threats.
- 6.06 Peace officer to prevent injury.
- 6.07 Conduct of peace officer.

**Article 6.01** [72] [117] [107] **When magistrate hears threat**

It is the duty of every magistrate, when he may have heard, in any manner, that a threat has been made by one person to do some injury to himself or the person or property of another, immediately to give notice to some peace officer, in order that such peace officer may use lawful means to prevent the injury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 6.02** [73] [119] [109] **Threat to take life**

If, within the hearing of a magistrate, one person shall threaten to take the life of another or himself, the magistrate shall issue a warrant for the arrest of the person making the threat, or in case of emergency, he may himself immediately arrest such person. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 6.03** [74] [118] [108] **On attempt to injure**

Whenever, in the presence or within the observation of a magistrate, an attempt is made by one person to inflict an injury upon himself or to the person or property of another, it is his duty to use all lawful means to prevent the injury. This may be done, either by verbal order to a peace officer to interfere and prevent the injury, or by the issuance of an order of arrest against the offender, or by arresting the offender; for which purpose he may call upon all persons present to assist in making the arrest. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 6.04** [75] [120] [110] **May compel offender to give security**

When the person making such threat is brought before a magistrate, he may compel him to give security to keep the peace, or commit him to custody. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 6.05** [76] [121] [111] **Duty of peace officer as to threats**

It is the duty of every peace officer, when he may have been informed in any manner that a threat has been made by one person to do some injury to himself or to the person or property of another, to prevent the threatened injury, if within his power; and, in order to do this, he may call in aid any number of citizens in his county. He may take such measures as the person about to be injured might for the prevention of the offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 6.06** [77] [122] [112] **Peace officer to prevent injury**

Whenever, in the presence of a peace officer, or within his view, one person is about to commit an offense against the person or property of another or injure himself, it is his duty to prevent it; and, for this purpose the peace officer may summon any number of the citizens of his county to his aid. The peace officer must use the amount of force necessary to prevent the commission of the offense, and no greater. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 6.07** [78] [123] [113] **Conduct of peace officer**

The conduct of peace officers, in preventing offenses about to be committed in their presence, or within their view, is to be regulated by the same rules as are prescribed to the action of the person about to be injured. They may use all force necessary to repel the aggression. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER SEVEN

### PROCEEDINGS BEFORE MAGISTRATES TO PREVENT OFFENSES

Art.

- 7.01 Shall issue warrant.
- 7.02 Appearance bond pending peace bond hearing.
- 7.03 Accused brought before magistrate.
- 7.04 Form of peace bond.
- 7.05 Oath of surety; bond filed.
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- 7.07 Surety may exonerate himself.
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- 7.11 Bond of person charged with libel.
- 7.12 Destruction of libel.
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- 7.14 Costs.

Art.

7.15 May order protection.

7.16 Suit on bond.

7.17 Limitation and procedure.

**Article 7.01 [79] [124] [114] Shall issue warrant**

Whenever a magistrate is informed upon oath that an offense is about to be committed against the person or property of the informant, or of another, or that any person has threatened to commit an offense, the magistrate shall immediately issue a warrant for the arrest of the accused; that he may be brought before such magistrate or before some other named in the warrant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.02 Appearance bond pending peace bond hearing**

In proceedings under this Chapter, the accused shall have the right to make an appearance bond; such bond shall be conditioned as appearance bonds in other cases, and shall be further conditioned that the accused, pending the hearing, will not commit such offense and that he will keep the peace toward the person threatened or about to be injured, and toward all others, pending the hearing. Should the accused enter into such appearance bond, such fact shall not constitute any evidence of the accusation brought against him at the hearing on the merits before the magistrate. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.03 [80] [125] [115] Accused brought before magistrate**

When the accused has been brought before the magistrate, he shall hear proof as to the accusation, and if he be satisfied that there is just reason to apprehend that the offense was intended to be committed, or that the threat was seriously made, he shall make an order that the accused enter into bond in such sum as he may in his discretion require, conditioned that he will not commit such offense, and that he will keep the peace toward the person threatened or about to be injured, and toward all others named in the bond for any period of time, not to exceed one year from the date of the bond. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.04 [81] [126] [116] Form of peace bond**

Such bond shall be sufficient if it be payable to the State of Texas, conditioned as required in said order of the magistrate, be for some certain sum, and be signed by the defendant and his surety or sureties and dated, and the provisions of Article 17.02 permitting the deposit of current United States money in lieu of sureties is applicable to this bond. No error of form shall vitiate such bond, and no error in the proceedings prior to the execution of the bond shall be a defense in a suit thereon. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.05 [82] [127] [117] Oath of surety; bond filed**

The officer taking such bond shall require the sureties of the accused to make oath as to the value of their property as pointed out

with regard to bail bonds. Such officer shall forthwith deposit such bond and oaths in the office of the clerk of the county where such bond is taken. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.06**    [83] [128] [118] **Amount of bail**

The magistrate, in fixing the amount of such bonds, shall be governed by the pecuniary circumstances of the accused and the nature of the offense threatened or about to be committed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.07**    [84] [129] [119] **Surety may exonerate himself**

A surety upon any such bond may, at any time before a breach thereof, exonerate himself from the obligations of the same by delivering to any magistrate of the county where such bond was taken, the person of the defendant; and such magistrate shall in that case again require of the defendant bond, with other security in the same amount as the first bond; and the same proceeding shall be had as in the first instance, but the one year's time shall commence to run from the date of the first order. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.08**    [85] [130] [120] **Failure to give bond**

If the defendant fail to give bond, he shall be committed to jail for one year from the date of the first order requiring such bond. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.09**    [86] [131] [121] **Discharge of defendant**

A defendant committed for failing to give bond shall be discharged by the officer having him in custody, upon giving the required bond, or at the expiration of the time for which he has been committed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.10**    [87] [132] [122] **May discharge defendant**

If the magistrate believes from the evidence that there is no good reason to apprehend that the offense was intended or will be committed, or that no serious threat was made by the defendant, he shall discharge the accused, and may, in his discretion, tax the cost of the proceeding against the party making the complaint. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.11**    [88] [133] [123] **Bond of person charged with libel**

If any person shall make oath, and shall convince the magistrate that he has good reason to believe that another is about to publish, sell or circulate, or is continuing to sell, publish or circulate any libel against him, or any such publication as is made an offense by the penal law of this State, the person accused of such intended publication may be required to enter into bond with security not to sell, publish or circulate such libelous publication, and the same proceedings be had as in the cases before enumerated in this Chapter. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.12**    [89] [159] [149] **Destruction of libel**

On conviction for making, writing, printing, publishing, selling or circulating a libel, the court may, if it be shown that there are in the hands of the defendant or another copies of such libel intended for



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publication, sale or distribution, order all such copies to be seized and destroyed by the sheriff or other proper officer. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.13** [90] [134] [124] **When the defendant has committed a crime**

If it appears from the evidence before the magistrate that the defendant has committed a criminal offense, the same proceedings shall be had as in other cases where parties are charged with crime. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.14** [91] [135] [125] **Costs**

If the accused is found subject to the charge and required to give bond, the costs of the proceedings shall be adjudged against him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.15** [92] [136] [126] **May order protection**

When, from the nature of the case and the proof offered to the magistrate, it may appear necessary and proper, he shall have a right to order any peace officer to protect the person or property of any individual threatened; and such peace officer shall have the right to summon aid by requiring any number of citizens of his county to assist in giving the protection. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.16** [93] [137] [127] **Suit on bond**

A suit to forfeit any bond taken under the provisions of this Chapter shall be brought in the name of the State by the district or county attorney in the county where the bond was taken. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 7.17** [94] [138] [128] **Limitation and procedure**

Suits upon such bonds shall be commenced within two years from the breach of the same, and not thereafter, and shall be governed by the same rules as civil actions, except that the sureties may be sued without joining the principal. To entitle the State to recover, it shall only be necessary to prove that the accused violated any condition of said bond. The full amount of such bond may be recovered of the accused and the sureties. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**CHAPTER EIGHT**

**SUPPRESSION OF RIOTS AND OTHER  
DISTURBANCES**

- Art.
- 8.01 Officer may require aid.
- 8.02 Military aid in executing process.
- 8.03 Military aid in suppressing riots
- 8.04 Dispersing riot.
- 8.05 Officer may call aid.
- 8.06 Means adopted to suppress.
- 8.07 Unlawful assembly.
- 8.08 Suppression at election.
- 8.09 Power of special constable.

**Article 8.01**    [95] [139] [129] **Officer may require aid**

When any officer authorized to execute process is resisted, or when he has sufficient reason to believe that he will meet with resistance in executing the same, he may command as many of the citizens of his county as he may think proper; and the sheriff may call any military company in the county to aid him in overcoming the resistance, and if necessary, in seizing and arresting the persons engaged in such resistance. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 8.02**    [96] [140] [130] **Military aid in executing process**

If it be represented to the Governor in such manner as to satisfy him that the power of the county is not sufficient to enable the sheriff to execute process, he may, on application, order any military company of volunteers or militia company from another county to aid in overcoming such resistance. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 8.03**    [97] [141] [131] **Military aid in suppressing riots**

Whenever, for the purpose of suppressing riots or unlawful assemblies, the aid of military or militia companies is called, they shall obey the orders of the civil officer who is engaged in suppressing the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 8.04**    [98] [142] [132] **Dispersing riot**

Whenever a number of persons are assembled together in such a manner as to constitute a riot, according to the penal law of the State, it is the duty of every magistrate or peace officer to cause such persons to disperse. This may either be done by commanding them to disperse or by arresting the persons engaged, if necessary, either with or without warrant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 8.05**    [99] [143] [133] **Officer may call aid**

In order to enable the officer to disperse a riot, he may call to his aid the power of the county in the same manner as is provided where it is necessary for the execution of process. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 8.06    [100] [144] [134] Means adopted to suppress**

The officer engaged in suppressing a riot, and those who aid him are authorized and justified in adopting such measures as are necessary to suppress the riot, but are not authorized to use any greater degree of force than is requisite to accomplish that object. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 8.07    [101] [145] [135] Unlawful assembly**

The Articles of this Chapter relating to the suppression of riots apply equally to an unlawful assembly and other unlawful disturbances, as defined by the Penal Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 8.08    [102] [146] [136] Suppression at election**

To suppress riots, unlawful assemblies and other disturbances at elections, any magistrate may appoint a sufficient number of special constables. Such appointments shall be made to each special constable, shall be in writing, dated and signed by the magistrate, and shall recite the purposes for which such appointment is made, and the length of time it is to continue. Before the same is delivered to such special constable, he shall take an oath before the magistrate to suppress, by lawful means, all riots, unlawful assemblies and breaches of the peace of which he may receive information, and to act impartially between all parties and persons interested in the result of the election. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 8.09    [103] [147] [137] Power of special constable**

Special constables so appointed shall, during the time for which they are appointed, exercise the powers and perform the duties properly belonging to peace officers. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER NINE

### OFFENSES INJURIOUS TO PUBLIC HEALTH

Art.

- 9.01 Trade injurious to health.
- 9.02 Refusal to give bond.
- 9.03 Requisites of bond.
- 9.04 Suit upon bond.
- 9.05 Proof.
- 9.06 Unwholesome food.

**Article 9.01    [104] [148] [138] Trade injurious to health**

After an indictment or information has been presented against any person for carrying on a trade, business or occupation injurious to the health of those in the neighborhood, the court shall have power, on the application of anyone interested, and after hearing proof both for and against the accused, to restrain the defendant, in such penalty as may be deemed proper, from carrying on such trade, business or occupation, or may make such order respecting the manner and place of carrying on the same as may be deemed advisable; and if upon trial, the defendant be convicted, the restraint shall be made perpetual, and the party shall be required to enter into bond, with security, not to

continue such trade, business or occupation to the detriment of the health of such neighborhood, or of any other neighborhood within the county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 9.02**    [105] [149] [139] **Refusal to give bond**

If the party refuses to give bond when required under the provisions of the preceding Article, the court may either commit him to jail, or make an order requiring the sheriff to seize upon the implements of such trade, business or occupation, or the goods and property used in conducting such trade, business or occupation, and destroy the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 9.03**    [106] [150] [140] **Requisites of bond**

Such bond shall be payable to the State of Texas, in a reasonable amount to be fixed by the court, conditioned that the defendant will not carry on such trade, business or occupation, naming the same, at such place, naming the place, or at any other place in the county, to the detriment of the health of the neighborhood. The bond shall be signed by the defendant and his sureties and dated, and shall be approved by the court taking the same, and filed in such court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 9.04**    [107] [151] [141] **Suit upon bond**

Any such bond, upon the breach thereof, may be sued upon by the district or county attorney, in the name of the State of Texas, within two years after such breach, and not afterwards; and such suits shall be governed by the same rules as civil actions. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 9.05**    [108] [152] [142] **Proof**

It shall be sufficient proof of the breach of any such bond to show that the party continued after executing the same, to carry on the trade, business or occupation which he bound himself to discontinue; and the full amount of such bond may be recovered of the defendant and his sureties. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 9.06**    [109] [153] [143] **Unwholesome food**

After conviction for selling unwholesome food or adulterated medicine, the court shall enter and issue an order to the sheriff or other proper officer to seize and destroy such as remains in the hands of the defendant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER TEN

### OBSTRUCTIONS OF PUBLIC HIGHWAYS

Art.

10.01 Order to remove.

10.02 Bond of applicant.

10.03 Removal.

**Article 10.01**    [110] [155] [145] **Order to remove**

After prosecution begun against any person for obstructing any highway, any one, in behalf of the public, may apply to the county

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judge of the county in which such highway is situated; and upon hearing proof, such judge, either in term time or in vacation, may issue his written order to the sheriff or other proper officer of the county, directing him to remove the obstruction. Before the issuance of such order, the applicant therefor shall give bond with security in an amount to be fixed by the judge, to indemnify the accused, in case of his acquittal, for the loss he sustains. Such bond shall be approved by the county judge and filed with the papers in the cause. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 10.02** [111] [156] [146] **Bond of applicant**

If the defendant be acquitted after a trial upon the merits of the case, he may maintain a civil action against the applicant and his sureties upon such bond, and may recover the full amount of the bond, or such damages, less than the full amount thereof, as may be assessed by a court or jury; provided, he shows on the trial that the place was not in fact, at the time he placed the obstruction or impediment thereupon, a public highway established by proper authority, but was in fact his own property or in his lawful possession. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 10.03** [112] [158] [148] **Removal**

Upon the conviction of a defendant for obstructing a public highway, if such obstruction still exists, the court shall order the sheriff or other proper officer to forthwith remove the same at the cost of the defendant, to be taxed and collected as other costs in the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## **HABEAS CORPUS**

### **CHAPTER ELEVEN**

## **HABEAS CORPUS**

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- 11.01 What writ is.
- 11.02 To whom directed.
- 11.03 Want of form.
- 11.04 Construction.
- 11.05 By whom writ may be granted.
- 11.06 Returnable to any county.
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**Article 11.01 [113] [160-161] What writ is**

The writ of habeas corpus is the remedy to be used when any person is restrained in his liberty. It is an order issued by a court or judge of competent jurisdiction, directed to any one having a person in his custody, or under his restraint, commanding him to produce such person, at a time and place named in the writ, and show why he is held in custody or under restraint. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.02 [114] [162] [152] To whom directed**

The writ runs in the name of "The State of Texas". It is addressed to a person having another under restraint, or in his custody, describing, as near as may be, the name of the office, if any, of the person to whom it is directed, and the name of the person said to be detained. It shall fix the time and place of return, and be signed by the judge, or by the clerk with his seal, where issued by a court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.03 [115] [163] [153] Want of form**

The writ of habeas corpus is not invalid, nor shall it be disobeyed for any want of form, if it substantially appear that it is issued by competent authority, and the writ sufficiently show the object of its issuance. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.04 [116] [164] [154] Construction**

Every provision relating to the writ of habeas corpus shall be most favorably construed in order to give effect to the remedy, and protect the rights of the person seeking relief under it. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.05 [117] [69-84-92-100-165] By whom writ may be granted**

The Court of Criminal Appeals, the District Courts, the County Courts, or any Judge of said Courts, have power to issue the writ of

habeas corpus; and it is their duty, upon proper motion, to grant the writ under the rules prescribed by law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.06** [118] [166] [156] **Returnable to any county**

Before indictment found, the writ may be made returnable to any county in the State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.07** [119] [167] [157] **Return to certain county; procedure after conviction**

After indictment found in any felony case, and before conviction, the writ must be made returnable in the county where the offense has been committed.

After final conviction in any felony case, the writ must be made returnable to the Court of Criminal Appeals of Texas at Austin, Texas. The writ may issue upon the order of any district judge, and said judge may upon presentation to him of a petition for said writ, set the same down for a hearing as to whether the writ should issue, and ascertain the facts, which facts shall be transmitted to the Court of Criminal Appeals with the return of the writ if same is issued after such hearing. Provided further, that should such writ be returned to the Court of Criminal Appeals without the facts accompanying same, or without all the facts deemed necessary by the Court of Criminal Appeals, said court may designate and direct any district judge or judges of this State to ascertain the facts necessary for proper consideration of the issues involved; and it shall be the duty of the official court reporter of the district judge or judges so designated to forthwith prepare a narration of the facts adduced in evidence upon any such hearing and transmit the same to the clerk of the Court of Criminal Appeals within ten days of the date of such hearing. And it shall be the duty of the district clerk of the county wherein the writ is issued to make up a transcript of all pleadings in such case and to transmit the same within ten days to the clerk of the Court of Criminal Appeals. Provided, that upon good cause shown, the time may be extended by the Court of Criminal Appeals for filing of such narration of facts or transcript.

The clerk of the Court of Criminal Appeals shall forthwith docket the cause and same shall be heard by the court at the earliest practicable time. Upon reviewing the record the court shall enter its judgment remanding the petitioner to custody or ordering his release, as the law and facts may justify. The mandate of the court shall issue to the court issuing the writ, as in other criminal cases. After conviction the procedure outlined in this Act shall be exclusive and any other proceeding shall be void and of no force and effect in discharging the prisoner.

Upon any hearing by a district judge by virtue of this Act, the attorney for petitioner, and the State, shall be given at least one full day's notice before such hearing is held. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.08** [120] [168] [158] **Applicant charged with felony**

If a person is confined after indictment on a charge of felony, he may apply to the judge of the court in which he is indicted; or if there be no judge within the district, then to the judge of any district whose residence is nearest to the court house of the county in which the applicant is held in custody. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.



**Art. 11.09** [121] [169] [159] **Applicant charged with misdemeanor**

If a person is confined on a charge of misdemeanor, he may apply to the county judge of the county in which the misdemeanor is charged to have been committed, or if there be no county judge in said county, then to the county judge whose residence is nearest to the courthouse of the county in which the applicant is held in custody. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.10** [122] [170] [160] **Proceedings under the writ**

When motion has been made to a judge under the circumstances set forth in the two preceding Articles, he shall appoint a time when he will examine the cause of the applicant, and issue the writ returnable at that time, in the county where the offense is charged in the indictment or information to have been committed. He shall also specify some place in the county where he will hear the motion. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.11** [123] [171] [161] **Early hearing**

The time so appointed shall be the earliest day which the judge can devote to hearing the cause of the applicant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.12** [124] [172] [162] **Who may present petition**

Either the party for whose relief the writ is intended, or any person for him, may present a petition to the proper authority for the purpose of obtaining relief. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.13** [125] [173] [163] **Applicant**

The word applicant, as used in this Chapter, refers to the person for whose relief the writ is asked, though the petition may be signed and presented by any other person. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.14** [126] [174] [164] **Requisites of petition**

The petition must state substantially:

1. That the person for whose benefit the application is made is illegally restrained in his liberty, and by whom, naming both parties, if their names are known, or if unknown, designating and describing them;

2. When the party is confined or restrained by virtue of any writ, order or process, or under color of either, a copy shall be annexed to the petition, or it shall be stated that a copy cannot be obtained;

3. When the confinement or restraint is not by virtue of any writ, order or process, the petition may state only that the party is illegally confined or restrained in his liberty;

4. There must be a prayer in the petition for the writ of habeas corpus; and

5. Oath must be made that the allegations of the petition are true, according to the belief of the petitioner. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.15** [127] [175] [165] **Writ granted without delay**

The writ of habeas corpus shall be granted without delay by the judge or court receiving the petition, unless it be manifest from the petition itself, or some documents annexed to it, that the party is entitled to no relief whatever. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.16** [128] [176] [166] **Writ may issue without motion**

A judge of the district or county court who has knowledge that any person is illegally confined or restrained in his liberty within his district or county may, if the case be one within his jurisdiction, issue the writ of habeas corpus, without any motion being made for the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.17** [129] [177] [167] **Judge may issue warrant of arrest**

Whenever it appears by satisfactory evidence to any judge authorized to issue such writ that any one is held in illegal confinement or custody, and there is good reason to believe that he will be carried out of the State, or suffer some irreparable injury before he can obtain relief in the usual course of law, or whenever the writ of habeas corpus has been issued and disregarded, the said judge may issue a warrant to any peace officer, or to any person specially named by said judge, directing him to take and bring such person before such judge, to be dealt with according to law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.18** [130] [178] [168] **May arrest detainer**

Where it appears by the proof offered, under circumstances mentioned in the preceding Article, that the person charged with having illegal custody of the prisoner is, by such act, guilty of an offense against the law, the judge may, in the warrant, order that he be arrested and brought before him; and upon examination, he may be committed, discharged, or held to bail, as the law and the nature of the case may require. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.19** [131] [179] [169] **Proceedings under the warrant**

The officer charged with the execution of the warrant shall bring the persons therein mentioned before the judge or court issuing the same, who shall inquire into the cause of the imprisonment or restraint, and make an order thereon, as in cases of habeas corpus, either remanding into custody, discharging or admitting to bail the party so imprisoned or restrained. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.20** [132] [180] [170] **Officer executing warrant**

The same power may be exercised by the officer executing the warrant in cases arising under the foregoing Articles as is exercised in the execution of warrants of arrest. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.21** [133] [181] [171] **Constructive custody**

The words "confined", "imprisoned", "in custody", "confinement", "imprisonment", refer not only to the actual, corporeal and

For Annotations and Historical Notes, see V.A.T.S.

forcible detention of a person, but likewise to any coercive measures by threats, menaces or the fear of injury, whereby one person exercises a control over the person of another, and detains him within certain limits. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.22** [134] [182] [172] **Restraint**

By "restraint" is meant the kind of control which one person exercises over another, not to confine him within certain limits, but to subject him to the general authority and power of the person claiming such right. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.23** [135] [183] [173] **Scope of writ**

The writ of habeas corpus is intended to be applicable to all such cases of confinement and restraint, where there is no lawful right in the person exercising the power, or where, though the power in fact exists, it is exercised in a manner or degree not sanctioned by law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.24** [136] [184] [174] **One committed in default of bail**

Where a person has been committed to custody for failing to enter into bond, he is entitled to the writ of habeas corpus, if it be stated in the petition that there was no sufficient cause for requiring bail, or that the bail required is excessive. If the proof sustains the petition, it will entitle the party to be discharged, or have the bail reduced. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.25** [137] [185] [175] **Person afflicted with disease**

When a judge or court authorized to grant writs of habeas corpus shall be satisfied, upon investigation, that a person in legal custody is afflicted with a disease which will render a removal necessary for the preservation of life, an order may be made for the removal of the prisoner to some other place where his health will not be likely to suffer; or he may be admitted to bail when it appears that any species of confinement will endanger his life. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.26** [138] [186] [176] **Who may serve writ**

The service of the writ may be made by any person competent to testify. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.27** [139] [187] [177] **How writ may be served and returned**

The writ may be served by delivering a copy of the original to the person who is charged with having the party under restraint or in custody, and exhibiting the original, if demanded; if he refuse to receive it, he shall be informed verbally of the purport of the writ. If he refuses admittance to the person wishing to make the service, or conceals himself, a copy of the writ may be fixed upon some conspicuous part of the house where such person resides or conceals himself, or of the place where the prisoner is confined; and the person serving the writ of habeas corpus shall, in all cases, state fully, in his return, the manner and the time of the service of the writ. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.28** [140] [188] [178] **Return under oath**

The return of a writ of habeas corpus, under the provisions of the preceding Article, if made by any person other than an officer, shall be under oath. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.29** [141] [189] [179] **Must make return**

The person on whom the writ of habeas corpus is served shall immediately obey the same, and make the return required by law upon the copy of the original writ served on him, and this, whether the writ be directed to him or not. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.30** [142] [190] [180] **How return is made**

The return is made by stating in plain language upon the copy of the writ or some paper connected with it:

1. Whether it is true or not, according to the statement of the petition, that he has in his custody, or under his restraint, the person named or described in such petition;

2. By virtue of what authority, or for what cause, he took and detains such person;

3. If he had such person in his custody or under restraint at any time before the service of the writ, and has transferred him to the custody of another, he shall state particularly to whom, at what time, for what reason or by what authority he made such transfer;

4. He shall annex to his return the writ or warrant, if any, by virtue of which he holds the person in custody; and

5. The return must be signed and sworn to by the person making it. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.31** [143] [191] [181] **Applicant brought before judge**

The person on whom the writ is served shall bring before the judge the person in his custody, or under his restraint, unless it be made to appear that by reason of sickness he cannot be removed; in which case, another day may be appointed by the judge or court for hearing the cause, and for the production of the person confined; or the application may be heard and decided without the production of the person detained, by the consent of his counsel. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.32** [144] [192] [182] **Custody pending examination**

When the return of the writ has been made, and the applicant brought before the court, he is no longer detained on the original warrant or process, but under the authority of the habeas corpus. The safekeeping of the prisoner, pending the examination or hearing, is entirely under the direction and authority of the judge or court issuing the writ, or to which the return is made. He may be bailed from day to day, or be remanded to the same jail whence he came, or to any other place of safekeeping under the control of the judge or court, till the case is finally determined. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.33** [145] [193] [183] **Court shall allow time**

The court or judge granting the writ of habeas corpus shall allow reasonable time for the production of the person detained in custody. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.34** [146] [194] [184] **Disobeying writ**

When service has been made upon a person charged with the illegal custody of another, if he refuses to obey the writ and make the return required by law, or, if he refuses to receive the writ, or conceals himself, the court or judge issuing the writ shall issue a warrant directed to any officer or other suitable person willing to execute the same, commanding him to arrest the person charged with the illegal custody or detention of another, and bring him before such court or judge. When such person has been arrested and brought before the court or judge, if he still refuses to return the writ, or does not produce the person in his custody, he shall be committed to jail and remain there until he is willing to obey the writ of habeas corpus, and until he pays all the costs of the proceeding. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.35** [147] [195] [185] **Further penalty for disobeying writ**

Any person disobeying the writ of habeas corpus shall also be liable to a civil action at the suit of the party detained, and shall pay in such suit fifty dollars for each day of illegal detention and restraint, after service of the writ. It shall be deemed that a person has disobeyed the writ who detains a prisoner a longer time than three days after service thereof, unless where further time is allowed in the writ for making the return thereto Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.36** [148] [196] [186] **Applicant may be brought before court**

In case of disobedience of the writ of habeas corpus, the person for whose relief it is intended may also be brought before the court or judge having competent authority, by an order for that purpose, issued to any peace officer or other proper person specially named. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.37** [149] [197] [187] **Death, etc., sufficient return of writ**

It is a sufficient return of the writ of habeas corpus that the person, once detained, has died or escaped, or that by some superior force he has been taken from the custody of the person making the return; but where any such cause shall be assigned, the court or judge shall proceed to hear testimony; and the facts stated in the return shall be proved by satisfactory evidence. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.38** [150] [198] [188] **When a prisoner dies**

When a prisoner confined in jail, or who is in legal custody, shall die, the officer having charge of him shall forthwith report the same to a justice of the peace of the county, who shall hold an inquest to ascertain the cause of his death. All the proceedings had in such cases shall be reduced to writing, certified and returned as in other cases of inquest; a certified copy of which shall be sufficient proof of the death of the prisoner at the hearing of a motion under habeas corpus. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.39** [151] [199] [189] **Who shall represent the State**

If neither the county nor the district attorney be present, the judge may appoint some qualified practicing attorney to represent the State, who shall be paid the same fee allowed district attorneys for like services. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.40** [152] [200] [190] **Prisoner discharged**

The judge or court before whom a person is brought by writ of habeas corpus shall examine the writ and the papers attached to it; and if no legal cause be shown for the imprisonment or restraint, or if it appear that the imprisonment or restraint, though at first legal, cannot for any cause be lawfully prolonged, the applicant shall be discharged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.41** [153] [201] [191] **Where party is indicted for capital offense**

If it appears by the return and papers attached that the party stands indicted for a capital offense, the judge or court having jurisdiction of the case shall, nevertheless, proceed to hear such testimony as may be offered on the part of the State and the applicant, and may either remand or admit him to bail, as the law and the facts may justify. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.42** [154] [202] [192] **If court has no jurisdiction**

If it appear by the return and papers attached that the judge or court has no jurisdiction, such court or judge shall at once remand the applicant to the person from whose custody he has been taken. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.43** [155] [203] [193] **Presumption of innocence**

No presumption of guilt arises from the mere fact that a criminal accusation has been made before a competent authority. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.44** [156] [204] [194] **Action of court upon examination**

The judge or court, after having examined the return and all documents attached, and heard the testimony offered on both sides, shall, according to the facts and circumstances of the case, proceed either to remand the party into custody, admit him to bail or discharge him; provided, that no defendant shall be discharged after indictment without bail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.45** [157] [205] [195] **Void or informal**

If it appears that the applicant is detained or held under a warrant of commitment which is informal, or void; yet, if from the document on which the warrant was based, or from the proof on the hearing of the habeas corpus, it appears that there is probable cause to believe that an offense has been committed by the prisoner, he shall not be discharged, but shall be committed or held to bail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.46** [158] [206] [196] **If proof shows offense**

Where, upon an examination under habeas corpus, it appears to the court or judge that there is probable cause to believe that an offense has been committed by the prisoner, he shall not be discharged, but shall be committed or admitted to bail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.47** [159] [207] [197] **May summon magistrate**

To ascertain the grounds on which an informal or void warrant has been issued, the judge or court may cause to be summoned the magistrate who issued the warrant, and may, by an order, require him to bring with him all the papers and proceedings touching the matter. The attendance of such magistrate and the production of such papers may be enforced by warrant of arrest. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.48** [160] [208] [198] **Written issue not necessary**

It shall not be necessary, on the trial of any cause arising under habeas corpus, to make up a written issue, though it may be done by the applicant for the writ. He may except to the sufficiency of, or controvert the return or any part thereof, or allege any new matter in avoidance. If written denial on his part be not made, it shall be considered, for the purpose of investigation, that the statements of said return are contested by a denial of the same; and the proof shall be heard accordingly, both for and against the applicant for relief. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.49** [161] [209] [199] **Order of argument**

The applicant shall have the right by himself or counsel to open and conclude the argument upon the trial under habeas corpus. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.50** [162] [210] [200] **Costs**

The judge trying the cause under habeas corpus may make such order as is deemed right concerning the cost of bringing the defendant before him, and all other costs of the proceeding, awarding the same either against the person to whom the writ was directed, the person seeking relief, or may award no costs at all. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.51** [163] [211] [201] **Record of proceedings**

If a writ of habeas corpus be made returnable before a court in session, all the proceedings had shall be entered of record by the clerk thereof, as in any other case in such court. When the motion is heard out of the county where the offense was committed, or in the Court of Criminal Appeals, the clerk shall transmit a certified copy of all the proceedings upon the motion to the clerk of the court which has jurisdiction of the offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.52** [164] [212] [202] **Proceedings had in vacation**

If the return is made and the proceedings had before a judge of a court in vacation, he shall cause all of the proceedings to be written, shall certify to the same, and cause them to be filed with the clerk of the court which has jurisdiction of the offense, who shall keep them safely. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.53** [165] [213] [203] **Construing the two preceding Articles**

The two preceding Articles refer only to cases where an applicant is held under accusation for some offense; in all other cases the proceedings had before the judge shall be filed and kept by the clerk of the court hearing the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.54** [166] [214] [204] **Court may grant necessary orders**

The court or judge granting a writ of habeas corpus may grant all necessary orders to bring before him the testimony taken before the examining court, and may issue process to enforce the attendance of witnesses. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.55** [167] [215] [205] **Meaning of "return"**

The word "return", as used in this Chapter, means the report made by the officer or person charged with serving the writ of habeas corpus, and also the answer made by the person served with such writ. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.56** [168] [216] [206] **Effect of discharge before indictment**

Where a person, before indictment found against him, has been discharged or held to bail on habeas corpus by order of a court or judge of competent jurisdiction, he shall not be again imprisoned or detained in custody on an accusation for the same offense, until after he shall have been indicted, unless surrendered by his bail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.57** [169] [217] [207] **Writ after indictment**

Where a person once discharged or admitted to bail is afterward indicted for the same offense for which he has been once arrested, he may be committed on the indictment, but shall be again entitled to the writ of habeas corpus, and may be admitted to bail, if the facts of the case render it proper; but in cases where, after indictment is found, the cause of the defendant has been investigated on habeas corpus, and an order made, either remanding him to custody, or admitting him to bail, he shall neither be subject to be again placed in custody, unless when surrendered by his bail, nor shall he be again entitled to the writ of habeas corpus, except in the special cases mentioned in this Chapter. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.58** [170] [218] [208] **Person committed for a capital offense**

If the accusation against the defendant for a capital offense has been heard on habeas corpus before indictment found, and he shall have been committed after such examination, he shall not be entitled to the writ, unless in the special cases mentioned in Articles 11.25 and 11.59. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.59** [171] [219] [209] **Obtaining writ a second time**

A party may obtain the writ of habeas corpus a second time by stating in a motion therefor that since the hearing of his first motion



important testimony has been obtained which it was not in his power to produce at the former hearing. He shall also set forth the testimony so newly discovered; and if it be that of a witness, the affidavit of the witness shall also accompany such motion. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.60** [172] [220] [210] **Refusing to execute writ**

Any officer to whom a writ of habeas corpus, or other writ, warrant or process authorized by this Chapter shall be directed, delivered or tendered, who refuses to execute the same according to his directions, or who wantonly delays the service or execution of the same, shall be liable to fine as for contempt of court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.61** [173] [221] [211] **Refusal to obey writ**

Any one having another in his custody, or under his power, control or restraint who refuses to obey a writ of habeas corpus, or who evades the service of the same, or places the person illegally detained under the control of another, removes him, or in any other manner attempts to evade the operation of the writ, shall be dealt with as provided in Article 11.34 of this Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.62** [174] [222] [212] **Refusal to give copy of process**

Any jailer, sheriff or other officer who has a prisoner in his custody and refuses, upon demand, to furnish a copy of the process under which he holds the person, is guilty of an offense, and shall be dealt with as provided in Article 11.34 of this Code for refusal to return the writ therein required. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.63** [175] [223] [213] **Held under Federal authority**

No person shall be discharged under the writ of habeas corpus who is in custody by virtue of a commitment for any offense exclusively cognizable by the courts of the United States, or by order or process issuing out of such courts in cases where they have jurisdiction, or who is held by virtue of any legal engagement or enlistment in the army, or who, being rightfully subject to the rules and articles of war, is confined by any one legally acting under the authority thereof, or who is held as a prisoner of war under the authority of the United States. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 11.64** [176] [224] [214] **Application of Chapter**

This Chapter applies to all cases of habeas corpus for the enlargement of persons illegally held in custody or in any manner restrained in their personal liberty, for the admission of prisoners to bail, and for the discharge of prisoners before indictment upon a hearing of the testimony. Instead of a writ of habeas corpus in other cases heretofore used, a simple order shall be substituted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

# LIMITATION AND VENUE

## CHAPTER TWELVE

### LIMITATION

Art.

- 12.01 Treason; theft or conversion by executor, administrator or guardian; forgery.
- 12.02 Rape.
- 12.03 Theft, etc., five years.
- 12.04 Other felonies.
- 12.05 Misdemeanors, two years.
- 12.06 Computation.
- 12.07 Absence from State and time of pendency of indictment, etc., not computed.
- 12.08 An indictment is "presented," when.
- 12.09 An information is "presented," when.

**Article 12.01** [177] [225] [215] **Treason; theft or conversion by executor, administrator or guardian; forgery**

An indictment for the following offenses may be presented within ten years from the time of the commission of the offense, and not afterward:

1. treason;
2. theft or conversion of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;
3. forgery or the uttering, using or passing of forged instruments. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 12.02** [178] [226] [216] **Rape**

An indictment for rape may be presented within one year, and not afterward. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 12.03** [179] [227] [217] **Theft, etc., five years**

An indictment for felony theft, arson, burglary, robbery and counterfeiting may be presented within five years, and not afterward. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 12.04** [180] [228] [218] **Other felonies**

An indictment for any other felony may be presented within three years from the commission of the offense, and not afterward; except murder, for which an indictment may be presented at any time. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 12.05** [181] [229] [219] **Misdemeanors, two years**

An indictment or information for any misdemeanor may be presented within two years from the commission of the offense, and not afterward. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 12.06** [182] [230] [220] **Computation**

The day on which the offense was committed and the day on which the indictment or information is presented shall be excluded from the computation of time. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 12.07** [183] [231] [221] **Absence from State and time of pendency of indictment, etc., not computed**

1. The time during which the accused is absent from the State shall not be computed in the period of limitation.

2. The time during the pendency of an indictment, information, or complaint shall not be computed in the period of limitation.

3. The term "during the pendency," as used herein, means that period of time beginning with the day the indictment, information, or complaint is filed in a court of competent jurisdiction, and ending with the day such accusation is, by an order of a trial court having jurisdiction thereof, determined to be invalid for any reason. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 12.08** [184] [232] [222] **An indictment is "presented," when**

An indictment is considered as "presented," when it has been duly acted upon by the grand jury and received by the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 12.09** [185] [233] [223] **An information is "presented," when**

An information is considered as "presented," when it has been filed by the proper officer in the proper court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER THIRTEEN

### VENUE

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- 13.25 Proof of venue.
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**Article 13.01** [186] [234] [224] **Offenses not committed in the State**

Prosecutions for offenses committed wholly or in part without, and made punishable by law within this State, may be begun and carried on in any county in which the offender is found. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.02** [187] [235] [225] **Forgery**

Forgery may be prosecuted in any county where the written instrument was forged, or where the same was used or passed, or attempted to be used or passed, or deposited or placed with another person, firm, association, or corporation either for collection or credit for the account of any person, firm, association or corporation. All forging and uttering, using or passing of forged instruments in writing which concern or affect the title to land in this State may be prosecuted in Travis County, or in the county in which such land, or any part thereof, is situated. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.03** [188] [236] [226] **Counterfeiting**

Counterfeiting may be prosecuted in any county where the offense was committed, or where the counterfeit coin was passed, or attempted to be passed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.04** [189] [237] [227] **Perjury and false swearing**

Perjury and false swearing may be prosecuted in the county where committed, or in the county where the false statement is used or attempted to be used. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.05** [190] [238] [228] **On the boundary of two counties**

An offense committed on the boundary of any two counties, or within four hundred yards thereof, may be prosecuted and punished in either county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.06** [191] [239] [229] **Person dying out of the State**

If any person, being at the time within this State, shall inflict upon another, also within this State, an injury of which such person afterward dies without the limits of this State, the person so offending shall be liable to prosecution in the county where the injury was inflicted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.07**    [192] [240] [230] **Person within the State inflicting injury on another out of the State**

If a person, being at the time within this State, shall inflict upon another out of this State an injury by reason of which the injured person dies without the limits of this State, he may be prosecuted in the county where he was when the injury was inflicted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.08**    [193] [241] [231] **Person without the State inflicting an injury on one within**

If a person, being at the time without this State, shall inflict upon another who is at the time within this State, an injury causing death, he may be prosecuted in the county where the person injured dies. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.09**    [194] [242] [232] **Committed on a boundary stream**

If an offense be committed upon any river or stream, the boundary of this State, it may be prosecuted in the county the boundary of which is upon such stream or river, and the county seat of which is nearest the place where the offense was committed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.10**    [195] [243] [233] **Injured in one county and dying in another**

If a person receives an injury in one county and dies in another by reason of such injury, the offender may be prosecuted in the county where the injury was received or where the death occurred, or in the county where the dead body is found. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.11**    [196] [244] [234] **Committed on a boundary**

Where a river or other stream or highway is the boundary between two counties, any offense committed on such river, stream or highway at a place where it is such boundary, is punishable in either county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.12**    [197] [245] [235] **Theft**

Where property is stolen in one county and carried off by the offender to another, he may be prosecuted either in the county where he took the property or in any other county through or into which he may have carried it. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.13**    [198] [246] **Mortgaged property**

When mortgaged property is taken from one county and unlawfully disposed of in another county, the offender may be prosecuted either in the county in which such property was disposed of, or in the county from which it was removed, or in which the lien on it is registered. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.14**    [199] [247] [236] **Accomplices and accessories to theft**

Accomplices and accessories to theft may be prosecuted in any county where the theft was committed, or in any other county through

or into which the property may be carried by either the principal, accomplice, or accessory to the offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.15** [200] [248] [237] **Receiving and concealing stolen property**

Receiving and concealing stolen property may be prosecuted in the county where the theft was committed, or in any other county through or into which the property may have been carried by the person stealing the same, or in any county where the same may have been received or concealed by the offender. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.16** [201] [249] [238] **By commissioner of deeds**

Offenses committed out of this State by a commissioner of deeds, or other officer acting under the authority of this State, may be prosecuted in any county of this State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.17** [202] [250] [239] **On vessels**

An offense committed on board a vessel which is at the time upon any navigable water within the boundaries of this State, may be prosecuted in any county through which the vessel is navigated in the course of her voyage, or in the county where the voyage commences or terminates. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.18** [203] [251] [240] **Embezzlement**

Embezzlement may be prosecuted in any county in which the offender may have taken or received the property, or through or into which he may have undertaken to transport it. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.19** [204] [252] [241] **False imprisonment, kidnapping and abduction**

Venue for false imprisonment, kidnapping and abduction belongs either to the county in which the offense was committed, or to any county through, into or out of which the person falsely imprisoned, kidnapped or taken in such manner as to constitute abduction may have been carried. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.20** [205] [253] [242] **Conspiracy**

Conspiracy may be prosecuted in the county where the conspiracy was entered into, or in the county where the same was agreed to be executed; and when the conspiracy is entered into in another State, territory or country, to commit an offense in this State, the offense may be prosecuted in the county where such offense was agreed to be committed, or in any county where any one of the conspirators may be found, or in Travis County. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.21** [206] **Bigamy**

Bigamy may be prosecuted in the county where the bigamous marriage occurred or in any county in this State in which the parties to such bigamous marriage may live or cohabit together as man and wife. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.22** [207] [254] **Rape**

Rape may be prosecuted in the county in which it is committed, or in any county of the judicial district in which it is committed, or in any county of the judicial district the judge of which resides nearest the county seat of the county in which the offense is committed. When the judicial district comprises only one county, prosecutions may be commenced and carried on in that county, if the offense be committed there, or in any adjoining county. When it shall come to the knowledge of any district judge whose court has jurisdiction under this Article that rape has probably been committed, he shall immediately, if his court be in session, and if not in session, then, at the first term thereafter in any county of the district, call the attention of the grand jury thereto; and if his court be in session, but the grand jury has been discharged, he shall immediately recall said grand jury to investigate the accusation. Prosecution for rape shall take precedence in all cases in all courts; and the district courts are authorized and directed to change the venue in such cases whenever it shall be necessary to secure a speedy trial. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.23** [208] [255] [243] **Conviction or acquittal in another State**

When an act has been committed out of this State by an inhabitant thereof, and such act is an offense by the laws of this State, and is also an offense by the laws of the place where the same was done, a conviction or acquittal of the offender, under the laws of the place where the offense was committed, is a bar to the prosecution in this State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.24** [209] [256] [244] **Jurisdiction in different counties**

Where different counties have jurisdiction of the same offense, conviction or acquittal of the offense in one county is a bar to any further prosecution in any other county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.25** [210] [257] [245] **Proof of venue**

In all cases mentioned in this Chapter, the indictment or information, or any proceeding in the case, may allege that the offense was committed in the county where the prosecution is carried on. To sustain the allegation of venue, it shall only be necessary to prove that by reason of the facts in the case, the county where such prosecution is carried on has jurisdiction. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 13.26** [211] [258] [246] **Other offenses**

If venue is not specifically stated, the proper county for the prosecution of offenses is that in which the offense was committed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

# *ARREST, COMMITMENT AND BAIL*

## CHAPTER FOURTEEN

### ARREST WITHOUT WARRANT

Art.

- 14.01 Offense within view.
- 14.02 Within view of magistrate.
- 14.03 Authority of municipality.
- 14.04 When felony has been committed.
- 14.05 Rights of officer.
- 14.06 Must take offender before magistrate.

#### **Article 14.01 [212] [259] [247] Offense within view**

A peace officer or any other person, may, without warrant, arrest an offender when the offense is committed in his presence or within his view, if the offense is one classed as a felony, or as an offense against the public peace. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 14.02 [213] [260] [248] Within view of magistrate**

A peace officer may arrest, without warrant, when a felony or breach of the peace has been committed in the presence or within the view of a magistrate, and such magistrate verbally orders the arrest of the offender. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 14.03 [214] [261] [249] Authority of municipality**

The municipal authorities of towns and cities may establish rules authorizing the arrest, without warrant, of persons found in suspicious places, and under circumstances which reasonably show that such persons have been guilty of some felony or breach of the peace, or threaten, or are about to commit some offense against the laws. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 14.04 [215] [262] [250] When felony has been committed**

Where it is shown by satisfactory proof to a peace officer, upon the representation of a credible person, that a felony has been committed, and that the offender is about to escape, so that there is no time to procure a warrant, such peace officer may, without warrant, pursue and arrest the accused. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 14.05 [216] [263] [251] Rights of officer**

In each case enumerated where arrests may be lawfully made without warrant, the officer or person making the arrest is justified in adopting all the measures which he might adopt in cases of arrest under warrant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.



**Art. 14.06 [217] [264] [252] Must take offender before magistrate**

In each case enumerated in this Code, the person making the arrest shall immediately take the person arrested before the magistrate who may have ordered the arrest or before some magistrate of the county where the arrest was made without an order. The magistrate shall immediately perform the duties described in Article 15.17 of this Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER FIFTEEN

### ARREST UNDER WARRANT

Art.

- 15.01 Warrant of arrest.
- 15.02 Requisites of warrant.
- 15.03 Magistrate may issue warrant or summons.
- 15.04 Complaint.
- 15.05 Requisites of complaint.
- 15.06 Warrant extends to every part of the State.
- 15.07 Warrant issued by other magistrate.
- 15.08 Warrant may be telegraphed.
- 15.09 Complaint by telegraph.
- 15.10 Copy to be deposited.
- 15.11 Duty of telegraph manager.
- 15.12 Warrant or complaint must be under seal.
- 15.13 Telegram prepaid.
- 15.14 Warrant may be directed to any person.
- 15.15 Private person executing warrant.
- 15.16 How warrant is executed.
- 15.17 Duties of arresting officer and magistrate.
- 15.18 Arrest for out-of-county offense.
- 15.19 Notice of arrest.
- 15.20 Duty of sheriff receiving notice.
- 15.21 Prisoner discharged if not timely demanded.
- 15.22 When a person is arrested.
- 15.23 Time of arrest.
- 15.24 What force may be used.
- 15.25 May break door.
- 15.26 Authority to arrest must be made known.
- 15.27 Escaped prisoner.

**Article 15.01 [218] [265] [253] Warrant of arrest**

A "warrant of arrest" is a written order from a magistrate, directed to a peace officer or some other person specially named, commanding him to take the body of the person accused of an offense, to be dealt with according to law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.02 [219] [266] [254] Requisites of warrant**

It issues in the name of "The State of Texas", and shall be sufficient, without regard to form, if it have these substantial requisites:

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1. It must specify the name of the person whose arrest is ordered, if it be known, if unknown, then some reasonably definite description must be given of him.

2. It must state that the person is accused of some offense against the laws of the State, naming the offense.

3. It must be signed by the magistrate, and his office be named in the body of the warrant, or in connection with his signature. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.03** [220] [267] [255] Magistrate may issue warrant or summons

(a) A magistrate may issue a warrant of arrest or a summons:

1. In any case in which he is by law authorized to order verbally the arrest of an offender;

2. When any person shall make oath before the magistrate that another has committed some offense against the laws of the State; and

3. In any case named in this Code where he is specially authorized to issue warrants of arrest.

(b) A summons may be issued in any case where a warrant may be issued, and shall be in the same form as the warrant except that it shall summon the defendant to appear before a magistrate at a stated time and place. The summons shall be served upon a defendant by delivering a copy to him personally, or by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by mailing it to the defendant's last known address. If a defendant fails to appear in response to the summons a warrant shall be issued. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.04** [221] [268] [256] Complaint

The affidavit made before the magistrate or district or county attorney is called a "complaint" if it charges the commission of an offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.05** [222] [269] [257] Requisites of complaint

The complaint shall be sufficient, without regard to form, if it have these substantial requisites:

1. It must state the name of the accused, if known, and if not known, must give some reasonably definite description of him.

2. It must show that the accused has committed some offense against the laws of the State, either directly or that the affiant has good reason to believe, and does believe, that the accused has committed such offense.

3. It must state the time and place of the commission of the offense, as definitely as can be done by the affiant.

4. It must be signed by the affiant by writing his name or affixing his mark. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.06** [223] [270] [258] Warrant extends to every part of the State

A warrant of arrest, issued by any county or district clerk, or by any magistrate (except mayors or recorders of an incorporated

city or town), shall extend to any part of the State; and any peace officer to whom said warrant is directed, or into whose hands the same has been transferred, shall be authorized to execute the same in any county in this State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.07    [224] [271] [259] Warrant issued by other magistrate**

When a warrant of arrest is issued by any mayor or recorder of an incorporated city or town, it cannot be executed in another county than the one in which it issues, except:

1. It be endorsed by a judge of a court of record, in which case it may be executed anywhere in the State; or

2. If it be endorsed by any magistrate in the county in which the accused is found, it may be executed in such county. The endorsement may be: "Let this warrant be executed in the county of .....". Or, if the endorsement is made by a judge of a court of record, then the endorsement may be: "Let this warrant be executed in any county of the State of Texas". Any other words of the same meaning will be sufficient. The endorsement shall be dated, and signed officially by the magistrate making it. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.08    [225] [272] [260] Warrant may be telegraphed**

A warrant of arrest may be forwarded by telegraph from any telegraph office to another in this State. If issued by any magistrate named in Article 15.06, the peace officer receiving the same shall execute it without delay. If it be issued by any other magistrate than is named in Article 15.06, the peace officer receiving the same shall proceed with it to the nearest magistrate of his county, who shall endorse thereon, in substance, these words:

"Let this warrant be executed in the county of .....", which endorsement shall be dated and signed officially by the magistrate making the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.09    [226] [273] [261] Complaint by telegraph**

A complaint in accordance with Article 15.05, may be telegraphed, as provided in the preceding Article, to any magistrate in the State; and the magistrate who receives the same shall forthwith issue a warrant for the arrest of the accused; and the accused, when arrested, shall be dealt with as provided in this Chapter in similar cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.10    [227] [274] [262] Copy to be deposited**

A certified copy of the original warrant or complaint, certified to by the magistrate issuing or taking the same, shall be deposited with the manager of the telegraph office from which the same is to be forwarded, taking precedence over other business, to the place of its destination or to the telegraph office nearest thereto, precisely as it is written, including the certificate of the seal attached. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.11    [228] [275] [263] Duty of telegraph manager**

When a warrant or complaint is received at a telegraph office for delivery, it shall be delivered to the party to whom it is addressed

as soon as practicable, written on the proper blanks of the telegraph company and certified to by the manager of the telegraph office as being a true and correct copy of the warrant or complaint received at his office. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.12** [229] [276] [264] **Warrant or complaint must be under seal**

No manager of a telegraph office shall receive and forward a warrant or complaint unless the same shall be certified to under the seal of a court of record or by a justice of the peace, with the certificate under seal of the district or county clerk of his county that he is a legally qualified justice of the peace of such county; nor shall it be lawful for any magistrate to endorse a warrant received by telegraph, or issue a warrant upon a complaint received by telegraph, unless all the requirements of the law in relation thereto have been fully complied with. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.13** [230] [277] [265] **Telegram prepaid**

Whoever presents a warrant or complaint to the manager of a telegraph office to be forwarded by telegraph, shall pay for the same in advance, unless, by the rules of the company, it may be sent collect. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.14** [231] [278] [266] **Warrant may be directed to any person**

If it is made known by satisfactory proof to the magistrate that a peace officer cannot be procured to execute a warrant of arrest, or that such delay will be occasioned in procuring the services of a peace officer that the accused will probably escape, such warrant may be directed to any suitable person who is willing to execute the same; and in such case, his name shall be set forth in the warrant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.15** [232] [279] [267] **Private person executing warrant**

No person other than a peace officer can be compelled to execute a warrant of arrest; but if any person shall undertake its execution, he shall be bound to do so under all the penalties to which a peace officer would be liable. He has the same rights, and is governed by the same rules as apply to peace officers. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.16** [233] [280] [268] **How warrant is executed**

The officer or person executing a warrant of arrest shall immediately take the person before the magistrate who issued the warrant or before the magistrate named in the warrant, if the magistrate is in the same county where the person is arrested. If the issuing or named magistrate is in another county, the person arrested shall immediately be taken before some magistrate in the county in which he was arrested. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.17** **Duties of arresting officer and magistrate**

In each case enumerated in this Code, the person making the arrest shall immediately take the person arrested before some magis-

trate of the county where the accused was arrested. The magistrate shall inform the person arrested of the accusation against him and of any affidavit filed therewith, of his right to retain counsel, of his right to request the appointment of counsel if he is unable to obtain counsel, and of his right to have an examining trial. He shall also inform the person arrested that he is not required to make a statement and that any statement made by him may be used against him. The magistrate shall allow the person arrested reasonable time and opportunity to consult counsel and shall admit the person arrested to bail if allowed by law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.18** [235] [282] [270] **Arrest for out-of-county offense**

One arrested under a warrant issued in a county other than the one in which the person is arrested shall be taken before a magistrate of the county where the arrest takes place who shall take bail, if allowed by law, and immediately transmit the bond taken to the court having jurisdiction of the offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.19** [236] [283] [271] **Notice of arrest**

If the accused fails or refuses to give bail, as provided in the preceding Article, he shall be committed to the jail of the county where he was arrested; and the magistrate committing him shall immediately notify the sheriff of the county in which the offense is alleged to have been committed of the arrest and commitment, which notice may be given by telegraph, by mail or by other written notice. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.20** [237] [284] [272] **Duty of sheriff receiving notice**

The sheriff receiving the notice shall forthwith go or send for the prisoner and have him brought before the proper court or magistrate. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.21** [238] [285] [273] **Prisoner discharged if not timely demanded**

If the proper officer of the county where the offense is alleged to have been committed does not demand the prisoner and take charge of him within ten days from the day he is committed, such prisoner shall be discharged from custody. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.22** [239] [286] [274] **When a person is arrested**

A person is arrested when he has been actually placed under restraint or taken into custody by an officer or person executing a warrant of arrest, or by an officer or person arresting without a warrant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.23** [240] [287] [275] **Time of arrest**

An arrest may be made on any day or at any time of the day or night. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.24** [241] [288] [276] **What force may be used**

In making an arrest, all reasonable means are permitted to be used to effect it. No greater force, however, shall be resorted to

than is necessary to secure the arrest and detention of the accused. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.25** [242] [289] [277] **May break door**

In case of felony, the officer may break down the door of any house for the purpose of making an arrest, if he be refused admittance after giving notice of his authority and purpose. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.26** [243] [290] [278] **Authority to arrest must be made known**

In executing a warrant of arrest, it shall always be made known to the accused under what authority the arrest is made; and if requested, the warrant shall be exhibited to him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 15.27** [244] [291] [279] **Escaped prisoner**

If a person arrested shall escape, or be rescued, he may be retaken without any other warrant; and for this purpose, all the means may be used which are authorized in making the arrest in the first instance. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER SIXTEEN

### THE COMMITMENT OR DISCHARGE OF THE ACCUSED

Art.

- 16.01 Examining trial.
- 16.02 Examination postponed.
- 16.03 Warning to accused.
- 16.04 Voluntary statement.
- 16.05 Witness placed under rule.
- 16.06 Counsel may examine witness.
- 16.07 Same rules of evidence as on final trial.
- 16.08 Presence of the accused.
- 16.09 Testimony reduced to writing.
- 16.10 Attachment for witness.
- 16.11 Attachment to another county.
- 16.12 Witness need not be tendered his witness fees or expenses.
- 16.13 Attachment executed forthwith.
- 16.14 Postponing examination.
- 16.15 Who may discharge capital offense.
- 16.16 If insufficient bail has been taken.
- 16.17 Decision of judge.
- 16.18 When no safe jail.
- 16.19 Warrant in such case.
- 16.20 "Commitment".
- 16.21 Duty of sheriff as to prisoners.

**Article 16.01** [245] [292] [280] **Examining trial**

When the accused has been brought before a magistrate for an examining trial that officer shall proceed to examine into the truth

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of the accusation made, allowing the accused, however, sufficient time to procure counsel. In a proper case, the magistrate may appoint counsel to represent an accused in such examining trial only, to be compensated as otherwise provided in this Code. The accused in any felony case shall have the right to an examining trial before indictment in the county having jurisdiction of the offense, whether he be in custody or on bail, at which time the magistrate at the hearing shall determine the amount or sufficiency of bail, if aailable case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.02** [246] [293] [281] **Examination postponed**

The magistrate may at the request of either party postpone the examination to procure testimony; but the accused shall in the meanwhile be detained in custody unless he give bail to be present from day to day before the magistrate until the examination is concluded, which he may do in all cases except murder and treason. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.03** [247] [294] [282] **Warning to accused**

Before the examination of the witnesses, the magistrate shall inform the accused that it is his right to make a statement relative to the accusation brought against him, but at the same time shall also inform him that he cannot be compelled to make any statement whatever, and that if he does make such statement, it may be used in evidence against him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.04** [248] [295] [283] **Voluntary statement**

If the accused desires to make a voluntary statement, he may do so before the examination of any witness, but not afterward. His statement shall be reduced to writing by or under the direction of the magistrate, or by the accused or his counsel, and shall be signed by the accused by affixing his name or mark, but shall not be sworn to by him. The magistrate shall attest by his own certificate and signature to the execution and signing of the statement. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.05** [249] [296] [284] **Witness placed under rule**

The magistrate shall, if requested by the accused or his counsel, or by the prosecutor, have all the witnesses placed in charge of an officer, so that the testimony given by any one witness shall not be heard by any of the others. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.06** [250] [297] [285] **Counsel may examine witness**

The counsel for the State, and the accused or his counsel may question the witnesses on direct or cross examination. If no counsel appears for the State the magistrate may examine the witnesses. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.07** [251] [298] [286] **Same rules of evidence as on final trial**

The same rules of evidence shall apply to and govern a trial before an examining court that apply to and govern a final trial. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.08** [252] [299] [287] **Presence of the accused**

The examination of each witness shall be in the presence of the accused. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.09** [253] [300] [288] **Testimony reduced to writing**

The testimony of each witness shall be reduced to writing by or under the direction of the magistrate, and shall then be read over to the witness, or he may read it over himself. Such corrections shall be made in the same as the witness may direct; and he shall then sign the same by affixing thereto his name or mark. All the testimony thus taken shall be certified to by the magistrate. In lieu of the above provision, a statement of facts authenticated by State and defense counsel and approved by the presiding magistrate may be used to preserve the testimony of witnesses. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.10** [254] [301] [289] **Attachment for witness**

The magistrate has the power in all cases, where a witness resides or is in the county where the prosecution is pending, to issue an attachment for the purpose of enforcing the attendance of such witness; this he may do without having previously issued a subpoena for that purpose. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.11** [255] [302] [290] **Attachment to another county**

The magistrate may issue an attachment for a witness to any county in the State, when affidavit is made by the party applying therefor that the testimony of the witness is material to the prosecution, or the defense, as the case may be; and the affidavit shall further state the facts which it is expected will be proved by the witness; and if the facts set forth are not considered material by the magistrate, or if they be admitted to be true by the adverse party, the attachment shall not issue. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.12** [256] [303] [291] **Witness need not be tendered his witness fees or expenses**

A witness attached need not be tendered his witness fees or expenses. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.13** [257] [304] [292] **Attachment executed forthwith**

The officer receiving the attachment shall execute it forthwith by bringing before the magistrate the witness named therein, unless such witness shall give bail for his appearance before the magistrate at the time and place required by the writ. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.14** [258] [305] [293] **Postponing examination**

After examining the witness in attendance, if it appear to the magistrate that there is other important testimony which may be had by a postponement, he shall, at the request of the prosecutor or of the defendant, postpone the hearing for a reasonable time to enable such testimony to be procured; but in such case the accused shall remain in the custody of the proper officer until the day fixed for such further examination. No postponement shall take place, unless a sworn statement be made by the defendant, or the prosecutor, setting forth the



name and residence of the witness, and the facts which it is expected will be proved. If it be testimony other than that of a witness, the statement made shall set forth the nature of the evidence. If the magistrate is satisfied that the testimony is not material, or if the same be admitted to be true by the adverse party, the postponement shall be refused. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.15** [259] [306] [294] **Who may discharge capital offense**

The examination of one accused of a capital offense shall be conducted by a justice of the peace, county judge, county court at law, or county criminal court. The judge may admit to bail, except in capital cases where the proof is evident. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.16** [260] [307] [295] **If insufficient bail has been taken**

Where it is made to appear by affidavit to a judge of the Court of Criminal Appeals, district or county court, that the bail taken in any case is insufficient in amount, or that the sureties are not good for the amount, or that the bond is for any reason defective or insufficient, such judge shall issue a warrant of arrest, and require of the defendant sufficient bond and security, according to the nature of the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.17** [261] [308] [296] **Decision of judge**

After the examining trial has been had, the judge shall make an order committing the defendant to the jail of the proper county, discharging him or admitting him to bail, as the law and facts of the case may require. Failure of the judge to make or enter an order within 48 hours after the examining trial has been completed operates as a finding of no probable cause and the accused shall be discharged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.18** [262] [309] [297] **When no safe jail**

If there is no safe jail in the county in which the prosecution is carried on, the magistrate may commit defendant to the nearest safe jail in any other county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.19** [263] [310] [298] **Warrant in such case**

The commitment in the case mentioned in the preceding Article shall be directed to the sheriff of the county to which the defendant is sent, but the sheriff of the county from which the defendant is taken shall be required to deliver the prisoner into the hands of the sheriff to whom he is sent. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.20** [264] [311] [299] **"Commitment"**

A "commitment" is an order signed by the proper magistrate directing a sheriff to receive and place in jail the person so committed. It will be sufficient if it have the following requisites:

1. That it run in the name of "The State of Texas";
2. That it be addressed to the sheriff of the county to the jail of which the defendant is committed;

3. That it state in plain language the offense for which the defendant is committed, and give his name, if it be known, or if unknown, contain an accurate description of the defendant;

4. That it state to what court and at what time the defendant is to be held to answer;

5. When the prisoner is sent out of the county where the prosecution arose, the warrant of commitment shall state that there is no safe jail in the proper county; and

6. If bail has been granted, the amount of bail shall be stated in the warrant of commitment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 16.21** [265] [313] [301] **Duty of sheriff as to prisoners**

Every sheriff shall keep safely a person committed to his custody. He shall use no cruel or unusual means to secure this end, but shall adopt all necessary measures to prevent the escape of a prisoner. He may summon a guard of sufficient number, in case it becomes necessary to prevent an escape from jail, or the rescue of a prisoner. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**CHAPTER SEVENTEEN****BAIL**

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**Article 17.01** [267] [315] [303] **Definition of "bail"**

"Bail" is the security given by the accused that he will appear and answer before the proper court the accusation brought against him, and includes a bail bond or a personal bond. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.02** [269] [317] [305] **Definition of "bail bond"**

A "bail bond" is a written undertaking entered into by the defendant and his sureties for the appearance of the principal therein before some court or magistrate to answer a criminal accusation; provided, however, that the defendant upon execution of such bail bond may deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the bond in lieu of having sureties signing the same. Any cash funds deposited under this Article shall be receipted for by the officer receiving the same and shall be refunded to the defendant if and when the defendant complies with the conditions of his bond, and upon order of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.03** **Personal bond**

The court before whom the case is pending may, in its discretion, release the defendant on his personal bond without sureties or other security. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.04** **Requisites of a personal bond**

A personal bond is sufficient if it includes the requisites of a bail bond as set out in Article 17.08, except that no sureties are required. In addition, a personal bond shall contain the defendant's name, address and place of employment, and the following oath sworn and signed by the defendant:

"I swear that I will appear before (the court or magistrate) at (address, city, county) Texas, on the (date), at the hour of (time, a. m. or p. m.) or upon notice by the court, or pay to the court the principal sum of (amount) plus all necessary and reasonable expenses incurred in any arrest for failure to appear." Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.05** [270] [318] [306] **When a bail bond is given**

A bail bond is entered into either before a magistrate, upon an examination of a criminal accusation, or before a judge upon an application under habeas corpus; or it is taken from the defendant

by a peace officer who has a warrant of arrest or commitment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.06** [271a] Corporation as surety

Wherever in this Chapter, any person is required or authorized to give or execute any bail bond, such bail bond may be given or executed by such principal and any corporation authorized by law to act as surety, subject to all the provisions of this Chapter regulating and governing the giving of bail bonds by personal surety insofar as the same is applicable. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.07** [271b] Corporation to file with county clerk power of attorney designating agent

Any corporation authorized by the law of this State to act as a surety, shall before executing any bail bond as authorized in the preceding Article, first file in the office of the county clerk of the county where such bail bond is given, a power of attorney designating and authorizing the named agent, agents or attorney of such corporation to execute such bail bonds and thereafter the execution of such bail bonds by such agent, agents or attorney, shall be a valid and binding obligation of such corporation. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.08** [273] [321] [309] Requisites of a bail bond

A bail bond shall be sufficient if it contain the following requisites:

1. That it be made payable to "The State of Texas";
2. That the defendant and his sureties, if any, bind themselves that the defendant will appear before the proper court or magistrate to answer the accusation against him;
3. If the defendant is charged with a felony, that it state that he is charged with a felony. If the defendant is charged with a misdemeanor, that it state that he is charged with a misdemeanor;
4. That the bond be signed by name or mark by the principal and sureties, if any, each of whom shall write thereon his mailing address;
5. That the bond state the time and place, when and where the accused binds himself to appear, and the court or magistrate before whom he is to appear. The bond shall also bind the defendant to appear before any court or magistrate before whom the cause may thereafter be pending at any time when, and place where, his presence may be required under this Code or by any court or magistrate;
6. The bond shall also be conditioned that the principal and sureties, if any, will pay all necessary and reasonable expenses incurred by any and all sheriffs or other peace officers in rearresting the principal in the event he fails to appear before the court or magistrate named in the bond at the time stated therein. The amount of such expense shall be in addition to the principal amount specified in the bond. The failure of any bail bond to contain the conditions specified in this paragraph shall in no manner affect the legality of any such bond, but it is intended that the sheriff or other peace officer shall look to the defendant and his sureties, if any, for expenses incurred by him, and not to the State for any fees earned by him in connection with the rearresting of an accused who has violated the conditions of his bond. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.09** [275a] **Duration; original and subsequent proceedings; new bail**

Sec. 1. Where a defendant, in the course of a criminal action, gives bail before any court or person authorized by law to take same, for his personal appearance before a court or magistrate, to answer a charge against him, the said bond shall be valid and binding upon the defendant and his sureties, if any, thereon, for the defendant's personal appearance before the court or magistrate designated therein, as well as before any other court to which same may be transferred, and for any and all subsequent proceedings had relative to the charge, and each such bond shall be so conditioned except as hereinafter provided.

Sec. 2. When a defendant has once given bail for his appearance in answer to a criminal charge, he shall not be required to give another bond in the course of the same criminal action except as herein provided.

Sec. 3. Provided that whenever, during the course of the action, the judge or magistrate in whose court such action is pending finds that the bond is defective, excessive or insufficient in amount, or that the sureties, if any, are not acceptable, or for any other good and sufficient cause, such judge or magistrate may, either in term-time or in vacation, order the accused to be rearrested, and require the accused to give another bond in such amount as the judge or magistrate may deem proper. When such bond is so given and approved, the defendant shall be released from custody. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.10** [276] [324] [312] **Disqualified sureties**

A minor cannot be surety on a bail bond, but the accused party may sign as principal. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.11** [277] [325] [313] **How bail bond is taken**

Sec. 1. Every court, judge, magistrate or other officer taking a bail bond shall require evidence of the sufficiency of the security offered; but in every case, one surety shall be sufficient, if it be made to appear that such surety is worth at least double the amount of the sum for which he is bound, exclusive of all property exempted by law from execution, and of debts or other encumbrances; and that he is a resident of this State, and has property therein liable to execution worth the sum for which he is bound.

Sec. 2. Provided, however, any person who has signed as a surety on a bail bond and is in default thereon shall thereafter be disqualified to sign as a surety so long as he is in default on said bond. It shall be the duty of the clerk of the court wherein such surety is in default on a bail bond, to notify in writing the sheriff, chief of police, or other peace officer, of such default. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.12** [278] [326] [314] **Exempt property**

The property secured by the Constitution and laws from forced sale shall not, in any case, be held liable for the satisfaction of bail, either as to principal or sureties, if any. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.13** [279] [327] [315] **Sufficiency of sureties ascertained**

To test the sufficiency of the security offered to any bail bond, unless the court or officer taking the same is fully satisfied as to its sufficiency, the following oath shall be made in writing and subscribed by the sureties: "I, do swear that I am worth, in my own right, at least the sum of (here insert the amount in which the surety is bound), after deducting from my property all that which is exempt by the Constitution and Laws of the State from forced sale, and after the payment of all my debts of every description, whether individual or security debts, and after satisfying all encumbrances upon my property which are known to me; that I reside in . . . . . County, and have property in this State liable to execution worth said amount or more.

(Dated . . . . ., and attested by the judge of the court, clerk, magistrate or sheriff.)"

Such affidavit shall be filed with the papers of the proceedings. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.14** [280] [328] [316] **Affidavit not conclusive**

Such affidavit shall not be conclusive as to the sufficiency of the security; and if the court or officer taking the bail bond is not fully satisfied as to the sufficiency of the security offered, further evidence shall be required before approving the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.15** [281] [329] [317] **Rules for fixing amount of bail**

The amount of bail to be required in any case is to be regulated by the court, judge, magistrate or officer taking the bail; they are to be governed in the exercise of this discretion by the Constitution and by the following rules:

1. The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with.
2. The power to require bail is not to be so used as to make it an instrument of oppression.
3. The nature of the offense and the circumstances under which it was committed are to be considered.
4. The ability to make bail is to be regarded, and proof may be taken upon this point. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.16** [282] [330] [318] **Surety may surrender his principal**

Those who have become bail for the accused, or either of them, may at any time relieve themselves of their undertaking by surrendering the accused into the custody of the sheriff of the county where he is prosecuted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.17** [283] [331-334] **When surrender is made during term**

If a surrender of the accused be made during a term of the court to which he has bound himself to appear, the sheriff shall take him before the court; and if he is willing to give other bail, the court shall

forthwith require him to do so. If he fails or refuses to give bail, the court shall make an order that he be committed to jail until the bail is given, and this shall be a sufficient commitment without any written order to the sheriff. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.18** [284] [332-335] **Surrender in vacation**

When the surrender is made at any other time than during the session of the court, the sheriff may take the necessary bail bond, but if the defendant fails or refuses to give other bail, the sheriff shall take him before the nearest magistrate; and such magistrate shall issue a warrant of commitment, reciting the fact that the accused has been once admitted to bail, has been surrendered, and now fails or refuses to give other bail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.19** [285] [333] [321] **Surety may obtain a warrant**

Any surety, desiring to surrender his principal, may upon making affidavit of such intention before the court or magistrate before which the prosecution is pending, obtain from such court or magistrate a warrant of arrest for such principal, which shall be executed as in other cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.20** [286] [336] [324] **Bail in misdemeanor**

The sheriff, or other peace officer, in cases of misdemeanor, has authority, whether during the term of the court or in vacation, where he has a defendant in custody under a warrant of commitment, warrant of arrest, or *capias*, or where the accused has been surrendered by his bail, to take of the defendant a bail bond. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.21** [287] [337] [325] **Bail in felony**

In cases of felony, when the accused is in custody of the sheriff or other peace officer, and the court before which the prosecution is pending is in session in the county where the accused is in custody, the court shall fix the amount of bail, if it is aailable case and determine if the accused is eligible for a personal bond; and the sheriff, or other peace officer, unless it be the police of a city, is authorized to take a bail bond of the accused in the amount as fixed by the court, to be approved by such officer taking the same, and will thereupon discharge the accused from custody. It shall not be necessary for the defendant or his sureties to appear in court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.22** [288] [338] [326] **May take bail in felony**

In a felony case, if the court before which the same is pending is not in session in the county where the defendant is in custody, the sheriff, or other peace officer having him in custody, may take his bail bond in such amount as may have been fixed by the court or magistrate, or if no amount has been fixed, then in such amount as such officer may consider reasonable. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.23** [289] [339] [327] **Sureties severally bound**

In all bail bonds taken under any provision of this Code, the sureties shall be severally bound. Where a surrender of the prin-

cipal is made by one or more of them, all the sureties shall be considered discharged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.24** [290] [340] [328] **General rules applicable**

All general rules in the Chapter are applicable to bail defendant before an examining court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.25** [291] [341] [329] **Proceedings when bail is granted**

After a full examination of the testimony, the magistrate shall, if the case be one where bail may properly be granted and ought to be required, proceed to make an order that the accused execute a bail bond with sufficient security, conditioned for his appearance before the proper court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.26** [292] [343] [331] **Time given to procure bail**

Reasonable time shall be given the accused to procure security. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.27** [293] [344] [332] **When bail is not given**

If, after the allowance of a reasonable time, the security be not given, the magistrate shall make an order committing the accused to jail to be kept safely until legally discharged; and he shall issue a commitment accordingly. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.28** [294] [345] [333] **When ready to give bail**

If the party be ready to give bail, the magistrate shall cause to be prepared a bond, which shall be signed by the accused and his surety or sureties, if any. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.29** [295] [346] [334] **Accused liberated**

When the accused has given the required bond, either to the magistrate or the officer having him in custody, he shall at once be set at liberty. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.30** [296] [347] [335] **Shall certify proceedings**

The magistrate, before whom an examination has taken place upon a criminal accusation, shall certify to all the proceedings had before him, as well as where he discharges, holds to bail or commits, and transmit them, sealed up, to the court before which the defendant may be tried, writing his name across the seals of the envelope. The voluntary statement of the defendant, the testimony, bail bonds, and every other proceeding in the case, shall be thus delivered to the clerk of the proper court, without delay. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.31** [297] [348] [336] **Duty of clerks who receive such proceedings**

If the proceedings be delivered to a district clerk, he shall keep them safely and deliver the same to the next grand jury. If the



proceedings are delivered to a county clerk, he shall without delay deliver them to the district or county attorney of his county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.32** [298] [349] [337] **In case of no arrest**

Upon failure from any cause to arrest the accused the magistrate shall file with the proper clerk the complaint, warrant of arrest, and a list of the witnesses. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.33** **Request setting of bail**

The accused may at any time after being confined request a magistrate to review the written statements of the witnesses for the State as well as all other evidence available at that time in determining the amount of bail. This setting of the amount of bail does not waive the defendant's right to an examining trial as provided in Article 16.01. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.34** [300] [351] [339] **Witnesses to give bond**

Witnesses for the State or defendant may be required by the magistrate, upon the examination of any criminal accusation before him, to give bail for their appearance to testify before the proper court. A personal bond may be taken of a witness by the court before whom the case is pending. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.35** [301] [352] [340] **Security of witness**

The amount of security to be required of a witness is to be regulated by his pecuniary condition, character and the nature of the offense with respect to which he is a witness. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.36** [302] [353] [341] **Effect of witness bond**

The bond given by a witness for his appearance has the same effect as a bond of the accused and may be forfeited and recovered upon in the same manner. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.37** [303] **Witness may be committed**

A witness required to give bail who fails or refuses to do so shall be committed to jail as in other cases of a failure to give bail when required, but shall be released from custody upon giving such bail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 17.38** [274] [322] [310] **Rules applicable to all cases of bail**

The rules in this Chapter respecting bail are applicable to all such undertakings when entered into in the course of a criminal action, whether before or after an indictment, in every case where authority is given to any court, judge, magistrate, or other officer, to require bail of a person accused of an offense, or of a witness in a criminal action. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**SEARCH WARRANTS**  
**CHAPTER EIGHTEEN**  
**SEARCH WARRANTS**

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**Article 18.01 [304] Search warrant**

A "search warrant" is a written order, issued by a magistrate, and directed to a peace officer, commanding him to search for personal property, and to seize the same and bring it before such magistrate; or it is a like written order, commanding a peace officer to search a suspected place where it is alleged stolen property is commonly concealed, or implements kept for the purpose of being used in the commission of any designated offense.

No search warrant shall issue for any purpose in this State unless a sworn complaint therefor shall first be filed with the issuing magistrate setting forth sufficient facts to satisfy the magistrate that probable cause does in fact exist for its issuance. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.02** [305] [356] [344] **When it may issue**

A search warrant may be issued:

1. To discover property acquired by theft or in any other manner which makes its acquisition a penal offense;
2. To search suspected places where it is alleged property so illegally acquired is commonly kept or concealed;
3. To search places where it is alleged implements are kept for use in forging or counterfeiting;
4. To search places where it is alleged arms or munitions are kept or prepared for the purpose of insurrection or riot; and
5. To seize and bring before a magistrate any such property, implements, arms, and munitions. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.03** [306] [357] [345] **Its object**

A warrant to search for and seize stolen property is designed as a means of obtaining possession of the property for the purpose of restoring it to the true owner, and detecting any person guilty of stealing or concealing it. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.04** [307] [358] [346] **Stolen**

The word "stolen", as used in this title, is intended to embrace also the acquisition of property by any means made penal by the law of the State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.05** [308] [359] [347] **For property not stolen**

When it is alleged that the property was acquired other than by theft, the particular manner of its acquisition must be set forth in the complaint and in the warrant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.06** [309] [360] [348] **Rules applicable**

The mode of proceeding, directed to be pursued in applying for a warrant to search for and seize stolen property, and the rules prescribed for officers in issuing such warrants and executing the same, the disposition of the property seized, and all other rules herein prescribed on the subject, shall apply and be pursued, when the property to be searched for was acquired in any manner in violation of any provision of the Penal Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.07** [310] [361] [349] **When place is known**

A warrant to search for and seize property alleged to have been stolen and concealed at a particular place may be issued by a magistrate, whenever written sworn complaint is made to such magistrate, setting forth:

1. The name of the person accused of having stolen or concealed the property; or if his name be unknown, giving a description of the accused, or stating that the person who stole or concealed the property is unknown;
2. The kind and value of the property alleged to be stolen or concealed;

3. The place where it is alleged to be concealed; and
4. The time, as near as may be, when the property is alleged to have been stolen. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.08** [311] [362] [350] **General application**

A warrant to discover and seize property alleged to have been stolen or otherwise acquired in violation of the penal law, but not alleged to be concealed at any particular place, may be issued whenever written sworn complaint is made setting forth:

1. The name of the person suspected of being the thief, or an accurate description of him, if his name be unknown, or that the thief is unknown;
2. An accurate description of the property, and its probable value;
3. The time, as near as may be, when the property is supposed to have been stolen;
4. That the person complaining has good ground to believe that the property was stolen by the person alleged to be the thief; and
5. Such other facts as may be required by Article 18.01 to establish probable cause. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.09** [312] [363] [351] **Application to search other places**

A warrant to search any place suspected to be one where stolen goods are commonly concealed or where implements are kept for the purpose of aiding in the commission of offenses may be issued by a magistrate on written sworn complaint, setting forth:

1. A description of the place suspected;
2. A description of the kind of property alleged to be commonly concealed at such place, or the kind of implements kept;
3. The name, if known, of the person supposed to have charge of such place, when it is alleged that it is under the charge of any one;
4. When it is alleged that implements are kept at a place for the purpose of aiding in the commission of offenses, the particular offense for which such implements are designed must be set forth; and
5. Such other facts as may be required by Article 18.01 to establish probable cause. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.10** [313] [364] [352] **Warrant to arrest may issue with search warrant**

The magistrate, at the time of issuing a search warrant, may also issue a warrant for the arrest of the person accused of having stolen the property, or of having concealed the same, or of having in his possession or charge property concealed at a suspected place, or of having possession of implements designed for use in the commission of the offense of forgery, counterfeiting or burglary, or of having the charge of arms or munitions prepared for the purpose of insurrection, or of having prepared such arms or munitions, or who may be, in any legal manner, accused of being accomplice or accessory to any offense above enumerated. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.11** [314] [365] [353] **Search warrant may order arrest**

The search warrant may, in addition to commanding the peace officer to seize property, also require him to bring before the magistrate the person accused of having stolen or concealed the property. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.12** [315] [366] [354] **To seize property**

A search warrant to seize property stolen and concealed shall be deemed sufficient if it contains the following requisites:

1. That it run in the name of "The State of Texas";
2. That it describe the property alleged to be stolen or concealed, and the place where it is alleged to be concealed, and order the same to be brought before the magistrate;
3. That it name the person accused of having stolen or concealed the property; or if his name be unknown, that it describe him with accuracy, and direct the officer to bring such person before the magistrate, or state that the person who stole or concealed the property is unknown; and
4. That it be dated and signed by the magistrate, and directed to the sheriff or other peace officer of the proper county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.13** [316] [367] [355] **To search suspected place**

A warrant to search a suspected place shall be sufficient if it contains the following requisites:

1. That it run in the name of "The State of Texas";
2. That it describe with accuracy the place suspected;
3. That it describe, as near as may be, the property supposed to be commonly concealed in such suspected place, or the implements alleged to be there kept for the purpose of aiding in the commission of offenses, and state the particular offense for which such implements are designed;
4. That it name the person accused of having charge of the suspected place, if there be any such person, or if his name is unknown, that it describe him with accuracy, and direct him to be brought before the magistrate; and
5. That it be dated and signed by the magistrate, and directed to the sheriff or other peace officer of the proper county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.14** [317] [368] [356] **Warrant executed without delay**

Any peace officer to whom a search warrant is delivered shall execute it without delay and forthwith return it to the proper magistrate. It must be executed within three days from the time of its issuance, and shall be executed within a shorter period if so directed in the warrant by the magistrate. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722

**Art. 18.15** [318] [369] [357] **Days allowed for warrant to run**

The time allowed for the execution of a search warrant shall be three whole days, exclusive of the day of its issuance and of the day

of its execution. The magistrate issuing a search warrant under the provisions of this Chapter shall endorse on such search warrant the date and hour of the issuance of the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.16** [319] [370] [358] **Officer to give notice of purpose**

The officer shall, upon going to the place ordered to be searched, or before seizing any property for which he is ordered to make search, give notice of his purpose to the person who has charge of, or is an inmate of, the place, or who has possession of the property described in the warrant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.17** [320] [371] [359] **Power of officer executing warrant**

In the execution of a search warrant, the officer may call to his aid any number of citizens in his county, who shall be bound to aid in the execution of the same. If he is resisted in the execution of the warrant, he may use such force as is necessary to overcome the resistance, but no greater. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.18** [321] [372] [360] **When officer may enter by force**

In the execution of a search warrant, the officer may break down a door or a window of any house which he is ordered to search, if he cannot effect an entrance by other less violent means; but when the warrant issues only for the purpose of discovering property stolen or otherwise obtained in violation of the penal law, without designating any particular place where it is supposed to be concealed, no such authority is given to the officer executing the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.19** [322] [373] [361] **Shall seize accused and property**

When the property, implements, arms or munitions which the officer is directed to search for and seize are found, he shall take possession of the same, and carry them before the magistrate. He shall also arrest any person whom he is directed to arrest by the warrant, and immediately take such person before the magistrate. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.20** [323] [374] [362] **Receipt for property**

An officer taking any property, implements, arms or munitions, shall receipt therefor to the person from whose possession the same may have been taken. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.21** [324] [375] [363] **How return made**

Upon returning the search warrant, the officer shall state on the back of the same, or on some paper attached to it, the manner in which it has been executed, and shall likewise deliver to the magistrate an inventory of the property, implements, arms or munitions taken in his possession under the warrant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.22** [325] [376] [364] **Preventing consequences of theft**

All persons have a right to prevent the consequences of theft by seizing any personal property which has been stolen, and bringing it, with the supposed offender, if he can be taken, before a magistrate for examination, or delivering the same to a peace officer for that purpose. To justify such seizure, there must, however, be reasonable ground to suppose the property to be stolen, and the seizure must be openly made and the proceedings had without delay. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.23** [326] [377] [365] **Disposition of stolen property**

When property is taken under any provision of this title and delivered to a magistrate, he shall, if it appear that the same was acquired in violation of the penal law, dispose of it according to the rules prescribed in this Code with reference to the disposition of stolen property. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.24** [327] [378] [366] **Custody of property found**

When a warrant has been issued to search a suspected place, and there be found any such implements, arms, munitions or intoxicating liquors, etc., as are alleged to have been there kept or concealed, the same shall be safely kept by the officer seizing the same, subject to the further order of the magistrate. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.25** [328] [379] [367] **Magistrate shall investigate**

The magistrate, upon the return of a search warrant, shall proceed to try the questions arising upon the same, and shall take testimony as in other examinations before him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.26** [329] [380] [368] **Shall discharge defendant**

If the magistrate be not satisfied, upon investigation, that there was good ground for the issuance of the warrant, he shall discharge the defendant, and order restitution of the property taken from him, except implements which appear to be designed for forging, counterfeiting or burglary. In such case, the implements shall be kept by the sheriff subject to the order of the proper court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.27** [330] [381] [369] **Schedule**

The officer who seizes any property under a search warrant shall furnish the magistrate to whom he returns the warrant with a certified schedule of the articles so seized. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.28** [331] [382] [370] **Examining trial**

The magistrate shall proceed to deal with the accused as in other cases before an examining court if he is satisfied there was good ground for issuing the warrant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.29** [332] [383] [371] **Certify record to proper court**

The magistrate shall keep a record of all the proceedings had before him in cases of search warrants, and shall certify the same and deliver them to the clerk of the court having jurisdiction of the case, before the next term of said court, and accompany the same with all the original papers relating thereto, including the certified schedule of the property seized. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 18.30** [332a] **Sale of unclaimed or abandoned property**

Sec. 1. All unclaimed or abandoned personal property except whiskey, wine and beer, of every kind, seized by a peace officer, which is not held as evidence to be used in any pending case and has not been ordered destroyed or returned to the person entitled to possession of the same by a magistrate, which shall remain unclaimed for a period of 30 days shall be delivered to the purchasing agent of the county for sale. If the county has no purchasing agent then such property shall be sold by the sheriff of the county.

Sec. 2. The purchasing agent or sheriff of the county, as the case may be, shall mail a notice to the last known address of the owner of such property by certified mail. Such notice shall describe the property being held, give the name and address of the officer holding such property, and shall state that if the owner does not claim such property within six months from the date of the notice such property will be sold and the proceeds of such sale, after deducting the reasonable expense of keeping such property and the costs of sale, placed in the county treasury.

If the owner of such property is unknown or if the address of the owner is unknown, then the purchasing agent or the sheriff, as the case may be, shall cause to be published once in a paper of general circulation in the county a notice containing a description of the property held, the name of the owner if known, the name and address of the officer holding such property, and a statement that if the owner does not claim such property within six months from the date of the publication such property will be sold and the proceeds of such sale after deducting the reasonable expense of keeping such property and the costs of sale, placed in the county treasury.

Sec. 3. The sale of any property hereunder shall be preceded by a notice published once at least three weeks prior to the date of such sale in a newspaper of general circulation in the county where the sale is to take place, stating the description of the property, the names of the owners if known and the date and place that such sale will occur. If the purchasing agent or sheriff, as the case may be, shall consider any bid as insufficient he need not sell such property but may decline such bid and reoffer such property for sale.

Sec. 4. The real owner of any property sold shall have the right to file a claim to the proceeds of such sale with the commissioners court of the county in which the sale took place. If the claim is allowed by the commissioners court the county treasurer shall pay the owner such funds as were paid into the treasury of the county as the proceeds of the sale. If the claim is denied by the commissioners court or if said court fails to act upon such claim within 90 days, the claimant may sue the county treasurer in a court of competent jurisdiction in the county, and upon sufficient proof of ownership, recover judgment against such county for the recovery of the proceeds of the sale. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.



*AFTER COMMITMENT OR BAIL AND BEFORE  
THE TRIAL*

CHAPTER NINETEEN

**ORGANIZATION OF THE GRAND JURY**

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**Article 19.01** [333] [384] [372] **Appointment of jury commissioners**

The district judge, at or during any term of court, shall appoint not less than three, nor more than five persons to perform the duties of jury commissioners, and shall cause the sheriff to notify them of their appointment, and when and where they are to appear. The district judge shall, in the order appointing such commissioners, designate whether such commissioners shall serve during the term at which selected or for the next succeeding term. Such commissioners shall receive as compensation for each day or part thereof they may serve the sum of Ten Dollars, and they shall possess the following qualifications:

1. Be intelligent citizens of the county and able to read and write the English language;
2. Be qualified jurors and freeholders in the county;
3. Have no suit in said court which requires intervention of a jury;
4. Be residents of different portions of the county; and
5. The same person shall not act as jury commissioner more than once in the same year. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.02** [334] [385] [373] **Notified of appointment**

The judge shall cause the proper officer to notify such appointees of such appointment, and when and where they are to appear. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.03** [335] [386] [374] **Oath of commissioners**

When the appointees appear before the judge, he shall administer to them the following oath: "You do swear faithfully to discharge the duties required of you as jury commissioners; that you will not knowingly elect any man as jurymen whom you believe to be unfit and not qualified; that you will not make known to any one the name of any jurymen selected by you and reported to the court; that you will not, directly or indirectly, converse with any one selected by you as a jurymen concerning the merits of any case to be tried at the next term of this court, until after said cause may be tried or continued, or the jury discharged". Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.04** [336] [387] [375] **Instructed**

The jury commissioners, after they have been organized and sworn, shall be instructed by the judge in their duties and shall then retire in charge of the sheriff to a suitable room to be secured by the sheriff for that purpose. The clerk shall furnish them the necessary stationery, the names of those appearing from the records of the court to be exempt or disqualified from serving on the jury at each term, and the last assessment roll of the county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.05** [337] [388] [376] **Kept free from intrusion**

The jury commissioners shall be kept free from the intrusion of any person during their session, and shall not separate without leave

of the court until they complete their duties. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.06** [338] [389] [377] Shall select grand jurors

The jury commissioners shall select twenty persons from the citizens of different portions of the county to be summoned as grand jurors for the next term of court, or the term of court for which said commissioners were selected to serve, as directed in the order of the court selecting the commissioners. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.07** [338a] Extension beyond term of period for which grand jurors shall sit

If prior to the expiration of the term for which the grand jury was impaneled, it is made to appear by a declaration of the foreman or of a majority of the grand jurors in open court, that the investigation by the grand jury of the matters before it cannot be concluded before the expiration of the term, the judge of the district court in which said grand jury was impaneled may, by the entry of an order on the minutes of said court, extend, from time to time, for the purpose of concluding the investigation of matters then before it, the period during which said grand jury shall sit, for not to exceed a total of ninety days after the expiration of the term for which it was impaneled, and all indictments pertaining thereto returned by the grand jury within said extended period shall be as valid as if returned before the expiration of the term. The extension of the term of a grand jury under this article does not affect the provisions of Article 19.06 relating to the selection and summoning of grand jurors for each regularly scheduled term. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.08** [339] [390] [378] Qualifications

No person shall be selected or serve as a grand juror who does not possess the following qualifications:

1. He must be a citizen of the State, and of the county in which he is to serve, and be qualified under the Constitution and laws to vote in said county, provided that his failure to pay a poll tax or register to vote shall not be held to disqualify him in this instance;
2. He must be a freeholder within the State, or a householder within the county, or the wife of such householder;
3. He must be of sound mind and good moral character;
4. He must be able to read and write;
5. He must not have been convicted of any felony;
6. He must not be under indictment or other legal accusation for theft or of any felony. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.09** [340] [391] [379] Names returned

The names of those selected as grand jurors by the commissioners shall be written upon a paper; and the fact that they were so selected shall be certified and signed by the jury commissioners, who shall place said paper, so certified and signed, in an envelope, and seal the same, and endorse thereon the words, "The list of grand jurors selected at . . . . . term of the district court", the blank being for the month and year in which the term of the court began its session. The

commissioners shall write their names across the seal of said envelope, direct the same to the district judge and deliver it to him in open court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.10** [341] [392] [380] **List to clerk**

The judge shall deliver the envelope containing the list of grand jurors to the clerk or one of his deputies in open court without opening the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.11** [342] [393] [381] **Oath to clerk**

Before the list of grand jurors is delivered to the clerk, the judge shall administer to the clerk and each of his deputies in open court the following oath: "You do swear that you will not open the jury lists now delivered you, nor permit them to be opened until the time prescribed by law; that you will not, directly or indirectly, converse with any one selected as a juror concerning any case or proceeding which may come before such juror for trial in this court at its next term". Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.12** [343] [394] [382] **Deputy clerk sworn**

Should the clerk subsequently appoint a deputy, such clerk shall administer to him the same oath, at the time of such appointment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.13** [344] [395] [383] **Clerk shall open lists**

The grand jury may be convened on the first or any subsequent day of the term. The judge shall designate the day on which the grand jury is to be impaneled and notify the clerk of such date; and within thirty days of such date, and not before, the clerk shall open the envelope containing the list of grand jurors, make out a copy of the names of those selected as grand jurors, certify to it under his official seal, note thereon the day for which they are to be summoned, and deliver it to the sheriff. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.14** [345] [396] [384] **Summoning**

The sheriff shall summon the persons named in the list at least three days, exclusive of the day of service, prior to the day on which the grand jury is to be impaneled, by giving personal notice to each juror of the time and place when and where he is to attend as a grand juror, or by leaving at his place of residence with a member of his family over sixteen years old, a written notice to such juror that he has been selected as a grand juror, and the time and place when and where he is to attend; or the judge, at his election, may direct the sheriff to summon the grand jurors by registered mail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.15** [346] [397] [385] **Return of officer**

The officer executing such summons shall return the list on the day on which the grand jury is to be impaneled, with a certificate thereon of the date and manner of service upon each juror. If any of said jurors have not been summoned, he shall also state in his certificate the reason why they have not been summoned. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.16** [347] [398] [386] **Absent juror fined**

A juror legally summoned, failing to attend without a reasonable excuse, may, by order of the court entered on the record, be fined not less than ten dollars nor more than one hundred dollars. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.17** [348] [399] [387] **Failure to select**

If for any reason a grand jury shall not be selected or summoned prior to the commencement of any term of court, or when none of those summoned shall attend, the district judge may at any time after the commencement of the term, in his discretion, direct a writ to be issued to the sheriff commanding him to summon a jury commission, selected by the court, which commission shall select twenty persons, as provided by law, who shall serve as grand jurors. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.18** [349] [400] [388] **If less than twelve attend**

When less than twelve of those summoned to serve as grand jurors are found to be in attendance and qualified to so serve, the court shall order the sheriff to summon such additional number of persons as may be deemed necessary to constitute a grand jury of twelve persons. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.19** [350] [401] [389] **Jurors to attend forthwith**

The jurors provided for in the two preceding Articles shall be summoned in person to attend before the court forthwith. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.20** [351] [402] [390] **To summon qualified persons**

Upon directing the sheriff to summon grand jurors not selected by the jury commissioners, the court shall instruct him that he must summon no person to serve as a grand juror who does not possess the qualifications prescribed by law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.21** [352] [403] [391] **To test qualifications**

When as many as twelve persons summoned to serve as grand jurors are in attendance upon the court, it shall proceed to test their qualifications as such. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.22** [353] [404] [392] **Interrogated**

Each person who is presented to serve as a grand juror shall, before being impaneled, be interrogated on oath by the court or under his direction, touching his qualifications. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.23** [354] [405] [393] **Mode of test**

In trying the qualifications of any person to serve as a grand juror, he shall be asked:

1. Are you a citizen of this State and county, and qualified to vote in this county, under the Constitution and laws of this State?

2. Are you a freeholder in this State or a householder in this county, or wife of such a householder?
3. Are you able to read and write?
4. Have you ever been convicted of a felony?
5. Are you under indictment or other legal accusation for theft or for any felony? Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.24** [355] [406] [394] **Qualified juror accepted**

When, by the answer of the person, it appears to the court that he is a qualified juror, he shall be accepted as such, unless it be shown that he is not of sound mind or of good moral character, or unless it be shown that he is in fact not qualified to serve as a grand juror. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.25** [356] [407] [395] **Excused if disqualified**

Any person summoned who does not possess the requisite qualifications shall be excused by the court from serving. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.26** [357] [408] [396] **Jury impaneled**

When twelve qualified jurors are found to be present, the court shall proceed to impanel them as a grand jury, unless a challenge is made, which may be to the array or to any particular person presented to serve as a grand juror. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.27** [358] [409] [397] **Any person may challenge**

Before the grand jury has been impaneled, any person may challenge the array of jurors or any person presented as a grand juror. In no other way shall objections to the qualifications and legality of the grand jury be heard. Any person confined in jail in the county shall upon his request be brought into court to make such challenge. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.28** [359] [410] [398] **"Array"**

By the "array" of grand jurors is meant the whole body of persons summoned to serve as such before they have been impaneled. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.29** [360] [411] [399] **"Impaneled" and "panel"**

A grand juror is said to be "impaneled" after his qualifications have been tried and he has been sworn. By "panel" is meant the whole body of grand jurors. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.30** [361] [412] [400] **Challenge to "array"**

A challenge to the "array" shall be made in writing for these causes only:

1. That those summoned as grand jurors are not in fact those selected by the jury commissioners; and
2. In case of grand jurors summoned by order of the court, that the officer who summoned them had acted corruptly in summon-

ing any one or more of them. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.31** [362] [413] [401] **Challenge to juror**

A challenge to a particular grand juror may be made orally for the following causes only:

1. That he is not a qualified juror; and
2. That he is the prosecutor upon an accusation against the person making the challenge. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.32** [363] [414] [402] **Summarily decided**

When a challenge to the array or to any individual has been made, the court shall hear proof and decide in a summary manner whether the challenge be well-founded or not. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.33** [364] [415] [403] **Other jurors summoned**

The court shall order another grand jury to be summoned if the challenge to the array be sustained, or order the panel to be completed if by challenge to any particular grand juror their number be reduced below twelve. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.34** [365] [416] [404] **Oath of grand jurors**

When the grand jury is completed, the court shall appoint one of the number foreman; and the following oath shall be administered by the court, or under its direction, to the jurors: "You solemnly swear that you will diligently inquire into, and true presentment make, of all such matters and things as shall be given you in charge; the State's counsel, your fellows and your own, you shall keep secret, unless required to disclose the same in the course of a judicial proceeding in which the truth or falsity of evidence given in the grand jury room, in a criminal case, shall be under investigation. You shall present no person from envy, hatred or malice; neither shall you leave any person unrepresented for love, fear, favor, affection or hope of reward; but you shall present things truly as they come to your knowledge, according to the best of your understanding, so help you God". Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.35** [366] [417] [405] **To instruct jury**

The court shall instruct the grand jury as to their duty. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.36** [367b] **Bailiffs appointed**

The court and the district attorney may each appoint one or more bailiffs to attend upon the grand jury, and at the time of appointment, the following oath shall be administered to each of them by the court, or under its direction: "You solemnly swear that you will faithfully and impartially perform all the duties of bailiff of the grand jury, and that you will keep secret the proceedings of the grand jury, so help you God". Such bailiffs shall be compensated in a sum to be set by the commissioners court of said county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.37** [368] [419] [407] **Bailiff's duties**

A bailiff is to obey the instructions of the foreman, to summon all witnesses, and generally, to perform all such duties as the foreman may require of him. One bailiff shall be always with the grand jury, if two or more are appointed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.38** [369] [420] [408] **Bailiff violating duty**

No bailiff shall take part in the discussions or deliberations of the grand jury nor be present when they are discussing or voting upon a question. The grand jury shall report to the court any violation of duty by a bailiff and the court may punish him for such violation as for contempt. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.39** [370] [421] [409] **Another foreman appointed**

If the foreman of the grand jury is from any cause absent or unable or disqualified to act, the court shall appoint in his place some other member of the body. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.40** [371] [422] [410] **Quorum**

Nine members shall be a quorum for the purpose of discharging any duty or exercising any right properly belonging to the grand jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 19.41** [372] [423] [411] **Reassembled**

A grand jury discharged by the court for the term may be reassembled by the court at any time during the term. If one or more of them fail to reassemble, the court may complete the panel by impaneling other men in their stead in accordance with the rules provided in this Chapter for completing the grand jury in the first instance. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**CHAPTER TWENTY****DUTIES AND POWERS OF THE GRAND JURY**

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**Article 20.01    [373] [424] [412] Grand jury room**

After the grand jury is organized they shall proceed to the discharge of their duties in a suitable place which the sheriff shall prepare for their sessions. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.02    [374] [425] [413] Deliberations secret**

The deliberations of the grand jury shall be secret. Any grand juror or bailiff who divulges anything transpiring before them in the course of their official duties shall be liable to a fine as for contempt of the court, not exceeding five hundred dollars, and to imprisonment not exceeding thirty days. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.03    [375] [426] [414] Attorney representing State entitled to appear**

"The attorney representing the State" means the Attorney General, district attorney, criminal district attorney, or county attorney. The attorney representing the State, is entitled to go before the grand jury and inform them of offenses liable to indictment at any time except when they are discussing the propriety of finding an indictment or voting upon the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.04    [376] [427] [415] Attorney may examine witnesses**

The attorney representing the State may examine the witnesses before the grand jury and may advise as to the proper mode of interrogating them. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.05    [377] [428] [416] May send for attorney**

The grand jury may send for the State's attorney and ask his advice upon any matter of law or upon any question arising respecting the proper discharge of their duties. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.06    [378] [429] [417] Advice from court**

The grand jury may also seek and receive advice from the court touching any matter before them, and for this purpose, shall go into court in a body; but they shall so guard the manner of propounding their questions as not to divulge the particular accusation that is pending before them; or they may propound their questions in writing, upon which the court may give them the desired information in writing. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.07** [379] [430] [418] **Foreman shall preside**

The foreman shall preside over the sessions of the grand jury, and conduct its business and proceedings in an orderly manner. He may appoint one or more members of the body to act as clerks for the grand jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.08** [380] [431] [419] **Adjournments**

The grand jury shall meet and adjourn at times agreed upon by a majority of the body; but they shall not adjourn, at any one time, for more than three days, unless by consent of the court. With the consent of the court, they may adjourn for a longer time, and shall as near as may be, conform their adjournments to those of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.09** [381] [432] [420] **Duties of grand jury**

The grand jury shall inquire into all offenses liable to indictment of which any member may have knowledge, or of which they shall be informed by the attorney representing the State, or any other credible person. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.10** [382] [433] [421] **Attorney or foreman may issue process**

The attorney representing the state, or the foreman, in term time or vacation, may issue a summons or attachment for any witness in the county where they are sitting; which summons or attachment may require the witness to appear before them at a time fixed, or forthwith, without stating the matter under investigation. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.11** [383] [434] [422] **Attachment for out-county witness**

The foreman or the attorney representing the State may, upon written application to the district court stating the name and residence of the witness and that his testimony is believed to be material, cause an attachment to be issued to any county in the State for such witness, returnable to the grand jury then in session, or to the next grand jury for the county from whence the same issued, as such foreman or attorney may desire. Such attachment shall command the sheriff or any constable of the county where such witness resides to arrest such witness, and have him before the grand jury at the time and place specified in the writ. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.12** [384] [435] [423] **Attachment in vacation**

The attorney representing the state may cause an attachment for a witness to be issued, as provided in the preceding Article, either in term time or in vacation. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.13** [385] [436] [424] **Execution of process**

The bailiff or other officer who receives process to be served from a grand jury shall forthwith execute the same and return it to the foreman, if the grand jury be in session; and if the grand jury be

not in session, the process shall be returned to the district clerk. If the process is returned not executed, the return shall state why it was not executed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.14**    [386] [437] [425] **Evasion of process**

If it be made to appear satisfactorily to the court that a witness for whom an attachment has been issued to go before the grand jury is in any manner wilfully evading the service of such summons or attachment, the court may fine such witness, as for contempt, not exceeding five hundred dollars. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.15**    [387] [438] [426] **When witness refuses to testify**

When a witness, brought in any manner before a grand jury, refuses to testify, such fact shall be made known to the attorney representing the State or to the court; and the court may compel the witness to answer the question, if it appear to be a proper one, by imposing a fine not exceeding five hundred dollars, and by committing the party to jail until he is willing to testify. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.16**    [388] [439] [427] **Oaths to witnesses**

The following oath shall be administered by the foreman, or under his direction, to each witness before being interrogated: "You solemnly swear that you will not divulge, either by words or signs, any matter about which you may be interrogated, and that you will keep secret all proceedings of the grand jury which may be had in your presence, and that you will true answers make to such questions as may be propounded to you by the grand jury, or under its direction, so help you God." Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.17**    [389] [440] [428] **How suspect or accused questioned**

The grand jury, in propounding questions to the person accused or suspected, shall first state the offense with which he is suspected or accused, the county where the offense is said to have been committed and as nearly as may be, the time of commission of the offense, and shall direct the examination to the offense under investigation. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.18**    [389, 390] [440, 441] [428, 429] **How witness questioned**

When a felony has been committed in any county within the jurisdiction of the grand jury, and the name of the offender is known or unknown or where it is uncertain when or how the felony was committed, the grand jury shall first state to the witness called the subject matter under investigation; then may ask pertinent questions relative to the transaction in general terms and in such a manner as to determine whether he has knowledge of the violation of any particular law by any person, and if so, by what person. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.19**    [391] [442-443] **Grand jury shall vote**

After all the testimony which is accessible to the grand jury shall have been given in respect to any criminal accusation, the vote

shall be taken as to the presentment of an indictment, and if nine members concur in finding the bill, the foreman shall make a memorandum of the same with such data as will enable the attorney who represents the State to write the indictment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.20** [392] [444] [432] **Indictment prepared**

The attorney representing the State shall prepare all indictments which have been found, with as little delay as possible, and deliver them to the foreman, who shall sign the same officially, and said attorney shall endorse thereon the names of the witnesses upon whose testimony the same was found. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.21** [393] [445] [433] **Indictment presented**

When the indictment is ready to be presented, the grand jury shall go in a body into open court, and through their foreman, deliver the indictment to the judge of the court. At least nine members of the grand jury must be present on such occasion. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 20.22** [394] [446] [434] **Presentment entered of record**

The fact of a presentment of indictment in open court by a grand jury shall be entered upon the minutes of the court, noting briefly the style of the criminal action and the file number of the indictment, but omitting the name of the defendant, unless he is in custody or under bond. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER TWENTY-ONE

### INDICTMENT AND INFORMATION

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- 21.02 Requisites of an indictment.
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- 21.05 Particular intent; intent to defraud.
- 21.06 Allegation of venue.
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- 21.23 Rules as to indictment apply to information.
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### **Article 21.01 [395] [450] [438] "Indictment"**

An "indictment" is the written statement of a grand jury accusing a person therein named of some act or omission which, by law, is declared to be an offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 21.02 [396] [451] [439] Requisites of an indictment**

An indictment shall be deemed sufficient if it has the following requisites:

1. It shall commence, "In the name and by authority of The State of Texas".
2. It must appear that the same was presented in the district court of the county where the grand jury is in session.
3. It must appear to be the act of a grand jury of the proper county.
4. It must contain the name of the accused, or state that his name is unknown and give a reasonably accurate description of him.
5. It must show that the place where the offense was committed is within the jurisdiction of the court in which the indictment is presented.
6. The time mentioned must be some date anterior to the presentment of the indictment, and not so remote that the prosecution of the offense is barred by limitation.
7. The offense must be set forth in plain and intelligible words.
8. The indictment must conclude, "Against the peace and dignity of the State".
9. It shall be signed officially by the foreman of the grand jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 21.03 [397] [452] [440] What should be stated**

Everything should be stated in an indictment which is necessary to be proved. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 21.04 [398] [453] [441] The certainty required**

The certainty required in an indictment is such as will enable the accused to plead the judgment that may be given upon it in bar of any prosecution for the same offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 21.05 [399] [454] [442] Particular intent; intent to defraud**

Where a particular intent is a material fact in the description of the offense, it must be stated in the indictment; but in any case

where an intent to defraud is required to constitute an offense, it shall be sufficient to allege an intent to defraud, without naming therein the particular person intended to be defrauded. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.06** [400] [455] [443] Allegation of venue

When the offense may be prosecuted in either of two or more counties, the indictment may allege the offense to have been committed in the county where the same is prosecuted, or in any county or place where the offense was actually committed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.07** [401] [456] [444] Allegation of name

In alleging the name of the defendant, or of any other person necessary to be stated in the indictment, it shall be sufficient to state one or more of the initials of the Christian name and the surname. When a person is known by two or more names, it shall be sufficient to state either name. When the name of the person is unknown to the grand jury, that fact shall be stated, and if it be the accused, a reasonably accurate description of him shall be given in the indictment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.08** [402] [457] [445] Allegation of ownership

Where one person owns the property, and another person has the possession of the same, the ownership thereof may be alleged to be in either. Where property is owned in common, or jointly, by two or more persons, the ownership may be alleged to be in all or either of them. When the property belongs to the estate of a deceased person, the ownership may be alleged to be in the executor, administrator or heirs of such deceased person, or in any one of such heirs. Where it is the separate property of a married woman, the ownership may be alleged to be in her, or in her husband. Where the ownership of the property is unknown to the grand jury, it shall be sufficient to allege that fact. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.09** [403] [458] [446] Description of property

When it becomes necessary to describe property of any kind in an indictment, a general description of the same by name, kind, quality, number and ownership, if known, shall be sufficient. If the property be real estate, its general locality in the county, and the name of the owner, occupant or claimant thereof, shall be a sufficient description of the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.10** [404] [459] [447] "Felonious" and "feloniously"

It is not necessary to use the words "felonious" or "feloniously" in any indictment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.11** [405] [460] [448] Certainty; what sufficient

An indictment shall be deemed sufficient which charges the commission of the offense in ordinary and concise language in such a manner as to enable a person of common understanding to know what is meant, and with that degree of certainty that will give the defendant notice of the particular offense with which he is charged, and enable

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the court, on conviction, to pronounce the proper judgment; and in no case are the words "force and arms" or "contrary to the form of the statute" necessary. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.12** [406] [461] [449] **Special and general terms**

When a statute defining any offense uses special or particular terms, indictment on it may use the general term which, in common language, embraces the special term. To charge an unlawful sale, it is necessary to name the purchaser. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.13** [407] [463] [451] **Act with intent to commit an offense**

An indictment for an act done with intent to commit some other offense may charge in general terms the commission of such act with intent to commit such other offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.14** [408] [465] [453] **Perjury and false swearing**

An indictment for perjury or false swearing need not charge the precise language of the false statement, but may state the substance of the same, and no such indictment shall be held insufficient on account of any variance which does not affect the subject matter or general import of such false statement; and it is not necessary in such indictment to set forth the pleadings, records or proceeding with which the false statement is connected, nor the commission or authority of the court or person before whom the false statement was made; but it is sufficient to state the name of the court or officer by whom the oath was administered with the allegation of the falsity of the matter on which the perjury or false swearing is assigned. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.15** [408a] **Must allege acts of negligence**

Whenever negligence enters into or is a part or element of any offense, or it is charged that the accused acted negligently or with negligence in the committing of an offense, the complaint, information, or indictment in order to be sufficient in any such case must allege, with reasonable certainty, the act or acts relied upon to constitute negligence, and in no event shall it be sufficient to allege merely that the accused, in committing the offense, acted negligently or with negligence. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.16** [409] [470] [458] **Certain forms of indictments**

The following form of indictments is sufficient:

"In the name and by authority of the State of Texas: The grand jury of ..... County, State of Texas, duly organized at the ..... term, A.D. ...., of the district court of said county, in said court at said term, do present that ..... (defendant) on the ..... day of ..... A.D. ...., in said county and State, did ..... (description of offense) against the peace and dignity of the State.

..... Foreman of the grand jury."  
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.17** [410] [474] [462] **Following statutory words**

Words used in a statute to define an offense need not be strictly pursued in the indictment; it is sufficient to use other words conveying the same meaning, or which include the sense of the statutory words. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.18** [411] [475] [463] **Matters of judicial notice**

Presumptions of law and matters of which judicial notice is taken (among which are included the authority and duties of all officers elected or appointed under the General Laws of this State) need not be stated in an indictment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.19** [412] [476] [464] **Defects of form**

An indictment shall not be held insufficient, nor shall the trial, judgment or other proceedings thereon be affected, by reason of any defect of form which does not prejudice the substantial rights of the defendant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.20** [413] [477] [465] **"Information"**

An "information" is a written statement filed and presented in behalf of the State by the district or county attorney, charging the defendant with an offense which may by law be so prosecuted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.21** [414] [478] [466] **Requisites of an information**

An information is sufficient if it has the following requisites:

1. It shall commence, "In the name and by authority of the State of Texas";
  2. That it appear to have been presented in a court having jurisdiction of the offense set forth;
  3. That it appear to have been presented by the proper officer;
  4. That it contain the name of the accused, or state that his name is unknown and give a reasonably accurate description of him;
  5. It must appear that the place where the offense is charged to have been committed is within the jurisdiction of the court where the information is filed;
  6. That the time mentioned be some date anterior to the filing of the information, and that the offense does not appear to be barred by limitation;
  7. That the offense be set forth in plain and intelligible words;
  8. That it conclude, "Against the peace and dignity of the State"; and
  9. It must be signed by the district or county attorney, officially.
- Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.22** [415] [479] [467] **Information based upon complaint**

No information shall be presented until affidavit has been made by some credible person charging the defendant with an offense. The



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affidavit shall be filed with the information. It may be sworn to before the district or county attorney who, for that purpose, shall have power to administer the oath, or it may be made before any officer authorized by law to administer oaths. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.23** [416] [480] [468] **Rules as to indictment apply to information**

The rules with respect to allegations in an indictment and the certainty required apply also to an information. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.24** [417; 408a] [481] [469] **May contain several counts but only one offense**

An indictment, information or complaint may contain as many counts charging the same offense as the attorney who prepares it, acting in good faith, may think necessary to insert, but may not charge more than one offense. An indictment or information shall be sufficient if any one of its counts be sufficient. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.25** [418] [482] [470] **When indictment has been lost, etc.**

When an indictment or information has been lost, mislaid, mutilated or obliterated, the district or county attorney may suggest the fact to the court; and the same shall be entered upon the minutes of the court. In such case, another indictment or information may be substituted, upon the written statement of such attorney that it is substantially the same as that which has been lost, mislaid, mutilated, or obliterated. Or another indictment may be presented, as in the first instance; and in such case, the period for the commencement of the prosecution shall be dated from the time of making such entry. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.26** [419] [483] [471] **Order transferring cases**

Upon the filing of an indictment in the district court which charges an offense over which such court has no jurisdiction, the judge of such court shall make an order transferring the same to such inferior court as may have jurisdiction, stating in such order the cause transferred and to what court transferred. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.27** [420] [484] [472] **Causes transferred to justice court**

Causes over which justices of the peace have jurisdiction may be transferred to a justice of the peace at the county seat, or in the discretion of the judge, to a justice of the precinct in which the same can be most conveniently tried, as may appear by memorandum endorsed by the grand jury on the indictment or otherwise. If it appears to the judge that the offense has been committed in any incorporated town or city, the cause shall be transferred to a justice in said town or city, if there be one therein; and any justice to whom such cause may be transferred shall have jurisdiction to try the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.28** [421] [485] [473] **Duty on transfer**

The clerk of the court, without delay, shall deliver the indictments in all cases transferred, together with all the papers relating to each case, to the proper court or justice, as directed in the order of transfer; and shall accompany each case with a certified copy of all the proceedings taken therein in the district court, and with a bill of the costs that have accrued therein in the district court. The said costs shall be taxed in the court in which said cause is tried, in the event of a conviction. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.29** [422] [486] [474] **Proceedings of inferior court**

Any case so transferred shall be entered on the docket of the court to which it is transferred. All process thereon shall be issued and the defendant tried as if the case had originated in the court to which it was transferred. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 21.30** [423] [487] [475] **Cause improvidently transferred**

When a cause has been improvidently transferred to a court which has no jurisdiction of the same, the court to which it has been transferred shall order it to be re-transferred to the proper court; and the same proceedings shall be had as in the case of the original transfer. In such case, the defendant and the witnesses shall be held bound to appear before the court to which the case has been re-transferred, the same as they were bound to appear before the court so transferring the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**CHAPTER TWENTY-TWO****FORFEITURE OF BAIL**

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**Article 22.01** [424] [488] [476] **Bail forfeited, when**

When a defendant is bound by bail to appear and fails to appear in any court in which such case may be pending and at any time when

his personal appearance is required under this Code, or by any court or magistrate, a forfeiture of his bail shall be taken by such court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.02** [425] [489] [477] **Manner of taking a forfeiture**

Bail bonds and personal bonds are forfeited in the following manner: The name of the defendant shall be called distinctly at the courthouse door, and if the defendant does not appear within a reasonable time after such call is made, judgment shall be entered that the State of Texas recover of the defendant the amount of money in which he is bound, and of his sureties, if any, the amount of money in which they are respectively bound, which judgment shall state that the same will be made final, unless good cause be shown why the defendant did not appear. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.03** [426] [490] [478] **Citation to sureties**

Upon entry of judgment, a citation shall issue forthwith notifying the sureties of the defendant, if any, that the bond has been forfeited, and requiring them to appear and show cause why the judgment of forfeiture should not be made final. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.04** [427] [491] [479] **Requisites of citation**

A citation shall be sufficient if it be in the form provided for citations in civil cases in such court; provided, however, that a copy of the judgment of forfeiture entered by the court shall be attached to the citation and the citation shall notify the parties cited to appear and show cause why the judgment of forfeiture should not be made final. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.05** [428] [492] [480] **Citation as in civil actions**

Sureties shall be entitled to notice by service of citation, the length of time and in the manner required in civil actions; and the officer executing the citation shall return the same as in civil actions. It shall not be necessary to give notice to the defendant unless he has furnished his address on the bond, in which event notice to the defendant shall be deposited in the United States mail directed to the defendant at the address shown on the bond. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.06** [429] [493] [481] **Citation by publication**

Where the surety is a nonresident of the State, or where he is a transient person, or where his residence is unknown, the district or county attorney may, upon application in writing to the county clerk, stating the facts, obtain a citation to be served by publication; and the same shall be served by a publication and returned as in civil actions. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.07** [430] [494] [482] **Cost of publication**

When service of citation is made by publication, the county in which the forfeiture has been taken shall pay the costs thereof, to be taxed as costs in the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.08** [431] [495] [483] **Service out of the State**

Service of a certified copy of the citation upon any absent or non-resident surety may be made outside of the limits of this State

by any person competent to make oath of the fact; and the affidavit of such person, stating the facts of such service, shall be a sufficient return. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.09** [432] [496] [484] **When surety is dead**

If the surety is dead at the time the forfeiture is taken, the forfeiture shall nevertheless be valid. The final judgment shall not be rendered where a surety has died, either before or after the forfeiture has been taken, unless his executor, administrator or heirs, as the case may be, have been cited to appear and show cause why the judgment should not be made final, in the same manner as provided in the case of the surety. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.10** [433] [497] [485] **Scire facias docket**

When a forfeiture has been declared upon a bond, the court or clerk shall docket the case upon the scire facias or upon the civil docket, in the name of the State of Texas, as plaintiff, and the principal and his sureties, if any, as defendants; and the proceedings had therein shall be governed by the same rules governing other civil suits. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.11** [434] [498] [486] **Sureties may answer**

After the forfeiture of the bond, if the sureties, if any, have been duly notified, the sureties, if any, may answer in writing and show cause why the defendant did not appear, which answer may be filed within the time limited for answering in other civil actions. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.12** [435] [499] [487] **Proceedings not set aside for defect of form**

The bond, the judgment declaring the forfeiture, the citation and the return thereupon, shall not be set aside because of any defect of form; but such defect of form may, at any time, be amended under the direction of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.13** [436] [500] [488] **Causes which will exonerate**

The following causes, and no other, will exonerate the defendant and his sureties, if any, from liability upon the forfeiture taken:

1. That the bond is, for any cause, not a valid and binding undertaking in law. If it be valid and binding as to the principal, and one or more of his sureties, if any, they shall not be exonerated from liability because of its being invalid and not binding as to another surety or sureties, if any. If it be invalid and not binding as to the principal, each of the sureties, if any, shall be exonerated from liability. If it be valid and binding as to the principal, but not so as to the sureties, if any, the principal shall not be exonerated, but the sureties, if any, shall be.

2. The death of the principal before the forfeiture was taken.

3. The sickness of the principal or some uncontrollable circumstance which prevented his appearance at court, and it must, in every such case, be shown that his failure to appear arose from no fault on his part. The causes mentioned in this subdivision shall not be

deemed sufficient to exonerate the principal and his sureties, if any, unless such principal appear before final judgment on the bond to answer the accusation against him, or show sufficient cause for not so appearing.

4. Failure to present an indictment or information at the first term of the court which may be held after the principal has been admitted to bail, in case where the party was bound over before indictment or information, and the prosecution has not been continued by order of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.14** [437] [501] [489] **Judgment final**

When, upon a trial of the issues presented, no sufficient cause is shown for the failure of the principal to appear, the judgment shall be made final against him and his sureties, if any, for the amount in which they are respectively bound; and the same shall be collected by execution as in civil actions. Separate executions shall issue against each party for the amount adjudged against him. The costs shall be equally divided between the sureties, if there be more than one. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.15** [438] [502] [490] **Judgment final by default**

When the sureties have been duly cited and fail to answer, and the principal also fails to answer within the time limited for answering in other civil actions, the court shall enter judgment final by default. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.16** [439] [503] [491] **The court may remit**

If, before final judgment is entered against the bail, the principal appears or is arrested and lodged in jail of the proper county, the court may, at its discretion, remit the whole or part of the sum specified in the bond. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 22.17** [440] [504] [492] **Forfeiture set aside**

When the principal appears before the entry of final judgment, and sufficient cause is shown for his failure to appear before the forfeiture is taken, and a trial is had of the criminal action pending against him, he shall be entitled to have the forfeiture set aside. The criminal action against him shall stand for trial, but the State shall not be forced to try the same until reasonable time has been allowed to prepare for trial, and the State shall, in such case, be entitled to a continuance. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER TWENTY-THREE

### THE CAPIAS

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**Article 23.01** [441] [505] [493] Definition of a "capias"

A "capias" is a writ issued by the court or clerk, and directed "To any peace officer of the State of Texas", commanding him to arrest a person accused of an offense and bring him before that court immediately, or on a day or at a term stated in the writ. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.02** [442] [506] [494] Its requisites

A capias shall be held sufficient if it have the following requisites:

1. That it run in the name of "The State of Texas";
2. That it name the person whose arrest is ordered, or if unknown, describe him;
3. That it specify the offense of which the defendant is accused, and it appear thereby that he is accused of some offense against the penal laws of the State;
4. That it name the court to which and the time when it is returnable; and
5. That it be dated and attested officially by the authority issuing the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.03** [443] [507] [495] Capias or summons in felony

(a) A capias shall be immediately issued by the district clerk upon each indictment for felony presented, or upon the request of the attorney representing the State, a summons shall be issued by the district clerk, and shall be delivered by the clerk or mailed to the sheriff of the county where the defendant resides or is to be found. A capias or a summons need not issue for a defendant in custody or under bond.

(b) Upon the request of the attorney representing the State a summons instead of a capias shall issue. If a defendant fails to appear in response to the summons a capias shall issue.

(c) Summons. The summons shall be in the same form as the capias except that it shall summon the defendant to appear before the proper court at a stated time and place. The summons shall be served upon a defendant by delivering a copy to him personally, or by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by mailing it to the defendant's last known address. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.04** [444] [508] [496] **In misdemeanor case**

In misdemeanor cases the *capias* or summons shall issue from a court having jurisdiction of the case. The summons shall be issued only upon request of the attorney representing the State and shall follow the same form and procedure as in a felony case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.05** [445] [509] [497] **Capias after forfeiture**

Where a forfeiture of bail is declared, a *capias* shall be immediately issued for the arrest of the defendant, and when arrested, he shall be required to make new bail, unless the forfeiture taken has been set aside under the third subdivision of Article 22.13, in which case the defendant and his sureties shall remain bound under the same bail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.06** [446] [510] [498] **New bail in felony case**

When a defendant who has been arrested for a felony under a *capias* has previously given bail to answer said charge, his sureties, if any, shall be released by such arrest, and he shall be required to give new bail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.07** [447] [511] [499] **Capias does not lose its force**

A *capias* shall not lose its force if not executed and returned at the time fixed in the writ, but may be executed at any time afterward, and return made. All proceedings under such *capias* shall be as valid as if the same had been executed and returned within the time specified in the writ. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.08** [448] [512] [500] **Reasons for retaining capias**

When the *capias* is not returned at the time fixed in the writ, the officer holding it shall notify the court from whence it was issued, in writing, of his reasons for retaining it. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.09** [449] [513] [501] **Capias to several counties**

*Capiases* for a defendant may be issued to as many counties as the district or county attorney may direct. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.10** [450] [514] [502] **Bail in felony**

In cases of arrest for felony in the county where the prosecution is pending, during a term of court, the officer making the arrest may take bail as provided in Article 17.21. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.11** [451] [515] [503] **Sheriff may take bail in felony**

In cases of arrest for felony less than capital, made during vacation or made in another county than the one in which the prosecution is pending, the sheriff may take bail; in such cases the amount of the bail bond shall be the same as is endorsed upon the *capias*; and if no amount be endorsed on the *capias*, the sheriff shall require

a reasonable amount of bail. If it be made to appear by affidavit, made by any district attorney, county attorney, or the sheriff approving the bail bond, to a judge of the Court of Criminal Appeals, district or county court, that the bail taken in any case after indictment is insufficient in amount, or that the sureties are not good for the amount, or that the bond is for any reason defective or insufficient, such judge shall issue a warrant of arrest and require of the defendant sufficient bond, according to the nature of the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.12** [452] [516] [504] **Court shall fix bail in felony**

In felony cases which are bailable, the court shall, before adjourning, fix and enter upon the minutes the amount of the bail to be required in each case. The clerk shall endorse upon the capias the amount of bail required. In case of neglect to so comply with this Article, the arrest of the defendant, and the bail taken by the sheriff, shall be as legal as if there had been no such omission. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.13** [453] [517] [505] **Who may arrest under capias**

A capias may be executed by any peace officer. In felony cases, the defendant must be delivered immediately to the sheriff of the county where the arrest is made together, with the writ under which he was taken. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.14** [454] [518] [506] **Bail in misdemeanor**

Any officer making an arrest under a capias in a misdemeanor may in term time or vacation take a bail bond of the defendant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.15** [455] [519] [507] **Arrest in capital cases**

Where an arrest is made under a capias in a capital case, the sheriff shall confine the defendant in jail, and the capias shall, for that purpose, be a sufficient commitment. This Article is applicable when the arrest is made in the county where the prosecution is pending. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.16** [456] [520] [508] **Arrest in capital case in another county**

In each capital case where a defendant is arrested under a capias in a county other than that in which the case is pending, the sheriff who arrests or to whom the defendant is delivered, shall convey him immediately to the county from which the capias issued and deliver him to the sheriff of such county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.17** [457] [521] [509] **Return of bail and capias**

When an arrest has been made and a bail taken, such bond, together with the capias, shall be returned forthwith to the proper court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 23.18** [460] [524] [512] **Return of capias**

The return of the capias shall be made to the court from which it is issued. If it has been executed, the return shall state what dis-



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position has been made of the defendant. If it has not been executed, the cause of the failure to execute it shall be fully stated. If the defendant has not been found, the return shall further show what efforts have been made by the officer to find him, and what information he has as to the defendant's whereabouts. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER TWENTY-FOUR

### SUBPOENA AND ATTACHMENT

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#### **Article 24.01** [461] [525] [513] Definition of "subpoena"

A "subpoena" is a writ issued to the sheriff or other proper officer commanding him to summon one or more persons therein named to appear at a certain term of the court, or on a certain day, to testify in a criminal action, or before an examining court, coroner's inquest, the grand jury, or before a judge hearing an application under habeas corpus, or in any other case in which the testimony of a witness may be required under the provisions of this Code. The writ shall be dated and signed officially by the court or clerk issuing the same, but need not be under seal. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 24.02** [462] [526] [514] Subpoena duces tecum

If a witness have in his possession any instrument of writing or other thing desired as evidence, the subpoena may specify such evi-

dence and direct that the witness bring the same with him and produce it in court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.03** [463] [526-529] **Subpoena and application therefor**

Before the clerk or his deputy shall be required or permitted to issue a subpoena in any felony case pending in any district or criminal district court of this State of which he is clerk or deputy, the defendant or his attorney or the State's attorney shall make written, sworn application to such clerk for each witness desired. Such application shall state the name of each witness desired, the location and vocation, if known, and that the testimony of said witness is material to the State or to the defense. The application must be filed with the clerk and placed with the papers in the cause and made available to both the State and the defendant. As far as is practical such clerk shall include in one subpoena the names of all witnesses for the State and for defendant, and such process shall show that the witnesses are summoned for the State or for the defendant. When a witness has been served with a subpoena, attached or placed under bail at the instance of either party in a particular case, such execution of process shall inure to the benefit of the opposite party in such case in the event such opposite party desires to use such witness on the trial of the case, provided that when a witness has once been served with a subpoena, no further subpoena shall be issued for said witness. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.04** [464] [527] [515] **Service and return of subpoena**

A subpoena is served by reading the same in the hearing of the witness. The officer having the subpoena shall make due return thereof, showing the time and manner of service, if served, and if not served, he shall show in his return the cause of his failure to serve it; and if the witness could not be found, he shall state the diligence he has used to find him, and what information he has as to the whereabouts of the witness. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.05** [465] [528] [516] **Refusing to obey**

If a witness refuses to obey a subpoena, he may be fined at the discretion of the court, as follows: In a felony case, not exceeding five hundred dollars; in a misdemeanor case, not exceeding one hundred dollars. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.06** [466] [530] [518] **What is disobedience of a subpoena**

It shall be held that a witness refuses to obey a subpoena:

1. If he is not in attendance on the court on the day set apart for taking up the criminal docket or on any day subsequent thereto and before the final disposition or continuance of the particular case in which he is a witness;

2. If he is not in attendance at any other time named in a writ; and

3. If he refuses without legal cause to produce evidence in his possession which he has been summoned to bring with him and produce. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.07** [467] [531] [519] **Fine against witness conditional**

When a fine is entered against a witness for failure to appear and testify, the judgment shall be conditional; and a citation shall issue to him to show cause, at the term of the court at which said fine is entered, or at the first term thereafter, at the discretion of the judge of said court, why the same should not be final; provided, citation shall be served upon said witness in the manner and for the length of time prescribed for citations in civil cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.08** [468] [532] [520] **Witness may show cause**

A witness cited to show cause, as provided in the preceding Article, may do so under oath, in writing or verbally, at any time before judgment final is entered against him; but if he fails to show cause within the time limited for answering in civil actions, a judgment final by default shall be entered against him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.09** [469] [533] [521] **Court may remit fine**

It shall be within the discretion of the court to judge of the sufficiency of an excuse rendered by a witness, and upon the hearing the court shall render judgment against the witness for the whole or any part of the fine, or shall remit the fine altogether, as to the court may appear proper and right. Said fine shall be collected as fines in misdemeanor cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.10** [470] [534] [522] **When witness appears and testifies**

When a fine has been entered against a witness, but no trial of the cause takes place, and such witness afterward appears and testifies upon the trial thereof, it shall be discretionary with the judge, though no good excuse be rendered, to reduce the fine or remit it altogether; but the witness, in such case, shall, nevertheless, be adjudged to pay all the costs accruing in the proceeding against him by reason of his failure to attend. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.11** [471] [535] [523] **Requisites of an "Attachment"**

An "attachment" is a writ issued by a clerk of a court under seal, or by any magistrate, or by the foreman of a grand jury, in any criminal action or proceeding authorized by law, commanding some peace officer to take the body of a witness and bring him before such court, magistrate or grand jury on a day named, or forthwith, to testify in behalf of the State or of the defendant, as the case may be. It shall be dated and signed officially by the officer issuing it. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.12** [472] [536] [524] **When attachment may issue**

When a witness who resides in the county of the prosecution has been duly served with a subpoena to appear and testify in any criminal action or proceeding fails to so appear, the State or the defendant shall be entitled to have an attachment issued forthwith for such witness. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.13** Attachment for convict witnesses

All persons who have been or may be convicted in this State, and who are confined in an institution operated by the Department of Corrections or any jail in this State, shall be permitted to testify in person in any court for the State and the defendant when the presiding judge finds, after hearing, that the ends of justice require their attendance, and directs that an attachment issue to accomplish the purpose, notwithstanding any other provision of this Code. Nothing in this Article shall be construed as limiting the power of the courts of this State to issue bench warrants. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.14** [473] [537] [524a] Attachment for resident witness

When a witness resides in the county of the prosecution, whether he has disobeyed a subpoena or not, either in term-time or vacation, upon the filing of an affidavit with the clerk by the defendant or State's counsel, that he has good reason to believe, and does believe, that such witness is a material witness, and is about to move out of the county, the clerk shall forthwith issue an attachment for such witness; provided, that in misdemeanor cases, when the witness makes oath that he cannot give surety, the officer executing the attachment shall take his personal bond. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.15** [474] [538] [525a] To secure attendance before grand jury

At any time before the first day of any term of the district court, the clerk, upon application of the State's attorney, shall issue a subpoena for any witness who resides in the county. If at the time such application is made, such attorney files a sworn application that he has good reason to believe and does believe that such witness is about to move out of the county, then said clerk shall issue an attachment for such witness to be and appear before said district court on the first day thereof to testify as a witness before the grand jury. Any witness so summoned, or attached, who shall fail or refuse to obey a subpoena or attachment, shall be punished by the court by a fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.16** [475] [539] Application for out-county witness

Where, in misdemeanor cases in which confinement in jail is a permissible punishment, or in felony cases, a witness resides out of the county in which the prosecution is pending, the State or the defendant shall be entitled, either in term-time or in vacation, to a subpoena to compel the attendance of such witness on application to the proper clerk or magistrate. Such application shall be in the manner and form as provided in Article 24.03. Witnesses in such misdemeanor cases shall be compensated in the same manner as in felony cases. This Article shall not apply to more than one character witness in a misdemeanor case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.17** [476] [540] Duty of officer receiving said subpoena

The officer receiving said subpoena shall execute the same by delivering a copy thereof to each witness therein named. He shall

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make due return of said subpoena, showing therein the time and manner of executing the same, and if not executed, such return shall show why not executed, the diligence used to find said witness, and such information as the officer has as to the whereabouts of said witness. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.18** [477] [541] **Subpoena returnable forthwith**

When a subpoena is returnable forthwith, the officer shall immediately serve the witness with a copy of the same; and it shall be the duty of said witness to immediately make his appearance before the court, magistrate or other authority issuing the same. If said witness makes affidavit of his inability from lack of funds to appear in obedience to said subpoena, the officer executing the same shall provide said witness, if said subpoena be issued as provided in Article 24.16, with the necessary funds or means to appear in obedience to said subpoena, taking his receipt therefor, and showing in his return on said subpoena, under oath, the amount furnished to said witness, together with the amount of his fees for executing said subpoena. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.19** [478] [542] **Certificate to officer**

The clerk, magistrate, or foreman of the grand jury issuing said process, immediately upon the return of said subpoena, if issued as provided in Article 24.16, shall issue to such officer a certificate for the amount furnished such witness, together with the amount of his fees for executing the same, showing the amount of each item; which certificate shall be approved by the district judge and recorded by the district clerk in a book kept for that purpose; and said certificate transmitted to the officer executing such subpoena, which amount shall be paid by the State, as costs are paid in other criminal matters. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.20** [479] [543] **Subpoena returnable at future date**

If the subpoena be returnable at some future date, the officer shall have authority to take bail of such witness for his appearance under said subpoena, which bond shall be returned with such subpoena, and shall be made payable to the State of Texas, in the amount in which the witness and his surety, if any, shall be bound and conditioned for the appearance of the witness at the time and before the court, magistrate or grand jury named in said subpoena, and shall be signed by the witness and his sureties. If the witness refuses to give bond, he shall be kept in custody until such time as he starts in obedience to said subpoena, when he shall be, upon affidavit being made, provided with funds necessary to appear in obedience to said subpoena. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.21** [480] [544] **Stating bail in subpoena**

The court or magistrate issuing said subpoena may direct therein the amount of the bail to be required. The officer may fix the amount if not specified, and in either case, shall require sufficient security, to be approved by himself. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.22** [481] [545] **Witness fined and attached**

If a witness summoned from without the county refuses to obey a subpoena, he shall be fined by the court or magistrate not exceeding

five hundred dollars, which fine and judgment shall be final, unless set aside after due notice to show cause why it should not be final, which notice may immediately issue, requiring the defaulting witness to appear at once or at the next term of said court, in the discretion of the judge, to answer for such default. The court may cause to be issued at the same time an attachment for said witness, directed to the proper county, commanding the officer to whom said writ is directed to take said witness into custody and have him before said court at the time named in said writ; in which case such witness shall receive no fees, unless it appears to the court that such disobedience is excusable, when the witness may receive the same pay as if he had not been attached. Said fine when made final and all costs thereon shall be collected as in other criminal cases. Said fine and judgment may be set aside in vacation or at the time or any subsequent term of the court for good cause shown, after the witness testifies or has been discharged. The following words shall be written or printed on the face of such subpoena for out-county witnesses: "A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases." Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.23** [482] [546] [535] **Witness released**

A witness who is in custody for failing to give bail shall be at once released upon giving bail required. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.24** [483] [547] [536] **Bail for witness**

Witnesses on behalf of the State or defendant may, at the request of either party, be required to enter into bail in an amount to be fixed by the court to appear and testify in a criminal action; but if it shall appear to the court that any witness is unable to give security upon such bail, he shall be released without security. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.25** [484] [548] [537] **Personal bond of witness**

When it appears to the satisfaction of the court that personal bond of the witness will insure his attendance, no security need be required of him; but no bond without security shall be taken by any officer. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.26** [485] [549] [538] **Enforcing forfeiture**

The bond of a witness may be enforced against him and his sureties, if any, in the manner pointed out in this Code for enforcing the bond of a defendant in a criminal case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.27** [486] [550] [539] **No surrender after forfeiture**

The sureties of a witness have no right to discharge themselves by the surrender of the witness after the forfeiture of their bond. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 24.28** [486a] **Uniform Act to secure attendance of witnesses from without State**

**Short Title**

Sec. 1. This Act may be cited as the "Uniform Act to Secure the Attendance of Witnesses from Without the State in Criminal Proceedings".

**Definitions**

Sec. 2. "Witness" as used in this Act shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding.

The word "State" shall include any territory of the United States and the District of Columbia.

The word "summons" shall include a subpoena, order or other notice requiring the appearance of a witness.

**Summoning witness in this State to testify in another State**

Sec. 3. If a judge of a court of record in any State which by its laws has made provision for commanding persons within that State to attend and testify in this State certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this State is a material witness in such prosecution, or grand jury investigation, and that his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other State, and that the laws of the State in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, (and of any other State through which the witness may be required to pass by ordinary course of travel), will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting State to assure his attendance in the requesting State, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting State.

If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars for each

day that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

**Witness from another State summoned to testify in this State**

Sec. 4. If a person in any State, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this State, is a material witness in a prosecution pending in a court of record in this State, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this State to assure his attendance in this State. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

If the witness is summoned to attend and testify in this State he shall be tendered the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this State a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this State, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

**Exemption from arrest and service of process**

Sec. 5. If a person comes into this State in obedience to a summons directing him to attend and testify in this State he shall not while in this State pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons.

If a person passes through this State while going to another State in obedience to a summons to attend and testify in that State or while returning therefrom, he shall not while so passing through this State be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER TWENTY-FIVE

### SERVICE OF A COPY OF THE INDICTMENT

Art.

25.01 In felony.

25.02 Service and return.

25.03 If on bail in felony.

25.04 In misdemeanor.

#### **Article 25.01 [487] [551] [540] In felony**

In every case of felony, when the accused is in custody, or as soon as he may be arrested, the clerk of the court where an indict-



ment has been presented shall immediately make a certified copy of the same, and deliver such copy to the sheriff, together with a writ directed to such sheriff, commanding him forthwith to deliver such certified copy to the accused. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 25.02** [488] [552] [541] **Service and return**

Upon receipt of such writ and copy, the sheriff shall immediately deliver such certified copy of the indictment to the accused and return the writ to the clerk issuing the same, with his return thereon, showing when and how the same was executed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 25.03** [489] [553] [542] **If on bail in felony**

When the accused, in case of felony, is on bail at the time the indictment is presented, it is not necessary to serve him with a copy, but the clerk shall on request deliver a copy of the same to the accused or his counsel, at the earliest possible time. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 25.04** [490] [554] [543] **In misdemeanor**

In misdemeanors, it shall not be necessary before trial to furnish the accused with a copy of the indictment or information; but he or his counsel may demand a copy, which shall be given as early as possible. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER TWENTY-SIX

### ARRAIGNMENT

Art.

- 26.01 Arraignment.
- 26.02 Purpose of arraignment.
- 26.03 Time of arraignment.
- 26.04 Court shall appoint counsel.
- 26.05 Compensation of counsel appointed to defend.
- 26.06 Elected officials not to be appointed.
- 26.07 Name as stated in indictment.
- 26.08 If defendant suggests different name.
- 26.09 If accused refuses to give his real name.
- 26.10 Where name is unknown.
- 26.11 Indictment read.
- 26.12 Plea of not guilty entered.
- 26.13 Plea of guilty.
- 26.14 Jury on plea of guilty.
- 26.15 Correcting name.

**Article 26.01** [491] [555] [544] **Arraignment**

In all felony cases, after indictment, and all misdemeanor cases punishable by imprisonment, there shall be an arraignment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.02** [492] [556] [545] **Purpose of arraignment**

An arraignment takes place for the purpose of fixing his identity and hearing his plea. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.03** [493] [557] [546] **Time of arraignment**

No arraignment shall take place until the expiration of at least two entire days after the day on which a copy of the indictment was served on the defendant, unless the right to such copy or to such delay by waived, or unless the defendant is on bail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.04** [494] [558] [547] **Court shall appoint counsel**

(a) Whenever the court determines at an arraignment or at any time prior to arraignment that an accused charged with a felony or a misdemeanor punishable by imprisonment is too poor to employ counsel, the court shall appoint one or more practicing attorneys to defend him. In making the determination, the court shall require the accused to file an affidavit, and may call witnesses and hear any relevant testimony or other evidence.

(b) The appointed counsel is entitled to ten days to prepare for trial, but may waive the time by written notice, signed by the counsel and the accused. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.05** [494a] **Compensation of counsel appointed to defend**

Sec. 1. A counsel appointed to defend a person accused of a felony or a misdemeanor punishable by imprisonment shall be paid from the general fund of the county in which the prosecution was instituted according to the following schedule:

(a) For each day in trial court representing the accused, a fee of not less than \$25.00 nor more than \$50.00;

(b) For each day in trial court representing the accused when the State has made known that it will seek the death penalty, a fee of not less than \$25.00 nor more than \$100.00;

(c) For expenses incurred for purposes of investigation and expert testimony, not more than \$250.00;

(d) For the prosecution to a final conclusion of a bona fide appeal to the Court of Criminal Appeals, a fee of not less than \$100.00 nor more than \$250.00;

(e) For the prosecution to a final conclusion of a bona fide appeal to the Court of Criminal Appeals in a case where the death penalty has been assessed, a fee of not less than \$100.00 nor more than \$500.00.

Sec. 2. The minimum fee will be automatically allowed unless the trial judge orders more within five days of the judgment.

Sec. 3. All payments made under the provisions of this Article may be included as costs of court.

Sec. 4. An attorney may not receive more than one fee for each day in court, regardless of the number of cases in which he appears as appointed counsel on the same day. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.06 [494b] Elected officials not to be appointed**

No court may appoint an elected county, district or state official to represent a person accused of crime, unless the official has notified the court of his availability for appointment. If an official has notified the court of his availability and is appointed as counsel, he may decline the appointment if he determines that it is in the best interest of his office to do so. Nothing in this Code shall modify any statutory provision for legislative continuance. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.07 [495] [559] [548] Name as stated in indictment**

When the defendant is arraigned, his name, as stated in the indictment, shall be distinctly called; and unless he suggest by himself or counsel that he is not indicted by his true name, it shall be taken that his name is truly set forth, and he shall not thereafter be allowed to deny the same by way of defense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.08 [496] [560] [549] If defendant suggests different name**

If the defendant, or his counsel for him, suggests that he bears some name different from that stated in the indictment, the same shall be noted upon the minutes of the court, the indictment corrected by inserting therein the name of the defendant as suggested by himself or his counsel for him, the style of the case changed so as to give his true name, and the cause proceed as if the true name had been first recited in the indictment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.09 [497] [561] [550] If accused refuses to give his real name**

If the defendant alleges that he is not indicted by his true name, and refuses to say what his real name is, the cause shall proceed as if the name stated in the indictment were true; and the defendant shall not be allowed to contradict the same by way of defense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.10 [498] [562] [551] Where name is unknown**

A defendant described as a person whose name is unknown may have the indictment so corrected as to give therein his true name. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.11 [499] [563] [552] Indictment read**

The name of the accused having been called, if no suggestion, such as is spoken of in the four preceding Articles, be made, or being made is disposed of as before directed, the indictment shall be read, and the defendant asked whether he is guilty or not, as therein charged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.12 [500] [564] [553] Plea of not guilty entered**

If the defendant answers that he is not guilty, such plea shall be entered upon the minutes of the court; if he refuses to answer, the plea of not guilty shall in like manner be entered. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.13** [501] [565] [554] **Plea of guilty**

If the defendant pleads guilty, or enters a plea of nolo contendere he shall be admonished by the court of the consequences; and neither of such pleas shall be received unless it plainly appears that he is sane, and is uninfluenced by any consideration of fear, or by any persuasion, or delusive hope of pardon, prompting him to confess his guilt. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.14** [502] [566] [555] **Jury on plea of guilty**

Where a defendant in a case of felony persists in pleading guilty or in entering a plea of nolo contendere, if the punishment is not absolutely fixed by law, a jury shall be impaneled to assess the punishment and evidence may be heard to enable them to decide thereupon, unless the defendant in accordance with Articles 1.13 or 37.07 shall have waived his right to trial by jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 26.15** [503] [567] [556] **Correcting name**

In any case, the same proceedings shall be had with respect to the name of the defendant and the correction of the indictment or information as provided with respect to the same in capital cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER TWENTY-SEVEN

## THE PLEADING IN CRIMINAL ACTIONS

- Art.
- 27.01 Indictment or information.
  - 27.02 Defendant's pleadings.
  - 27.03 Motion to set aside indictment.
  - 27.04 Motion tried by judge.
  - 27.05 Special pleas for defendant.
  - 27.06 Special plea verified.
  - 27.07 Special plea tried.
  - 27.08 Exception to substance of indictment.
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  - 27.10 Written pleadings.
  - 27.11 Ten days allowed for filing pleadings.
  - 27.12 Time after service.
  - 27.13 Plea of guilty or nolo contendere in felony.
  - 27.14 Plea of guilty or nolo contendere in misdemeanor.
  - 27.15 Change of venue to plead guilty.
  - 27.16 Plea of not guilty, how made.
  - 27.17 Plea of not guilty construed.

**Article 27.01** [504] [568] [557] **Indictment or information**

The primary pleading in a criminal action on the part of the State is the indictment or information. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.02** [505] [569] [558] **Defendant's pleadings**

On the part of the defendant, the following are the only pleadings:

1. The motion to set aside the indictment or information;
2. A special plea setting forth one or more facts as cause why the defendant ought not to be tried upon the accusation presented against him;
3. An exception to the indictment or information for some matter of form or substance;
4. A plea of guilty;
5. A plea of not guilty;
6. A plea of nolo contendere. The legal effect of such plea shall be the same as that of a plea of guilty, but the plea may not be used against the defendant as an admission in any civil suit based upon or growing out of the act upon which the criminal prosecution is based; and
7. Defendant's application for probation, if any. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.03** [506] [570] [559] **Motion to set aside indictment**

In addition to any other grounds authorized by law, a motion to set aside an indictment or information may be based on the following:

1. That it appears by the records of the court that the indictment was not found by at least nine grand jurors, or that the information was not based upon a valid complaint;
2. That some person not authorized by law was present when the grand jury was deliberating upon the accusation against the defendant, or was voting upon the same; and
3. That the grand jury was illegally impaneled; provided, however, in order to raise such question on motion to set aside the indictment, the defendant must show that he did not have an opportunity to challenge the array at the time the grand jury was impaneled. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.04** [507] [571] [560] **Motion tried by judge**

An issue of fact arising upon a motion to set aside an indictment or information shall be tried by the judge without a jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.05** [508] [572] [561] **Special pleas for defendant**

The only special pleas which can be heard for the defendant are:

1. That he has been convicted legally, in a court of competent jurisdiction, upon the same accusation, after having been tried upon the merits for the same offense; and
2. That he has been before acquitted of the accusation against him, in a court of competent jurisdiction, whether the acquittal was regular or irregular. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.06** [509] [573] [562] **Special plea verified**

Every special plea shall be verified by the affidavit of the defendant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.07** [510] [574] [563] **Special plea tried**

All issues of fact presented by a special plea shall be tried by the trier of the facts on the trial on the merits. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.08** [511] [575] [564] **Exception to substance of indictment**

There is no exception to the substance of an indictment or information except:

1. That it does not appear therefrom that an offense against the law was committed by the defendant;
2. That it appears from the face thereof that a prosecution for the offense is barred by a lapse of time, or that the offense was committed after the finding of the indictment;
3. That it contains matter which is a legal defense or bar to the prosecution; and
4. That it shows upon its face that the court trying the case has no jurisdiction thereof. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.09** [512] [576] [565] **Exception to form of indictment**

Exceptions to the form of an indictment or information may be taken for the following causes only:

1. That it does not appear to have been presented in the proper court as required by law;
2. The want of any requisite prescribed by Articles 21.02 and 21.21.
3. That it was not returned by a lawfully chosen or empaneled grand jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.10** [513] [577] [566] **Written pleadings**

All motions to set aside an indictment or information and all special pleas and exceptions shall be in writing. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.11** [514] [578] [567] **Ten days allowed for filing pleadings**

In all cases the defendant shall be allowed ten entire days, exclusive of all fractions of a day after his arrest, and during the term of the court, to file written pleadings. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.12** [515] [579] [568] **Time after service**

In cases where the defendant is entitled to be served with a copy of the indictment, he shall be allowed the ten days time mentioned in the preceding Article to file written pleadings after such service. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.13** [517] [581] [570] **Plea of guilty or nolo contendere in felony**

A plea of "guilty" or a plea of "nolo contendere" in a felony case must be made in open court by the defendant in person; and the

For Annotations and Historical Notes, see V.A.T.S.

proceedings shall be as provided in Articles 26.13, 26.14 and 27.02. If the plea is before the judge alone, same may be made in the same manner as is provided for by Articles 1.13 and 1.15. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.14** [518] [582] [571] **Plea of guilty or nolo contendere in misdemeanor**

A plea of "guilty" or a plea of "nolo contendere" in a misdemeanor case may be made either by the defendant or his counsel in open court; in such case, the defendant or his counsel may waive a jury, and the punishment may be assessed by the court either upon or without evidence, at the discretion of the defendant. In a misdemeanor case arising out of a moving traffic violation for which the maximum possible punishment is by fine only, payment of a fine, or an amount accepted by the court constitutes a finding of guilty in open court, as though a plea of nolo contendere had been entered by the defendant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.15** [519] **Change of venue to plead guilty**

When in any county which is located in a judicial district composed of more than one county, a party is charged with a felony and the maximum punishment therefor shall not exceed fifteen years, and the district court of said county is not in session, such party may, if he desires to plead guilty, or enter a plea of nolo contendere, make application to the district judge of such district for a change of venue to the county in which said court is in session, and said district judge may enter an order changing the venue of said cause to the county in which the court is then in session, and the defendant may plead guilty or enter a plea of nolo contendere to said charge in said court to which the venue has been changed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.16** [520] [584] [573] **Plea of not guilty, how made**

The plea of not guilty may be made orally by the defendant or by his counsel in open court. If the defendant refuses to plead, the plea of not guilty shall be entered for him by the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 27.17** [521] [585] [574] **Plea of not guilty construed**

The plea of not guilty shall be construed to be a denial of every material allegation in the indictment or information. Under this plea, evidence to establish the insanity of defendant, and every fact whatever tending to acquit him of the accusation may be introduced, except such facts as are proper for a special plea under Article 27.05. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**CHAPTER TWENTY-EIGHT**

**MOTIONS, PLEADINGS AND EXCEPTIONS**

Art.

- 28.01 Pre-trial.
- 28.02 Order of argument.
- 28.03 Process for testimony on pleadings.
- 28.04 Quashing charge in misdemeanor.
- 28.05 Quashing indictment in felony.
- 28.06 Shall be fully discharged, when.
- 28.07 If exception is that no offense is charged.
- 28.08 When defendant is held by order of court.
- 28.09 Exception on account of form.
- 28.10 Amendment of indictment or information.
- 28.11 How amended.
- 28.12 Exception and trial of special pleas.
- 28.13 Former acquittal or conviction.
- 28.14 Plea allowed.

**Article 28.01** [522] [587] [576] **Pre-trial**

Sec. 1. The court may set any criminal case for a pre-trial hearing before it is set for trial upon its merits, and direct the defendant and his attorney, if any of record, and the State's attorney, to appear before the court at the time and place stated in the court's order for a conference and hearing. The defendant must be present at the arraignment, and his presence is required during any pre-trial proceeding. The pre-trial hearing shall be to determine any of the following matters:

- (1) Arraignment of the defendant, if such be necessary; and appointment of counsel to represent the defendant, if such be necessary;
- (2) Pleadings of the defendant;
- (3) Special pleas, if any;
- (4) Exceptions to the form or substance of the indictment or information;
- (5) Motions for continuance either by the State or defendant; provided that grounds for continuance not existing or not known at the time may be presented and considered at any time before the defendant announces ready for trial;
- (6) Motions to suppress evidence—When a hearing on the motion to suppress evidence is granted, the court may determine the merits of said motion on the motions themselves, or upon opposing affidavits, or upon oral testimony, subject to the discretion of the court;
- (7) Motions for change of venue by the State or the defendant; provided, however, that such motions for change of venue, if overruled at the pre-trial hearing, may be renewed by the State or the defendant during the voir dire examination of the jury; and
- (8) Discovery.

Sec. 2. When a criminal case is set for such pre-trial hearing, the defendant shall have five days after notice of setting in which to file his motions, pleadings and exceptions; and any such preliminary matters not raised and filed within the time allowed will not thereafter



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be allowed to be raised or filed, except by permission of the court for good cause shown. The record made at such pre-trial hearing, the rulings of the court and the exceptions and objections thereto shall become a part of the trial record of the case upon its merits. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.02** [524] [589] [578] **Order of argument**

The counsel of the defendant has the right to open and conclude the argument upon all pleadings of the defendant presented for the decision of the judge. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.03** [526] [591] [580] **Process for testimony on pleadings**

When the matters involved in any written pleading depend in whole or in part upon testimony, and not altogether upon the record of the court, every process known to the law may be obtained on behalf of either party to procure such testimony; but there shall be no delay on account of the want of the testimony, unless it be shown to the satisfaction of the court that all the means given by the law have been used to procure the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.04** [527] [592] [581] **Quashing charge in misdemeanor**

If the motion to set aside or the exception to an indictment or information is sustained, the defendant in a misdemeanor case shall be discharged, but may be again prosecuted within the time allowed by law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.05** [528] [593] [582] **Quashing indictment in felony**

If the motion to set aside or the exception to the indictment in cases of felony be sustained, the defendant shall not therefor be discharged, but may immediately be recommitted by order of the court, upon motion of the State's attorney or without motion; and proceedings may afterward be had against him as if no prosecution had ever been commenced. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.06** [529] [594] [583] **Shall be fully discharged, when**

Where, after the motion or exception is sustained, it is made known to the court by sufficient testimony that the offense of which the defendant is accused will be barred by limitation before another indictment can be presented, he shall be fully discharged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.07** [530] [595] [584] **If exception is that no offense is charged**

If an exception to an indictment or information is taken and sustained upon the ground that there is no offense against the law charged therein, the defendant shall be discharged, unless an affidavit be filed accusing him of the commission of a penal offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.08** [531] [596] [585] **When defendant is held by order of court**

If the motion to set aside the indictment or any exception thereto is sustained, but the court refuses to discharge the defendant, then at the expiration of ten days from the order sustaining such motions or exceptions, the defendant shall be discharged, unless in the meanwhile complaint has been made before a magistrate charging him with an offense, or unless another indictment has been presented against him for such offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.09** [532] [597] [586] **Exception on account of form**

If the exception to an indictment or information is only on account of form, it shall be amended, if defective, and the cause proceed upon such amended charge. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.10** [533] [598] [587] **Amendment of indictment or information**

Any matter of form in an indictment or information may be amended at any time before an announcement of ready for trial upon the merits by both parties, but not afterward. No matter of substance can be amended. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.11** [534] [599] [588] **How amended**

All amendments of an indictment or information shall be made with the leave of the court and under its direction. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.12** [525, 535] [590, 600] [579, 589] **Exception and trial of special pleas**

When a special plea is filed by the defendant, the State may except to it for substantial defects. If the exception be sustained, the plea may be amended. If the plea be not excepted to, it shall be considered that issue has been taken upon the same. Such special pleas as set forth matter of fact proper to be tried by a jury shall be submitted and tried with a plea of not guilty. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.13** [536] [601] [590] **Former acquittal or conviction**

A former judgment of acquittal or conviction in a court of competent jurisdiction shall be a bar to any further prosecution for the same offense, but shall not bar a prosecution for any higher grade of offense over which said court had not jurisdiction, unless such judgment was had upon indictment or information, in which case the prosecution shall be barred for all grades of the offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 28.14** [537] [602] [591] **Plea allowed**

Judgment shall, in no case, be given against the defendant where his motion, exception or plea is overruled; but in all cases the plea of not guilty may be made by or for him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER TWENTY-NINE

### CONTINUANCE

Art.

- 29.01 By operation of law.
- 29.02 By agreement.
- 29.03 For sufficient cause shown.
- 29.04 First motion by State.
- 29.05 Subsequent motion by State.
- 29.06 First motion by defendant.
- 29.07 Subsequent motion by defendant.
- 29.08 Motion sworn to.
- 29.09 Controverting motion.
- 29.10 When denial is filed.
- 29.11 Argument.
- 29.12 Bail resulting from continuance.
- 29.13 Continuance after trial is begun.

**Article 29.01** [538] [603] [592] **By operation of law**

Criminal actions are continued by operation of law if the accused has not been arrested or if there is not sufficient time for trial at that term of court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 29.02** [539] [604] [593] **By agreement**

A criminal action may be continued by consent of the parties thereto, in open court, at any time. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 29.03** [540] [605] [594] **For sufficient cause shown**

A criminal action may be continued on the written motion of the State or of the defendant, upon sufficient cause shown; which cause shall be fully set forth in the motion. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 29.04** [541] [606] [595] **First motion by State**

It shall be sufficient, upon the first motion by the State for a continuance, if the same be for the want of a witness, to state:

1. The name of the witness and his residence, if known, or that his residence is unknown;
2. The diligence which has been used to procure his attendance; and it shall not be considered sufficient diligence to have caused to be issued, or to have applied for, a subpoena, in cases where the law authorized an attachment to issue; and
3. That the testimony of the witness is believed by the applicant to be material for the State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 29.05** [542] [607] [596] **Subsequent motion by State**

On any subsequent motion for a continuance by the State, for the want of a witness, the motion, in addition to the requisites in the preceding Article, must show:

## **Art. 29.05** CODE OF CRIMINAL PROCEDURE

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1. The facts which the applicant expects to establish by the witness, and it must appear to the court that they are material;
2. That the applicant expects to be able to procure the attendance of the witness at the next term of the court; and
3. That the testimony cannot be procured from any other source during the present term of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## **Art. 29.06** [543] [608] [597] **First motion by defendant**

In the first motion by the defendant for a continuance, it shall be necessary, if the same be on account of the absence of a witness, to state:

1. The name of the witness and his residence, if known, or that his residence is not known.
2. The diligence which has been used to procure his attendance; and it shall not be considered sufficient diligence to have caused to be issued, or to have applied for, a subpoena, in cases where the law authorized an attachment to issue.
3. The facts which are expected to be proved by the witness, and it must appear to the court that they are material.
4. That the witness is not absent by the procurement or consent of the defendant.
5. That the motion is not made for delay.
6. That there is no reasonable expectation that attendance of the witness can be secured during the present term of court by a postponement of the trial to some future day of said term. The truth of the first, or any subsequent motion, as well as the merit of the ground set forth therein and its sufficiency shall be addressed to the sound discretion of the court called to pass upon the same, and shall not be granted as a matter of right. If a motion for continuance be overruled, and the defendant convicted, if it appear upon the trial that the evidence of the witness or witnesses named in the motion was of a material character, and that the facts set forth in said motion were probably true, a new trial should be granted, and the cause continued or postponed to a future day of the same term. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## **Art. 29.07** [544] [609] [598] **Subsequent motion by defendant**

Subsequent motions for continuance on the part of the defendant shall, in addition to the requisites in the preceding Article, state also:

1. That the testimony cannot be procured from any other source known to the defendant; and
2. That the defendant has reasonable expectation of procuring the same at the next term of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## **Art. 29.08** [545] [610] [599] **Motion sworn to**

All motions for continuance on the part of the defendant must be sworn to by himself. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## **Art. 29.09** [547] [612] [601] **Controverting motion**

Any material fact stated, affecting diligence, in a motion for a continuance, may be denied in writing by the adverse party. The

denial shall be supported by the oath of some credible person, and filed as soon as practicable after the filing of such motion. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 29.10** [548] [613] [602] **When denial is filed**

When such denial is filed, the issue shall be tried by the judge; and he shall hear testimony by affidavits, and grant or refuse continuance, according to the law and facts of the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 29.11** [549] [614] [603] **Argument**

No argument shall be heard on a motion for a continuance, unless requested by the judge; and when argument is heard, the applicant shall have the right to open and conclude it. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 29.12** [550] [615] [604] **Bail resulting from continuance**

If a defendant in a capital case demand a trial, and it appears that more than one continuance has been granted to the State, and that the defendant has not before applied for a continuance, he shall be entitled to be admitted to bail, unless it be made to appear to the satisfaction of the court that a material witness of the State had been prevented from attendance by the procurement of the defendant or some person acting in his behalf. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 29.13** [551] [616] [605] **Continuance after trial is begun**

A continuance or postponement may be granted on the motion of the State or defendant after the trial has begun, when it is made to appear to the satisfaction of the court that by some unexpected occurrence since the trial began, which no reasonable diligence could have anticipated, the applicant is so taken by surprise that a fair trial cannot be had. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER THIRTY

### DISQUALIFICATION OF THE JUDGE

Art.

- 30.01 Causes which disqualify.
- 30.02 District judge disqualified.
- 30.03 County judge disqualified.
- 30.04 Special judge to take oath.
- 30.05 Record made by clerk.
- 30.06 Compensation.
- 30.07 Justice disqualified.
- 30.08 Order of transfer.

**Article 30.01** [552] [617] [606] **Causes which disqualify**

No judge or justice of the peace shall sit in any case where he may be the party injured, or where he has been of counsel for the State or the accused, or where the accused or the party injured may be connected with him by consanguinity or affinity within the third degree. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 30.02** [553] [618] [607] **District judge disqualified**

Whenever any case is pending in which the district judge or criminal district judge is disqualified from trying the case, no change of venue shall be made necessary thereby; but the judge presiding shall certify that fact to the presiding judge of the administrative judicial district in which the case is pending and the presiding judge of such administrative judicial district shall assign a judge to try such case in accordance with the provisions of Article 200a, V.A.C.S. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 30.03** [554] [621] **County judge disqualified**

When the judge of the county court or county court at law, or of any county criminal court, is disqualified in any criminal case pending in the court of which he is judge, the parties may by consent agree upon a special judge to try such case. If they fail to agree upon a special judge to try such case, on or before the third day of the term at which such case may be called for trial, the practicing attorneys of the court present may elect from among their number a special judge who shall try the case. The election of the special judge shall be conducted in accordance with the provisions of Article 1887, et seq., V.A.C.S. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 30.04** [555] [620-622] **Special judge to take oath**

The attorney agreed upon or appointed shall, before he enters upon his duties as special judge, take the oath of office required by the Constitution. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 772.

**Art. 30.05** [556] [620-622] **Record made by clerk**

When a special judge is agreed upon by the parties or elected as herein provided, the clerk shall enter in the minutes as a part of the proceedings in such cause a record showing:

1. That the judge of the court was disqualified to try the cause;
2. That such special judge (naming him) was by consent of the parties agreed upon or elected;
3. That the oath of office prescribed by law has been duly administered to such special judge. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 30.06** [557] [623] [610b] **Compensation**

A special judge selected or appointed in accordance with the preceding Articles shall receive the same compensation as provided by law for regular judges in similar cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 772.

**Art. 30.07** [558] [624] [611] **Justice disqualified**

If a justice of the peace be disqualified from sitting in any criminal action pending before him, he shall transfer the same to any justice of the peace in the county who is not disqualified to try the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 30.08** [559] [625] [612] **Order of transfer**

In cases provided for in the preceding Article, the order of transfer shall state the cause of the transfer, and name the court to which

the transfer is made, and the time and place, when and where, the parties and witnesses shall appear before such court. The rules governing the transfer of cases from the district to inferior courts shall govern in the transfer of cases under the preceding Article. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER THIRTY-ONE

### CHANGE OF VENUE

Art.

- 31.01 On court's own motion.
- 31.02 State may have.
- 31.03 Granted on motion of defendant.
- 31.04 Motion may be controverted.
- 31.05 Clerk's duties on change of venue.
- 31.06 If defendant be in custody.
- 31.07 Witness need not again be summoned.

#### **Article 31.01 [560] [626] [613] On court's own motion**

Whenever in any case of felony or misdemeanor punishable by confinement, the judge presiding shall be satisfied that a trial, alike fair and impartial to the accused and to the State, cannot, from any cause, be had in the county in which the case is pending, he may, upon his own motion, after due notice to accused and the State, and after hearing evidence thereon, order a change of venue to any county in the judicial district in which such county is located or in an adjoining district, stating in his order the grounds for such change of venue. The judge, upon his own motion, after ten days notice to the parties or their counsel, may order a change of venue to any county beyond an adjoining district; provided, however, an order changing venue to a county beyond an adjoining district shall be grounds for reversal if, upon timely contest by the defendant, the record of the contest affirmatively shows that any county in his own and the adjoining district is not subject to the same conditions which required the transfer. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 772.

#### **Art. 31.02 [561] [627] [614] State may have**

Whenever the district or county attorney shall represent in writing to the court before which any felony or misdemeanor case punishable by confinement, is pending, that, by reason of existing combinations or influences in favor of the accused, or on account of the lawless condition of affairs in the county, a fair and impartial trial as between the accused and the State cannot be safely and speedily had; or whenever he shall represent that the life of the prisoner, or of any witness, would be jeopardized by a trial in the county in which the case is pending, the judge shall hear proof in relation thereto, and if satisfied that such representation is well-founded and that the ends of public justice will be subserved thereby, he shall order a change of venue to any county in the judicial district in which such county is located or in an adjoining district. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 31.03 [562] [628] [615] Granted on motion of defendant**

A change of venue may be granted in any felony or misdemeanor case punishable by confinement on the written motion of the defend-

ant, supported by his own affidavit and the affidavit of at least two credible persons, residents of the county where the prosecution is instituted, for either of the following causes, the truth and sufficiency of which the court shall determine:

1. That there exists in the county where the prosecution is commenced so great a prejudice against him that he cannot obtain a fair and impartial trial; and

2. That there is a dangerous combination against him instigated by influential persons, by reason of which he cannot expect a fair trial.

An order changing venue to a county beyond an adjoining district shall be grounds for reversal, if upon timely contest by defendant, the record of the contest affirmatively shows that any county in his own and the adjoining district is not subject to the same conditions which required the transfer. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 31.04** [567] [633] [620] **Motion may be controverted**

The credibility of the persons making affidavit for change of venue, or their means of knowledge, may be attacked by the affidavit of a credible person. The issue thus formed shall be tried by the judge, and the motion granted or refused, as the law and facts shall warrant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 31.05** [570] [635-636] **Clerk's duties on change of venue**

Where an order for a change of venue of any court in any criminal cause in this State has been made the clerk of the court where the prosecution is pending shall make out a certified copy of the court's order directing such change of venue, together with a certified copy of the defendant's bail bond or personal bond, together with all the original papers in said cause and also a certificate of the said clerk under his official seal that such papers are the papers and all the papers on file in said court in said cause; and he shall transmit the same to the clerk of the court to which the venue has been changed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 31.06** [573] [639] [626] **If defendant be in custody**

When the venue is changed in any criminal action if the defendant be in custody, an order shall be made for his removal to the proper county, and his delivery to the sheriff thereof before the next succeeding term of the court of the county to which the case is to be taken, and he shall be delivered by the sheriff as directed in the order. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 31.07** [575] [641] [628] **Witness need not again be summoned**

When the venue in a criminal action has been changed, it shall not be necessary to have the witnesses therein again subpoenaed, attached or bailed, but all the witnesses who have been subpoenaed, attached or bailed to appear and testify in the cause shall be held bound to appear before the court to which the cause has been transferred, as if there had been no such transfer. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.



## **TRIAL AND ITS INCIDENTS**

### **CHAPTER THIRTY-TWO**

#### **DISMISSING PROSECUTIONS**

Art.

32.01 Defendant in custody and no indictment presented.

32.02 Dismissal by State's attorney.

#### **Article 32.01 [576] [642] [629] Defendant in custody and no indictment presented**

When a defendant has been detained in custody or held to bail for his appearance to answer any criminal accusation before the district court, the prosecution, unless otherwise ordered by the court, for good cause shown, supported by affidavit, shall be dismissed and the bail discharged, if indictment or information be not presented against such defendant at the next term of the court which is held after his commitment or admission to bail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 32.02 [577] [37, 643] [37, 630] Dismissal by State's attorney**

The attorney representing the State may, by permission of the court, dismiss a criminal action at any time upon filing a written statement with the papers in the case setting out his reasons for such dismissal, which shall be incorporated in the judgment of dismissal. No case shall be dismissed without the consent of the presiding judge. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **CHAPTER THIRTY-THREE**

#### **THE MODE OF TRIAL**

Art.

33.01 Jury; when of twelve, when of six.

33.02 Failure to register or pay poll tax.

33.03 Presence of defendant.

33.04 May appear by counsel.

33.05 On bail during trial.

33.06 Sureties bound in case of mistrial.

33.07 Criminal docket.

33.08 To fix day for criminal docket.

33.09 Jury drawn.

#### **Article 33.01 [578] [645] [632] Jury; when of twelve, when of six**

In the district court, the jury shall consist of twelve qualified jurors; in the county court and inferior courts, the jury shall consist of six qualified jurors. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 33.02** [579] **Failure to register or pay poll tax**

Failure to pay poll tax or register to vote shall not disqualify any person from jury service. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 33.03** [580] [646] [633] **Presence of defendant**

In all prosecutions for felonies, the defendant must be personally present at the trial, and he must likewise be present in all cases of misdemeanor when the punishment or any part thereof is imprisonment in jail; provided, however, that in all cases, when the defendant voluntarily absents himself after pleading to the indictment or information, the trial may proceed to its conclusion. When the record in the appellate court shows that the defendant was present at the commencement, or any portion of the trial, it shall be presumed in the absence of all evidence in the record to the contrary that he was present during the whole trial. Provided, however, that the presence of the defendant shall not be required at the hearing on the motion for new trial in any misdemeanor case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 33.04** [581] [647] [634] **May appear by counsel**

In other misdemeanor cases, the defendant may, by consent of the State's attorney, appear by counsel, and the trial may proceed without his personal presence. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 33.05** [582] [648-900] **On bail during trial**

If the defendant is on bail when the trial commences, such bail shall be considered as discharged if he is acquitted. If a verdict of guilty is returned against him, the discharge of his bail shall be governed by other provisions of this Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 33.06** [583] [649] [636] **Sureties bound in case of mistrial**

If there be a mistrial in a felony case, the original sureties, if any, of the defendant shall be still held bound for his appearance until they surrender him in accordance with the provisions of this Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 33.07** [584] [650] [637] **Criminal docket**

Each clerk of a court of record having criminal jurisdiction shall keep a docket in which shall be set down the style and file number of each criminal action, the nature of the offense, the names of counsel, the proceedings had therein, and the date of each proceeding. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 33.08** [585, 586] [651, 652] [638, 639] **To fix day for criminal docket**

The district courts and county courts shall have control of their respective dockets as to the settings of criminal cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 33.09** [591, 626] [660, 647] **Jury drawn**

Jury panels, including special venires, for the trial of criminal cases shall be selected and summoned (with return on summons) in the same manner as the selection of panels for the trial of civil cases except as otherwise provided in this Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER THIRTY-FOUR

### SPECIAL VENIRE IN CAPITAL CASES

Art.

- 34.01 Special venire.
- 34.02 Additional names drawn.
- 34.03 Instructions to sheriff.
- 34.04 Notice of list.

**Article 34.01** [587, 597, 601a] [655, 668] [642, 650] **Special venire**

A "special venire" is a writ issued in a capital case by order of the district court, commanding the sheriff to summon either verbally or by mail such a number of persons, not less than 50, as the court may order, to appear before the court on a day named in the writ from whom the jury for the trial of such case is to be selected. Where as many as one hundred jurors have been summoned in such county for regular service for the week in which such capital case is set for trial, the judge of the court having jurisdiction of a capital case in which a motion for a special venire has been made, shall grant or refuse such motion for a special venire, and upon such refusal require the case to be tried by regular jurors summoned for service in such county for the week in which such capital case is set for trial and such additional talesmen as may be summoned by the sheriff upon order of the court as provided in Article 34.02 of this Code, but the clerk of such court shall furnish the defendant or his counsel a list of the persons summoned as provided in Article 34.04. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 34.02** [596] [667] [649] **Additional names drawn**

In any criminal case in which the court deems that the veniremen theretofore drawn will be insufficient for the trial of the case, or in any criminal case in which the venire has been exhausted by challenge or otherwise, the court shall order additional veniremen in such numbers as the court may deem advisable, to be summoned as follows:

(a) In a jury wheel county, the names of those to be summoned shall be drawn from the jury wheel.

(b) In counties not using the jury wheel, the veniremen shall be summoned by the sheriff. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 34.03** **Instructions to sheriff**

When the sheriff is ordered by the court to summon persons upon a special venire whose names have not been selected under the Jury Wheel Law, the court shall, in every case, caution and direct the sheriff to summon such persons as have legal qualifications to serve on juries, informing him of what those qualifications are, and

shall direct him, as far as he may be able to summon persons of good character who can read and write, and such as are not prejudiced against the defendant or biased in his favor, if he knows of such bias or prejudice. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 34.04** [601] [672] [654] Notice of list

No defendant in a capital case shall be brought to trial until he shall have had at least two days (including holidays) a copy of the names of the persons summoned as veniremen, for the week for which his case is set for trial except where he waives the right or is on bail. When such defendant is on bail, the clerk of the court in which the case is pending shall furnish such a list to the defendant or his counsel at least two days prior to the trial (including holidays) upon timely motion by the defendant or his counsel therefor at the office of such clerk, and the defendant shall not be brought to trial until such list has been furnished defendant or his counsel for at least two days (including holidays). Where the venire is exhausted, by challenges or otherwise, and additional names are drawn, the defendant shall not be entitled to two days service of the names additionally drawn, but the clerk shall compile a list of such names promptly after they are drawn and if the defendant is not on bail, the sheriff shall serve a copy of such list promptly upon the defendant, and if on bail, the clerk shall furnish a copy of such list to the defendant or his counsel upon request, but the proceedings shall not be delayed thereby. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**CHAPTER THIRTY-FIVE****FORMATION OF THE JURY**

Art.

- 35.01 Jurors called.
- 35.02 Sworn to answer questions.
- 35.03 Excuses.
- 35.04 Claiming exemption.
- 35.05 Excused by consent.
- 35.06 Challenge to array first heard.
- 35.07 Challenge to the array.
- 35.08 When challenge is sustained.
- 35.09 List of new venire.
- 35.10 Court to try qualifications.
- 35.11 Preparation of list.
- 35.12 Mode of testing.
- 35.13 Passing juror for challenge.
- 35.14 A peremptory challenge.
- 35.15 Number of challenges.
- 35.16 Reasons for challenge for cause.
- 35.17 Voir dire examination.
- 35.18 Other evidence on challenge.
- 35.19 Absolute disqualification.
- 35.20 Names called in order.
- 35.21 Judge to decide qualifications.
- 35.22 Oath to jury.
- 35.23 Jurors may separate.

Art.

- 35.24 Special pay for veniremen.
- 35.25 Making peremptory challenge.
- 35.26 Lists returned to clerk.
- 35.27 Witness fees.
- 35.28 When no clerk.

### **Article 35.01 [602] [673] [655] Jurors called**

When a case is called for trial and the parties have announced ready for trial, the names of those summoned as jurors in the case shall be called. Those not present may be fined not exceeding fifty dollars. An attachment may issue on request of either party for any absent summoned juror, to have him brought forthwith before the court. A person who is summoned but not present, may upon an appearance, before the jury is qualified, be tried as to his qualifications and impaneled as a juror unless challenged, but no cause shall be unreasonably delayed on account of his absence. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 35.02 [603] [674] [656] Sworn to answer questions**

To those present the court shall cause to be administered this oath: "You, and each of you, solemnly swear that you will make true answers to such questions as may be propounded to you by the court, or under its directions, touching your service and qualifications as a juror, so help you God." Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 35.03 [604] [675] [657] Excuses**

The court shall then hear and determine excuses offered for not serving as a juror, and if he deems the excuse sufficient, he shall discharge the juror. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 35.04 [605] [676] Claiming exemption**

Any person summoned as a juror who is exempt by law from jury service, may, if he desires to claim his exemption, make an affidavit stating his exemption, and file it any time before the convening of said court with the clerk thereof, which shall be sufficient excuse without appearing in person. The affidavit may be sworn to before the officer summoning each juror. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 35.05 [606] [677] [658] Excused by consent**

One summoned upon a special venire may by consent of both parties be excused from attendance by the court at any time before he is impaneled. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 35.06 [607] [678] [659] Challenge to array first heard**

The court shall hear and determine a challenge to the array before interrogating those summoned as to their qualifications. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 35.07 [608] [679-683] Challenge to the array**

Each party may challenge the array only on the ground that the officer summoning the jury has wilfully summoned jurors with a view

to securing a conviction or an acquittal. All such challenges must be in writing setting forth distinctly the grounds of such challenge. When made by the defendant, it must be supported by his affidavit or the affidavit of any credible person. When such challenge is made, the judge shall hear evidence and decide without delay whether or not the challenge shall be sustained. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.08** [609] [684] [665] **When challenge is sustained**

The array of jurors summoned shall be discharged if the challenge be sustained, and the court shall order other jurors to be summoned in their stead, and direct that the officer who summoned those so discharged, and on account of whose misconduct the challenge has been sustained shall not summon any other jurors in the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.09** [610] [685] [666] **List of new venire**

When a challenge to the array has been sustained, the defendant shall be entitled, as in the first instance, to service of a copy of the list of names of those summoned by order of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.10** [611] [686] [667] **Court to try qualifications**

When no challenge to the array has been made, or if made, has been over-ruled, the court shall proceed to try the qualifications of those present who have been summoned to serve as jurors. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.11** **Preparation of list**

The trial judge, upon the demand of the defendant or his attorney, or of the State's counsel, shall cause the names of all the members of the general panel drawn or assigned as jurors in such case to be placed in a receptacle and well-shaken, and the clerk shall draw therefrom the names of a sufficient number of jurors from which a jury may be selected to try such case, and such names shall be written, in the order drawn, on the jury list from which the jury is to be selected to try such case, and write the names as drawn upon two slips of paper and deliver one slip to the State's counsel and the other to the defendant or his attorney. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.12** [612] [687] [668] **Mode of testing**

In testing the qualification of a prospective juror after he has been sworn, he shall be asked by the court, or under its direction:

1. Except for payment of poll tax or registration, are you a qualified voter in this county and State under the Constitution and Laws of this State?
2. Are you a householder in the county or a freeholder in the State or the wife of such householder?
3. Have you ever been convicted of theft or any felony?
4. Are you under indictment or legal accusation for theft or any felony? Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.13** [613] [688-689] **Passing juror for challenge**

A juror held to be qualified shall be passed for acceptance or challenge first to the State and then to the defendant. Challenges to jurors are either peremptory or for cause. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.14** [614] [690] [671] **A peremptory challenge**

A peremptory challenge is made to a juror without assigning any reason therefor. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.15** [615, 634, 635] [691, 709, 710] [672, 689, 690] **Number of challenges**

(a) In capital cases both the State and defendant shall be entitled to fifteen peremptory challenges. Where two or more defendants are tried together, the State shall be entitled to eight peremptory challenges for each defendant; and each defendant shall be entitled to eight peremptory challenges.

(b) In non-capital felony cases and in capital cases where the State has made known to the court that it will not seek the death penalty, the State and defendant shall each be entitled to ten peremptory challenges. If two or more defendants are tried together each defendant shall be entitled to six peremptory challenges and the State to six for each defendant.

(c) The State and the defendant shall each be entitled to five peremptory challenges in a misdemeanor tried in the district court and to three in the county court, or county court at law. If two or more defendants are tried together, each defendant shall be entitled to three such challenges and the State to three for each defendant in either court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.16** [616] [692] [673] **Reasons for challenge for cause**

(a) A challenge for cause is an objection made to a particular juror, alleging some fact which renders him incapable or unfit to serve on the jury. A challenge for cause may be made by either the State or the defense for any one of the following reasons:

1. That he is not a qualified voter in the State and county under the Constitution and laws of the State; provided, however, the failure to pay a poll tax or register to vote shall not be a disqualification;

2. That he is neither a householder in the county nor a freeholder in the State, nor the wife of such a householder;

3. That he has been convicted of theft or any felony;

4. That he is under indictment or other legal accusation for theft or any felony;

5. That he is insane or has such defect in the organs of seeing, feeling or hearing, or such bodily or mental defect or disease as to render him unfit for jury service;

6. That he is a witness in the case;

7. That he served on the grand jury which found the indictment;

8. That he served on a petit jury in a former trial of the same case;

9. That he has a bias or prejudice in favor of or against the defendant;

10. That from hearsay, or otherwise, there is established in the mind of the juror such a conclusion as to the guilt or innocence of the defendant as would influence him in his action in finding a verdict. To ascertain whether this cause of challenge exists, the juror shall first be asked whether, in his opinion, the conclusion so established will influence his verdict. If he answers in the affirmative, he shall be discharged without further interrogation by either party or the court. If he answers in the negative, he shall be further examined as to how his conclusion was formed, and the extent to which it will affect his action; and, if it appears to have been formed from reading newspaper accounts, communications, statements or reports or mere rumor or hearsay, and if the juror states that he feels able, notwithstanding such opinion, to render an impartial verdict upon the law and the evidence, the court, if satisfied that he is impartial and will render such verdict, may, in its discretion, admit him as competent to serve in such case. If the court, in its discretion, is not satisfied that he is impartial, the juror shall be discharged;

11. That he cannot read or write.

No juror shall be impaneled when it appears that he is subject to the third, fourth or fifth grounds of challenge for cause set forth above, although both parties may consent. All other grounds for challenge may be waived by the party or parties in whose favor such grounds of challenge exist.

(b) A challenge for cause may be made by the State for any of the following reasons:

1. That the juror has conscientious scruples in regard to the infliction of the punishment of death for crime, in a capital case, where the State is seeking the death penalty;

2. That he is related within the third degree of consanguinity or affinity to the defendant; and

3. That he has a bias or prejudice against any phase of the law upon which the State is entitled to rely for conviction or punishment.

(c) A challenge for cause may be made by the defense for any of the following reasons:

1. That he is related within the third degree of consanguinity or affinity to the person injured by the commission of the offense, or to any prosecutor in the case; and

2. That he has a bias or prejudice against any of the law applicable to the case upon which the defense is entitled to rely, either as a defense to some phase of the offense for which the defendant is being prosecuted or as a mitigation thereof or of the punishment therefor. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 35.17 Voir dire examination**

1. When the court in its discretion so directs, in a misdemeanor or non-capital felony case, or in a capital case in which the state's attorney has made known that he will not seek the death penalty, the state and defendant shall conduct the voir dire examination of prospective jurors in the presence of the entire panel.

2. When the state's attorney has made known that he will seek the death penalty, the court shall propound to the entire panel of prospective jurors questions concerning the principles, as applicable to the case on trial, of reasonable doubt, burden of proof, return of indictment by grand jury, presumption of innocence, and opinion. Then, on demand of the State or defendant, either is entitled to ex-



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amine each juror on voir dire individually and apart from the entire panel, and may further question the juror on the principles propounded by the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.18** [617] [693] [674] **Other evidence on challenge**

Upon a challenge for cause, the examination is not confined to the answers of the juror, but other evidence may be heard for or against the challenge. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.19** [619] [695] [676] **Absolute disqualification**

No juror shall be impaneled when it appears that he is subject to the third, fourth or fifth cause of challenge in Article 35.16, though both parties may consent. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.20** [620] [696] [677] **Names called in order**

In selecting the jury from the persons summoned, the names of such persons shall be called in the order in which they appear upon the list furnished the defendant. Each juror shall be tried and passed upon separately. A person who has been summoned, but who is not present, may, upon his appearance before the jury is completed, be tried as to his qualifications and impaneled as a juror, unless challenged, but no cause shall be unreasonably delayed on account of such absence. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.21** [621] [697] [678] **Judge to decide qualifications**

The court is the judge, after proper examination, of the qualifications of a juror, and shall decide all challenges without delay and without argument thereupon. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.22** [622] [698] [679] **Oath to jury**

When the jury has been selected, the following oath shall be administered them by the court or under its direction: "You and each of you do solemnly swear that in the case of the State of Texas against the defendant, you will a true verdict render according to the law and the evidence, so help you God". Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.23** [623] [699] [680] **Jurors may separate**

The court may adjourn veniremen to any day of the term. When jurors have been sworn in a felony case, the court may, at its discretion, permit the jurors to separate until the court has given its charge to the jury, after which the jury shall be kept together, and not permitted to separate except to the extent of housing female jurors separate and apart from male jurors, until a verdict has been rendered or the jury finally discharged, unless by permission of the court with the consent of each party. Any person who makes known to the jury which party did not consent to separation shall be punished for contempt of court. If such jurors are kept overnight, facilities shall be provided for female jurors separate and apart from the facilities provided for male jurors. In misdemeanor cases the court may, at its discretion, permit the jurors to separate at any time before the verdict. In any case in which the jury is permitted to separate, the

court shall first give the jurors proper instructions with regard to their conduct as jurors when so separated. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.24** [625] [701] **Special pay for veniremen**

All veniremen and jurors shall be paid a per diem of not less than four dollars nor more than ten dollars per day, as fixed by the commissioners court of such county, which shall be paid out of the jury fund. No greater sum shall be paid challenged veniremen, regardless of the number of cases to which they may be summoned in any one day. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.25** [636] [711] [691] **Making peremptory challenge**

In non-capital cases and in capital cases in which the State's attorney has announced that he will not qualify the jury for, or seek the death penalty, the party desiring to challenge any juror peremptorily shall strike the name of such juror from the list furnished him by the clerk. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.26** [637] [712] [692] **Lists returned to clerk**

When the parties have made or declined to make their peremptory challenges, they shall deliver their lists to the clerk. The clerk shall, if the case be in the district court, call off the first twelve names on the lists that have not been stricken; and, if the case be in the county court, he shall call off the first six names on the lists that have not been stricken, those whose names are called shall be the jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.27** [1036] [1138] [1003] **Witness fees**

(1) Any witness who has been subpoenaed, or has been attached and given bond for his appearance before any court, or before any grand jury, out of the county of his residence, to testify in a case regardless of disposition of said case, and who appears in compliance with the obligations of such subpoena or bond, shall be allowed seven cents per mile going to and returning from the court or grand jury, by the nearest practical conveyance, and ten dollars per day for each day he may necessarily be absent from home as a witness in such case.

Provided, any witness who has been subpoenaed or has been attached and given bond for his appearance before any court, out of the county of his residence, to testify in a case, and who appears in compliance with said subpoena or with the obligations of such bond, and the case in which he is a witness is reset for a later day in the same term of court, not exceeding four days, shall not be paid mileage for any additional trip to or from court he may make by reason of the resetting of said case unless permission first had and obtained from the trial judge to make said trip, but shall be entitled to receive his per diem for the additional days he may be in attendance upon court by reason of the resetting of the case.

Witnesses shall receive from the State, for attendance upon courts and grand juries in counties other than that of their residence in obedience to subpoenas issued under the provisions of law seven cents per mile, going to and returning from the court or grand jury, by the nearest practical conveyance, and ten dollars per day for each day they may necessarily be absent from home as a witness to be paid as now provided by law; and the foreman of the grand jury, or the

clerk of the court shall issue such witness certificates therefor, after deducting therefrom the amounts advanced by the officers serving said subpoenas, as shown by the returns on said subpoenas; which certificates shall be approved by the judge and recorded by the clerk in a well-bound book kept for that purpose; provided, that when an indictment can be found from the evidence taken before an inquest or examining trial, no subpoena or attachment shall issue for a witness who resides out of the county in which the prosecution is pending to appear before a grand jury. When the grand jury shall certify to the judge that sufficient evidence cannot be secured upon which to find an indictment, except upon testimony of non-resident witnesses, the judge may have subpoenas issued as provided for by law to other counties for witnesses to testify before the grand jury, not to exceed one witness to any one fact, nor more than three witnesses to any one case pending before the grand jury.

(2) Witness fees shall be allowed only to such witnesses as may have been summoned on the sworn written motion of the State's attorney or the defendant or his attorney as provided in this Code, which sworn motion must be made at the time of the procuring of the subpoena or attachment for the witness. The judge to whom a motion for attachment is made may, in his discretion, grant or refuse such motion, when presented in term-time.

(3) The witness shall make an affidavit stating the number of miles he will have traveled going to and returning from the court, by the nearest practical conveyance, and the number of days he will have been necessarily absent in going to and returning from the place of trial; which affidavit shall be a part of the certificate issued by the clerk, copy of which is to be kept in a well-bound book. Fees shall not be allowed to more than two witnesses to the same fact, unless the judge before whom the cause is tried shall after such case has been tried, continued or otherwise disposed of, certify that such witnesses were necessary in the cause. Witness, when attached and conveyed by sheriff, shall not be entitled to receive fees while in custody of such officer.

No witness subpoenaed or attached for the purpose of proving the general reputation of the defendant shall be allowed the benefits hereof, provided the trial judge may, in his discretion, allow pay to not more than two character witnesses for the State and to not more than two character witnesses for the defendant.

(4) The judge, when any such claim is presented to him, shall examine the same carefully, and inquire into the correctness thereof, and approve same, in whole or in part, or disapprove the entire claim, as the facts and law may require; and such approval shall be conditioned only upon and subject to the approval of the State Comptroller, as provided for in Article 52.30; and said claim with the action of the judge thereon shall be entered on the minutes of said court and upon the approval of said claim by the judge, the clerk if there be one, otherwise the judge, shall make a certified list of said claim, upon forms prescribed by the Comptroller, furnishing such information as required by him, and send the same to the Comptroller at such times as he may require. No fee shall be required of the witness for the services herein provided. The service mentioned in the foregoing sentence shall include the issuance of certificate, swearing the witness to claim for witness fees and reporting to Comptroller, and witness shall not be required to pay any additional amount for the completion of the certificate.

(5) The Comptroller, upon receipt of such claim and the certified list provided for in the foregoing section, shall carefully examine the

same, and if he deems said claim correct, and in compliance with and authorized by law in every respect, draw his warrant on the State Treasury for the amount due in favor of the witness entitled to same, or to any person such certificate has been assigned by such witness, but no warrant shall issue to any assignee of such witness claim unless the assignment is made under oath and acknowledged before some person duly authorized to administer oaths, certified to by the officer and under seal. If the appropriation for paying such account is exhausted, the Comptroller shall file the same away and issue a certificate in the name of the witness entitled to same, stating therein the amount of the claim. All such claims not filed in the office of the Comptroller within twelve months from the date same became due and payable shall be forever barred. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 35.28** When no clerk

In each instance in Article 35.27 in which the clerk of the court is authorized or directed to perform any act, the judge of such court shall perform the same if there is no clerk of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**CHAPTER THIRTY-SIX****THE TRIAL BEFORE THE JURY**

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**Article 36.01 [642] [717] [697] Order of proceeding in trial**

A jury being impaneled in any criminal action, the cause shall proceed in the following order:

1. The indictment or information shall be read to the jury by the attorney prosecuting. When prior convictions are alleged for purposes of enhancement only and are not jurisdictional, that portion of the indictment or information reciting such convictions shall not be read until the hearing on punishment is held as provided in Article 37.07.
2. The special pleas, if any, shall be read by the defendant's counsel, and if the plea of not guilty is also relied upon, it shall also be stated.
3. The State's attorney shall state to the jury the nature of the accusation and the facts which are expected to be proved by the State in support thereof.
4. The testimony on the part of the State shall be offered.
5. The nature of the defenses relied upon and the facts expected to be proved in their support shall be stated by defendant's counsel.
6. The testimony on the part of the defendant shall be offered.
7. Rebutting testimony may be offered on the part of each party.
8. In the event of a finding of guilty, the trial shall then proceed as set forth in Article 37.07. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.02 [643] [718] [698] Testimony at any time**

The court shall allow testimony to be introduced at any time before the argument of a cause is concluded, if it appears that it is necessary to a due administration of justice. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.03 [644] [719] [699] Witnesses placed under rule**

At the request of either party, the witnesses on both sides may be sworn and placed in the custody of an officer and removed out of the courtroom to some place where they cannot hear the testimony as delivered by any other witness in the cause. This is termed placing witnesses under rule. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.04 [645] [720-721] Part of witnesses under rule**

The party requesting the witnesses to be placed under rule may designate such as he desires placed under rule, and those not designated will be exempt from the rule, or the party may have all of the witnesses in the case placed under rule. The enforcement of the rule is in the discretion of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.05** [646] [722] [702] **Not to hear testimony**

Witnesses under rule shall be attended by an officer, and all their reasonable wants provided for, unless the court, in its discretion, directs that they be allowed to go at large; but in no case where the witnesses are under rule shall they be allowed to hear any testimony in the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.06** [647] [723] [703] **Instructed by the court**

Witnesses, when placed under rule, shall be instructed by the court that they are not to converse with each other or with any other person about the case, except by permission of the court, and that they are not to read any report of or comment upon the testimony in the case while under rule. The officer who attends the witnesses shall report to the court at once any violation of its instructions, and the party violating the same shall be punished for contempt of court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.07** [648] [724] [704] **Order of argument**

The order of argument may be regulated by the presiding judge; but the State's counsel shall have the right to make the concluding address to the jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.08** [649] [725] [705] **Number of arguments**

The court shall never restrict the argument in felony cases to a number of addresses less than two on each side. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.09** [650] [726] [706] **Severance on separate indictments**

Two or more defendants who are jointly or separately indicted or complained against for the same offense or an offense growing out of the same transaction may be, in the discretion of the court, tried jointly or separately as to one or more defendants; provided that in any event either defendant may testify for the other or on behalf of the State; and provided further, that in cases in which, upon timely motion to sever, and evidence introduced thereon, it is made known to the court that there is a previous admissible conviction against one defendant or that a joint trial would be prejudicial to any defendant for any reason, the court shall order a severance as to the defendant whose joint trial would prejudice the other defendant or defendants. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.10** [652] [728] [708] **Order of trial**

If a severance is granted, the defendants may agree upon the order in which they are to be tried, but if they fail to agree, the court shall direct the order of the trial. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.11** [655] [731-733] **Discharge before verdict**

If it appears during a trial that the court has no jurisdiction of the offense, or that the facts charged in the indictment do not constitute an offense, the jury shall be discharged. The accused shall also

be discharged, but such discharge shall be no bar in any case to a prosecution before the proper court for any offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.12** [656] [732] [712] **Court may commit**

If the want of jurisdiction arises from the fact that the defendant is not liable to prosecution in the county where the indictment was presented, the court may in felony cases order the accused into custody for a reasonable length of time to await a warrant for his arrest from the proper county; or if the offense be bailable, may require him to enter into recognizance to answer before the proper court; in which case a certified copy of the recognizance shall be sent forthwith to the clerk of the proper court, to be enforced by that court in case of forfeiture. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.13** [657] [734] **Jury is judge of facts**

Unless otherwise provided in this Code, the jury is the exclusive judge of the facts, but it is bound to receive the law from the court and be governed thereby. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.14** [658] [735-736] **Charge of court**

Subject to the provisions of Article 36.07 in each felony case and in each misdemeanor case tried in a court of record, the judge shall, before the argument begins, deliver to the jury, except in pleas of guilty, where a jury has been waived, a written charge distinctly setting forth the law applicable to the case; not expressing any opinion as to the weight of the evidence, not summing up the testimony, discussing the facts or using any argument in his charge calculated to arouse the sympathy or excite the passions of the jury. Before said charge is read to the jury, the defendant or his counsel shall have a reasonable time to examine the same and he shall present his objections thereto in writing, distinctly specifying each ground of objection. Said objections may embody errors claimed to have been committed in the charge, as well as errors claimed to have been committed by omissions therefrom or in failing to charge upon issues arising from the facts, and in no event shall it be necessary for the defendant or his counsel to present special requested charges to preserve or maintain any error assigned to the charge, as herein provided. Compliance with the provisions of this Article is all that is necessary to preserve, for review, the exceptions and objections presented to the charge and any amendment or modification thereof. In no event shall it be necessary for the defendant to except to the action of the court in over-ruling defendant's exceptions or objections to the charge. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.15** [659] [737] [717] **Requested special charges**

Before the court reads his charge to the jury, counsel on both sides shall have a reasonable time to present written instructions and ask that they be given to the jury. The court shall give or refuse these charges. The defendant may, by a special requested instruction, call the trial court's attention to error in the charge, as well as omissions therefrom, and no other exception or objection to the court's charge shall be necessary to preserve any error reflected by any special requested instruction which the trial court refuses.

Any special requested charge which is granted shall be incorporated in the main charge and shall be treated as a part thereof, and the jury shall not be advised that it is a special requested charge of either party. The judge shall read to the jury only such special charges as he gives.

When the defendant has leveled objections to the charge or has requested instructions or both, and the court thereafter modifies his charge and rewrites the same and in so doing does not respond to objections or requested charges, or any of them, then the objections or requested charges shall not be deemed to have been waived by the party making or requesting the same, but shall be deemed to continue to have been urged by the party making or requesting the same unless the contrary is shown by the record; no exception by the defendant to the action of the court shall be necessary or required in order to preserve for review the error claimed in the charge. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.16** [660] Final charge

After the judge shall have received the objections to his main charge, together with any special charges offered, he may make such changes in his main charge as he may deem proper, and the defendant or his counsel shall have the opportunity to present their objections thereto and in the same manner as is provided in Article 36.15, and thereupon the judge shall read his charge to the jury as finally written, together with any special charges given, and no further exception or objection shall be required of the defendant in order to preserve any objections or exceptions theretofore made. After the argument begins no further charge shall be given to the jury unless required by the improper argument of counsel or the request of the jury, or unless the judge shall, in his discretion, permit the introduction of other testimony, and in the event of such further charge, the defendant or his counsel shall have the right to present objections in the same manner as is prescribed in Article 36.15. The failure of the court to give the defendant or his counsel a reasonable time to examine the charge and specify the ground of objection shall be subject to review either in the trial court or in the appellate court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.17** [661] [738] [718] Charge certified by judge

The general charge given by the court and all special charges given or refused shall be certified by the judge and filed among the papers in the cause. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.18** [665] [742] [722] Jury may take charge

The jury may take to their jury room the charges given by the court after the same have been filed. They shall not be permitted to take with them any charge or part thereof which the court has refused to give. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.19** [666] [743] [723] Review of charge on appeal

Whenever it appears by the record in any criminal action upon appeal that any requirement of Articles 36.14, 36.15, 36.16, 36.17 and 36.18 has been disregarded, the judgment shall not be reversed unless the error appearing from the record was calculated to injure the rights of defendant, or unless it appears from the record that the defendant has not had a fair and impartial trial. All objections to the charge and



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to the refusal of special charges shall be made at the time of the trial. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.20** [667] [744] [724] **Bill of exceptions**

The defendant, by himself, or counsel, may tender his bills of exceptions to any decision, opinion, order or charge of the court or other proceedings in the case; and the judge shall sign such bills of exceptions, under the rules prescribed in Article 40.10. The bills of exception may be in narrative form or by questions and answers, and no particular form of words shall be required. Where the matter about which complaint is made and the trial court's ruling thereon reasonably appear from any formal or informal bill of exception, same shall be considered upon appeal, regardless of whether or not the bill of exception is multifarious or relates to more than one subject, complaint, or objection. Where the argument of State's counsel about which complaint is made in a bill of exception is manifestly improper, or violates some mandatory statute, or some new fact is thereby injected into the case, it shall not be necessary that the bill of exception negative that the argument was not invited, or in reply to argument of defendant or his counsel, or any other fact by which the argument complained of may have been authorized. If such matters exist, the trial court by qualification or otherwise, may require the bill of exception to reflect any reason whereby the argument complained of would not be error. The transcription of any evidence, testimony, or argument of State's counsel, with the objections made to such evidence, testimony, or argument, shall constitute an acceptable bill of exceptions under this Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.21** [670] [747] [727] **To provide jury room**

The sheriff shall provide a suitable room for the deliberation of the jury and supply them with such necessary food and lodging as he can obtain. No intoxicating liquor shall be furnished them. In all cases wherein a jury consists partly of male jurors and partly of female jurors, the sheriff shall provide facilities for the female jurors separate and apart from the facilities provided for the male jurors. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.22** [671] [748] [728] **Conversing with jury**

No person shall be permitted to be with a jury while it is deliberating. No person shall be permitted to converse with a juror about the case on trial except in the presence and by the permission of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.23** [672] [749] [729] **Violation of preceding Article**

Any juror or other person violating the preceding Article shall be punished for contempt of court by confinement in jail not to exceed three days or by fine not to exceed one hundred dollars, or by both such fine and imprisonment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.24** [673] [750] [730] **Officer shall attend jury**

The sheriff of the county shall furnish the court with a bailiff during the trial of any case to attend the wants of the jury and to act under the direction of the court. If the person furnished by the sheriff is to be called as a witness in the case he may not serve as bailiff. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.25** [674] [751] [731] **Written evidence**

There shall be furnished to the jury upon its request any exhibits admitted as evidence in the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.26** [675] [752] [732] **Foreman of jury**

Each jury shall appoint one of its members foreman. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.27** [676] [753] [733] **Jury may communicate with court**

When the jury wishes to communicate with the court, it shall so notify the sheriff, who shall inform the court thereof. Any communication relative to the cause must be written, prepared by the foreman and shall be submitted to the court through the bailiff. The court shall answer any such communication in writing, and before giving such answer to the jury shall use reasonable diligence to secure the presence of the defendant and his counsel, and shall first submit the question and also submit his answer to the same to the defendant or his counsel or objections and exceptions, in the same manner as any other written instructions are submitted to such counsel, before the court gives such answer to the jury, but if he is unable to secure the presence of the defendant and his counsel, then he shall proceed to answer the same as he deems proper. The written instruction or answer to the communication shall be read in open court unless expressly waived by the defendant.

All such proceedings in felony cases, shall be a part of the record and recorded by the court reporter. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.28** [678] [755] [735] **Jury may have witness re-examined or testimony read**

In the trial of a criminal case in a court of record, if the jury disagree as to the statement of any witness they may, upon applying to the court, have read to them from the court reporter's notes that part of such witness testimony or the particular point in dispute, and no other; but if there be no such reporter, or if his notes cannot be read to the jury, the court may cause such witness to be again brought upon the stand and the judge shall direct him to repeat his testimony as to the point in dispute, and no other, as nearly as he can in the language used on the trial. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.29** **If a juror becomes ill**

Not less than twelve jurors can render and return a verdict in a felony case. It must be concurred in by each juror and signed by the foreman; provided, however, when pending the trial of any felony case, one juror may die or be disabled from sitting at any time before the charge of the court is read to the jury, the remainder of the jury shall have the power to render the verdict; but when the verdict shall be rendered by less than the whole number, it shall be signed by every member of the jury concurring in it. After the charge of the court is read to the jury, if any one of them becomes so sick as to prevent the continuance of his duty, or any accident of circumstance occurs to prevent their being kept together under circumstances under which

the law or the instructions of the court requires that they be kept together, the jury may be discharged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.30**    [681] [758] [738] **Discharging jury in misdemeanor**  
 or

If nine of the jury can be kept together in a misdemeanor case in the district court, they shall not be discharged. If more than three of the twelve are discharged, the entire jury shall be discharged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.31**    [682] [759] [739] **Disagreement of jury**

After the cause is submitted to the jury, it may be discharged when it cannot agree and both parties consent to its discharge; or the court may in its discretion discharge it where it has been kept together for such time as to render it altogether improbable that it can agree. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.32**    [683] [760] [740] **Receipt of verdict and final adjournment**

During the trial of any case, the term shall be deemed to have been extended until such time as the jury has rendered its verdict or been discharged according to law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 36.33**    [684] [761] [741] **Discharge without verdict**

When a jury has been discharged, as provided in the four preceding Articles, without having rendered a verdict, the cause may be again tried at the same or another term. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER THIRTY-SEVEN

### THE VERDICT

Art.

- 37.01 Verdict.
- 37.02 Verdict by nine jurors.
- 37.03 In county court.
- 37.04 When jury has agreed.
- 37.05 Polling the jury.
- 37.06 Presence of defendant.
- 37.07 Verdict must be general; separate hearing on proper punishment.
- 37.08 Offenses of different degree.
- 37.09 Offenses consisting of degrees.
- 37.10 Informal verdict.
- 37.11 Defendants tried jointly.
- 37.12 Judgment on verdict.
- 37.13 If jury believes accused insane.
- 37.14 Acquittal of higher offense as jeopardy.

**Article 37.01**    [686] [763] [743] **Verdict**

A "verdict" is a written declaration by a jury of its decision of the issue submitted to it in the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 37.02** [688] [765] [745] **Verdict by nine jurors**

In misdemeanor cases in the district court, where one or more jurors have been discharged from serving after the cause has been submitted to them, if there be as many as nine of the jurors remaining, those remaining may render and return a verdict; but in such case, the verdict must be signed by each juror rendering it. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 37.03** [689] [766] [746] **In county court**

In the county court the verdict must be concurred in by each juror. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 37.04** [690] [767] [747] **When jury has agreed**

When the jury agrees upon a verdict, it shall be brought into court by the proper officer; and if it states that it has agreed, the verdict shall be read aloud by the clerk. If in proper form and no juror dissents therefrom, and neither party requests a poll of the jury, the verdict shall be entered upon the minutes of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 37.05** [691] [768] [748] **Polling the jury**

The State or the defendant shall have the right to have the jury polled, which is done by calling separately the name of each juror and asking him if the verdict is his. If all, when asked, answer in the affirmative, the verdict shall be entered upon the minutes; but if any juror answer in the negative, the jury shall retire again to consider its verdict. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 37.06** [692] [769] [749] **Presence of defendant**

In felony cases the defendant must be present when the verdict is read unless his absence is wilful or voluntary. A verdict in a misdemeanor case may be received and read in the absence of the defendant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 37.07** [693] [770] [750] **Verdict must be general; separate hearing on proper punishment**

1. The verdict in every criminal action must be general. When there are special pleas on which a jury is to find, it must say in its verdict that the allegations in such pleas are true or untrue. If the plea is not guilty, it must find that the defendant is either guilty or not guilty.

2. Alternate procedure.

(a) In felony cases less than capital and in capital cases where the State has made it known that it will not seek the death penalty, and where the plea is not guilty, the judge shall, before the argument begins, first submit to the jury the issue as to the guilt or innocence of the defendant of the offense or offenses charged, without authorizing the jury to pass upon the punishment to be imposed; provided, however, that in the charge which submits the issue of guilt or innocence there shall be included instructions showing the jury the punishment provided by law for each offense submitted.

(b) If a finding of guilty is returned, it shall then be the responsibility of the judge to assess the punishment applicable to the offense

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charged where the same is not absolutely fixed by law to some particular penalty except when the defendant, upon the return of a finding of guilty, requests that the punishment be assessed by the same jury. In the event the defendant elects to have the jury fix the punishment in cases where the punishment is fixed by law, the court shall instruct the jury that if they find the defendant is the same person who was convicted in the prior conviction or convictions alleged for enhancement, they should set his punishment as prescribed by law.

Regardless of whether the punishment be assessed by the judge or the jury, evidence may be offered by the State and the defendant as to the prior criminal record of the defendant, his general reputation and his character.

(c) After the introduction of such evidence has been concluded, and if the jury has been selected to assess the punishment, the court shall give such additional written instructions as may be necessary and the order of procedure and the rules governing the conduct of the trial shall be the same as are applicable on the issue of guilt or innocence.

(d) In cases where the matter of punishment is referred to the jury, the verdict shall not be complete until the jury has rendered a verdict both on the guilt or innocence of the defendant and the amount of punishment, where the jury finds the defendant guilty. In the event the jury shall fail to agree, a mistrial shall be declared, the jury shall be discharged, and no jeopardy shall attach.

(e) When the judge assesses the punishment, and after the hearing of the evidence hereinabove provided for, he shall forthwith announce his decision in open court as to the punishment to be assessed.

(f) Nothing herein shall be construed as affecting the admissibility of extraneous offenses on the question of guilt or innocence. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 37.08** [694] [771] [751] Offenses of different degree

In a prosecution for an offense including lower offenses, the jury may find the defendant not guilty of the higher offense, but guilty of any lower offense included. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 37.09** [695] [772] [752] Offenses consisting of degrees

The following offenses include different degrees:

1. Murder, which includes all the lesser degrees of culpable homicide, and also an assault with intent to commit murder;
2. An assault with intent to commit any felony, which includes all assaults of an inferior degree;
3. Maiming, which includes aggravated and simple assault and battery;
4. Burglary, which includes every species of house breaking and theft or other felony when charged in the indictment in connection with the burglary;
5. Riot, which includes unlawful assembly;
6. Kidnapping or abduction, which includes false imprisonment; and
7. Every offense against the person includes within it assaults with intent to commit said offense, when such attempt is a violation of the penal law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 37.10** [696] [773-774] **Informal verdict**

If the verdict of the jury is informal, its attention shall be called to it, and with its consent the verdict may, under the direction of the court, be reduced to the proper form. If the jury refuses to have the verdict altered, it shall again retire to its room to deliberate, unless it manifestly appear that the verdict is intended as an acquittal; and in that case, the judgment shall be rendered accordingly, discharging the defendant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 37.11** [697] [775-776] **Defendants tried jointly**

Where several defendants are tried together, the jury may convict each defendant it finds guilty and acquit others. If it agrees to a verdict as to one or more, it may find a verdict in accordance with such agreement, and if it cannot agree as to others, a mistrial may be entered as to them. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 37.12** [698] [777-778] **Judgment on verdict**

On each verdict of acquittal or conviction, the proper judgment shall be entered immediately. If acquitted, the defendant shall be at once discharged from all further liability upon the charge for which he was tried; provided that, in misdemeanor cases where there is returned a verdict, or a plea of guilty is entered and the punishment assessed is by fine only, the court may, on written request of the defendant and for good cause shown, defer judgment until some other day fixed by order of the court; but in no event shall the judgment be deferred for a longer period of time than six months. On expiration of the time fixed by the order of the court, the court or judge thereof, shall enter judgment on the verdict or plea and the same shall be executed as provided by Chapter 43 of this Code. Provided further, that the court or judge thereof, in the exercise of sound discretion may permit the defendant where judgment is deferred, to remain at large on his personal bond, or may require him to enter into bail bond in a sum at least double the amount of the assessed fine and costs, conditioned that the defendant and sureties, jointly and severally, will pay such fine and costs unless the defendant personally appears on the day, set in the order and discharges the judgment in the manner provided by Chapter 43 of this Code; and for the enforcement of any judgment entered, all writs, processes and remedies of this Code are made applicable so far as necessary to carry out the provisions of this Article. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 37.13** [701] [781] [761] **If jury believes accused insane**

When a jury has been impaneled to assess the punishment upon a plea of guilty, it shall say in its verdict what the punishment is which it assesses; but if it is of the opinion that a person pleading guilty is insane, it shall so report to the court, and an issue as to that fact shall be tried before another jury; and if, upon such trial, it be found that the defendant is insane, such proceedings shall be had as directed in cases where a defendant becomes insane after conviction. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 37.14** [702] [782] [762] **Acquittal of higher offense as jeopardy**

If a defendant, prosecuted for an offense which includes within it lesser offenses, be convicted of an offense lower than that for which

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he is indicted, and a new trial be granted him, or the judgment be arrested for any cause other than the want of jurisdiction, the verdict upon the first trial shall be considered an acquittal of the higher offense; but he may, upon a second trial, be convicted of the same offense of which he was before convicted, or any other inferior thereto. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER THIRTY-EIGHT

### EVIDENCE IN CRIMINAL ACTIONS

Art.

- 38.01 Rules of common law.
- 38.02 Rules of civil statute.
- 38.03 Presumptions of innocence.
- 38.04 Jury are judges of facts.
- 38.05 Judge shall not discuss evidence.
- 38.06 Persons competent to testify.
- 38.07 Female alleged to be seduced.
- 38.08 Defendant may testify.
- 38.09 Court may determine competency.
- 38.10 All other competent witnesses.
- 38.11 Husband or wife as witness.
- 38.12 Religious opinion.
- 38.13 Judge as a witness.
- 38.14 Testimony of accomplice.
- 38.15 Two witnesses in treason.
- 38.16 Evidence in treason.
- 38.17 Two witnesses required.
- 38.18 Perjury and false swearing.
- 38.19 Intent to defraud in forgery.
- 38.20 Dying declarations.
- 38.21 Confession.
- 38.22 When confession shall not be used.
- 38.23 Evidence not be used.
- 38.24 Part of an act, declaration, conversation or writing.
- 38.25 Written part of instrument controls.
- 38.26 If subscribing witness denies execution.
- 38.27 Evidence of handwriting.
- 38.28 Attacking testimony of his own witness.
- 38.29 Indictment, information or complaint not admissible to impeach witness.
- 38.30 Interpreter.
- 38.31 Interpreters for deaf or deaf-mute persons.

#### **Article 38.01** [703] [783] [763] Rules of common law

The rules of evidence known to the common law of England, both in civil and criminal cases, shall govern in the trial of criminal actions in this State, except where they are in conflict with the provisions of this Code or of some other statute of the State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 38.02** [704] [784] [764] Rules of civil statute

The rules of evidence prescribed in the statute law of this State in civil suits shall, so far as applicable, govern also in criminal actions

when not in conflict with the provisions of this Code or of the Penal Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.03** [705] [785] [765] **Presumption of innocence**

The defendant in a criminal case is presumed to be innocent until his guilt is established by legal evidence beyond a reasonable doubt, and in case of reasonable doubt as to his guilt he is entitled to be acquitted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.04** [706] [786] [766] **Jury are judges of facts**

The jury, in all cases, is the exclusive judge of the facts proved, and of the weight to be given to the testimony, except where it is provided by law that proof of any particular fact is to be taken as either conclusive or presumptive proof of the existence of another fact, or where the law directs that a certain degree of weight is to be attached to a certain species of evidence. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.05** [707] [787] [767] [729] **Judge shall not discuss evidence**

In ruling upon the admissibility of evidence, the judge shall not discuss or comment upon the weight of the same or its bearing in the case, but shall simply decide whether or not it is admissible; nor shall he, at any stage of the proceeding previous to the return of the verdict, make any remark calculated to convey to the jury his opinion of the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.06** [708] **Persons competent to testify**

All persons are competent to testify in criminal cases except the following:

1. Insane persons who are in an insane condition of mind at the time when they are offered as a witness, or who were in that condition when the events happened of which they are called to testify; and
2. Children or other persons who, after being examined by the court, appear not to possess sufficient intellect to relate transactions with respect to which they are interrogated, or who do not understand the obligation of an oath. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.07** [709] [789] [769] **Female alleged to be seduced**

In prosecutions for seduction the female alleged to have been seduced shall be permitted to testify; but no conviction shall be had upon her testimony unless the same is corroborated by other evidence tending to connect the defendant with the offense charged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.08** [710] [790] [770] **Defendant may testify**

Any defendant in a criminal action shall be permitted to testify in his own behalf therein, but the failure of any defendant to so testify shall not be taken as a circumstance against him, nor shall the same be alluded to or commented on by counsel in the cause. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.



**Art. 38.09** [712] [792] [772] **Court may determine competency**

The court may, upon suggestion made, or of its own option interrogate a person who is offered as a witness, to ascertain whether he is competent to testify, or the competency or incompetency of the witness may be shown by evidence. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.10** [713] [793] [773] **All others competent witnesses**

All other persons, except those enumerated in Articles 38.06 and 38.11, whatever may be the relationship between the defendant and witness, are competent to testify, except that an attorney at law shall not disclose a communication made to him by his client during the existence of that relationship, nor disclose any other fact which came to the knowledge of such attorney by reason of such relationship. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.11** [714] [794-795] **Husband or wife as witness**

Neither husband nor wife shall, in any case, testify as to communications made by one to the other while married. Neither husband nor wife shall, in any case, after the marriage relation ceases, be made witnesses as to any such communication made while the marriage relation existed except in a case where one or the other is on trial for an offense and a declaration or communication made by the wife to the husband or by the husband to the wife goes to extenuate or justify the offense. The husband and wife may, in all criminal actions, be witnesses for each other, but except as hereinafter provided, they shall in no case testify against each other in a criminal prosecution. However, a wife or husband may voluntarily testify against each other in any case for an offense involving any grade of assault or violence committed by one against the other or against any child of either under sixteen years of age, or in any case where either is charged with incest of a child of either, or in any case where either is charged with an offense defined in Chapter Three of the Penal Code of Texas pertaining to wife or child desertion or wilful failure or refusal to support his or her minor children. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.12** [715] [796] [776] [736] **Religious opinion**

No person is incompetent to testify on account of his religious opinion or for the want of any religious belief. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.13** [717] [798-9-800] **Judge as a witness**

The trial judge is a competent witness for either the State or the accused, and may be sworn by the clerk of his court and examined, but he is not required to testify if he declares that there is no fact within his knowledge important in the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.14** [718] [801] [781] **Testimony of accomplice**

A conviction cannot be had upon the testimony of an accomplice unless corroborated by other evidence tending to connect the defendant with the offense committed; and the corroboration is not suffi-

cient if it merely shows the commission of the offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.15** [720] [803] [783] **Two witnesses in treason**

No person can be convicted of treason except upon the testimony of at least two witnesses to the same overt act, or upon his own confession in open court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.16** [721] [804] [784] **Evidence in treason**

Evidence shall not be admitted in a prosecution for treason as to an overt act not expressly charged in the indictment; nor shall any person be convicted under an indictment for treason unless one or more overt acts are expressly charged therein. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.17** [722] [805] [785] **Two witnesses required**

In all cases where, by law, two witnesses, or one with corroborating circumstances, are required to authorize a conviction, if the requirement be not fulfilled, the court shall instruct the jury to render a verdict of acquittal, and they are bound by the instruction. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.18** [723] [806] [786] **Perjury and false swearing**

In trials for perjury or false swearing, no person shall be convicted except upon the testimony of two credible witnesses, or of one credible witness corroborated strongly by other evidence as to the falsity of the defendant's statement under oath, or upon his own confession in open court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.19** [724] [807] [787] **Intent to defraud in forgery**

In trials of forgery, it need not be proved that the defendant committed the act with intent to defraud any particular person. It shall be sufficient to prove that the forgery was, in its nature, calculated to injure or defraud any of the sovereignties, bodies corporate or politic, officers or persons, named in the definition of forgery in the Penal Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.20** [725] [808] [788] **Dying declarations**

The dying declaration of a deceased person may be offered in evidence, either for or against a defendant charged with the homicide of such deceased person, under the restrictions hereafter provided. To render the declarations of the deceased competent evidence, it must be satisfactorily proved:

1. That at the time of making such declaration he was conscious of approaching death, and believed there was no hope of recovery;
2. That such declaration was voluntarily made, and not through the persuasion of any person;
3. That such declaration was not made in answer to interrogatories calculated to lead the deceased to make any particular statement; and
4. That he was of sane mind at the time of making the declaration. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.21 [726] [809] [789] Confession**

The confession of a defendant may be used in evidence against him if it appear that the same was freely made without compulsion or persuasion, under the rules hereafter prescribed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.22 [727] [810] [790] When confession shall not be used**

(a) The confession shall not be admissible if the defendant was in jail or other place of confinement or in the custody of an officer at the time it was made, unless:

1. It be shown to be the voluntary statement of the accused taken before an examining court in accordance with law, or

2. It be made in writing and signed by the accused and shows that the accused has at some time prior to the making thereof received the warning provided in Article 15.17. It must further show the time, date, place and name of the magistrate who administered the warning. It must further show that the person to whom the confession is made warned the accused: First, that he does not have to make any statement at all. Second, that any statement made by him may be used in evidence against him on his trial for the offense concerning which the confession is therein made, or

3. In connection with said confession he makes statement of facts or circumstances that are found to be true, which conduce to establish his guilt, such as the finding of secreted or stolen property, or the instrument with which he states the offense was committed, such statement shall not be admitted in evidence, unless it is witnessed by some person other than a peace officer, who shall sign the same as a witness.

(b) If the confession or statement has been found to have been voluntarily made and held admissible as a matter of law and fact by the court in a hearing in the absence of the jury, he shall enter an order stating his findings which shall be filed among the papers of the cause but not exhibited to the jury. Only thereafter may evidence pertaining to such matter be submitted to the jury and it shall be instructed that unless the jury believes beyond a reasonable doubt that such confession or statement was voluntarily made, the jury shall not consider such statement or confession for any purpose nor any evidence obtained as a result thereof.

(c) When the issue is raised by the evidence, the trial judge shall appropriately instruct the jury, generally, on the law pertaining to such statement or confession. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.23 [727a] Evidence not to be used**

No evidence obtained by an officer or other person in violation of any provisions of the Constitution or laws of the State of Texas, or of the Constitution or laws of the United States of America, shall be admitted in evidence against the accused on the trial of any criminal case.

In any case where the legal evidence raises an issue hereunder, the jury shall be instructed that if it believes, or has a reasonable doubt, that the evidence was obtained in violation of the provisions of this Article, then and in such event, the jury shall disregard any such evidence so obtained. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.24** [728] [811] [791] **Part of an act, declaration, conversation or writing**

When part of an act, declaration or conversation or writing is given in evidence by one party, the whole on the same subject may be inquired into by the other, as when a letter is read, all letters on the same subject between the same parties may be given. When a detailed act, declaration, conversation or writing is given in evidence, any other act, declaration or writing which is necessary to make it fully understood or to explain the same may also be given in evidence. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.25** [729] [812] [792] **Written part of instrument controls**

When an instrument is partly written and partly printed, the written shall control the printed portion when the two are inconsistent. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.26** [730] [813] [793] **If subscribing witness denies execution**

When a subscribing witness denies or does not recollect the execution of an instrument to which his name appears, its execution may be proved by other evidence. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.27** [731] [814] [794] **Evidence of handwriting**

It is competent to give evidence of handwriting by comparison, made by experts or by the jury. Proof by comparison only shall not be sufficient to establish the handwriting of a witness who denies his signature under oath. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.28** [732] [815] [795] **Attacking testimony of his own witness**

A party may, when testimony of his own witness is injurious to his cause, attack the testimony in any other manner except by offering evidence of the witness' bad character. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.29** [732a] **Indictment, information or complaint not admissible to impeach witness**

The fact that a defendant in a criminal case, or a witness in a criminal case, is or has been, charged by indictment, information or complaint, with the commission of an offense against the criminal laws of this State, of the United States, or any other State shall not be admissible in evidence on the trial of any criminal case for the purpose of impeaching any person as a witness unless on trial under such indictment, information or complaint a final conviction has resulted, or a suspended sentence has been given and has not been set aside, or such person has been placed on probation and the period of probation has not expired. In trials of defendants under Article 36.09, it may be shown that the witness is presently charged with the same offense as the defendant at whose trial he appears as a witness. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.30** [733] [816] [796] **Interpreter**

When a witness does not understand and speak the English language, an interpreter must be sworn to interpret for him. Any person

may be subpoenaed, attached or recognized in any criminal action or proceeding, to appear before the proper judge or court to act as interpreter therein, under the same rules and penalties as are provided for witnesses. Such interpreters shall receive the same pay as interpreters receive in civil suits. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 38.31 [733a] Interpreters for deaf or deaf-mute persons.**

(a) In all criminal prosecutions, where the accused is deaf or a deaf-mute, he shall have the proceedings of the trial interpreted to him in a language that he can understand by a qualified interpreter appointed by the court.

(b) In all cases where the mental condition of a person is being considered and where such person may be committed to a mental institution, and where such person is deaf or a deaf-mute, all of the court proceedings pertaining to him shall be interpreted by a qualified interpreter appointed by the court.

(c) In any case where an interpreter is required to be appointed by the court under this Article, the court shall not commence proceedings until the appointed interpreter is in court in a position not exceeding ten feet from and in full view of the deaf person.

(d) The interpreter appointed under the terms of this Article shall be required to take an oath that he will make a true interpretation to the person accused or being examined, which person is deaf or a deaf-mute, of all the proceedings of his case in a language that he understands; and that he will repeat said deaf or deaf-mute person's answer to questions to counsel, court, or jury, in the English language, in his best skill and judgment.

(e) Interpreters appointed under the terms of this Article shall be paid for their services a sum to be determined by the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER THIRTY-NINE

### DEPOSITIONS AND DISCOVERY

Art.

- 39.01 In examining trial.
- 39.02 Depositions for defendant.
- 39.03 Officers who may take the deposition.
- 39.04 Applicability of civil rules.
- 39.05 Objections.
- 39.06 Written interrogatories.
- 39.07 Certificate.
- 39.08 Authenticating the deposition.
- 39.09 Non-resident witnesses.
- 39.10 Return.
- 39.11 Waiver.
- 39.12 Predicate to read.
- 39.13 Impeachment.
- 39.14 Discovery.

**Article 39.01 [734] [817] [797] In examining trial**

When an examination takes place in a criminal action before a magistrate, the defendant may have the deposition of any witness

taken by any officer or officers named in this Chapter. The defendant shall not use the deposition for any purpose unless he first consent that the entire evidence or statement of the witness may be used against him by the State on the trial of the case, subject to all legal objections. The deposition of a witness duly taken before an examining trial or a jury of inquest and reduced to writing and certified according to law where the defendant was present when such testimony was taken, and had the privilege afforded of cross-examining the witness, or taken at any prior trial of the defendant for the same offense, may be used by either the State or the defendant in the trial of such defendant's criminal case under the following circumstances:

When oath is made by the party using the same that the witness resides outside the State; or that since his testimony was taken, the witness has died, or that he has removed beyond the limits of the State, or that he has been prevented from attending the court through the act or agency of the other party, or by the act or agency of any person whose object was to deprive the defendant of the benefit of the testimony; or that by reason of age or bodily infirmity, such witness cannot attend. When the testimony is sought to be used by the State, the oath may be made by any credible person. When sought to be used by the defendant, the oath shall be made by him in person. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.02** [735] [818] [798] **Depositions for defendant**

Depositions of witnesses may also be taken by the defendant. When the defendant desires to take the deposition of a witness, he shall, by himself or counsel, file with the clerk of the court in which the case is pending an affidavit stating the facts necessary to constitute a good reason for taking the same, and an application to take the same. Provided that upon the filing of such application and, after notice to the attorney for the State, the court shall hear the application and determine if good reason exists for taking the deposition. Such determination shall be made based on the facts made known at the hearing and the court, in its judgment, shall grant or deny the application on such facts. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.03** [736] [819] [799, 800, 801] **Officers who may take the deposition**

Upon the filing of such an affidavit and application, the court shall appoint, order or designate one of the following persons before whom such deposition shall be taken:

1. A district judge.
2. A county judge.
3. A notary public.
4. A district clerk.
5. A county clerk.

Such order shall specifically name such person. Failure of a witness to respond thereto, shall be punishable by contempt by the court. Such deposition shall be oral or written, as the court shall direct. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.04** [739] [822] [802] **Applicability of civil rules**

The rules prescribed in civil cases for issuance of commissions, subpoenaing witnesses, taking the depositions of witnesses and all other formalities governing depositions shall, as to the manner and

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form of taking and returning the same and other formalities to the taking of the same, govern in criminal actions, when not in conflict with this Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.05** [740] [823] [803] **Objections**

The rules of procedure as to objections in depositions in civil actions shall govern in criminal actions when not in conflict with this Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.06** [742] [825] [805] **Written interrogatories**

When any such deposition is to be taken by written interrogatories, such written interrogatories shall be filed with the clerk of the court, and a copy of the same served on all other parties or their counsel for the length of time and in the manner required for service of interrogatories in civil action, and the same procedure shall also be followed with reference to cross-interrogatories as that prescribed in civil actions. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.07** [743] [826] [806] **Certificate**

Where depositions are taken under commission in criminal actions, the officer or officers taking the same shall certify that the person deposing is the identical person named in the commission, and is a credible person; or if they cannot certify to the identity of the witness, there shall be an affidavit of some person attached to the deposition proving the identity and credibility of such witness, and the officer or officers shall certify that the person making the affidavit is known to them, and is worthy of credit. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.08** [744] [827] [807] **Authenticating the deposition**

The official seal and signature of the officer taking the deposition shall be attached to the certificate authenticating the deposition. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.09** [737, 738] [820, 821] [800, 801] **Non-resident witnesses**

Depositions of a witness residing out of the State may be taken before a judge or before a commissioner of deeds and depositions for this State, who resides within the State where the deposition is to be taken, or before a notary public of the place where such deposition is to be taken, or before any commissioned officer of the armed services or before any diplomatic or consular officer. The deposition of a non-resident witness who may be temporarily within the State, may be taken under the same rules which apply to the taking of depositions of other witnesses in the State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.10** [748] [831] [811] **Return**

In all cases the return of depositions may be made as provided in civil actions. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.11 Waiver**

The State and defense may agree upon a waiver of any formalities in the taking of a deposition other than that the taking of such deposition must be under oath. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.12 [749] [832-833] Predicate to read**

Depositions taken in criminal actions shall not be read unless oath be made that the witness resides out of the State; or that since his deposition was taken, the witness has died; or that he has removed beyond the limits of the State; or that he has been prevented from attending the court through the act or agency of the defendant; or by the act or agency of any person whose object was to deprive the defendant of the benefit of the testimony; or that by reason of age or bodily infirmity, such witness cannot attend. When the deposition is sought to be used by the State, the oath may be made by any credible person. When sought to be used by the defendant, the oath shall be made by him in person. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.13 Impeachment**

Nothing contained in the preceding Articles shall be construed as prohibiting the use of any such evidence for impeachment purposes under the rules of evidence heretofore existing at common law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 39.14 Discovery**

Upon motion of the defendant showing good cause therefor and upon notice to the other parties, the court in which an action is pending may order the State before or during trial of a criminal action therein pending or on trial to produce and permit the inspection and copying or photographing by or on behalf of the defendant of any designated documents, papers, written statement of the defendant, (except written statements of witnesses and except the work product of counsel in the case and their investigators and their notes or report), books, accounts, letters, photographs, objects or tangible things not privileged, which constitute or contain evidence material to any matter involved in the action and which are in the possession, custody or control of the State or any of its agencies. The order shall specify the time, place and manner of making the inspection and taking the copies and photographs of any of the aforementioned documents or tangible evidence; provided, however, that the rights herein granted shall not extend to written communications between the State or any of its agents or representatives or employees. Nothing in this Act shall authorize the removal of such evidence from the possession of the State, and any inspection shall be in the presence of a representative of the State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.



# PROCEEDINGS AFTER VERDICT

## CHAPTER FORTY

### NEW TRIALS

- Art.
- 40.01 Definition of "new trial".
  - 40.02 Granted only to accused.
  - 40.03 Grounds for new trial in felony.
  - 40.04 In misdemeanors.
  - 40.05 Time to apply for new trial; amendment.
  - 40.06 State may controvert motion.
  - 40.07 Judge not to discuss evidence.
  - 40.08 Effect of a new trial.
  - 40.09 The record on appeal.
  - 40.10 Application of Civil Statutes.

#### **Article 40.01** [751] [835] [815] **Definition of "new trial"**

A "new trial" is the rehearing of a criminal action, after verdict, before the judge or another jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 40.02** [752] [836] [816] **Granted only to accused**

A new trial can in no case be granted where the verdict or judgment has been rendered for the accused. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 40.03** [753] [837] [817] **Grounds for new trial in felony**

New trials, in cases of felony, shall be granted for the following causes, and for no other:

1. Where the defendant has been tried in his absence, or has been denied counsel;
2. Where the court has misdirected the jury as to the law, or has committed any other material error calculated to injure the rights of the defendant;
3. Where the verdict has been decided by lot, or in any other manner than by a fair expression of opinion by the jurors;
4. Where a juror has received a bribe to convict, or has been guilty of any other corrupt conduct;
5. Where any material witness of the defendant has, by force, threats or fraud, been prevented from attending the court, or where any written evidence, tending to establish the innocence of the defendant, has been intentionally destroyed or removed so that it could not be produced upon the trial;
6. Where new testimony material to the defendant has been discovered since the trial. A motion for a new trial on this ground shall be governed by the rules which regulate civil suits;
7. Where the jury, after having retired to deliberate upon a case, has received other testimony; or where a juror has conversed with any person in regard to the case; or where any juror at any

time during the trial or after retiring for deliberation, may have become so intoxicated as to render it probable his verdict was influenced thereby. The mere drinking of liquor by a juror shall not be sufficient ground for a new trial;

8. Where, from the misconduct of the jury, the court is of opinion that the defendant has not received a fair and impartial trial. It shall be competent to prove such misconduct by the voluntary affidavit of a juror; and the verdict may, in like manner, be sustained by such affidavit; and

9. Where the verdict is contrary to law and evidence. A verdict is not contrary to the law and evidence, within the meaning of this provision, where the defendant is found guilty of an offense of inferior grade to, but of the same nature as, the offense proved.

10. Should the jury assess the death penalty when the State has made known, under the provisions of this Code, that it will not seek the death penalty, the court shall, upon written motion of the defendant, immediately grant a new trial. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 40.04** [754] [838] [818] **In misdemeanors**

New trials in misdemeanor cases may be granted for any cause specified in the preceding Article, except that the first cause specified in subdivision 1 of said Article shall not be available as ground for new trial in any misdemeanor case where the maximum punishment may be a fine only. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 40.05** [755] [839] [819] **Time to apply for new trial; amendment**

A motion for new trial shall be filed within ten days after conviction as evidenced by the verdict of the jury, and may be amended by leave of the court at any time before it is acted on within twenty days after it is filed. Such motion shall be presented to the court within ten days after the filing of the original or amended motion, and shall be determined by the court within twenty days after the filing of the original or amended motion, but for good cause shown the time for filing or amending may be extended by the court, but shall not delay the filing of the record on appeal.

A motion for new trial may be filed after the expiration of the term at which said conviction resulted, either during a new term of court or during vacation, and a motion for new trial may be determined in vacation or at a new term of court, and need not be determined during the term at which filed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 40.06** [757] [841] [821] **State may controvert motion**

The State may take issue with the defendant upon the truth of any cause set forth in the motion for a new trial; and in such case, the judge shall hear evidence, by affidavit or otherwise, and determine the issue. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 40.07** [758] [842] [822] **Judge not to discuss evidence**

In granting or refusing a new trial, the judge shall not sum up, discuss or comment upon the evidence in the case, but shall simply grant or refuse the motion, without prejudice to either party. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 40.08** [759] [843] [823] **Effect of a new trial**

The effect of a new trial is to place the cause in the same position in which it was before any trial had taken place. The former conviction shall be regarded as no presumption of guilt, nor shall it be alluded to in the argument. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 40.09** **The record on appeal****1. Record in appeals to the Court of Criminal Appeals**

In all cases appealable by law to the Court of Criminal Appeals, the clerk of the court that entered the conviction sought to be appealed from shall, under his hand and seal of the court, make and prepare an appellate record comprising a true copy of the matter designated by the parties, but shall always include, whether designated or not, copies of the material pleadings, material docket entries made by the court, the charge, verdict, judgment, sentence, notice of appeal, any appeal bond, all written motions and pleas and orders of the court, and bills of exception. The matter so prepared shall be assembled under one cover and shall constitute the record on appeal. The pages of this record shall be numbered consecutively and there shall be an index prepared by the clerk showing the location of each document in the record. The record shall be made in duplicate and one copy shall be retained by the clerk for use by the parties with permission of the court.

**2. Designation of material for inclusion in the record**

Each party may file with the clerk a written designation specifying matter for inclusion in the record. The failure of the clerk to include designated matter will not be ground for complaint on appeal if the designation specifying such matter be not filed with the clerk within sixty days after notice of appeal is given.

**3. Statement of facts and other proceedings**

The record may include a transcription of all or any part of the proceedings shown by notes of the report<sup>1</sup> to have occurred before, during or after the trial and same will constitute the statement of facts for the appeal. A transcription applicable to any proceeding occurring before or within a period of ninety days after notice of appeal shall be filed with the clerk for inclusion in the record not later than the end of such period. A transcription of notes applicable to any proceeding occurring after the end of such period shall be filed with the clerk for inclusion in the record not later than thirty days after the end of such proceeding. The times herein provided for filing transcription of the notes of the reporter may be extended by the court for good cause shown, and the court shall have the power, in term time or vacation, on application for good cause to extend for as many times as deemed necessary the time for preparation and filing of the transcription, and the approval of the record after the expiration of the time provided by law for its approval shall be sufficient proof that the time for filing the transcription was properly extended, and the transcription so filed shall be construed as having been filed within the time required by law.

1. Probably should read "reporter".

**4. Effect of transcription of reporter's notes**

At the request of either party the court reporter shall take shorthand notes of all trial proceedings, including voir dire examination, objections to the court's charge, and final arguments. He is not en-

titled to any fee in addition to his salary for taking these notes. A transcription of the reporter's notes when certified to by him and included in the record shall establish the occurrence and existence of all testimony, argument, motions, pleas, objections, exceptions, court actions, refusals of the court to act and other events thereby shown and no further proof of the occurrence or existence of same shall be necessary on appeal; provided, however, that the court shall have power, after hearing, to enter and make part of the record any finding or adjudication which the court may deem essential to make any such transcription speak the truth in any particular in which the court finds it does not speak the truth and any such finding or adjudication having support in the evidence shall be final.

#### **5. Responsibility for obtaining transcription of reporter's notes**

A party desiring to have included in the record a transcription of notes of the reporter shall have the responsibility of obtaining such transcription and furnishing same to the clerk in duplicate in time for inclusion in the record and defendant shall pay therefor. The court will order the reporter to make such transcription without charge to defendant if the court finds, after hearing in response to affidavit by defendant that he is unable to pay or give security therefor. Upon certificate of the court that this service has been rendered, payment therefor shall be made from the general funds by the county in which the offense is alleged to have been committed. The court reporter shall report any portion of the proceedings requested by either party or directed by the court.

#### **6. Bills of exception**

(a) A party desiring to have the record disclose some action, testimony, evidence, proceeding, objection, exception or other event or occurrence not otherwise shown by the record may utilize a bill of exception for this purpose. Bills of exception must be filed with the clerk and presented to the trial judge within ninety days after notice of appeal is given, and for good cause shown, the judge trying the cause may further extend the time in which to file the bills of exception and shall have the power, in term-time or in vacation, upon application for good cause to extend for as many times as deemed necessary the time for preparation and filing of bills of exception and the approval for any bill of exception by the judge trying the cause after the expiration of the ninety day period shall be sufficient proof that the time for filing was properly extended, and any bill of exception so filed shall be construed to have been filed within the time required by law. The clerk shall notify the court of each bill immediately upon its being filed. The court shall either approve the bill without qualification or shall approve it subject to qualification or refuse it, setting forth in the qualification or refusal any reasons that may seem proper to the judge. Notice of the court's action in qualifying or refusing a bill shall be immediately given by the clerk to the party filing the bill or to his counsel, and such party, if unwilling to accept the court's qualification or refusal, may not later than fifteen days after receipt of such notice, file a by-stander's bill of exception, and the clerk shall include same in the record. A bill of exception will be deemed approved without qualification if it be not acted on by the trial judge within a period of one hundred days after notice of appeal is given.

(b) A bill of exception shall be a necessary predicate for appellate review only if the matter complained of is not otherwise shown by the record as herein provided. Errors otherwise shown by the record may be reviewed on appeal without the necessity of any bill

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of exception. If the date of filing with the clerk of any document in the record is shown by notation of the clerk thereon, no further proof of such date or of the fact of the filing of the document with the clerk shall be necessary. If the transcription of the reporter's notes or any court order or docket entry by the court shows the occurrence or existence of any particular action by the court or refusal of the court to act or any objection or exception or any other event, no further proof of the occurrence or existence of same shall be necessary.

(c) Formal exceptions to rulings on evidence, opinions or other actions of the court are unnecessary; but for all purposes for which an exception has heretofore been necessary, it is sufficient that a party, at the time the ruling, opinion or action of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor; and if a party has no opportunity to object to the ruling or order at the time it is made, the absence of an objection does not thereafter prejudice him.

(d) (1) When the court refuses to admit offered testimony or other evidence, the party offering same shall as soon as practicable but before the court's charge is read to the jury be allowed, out of the presence of the jury, to adduce the excluded testimony or other evidence before the reporter, and a transcription of his notes showing such testimony or other evidence and any objections and exceptions of the party offering same shall, when certified to by the reporter and included in the record, establish the nature of such testimony or other evidence, and the objections and exceptions made in connection with the court's exclusion of such testimony or other evidence and no bills of exception shall be essential to authorize appellate review of the question whether the court erred in excluding such testimony or other evidence. The court, in its discretion, may allow an offer of proof in the form of a concise statement by the party offering the same of what the excluded evidence would show, to be made before the reporter out of the presence of the jury as an alternative method of causing the record to show such excluded testimony or other evidence, and in the event the record contains transcription of the reporter's notes showing such an offer of proof the same shall be accepted on appeal as establishing what such excluded testimony or other evidence would have consisted of had it been admitted into evidence.

(2) When testimony or other evidence has been excluded by the court over objection of the party offering same, no further offer of the same need be made to preserve the claimed error.

(3) When the court hears objections to offered evidence out of the presence of the jury and rules that such evidence shall be admitted, then in that event such objections shall be deemed to apply to such evidence when it is admitted before the jury without the necessity of such objections being renewed in the presence of the jury.

#### **7. Approval of the record**

Notice of completion of the record shall be made by the clerk by certified mail to the parties or their respective counsel. If neither files and presents to the court in writing any objection to the record, within fifteen days after the mailing of such notice and if the court has no objection to the record, he shall approve the same. If such objection be made, or if the court fails to approve the record within such fifteen-day period, the court shall set the matter down for hearing, and, after hearing, shall enter such orders as may be appropriate to cause the record to speak the truth and the findings and adjudications in such orders, if supported by evidence, shall be final. In its discretion, the court may require the attendance of the defendant at such

hearing. Such proceedings shall be included in the record, and the entire record approved by the court.

**8. Filing approved record with clerk**

The record, on approval by the court, shall be filed with the clerk of the trial court.

**9. Defendant's brief**

Within thirty days after approval of the record by the court, or within such additional period as the court may in its discretion authorize, the defendant shall file with the clerk of the trial court his appellate brief. This brief shall set forth separately each ground of error of which defendant desires to complain on appeal and may set forth such arguments as he deems appropriate. Each ground of error shall briefly refer to that part of the ruling of the trial court, charge given to the jury, or charge refused, admission or rejection of evidence or other proceedings which are designated to be complained of in such way as that the point of objection can be clearly identified and understood by the court. If the defendant includes in his brief arguments supporting a particular ground of error they shall be construed with it in determining what point of objection is sought to be presented by such ground of error; and if the court, upon consideration of such ground of error in the light of arguments made in support thereof in the brief, can identify and understand such point of objection the same shall be reviewed notwithstanding any generality, vagueness or other technical defect that may exist in the language employed to set forth such ground of error.

**10. The State's brief**

Within thirty days after defendant files his brief with the clerk of the trial court, or within such additional period as the trial court may in its discretion authorize, the State shall file its brief with the clerk of the trial court. Each party, upon filing brief with the clerk of the trial court shall cause true copy thereof to be delivered to the opposing party or to the latter's counsel.

**11. Oral arguments**

The trial court may require oral arguments on the briefs and, if so, shall cause the clerk to notify counsel for both sides of the time and place for such arguments.

**12. Trial court's duty**

It shall be the duty of the trial court to decide from the briefs and oral arguments, if any, whether defendant should be permitted to withdraw his notice of appeal and be granted a new trial by the trial court. This duty shall be performed within the period of thirty days immediately after the State's brief is filed, or, if none be filed, then within the period of thirty days immediately after the last day on which the State's brief could be timely filed. Omission of the court to perform this duty within such period shall constitute refusal of the court to grant a new trial to defendant.

**13. Transmission of record to Court of Criminal Appeals**

Upon refusal of the court to grant defendant a new trial, the clerk shall thereupon promptly transmit the record and briefs to the Court of Criminal Appeals, in which court all grounds of error and arguments in support thereof urged in defendant's brief in the trial court shall be reviewed, as well as any unassigned error which in the opinion of the Court of Criminal Appeals should be reviewed in the interest of justice.

**14. Agreed statement**

The parties may agree, with the approval of the trial court, upon a brief statement of the case and of the facts proven as will enable the appellate court to determine whether there is error in the trial. Such statement shall be copied into the record in lieu of the proceedings themselves.

**15. Order as to original papers or exhibits**

Whenever the trial court is of the opinion that original papers or exhibits should be inspected by the appellate court or sent to the appellate court in lieu of copies, it may make such order therefor and for the safekeeping, transportation and return thereof as it deems proper. The appellate court on its own initiative may direct the clerk of the trial court to send to it any original paper or exhibit for its inspection. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 40.10 [760c] Application of Civil Statutes**

The provisions of the rules of civil procedure, insofar as the same are applicable and not in conflict with the provisions of this Code, as such rules now exist or may hereafter exist, shall govern bills of exception and statements of fact. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER FORTY-ONE

### ARREST OF JUDGMENT

Art.

- 41.01 Motion in arrest of judgment.
- 41.02 Time to make motion.
- 41.03 Granted for substantial defect.
- 41.04 Want of form.
- 41.05 Effect of arresting judgment.

**Article 41.01 [761] [847] [825] Motion in arrest of judgment**

A motion in arrest of judgment is an oral or written suggestion to the court on the part of defendant that judgment has not been legally rendered against him. The record must show the grounds of the motion. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 41.02 [762] [848] [826] Time to make motion**

A motion must be made within ten days after conviction. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 41.03 [763] [849] [827] Granted for substantial defect**

Such motion shall be granted upon any ground which may be good upon exception to an indictment or information for any substantial defect therein. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 41.04 [764] [850] [828] Want of form**

No judgment shall be arrested for want of form. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 41.05** [765] [851-852] **Effect of arresting judgment**

The effect of arresting a judgment is to place the defendant in the same position he was before the indictment or information was presented; and if the court be satisfied from the evidence that he may be convicted upon a proper indictment or information, he shall be remanded into custody or bailed. If not so satisfied, the defendant shall be discharged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**CHAPTER FORTY-TWO****JUDGMENT AND SENTENCE**

Art.

- 42.01 Judgment.
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**Article 42.01** [766] [853] [831] **Judgment**

A "judgment" is the declaration of the court entered of record, showing:

1. The title and number of the case;
2. That the case was called for trial and that the parties appeared;
3. The plea of the defendant;
4. The selection, impaneling and swearing of the jury;
5. The submission of the evidence;
6. That the jury was charged by the court;
7. The return of the verdict;
8. The verdict;
9. In the case of a conviction, that it is considered by the court that the defendant is adjudged to be guilty of the offense as found by the jury; or in case of acquittal, that the defendant be discharged;
10. That the defendant be punished as has been determined.

The provisions of this Article shall apply to both felony and misdemeanor cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.



**Art. 42.02    [767] [854] [832] Sentence**

A "sentence" is the order of the court in a felony or misdemeanor case made in the presence of the defendant, except in misdemeanor cases where the maximum possible punishment is by fine only, and entered of record, pronouncing the judgment, and ordering the same to be carried into execution in the manner prescribed by law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 42.03    [768] [855] [833] Pronouncing sentence; time; credit for time spent in jail between arrest and sentence or pending appeal**

If a new trial is not granted, nor judgment arrested in felony and misdemeanor cases, the sentence shall be pronounced in the presence of the defendant at any time after the expiration of the time allowed for making the motion for a new trial or the motion in arrest of judgment; provided that in all criminal cases the judge of the court in which defendant was convicted may within his discretion, give the defendant credit on his sentence for the time, or any part thereof, which said defendant has spent in jail in said cause, from the time of his arrest and confinement until his sentence by the trial court; and provided further, that in all cases where the defendant has been tried for any violation of the laws of the State of Texas, and has been convicted and has appealed from said judgment and sentence of conviction, and where said cause has been affirmed by the Court of Criminal Appeals, and after receipt of the mandate by the clerk of the trial court, the judge is authorized to again call said defendant before him; and if pending appeal, the defendant has not made bond and has remained in jail pending the time of such appeal, said trial judge may then in his discretion resentence the defendant, and may subtract from the original sentence pronounced upon the defendant, the length of time the defendant has lain in jail pending such appeal, noting any credit allowed upon the mandate, which credit shall be allowed by the Texas Department of Corrections in all computations affecting the eligibility of the defendant for parole or discharge. Where jail time has been awarded, the trial judge may, when in his discretion the ends of justice would best be served, sentence the defendant to serve his sentence during his off-work hours, or on week-ends. When such a sentence is permitted by the trial judge it must be served on consecutive days or consecutive week-ends. The trial judge may require bail of the defendant to insure the faithful performance of the sentence. The trial judge may attach conditions regarding the employment, travel, and other conduct of the defendant during the performance of such a sentence. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 42.04    [769] [856] [834] Sentence when appeal is taken**

When an appeal is taken from a death penalty, sentence shall not be pronounced, but shall be suspended until the decision of the Court of Criminal Appeals has been received. In all other cases, except where imposition of sentence has been suspended in probation cases, sentence shall be pronounced before the appeal is taken. Upon the affirmance of the judgment by the appellate court, the clerk shall at once send its mandate to the clerk of the Court from which the appeal was taken, there to be duly recorded. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 42.05** [770] [857] [835] **If court is about to adjourn**

The time limit within which any act is to be done within the meaning of this Code shall not be affected by the expiration of the term of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 42.06** [772] [859] [837] **Sentence nunc pro tunc**

If there is a failure from any cause whatever to enter judgment and pronounce sentence, the judgment may be entered and sentence pronounced at any subsequent time, unless a new trial has been granted, or the judgment arrested, or an appeal has been taken. Any time served or punishment suffered from the time the judgment and sentence should have been entered and pronounced and until finally entered shall be credited upon the sentence finally pronounced. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 42.07** [773] [860-861] **Reasons to prevent sentence**

Before pronouncing sentence, the defendant shall be asked whether he has anything to say why the sentence should not be pronounced against him. The only reasons which can be shown, on account of which sentence cannot be pronounced, are:

1. That the defendant has received a pardon from the proper authority, on the presentation of which, legally authenticated, he shall be discharged.

2. That the defendant is insane; and if sufficient proof be shown to satisfy the court that the allegation is well-founded, no sentence shall be pronounced. Where there is sufficient time left, a jury may be impaneled to try the issue. Where sufficient time does not remain, the court shall order the defendant to be confined safely until the next term of the court, and shall then cause a jury to be impaneled to try such issue;

3. Where there has not been a motion for a new trial or a motion in arrest of judgment made, the defendant may answer that he has good grounds for either or both of these motions and either or both motions may be immediately entered and disposed of, although more than ten days may have elapsed since the rendition of the verdict; and

4. When a person who has been convicted escapes after conviction and before sentence and an individual supposed to be the same has been arrested he may before sentence is pronounced, deny that he is the person convicted, and an issue be accordingly tried before a jury as to his identity. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 42.08** [774] [840] [862] **Cumulative or concurrent sentence**

When the same defendant has been convicted in two or more cases, and the punishment assessed in each case is confinement in an institution operated by the Department of Corrections or the jail for a term of imprisonment, judgment and sentence shall be pronounced in each case in the same manner as if there had been but one conviction, except that in the discretion of the court, the judgment in the second and subsequent convictions may either be that the punishment shall begin when the judgment and sentence in the preceding conviction has ceased to operate, or that the punishment shall run concurrently with the other case or cases, and sentence and execution shall be accordingly. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 42.09    [775] Indeterminate sentence**

If the verdict fixes the punishment at confinement in an institution operated by the Department of Corrections for more than the minimum term, the judge in passing sentence shall pronounce an indeterminate sentence, fixing in such sentence as the minimum the time provided by law as the lowest term in an institution operated by the Department of Corrections and as the maximum the term stated in the verdict. In cases where no appeal is taken, the sentence shall begin to run on the day same is pronounced, but where an appeal is taken and the defendant is in jail or in an institution operated by the Department of Corrections, his sentence shall begin to run with the date of the mandate, and in the event any credit has been allowed under the provisions of Article 42.03, the credit shall be fully subtracted from the sentence and reflected on the mandate and commitment, and in every such case the commitment shall so state. Where an appeal is taken and the defendant is at large on bond when the case is affirmed the clerk of the trial court, on receipt of the mandate from the clerk of the Court of Criminal Appeals, shall issue a commitment, and when the defendant is taken into custody under such commitment, the officer executing same shall endorse thereon the date the defendant was taken into custody, and the endorsement on this commitment shall constitute the date on which the sentence shall begin to run, and such defendant named in the commitment shall be admitted to an institution operated by the Department of Corrections by virtue of such commitment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 42.10    [781a] Satisfaction of judgment as in misdemeanor convictions**

When a person is convicted of a felony, and the punishment assessed is only a fine or a term in jail, or both, the judgment may be satisfied in the same manner as a conviction for a misdemeanor is by law satisfied. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 42.11    [781c] Uniform Act for out-of-State parolee supervision**

Sec. 1. This Act may be cited as the Uniform Act for out-of-State parolee supervision.

Sec. 2. The Governor of this State is hereby authorized and directed to execute a compact on behalf of the State of Texas with any of the United States legally joining therein in the form substantially as follows:

**A COMPACT**

Entering into by and among the contracting state, signatories hereto, with the consent of the Congress of the United States of America, granted by an Act entitled "An Act granting the consent of Congress to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes".

The contracting States solemnly agree:

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a State party to this compact (herein called "sending State"), to permit any person convicted of an offense within such State and placed on probation or released on parole to reside in any other State party to this compact (herein called "receiving State"), while on probation or parole, if

(a) Such person is in fact a resident of or has his family residing within the receiving State and can obtain employment there; and

(b) Though not a resident of the receiving State and not having his family residing there, the receiving State consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving State to investigate the home and prospective employment of such person.

A resident of the receiving State, within the meaning of this section is one who has been an actual inhabitant of such State continuously for more than one year prior to his coming to the sending State and has not resided within the sending State more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving State will assume the duties of visitation of and supervision over probationers or parolees of any sending State and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending State may at all times enter a receiving State and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of States party hereto, as to such persons. The decision of the sending State to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving State; provided, however, that if at the time when a State seeks to retake a probationer or parolee there should be pending against him within the receiving State any criminal charge, or he should be suspected of having committed within such State a criminal offense, he shall not be retaken without the consent of the receiving State until discharged from prosecution or from any imprisonment for such offense.

(4) That the duly accredited officers of the sending State will be permitted to transport prisoners being retaken through any and all States party to this compact, without interference.

(5) That the Governor of each State may designate an officer who, acting jointly with like officers of other contracting States, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its execution by any State as between it and other State or States so executing. When executed it shall have the full force and effect of law within such State, the form of execution to be in accordance with the laws of the executing State.

(7) That this compact shall continue in force and remain binding upon each executing State until renounced by it. The duties and obligations hereunder of a renouncing State shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending State. Renunciation of this compact shall be by the same authority which executed it, by sending six months notice in writing of its intention to withdraw from the compact to the other States party hereto. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 42.12 [781d] Adult Probation and Parole Law**

**A. Purpose of Article and Definitions**

Sec. 1. It is the purpose of this Article to place wholly within the State courts of appropriate jurisdiction the responsibility for determining when the imposition of sentence in certain cases shall be suspended, the conditions of probation, and the supervision of probationers, in consonance with the powers assigned to the judicial branch of this government by the Constitution of Texas. It is also the intent of this Article to provide for the release of persons on parole and for the method thereof, to designate the Board of Pardons and Paroles as the responsible agency of State government to recommend determination of paroles and to further designate the Board of Pardons and Paroles as responsible for the investigation and supervision of persons released on parole. It is the final purpose of this Article to remove from existing statutes the limitations, other than questions of constitutionality, that have acted as barriers to effective systems of probations and paroles in the public interest.

Sec. 2. This Article may be cited as the "Adult Probation and Parole Law".

Unless the context otherwise requires, the following definitions shall apply to the specified words and phrases as used in this Article:

a. "Courts" shall mean the courts of record having original criminal jurisdiction;

b. "Probation" shall mean the release of a convicted defendant by a court under conditions imposed by the court for a specified period during which the imposition of sentence is suspended;

c. "Parole" shall mean the release of a prisoner from imprisonment but not from the legal custody of the State, for rehabilitation outside of prison walls under such conditions and provisions for disciplinary supervision as the Board of Pardons and Paroles may determine. Parole shall not be construed to mean a commutation of sentence or any other form of executive clemency;

d. "Probation officer" shall mean either a person duly appointed by one or more courts of record having original criminal jurisdiction, to supervise defendants placed on probation; or a person designated by such courts for such duties on a part-time basis;

e. "Parole officer" shall mean a person duly appointed by the Director of the Division of Parole Supervision and assigned the duties of investigating and supervising paroled prisoners to see that the conditions of parole are complied with;

f. "Board" shall mean the Board of Pardons and Paroles;

g. "Division" shall mean the Division of Parole Supervision of the Board of Pardons and Paroles; and

h. "Director" shall mean the Director of the Division of Parole Supervision.

**B. Probations**

Sec. 3. The judges of the courts of the State of Texas having original jurisdiction of criminal actions, when it shall appear to the satisfaction of the court that the ends of justice and the best interests of the public as well as the defendant will be subserved thereby, shall have the power, after conviction or a plea of guilty for any crime or offense, where the maximum punishment assessed against the defendant does not exceed ten years imprisonment, to suspend the imposition of the sentence and may place the defendant on probation or impose a fine applicable to the offense committed and also place

the defendant on probation as hereinafter provided. Any such person placed on probation, whether in a trial by jury or before the court, shall be under the supervision of such court.

Sec. 3a. Where there is a conviction in any court of this State and the punishment assessed by the jury shall not exceed ten years, the jury may recommend probation upon written sworn motion made therefor by the defendant, filed before the trial begins. When the trial is to a jury, and the defendant has no counsel, the court shall inform the defendant of his right to make such motion, and the court shall appoint counsel to prepare and present same, if desired by the defendant. In no case shall probation be recommended by the jury except when the sworn motion and proof shall show, and the jury shall find in their verdict that the defendant has never before been convicted of a felony in this or any other State. This law is not to be construed as preventing the jury from passing on the guilt of the defendant, but he may enter a plea of not guilty. In all eligible cases, probation shall be granted by the court if the jury recommends it in their verdict.

If probation is granted by the jury the court may impose only those conditions which are set forth in Section 6 hereof.

Sec. 3b. Where probation is recommended by the verdict of a jury as provided for in Sec. 3a above, a defendant's probation shall not be revoked during his good behavior, so long as he is within the jurisdiction of the court and his residence is known, except in accordance with the provisions of Sec. 8 of this Article. If such a defendant has no counsel, it shall be the duty of the court to inform him of his right to show cause why his probation should not be revoked; and if such a defendant requests such right, the court shall appoint counsel in accordance with Articles 26.04 and 26.05 of this Code to prepare and present the same; and in all other respects the procedure set forth in said Sec. 8 of this Article shall be followed.

Sec. 3c. Nothing herein shall limit the power of the court to grant a probation of sentence regardless of the recommendation of the jury or prior conviction of the defendant.

Sec. 4. When directed by the court, a probation officer shall fully investigate and report to the court in writing the circumstances of the offense, criminal record, social history and present condition of the defendant. Whenever practicable, such investigation shall include a physical and mental examination of the defendant. If a defendant is committed to any institution the probation officer shall send a report of such investigation to the institution at the time of commitment.

Sec. 5. Only the court in which the defendant was tried may grant probation, fix or alter conditions, revoke the probation, or discharge the defendant, unless the court has transferred jurisdiction of the case to another court with the latter's consent. After a defendant has been placed on probation, jurisdiction of the case may be transferred to a court of the same rank in this State having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs. Upon transfer, the clerk of the court of original jurisdiction shall forward a transcript of such portions of the record as the transferring judge shall direct to the court accepting jurisdiction, which latter court shall thereafter proceed as if the trial and conviction had occurred in that court. Any court having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs may issue a warrant for his arrest, but the determination of action to be taken after arrest

shall be only by the court having jurisdiction of the case at the time the action is taken.

Sec. 6. The court having jurisdiction of the case shall determine the terms and conditions of probation and may, at any time, during the period of probation alter or modify the conditions; provided, however, that the clerk of the court shall furnish a copy of such terms and conditions to the probationer, and shall note the date of delivery of such copy on the docket. Terms and conditions of probation may include, but shall not be limited to, the conditions that the probationer shall:

- a. Commit no offense against the laws of this State or of any other State or of the United States;
- b. Avoid injurious or vicious habits;
- c. Avoid persons or places of disreputable or harmful character;
- d. Report to the probation officer as directed;
- e. Permit the probation officer to visit him at his home or elsewhere;
- f. Work faithfully at suitable employment as far as possible;
- g. Remain within a specified place;
- h. Pay his fine, if one be assessed, and all court costs whether a fine be assessed or not, in one or several sums, and make restitution or reparation in any sum that the court shall determine; and
- i. Support his dependents.

Sec. 7. At any time, after the defendant has satisfactorily completed one-third of the original probationary period or two years of probation, whichever is the lesser, the period of probation may be reduced or terminated by the court. Upon the satisfactory fulfillment of the conditions of probation, and the expiration of the period of probation, the court, by order duly entered, shall amend or modify the original sentence imposed, if necessary, to conform to the probation period and shall discharge the defendant. In case the defendant has been convicted or has entered a plea of guilty or a plea of nolo contendere, and the court has discharged the defendant hereunder, such court may set aside the verdict or permit the defendant to withdraw his plea, and shall dismiss the accusation, complaint, information or indictment against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he has been convicted or to which he has pleaded guilty, except that proof of his said conviction or plea of guilty shall be made known to the court should the defendant again be convicted of any criminal offense.

Sec. 8. At any time during the period of probation the court may issue a warrant for violation of any of the conditions of the probation and cause the defendant to be arrested. Any probation officer, police officer or other officer with power of arrest may arrest such defendant without a warrant upon the order of the judge of such court to be noted on the docket of the court. A probationer so arrested may be detained in the county jail or other appropriate place of detention until he can be taken before the court. Such officer shall forthwith report such arrest and detention to such court. Thereupon, the court shall cause the defendant to be brought before it and after a hearing without a jury, may either continue or revoke the probation and, if probation is revoked, shall proceed to dispose of the case as if there had been no probation.

Any probationer who removes himself from the State of Texas without permission of the court having jurisdiction of the case, shall be deemed and considered a fugitive from justice and shall be subject to extradition as now provided by law. No part of the time that the defendant is on probation shall be considered as any part of the time that he shall be sentenced to serve. The right of the probationer to appeal to the Court of Criminal Appeals for a review of the trial and conviction, as provided by law, shall be accorded the probationer at the time he is placed on probation. When he is notified that his probation is revoked for violation of the conditions of probation and he is called on to serve a sentence in a jail or in an institution operated by the Department of Corrections, he may appeal the revocation.

Sec. 9. If, for good and sufficient reasons, probationers desire to change their residence within the State, such transfer may be effected by application to their supervising probation officer, which transfer shall be subject to the court's consent and subject to such regulations as the court may require in the absence of a probation officer in the locality to which the probationer is transferred.

Sec. 10. For the purpose of providing adequate probation services, the district judge or district judges having original jurisdiction of criminal actions in the county or counties, if applicable, are authorized, with the advice and consent of the commissioners court as hereinafter provided, to employ and designate the titles and fix the salaries of probation officers, and such administrative, supervisory, stenographic, clerical, and other personnel as may be necessary to conduct presentence investigations, supervise and rehabilitate probationers, and enforce the terms and conditions of probation. Only those persons who have successfully completed education in an accredited college or university and two years full time paid employment in responsible probation or correctional work with juveniles or adults, social welfare work, teaching or personnel work; or persons who are licensed attorneys with experience in criminal law; or persons who are serving in such capacities at the time of the passage of this Article and who are not otherwise disqualified by Section 31 of this Article, shall be eligible for appointments as probation officers; providing that additional experience in any of the above work categories may be substituted year for year for the required college education, with a maximum substitution of two years.

It is the further intent of this Article that the caseload of each probation officer not substantially exceed seventy-five probationers.

Where more than one probation officer is required, the judge or judges shall appoint a chief adult probation officer or director, who, with their approval, shall appoint a sufficient number of assistants and other employees to carry on the professional, clerical, and other work of the court.

The judge or judges, with the approval of the juvenile board of the county, may authorize the chief probation or chief juvenile officer to establish a separate division of adult probation and appoint adult probation officers and such other personnel as required. It is the further intent of this Act that the same person serving as a probation officer for juveniles shall not be required to serve as a probation officer for adults and vice-versa.

The judge or judges may, with the approval of the director of parole supervision, designate a parole officer or supervisor employed by the Division of Parole Supervision as a probation officer for the county or district.

Probation officers shall be furnished transportation, or alternatively, shall be entitled to an automobile allowance for use of personal



For Annotations and Historical Notes, see V.A.T.S.

automobile on official business, under the same terms and conditions as is provided for sheriffs.

The salaries of personnel, and other expenses essential to the adequate supervision of probationers, shall be paid from the funds of the county or counties comprising the judicial district or geographical area served by such probation officers. In instances where a district court has jurisdiction in two or more counties, the total expenses of such probation services shall be distributed approximately in the same proportion as the population in each county bears to the total population of all of those counties, according to the last preceding or any future Federal Census. In all the instances of the employment of probation officers, the responsible judges and county commissioners are authorized to accept grants or gifts from other political subdivisions of the State or associations and foundations, for the sole purpose of financing adequate and effective probationary programs in the various parts of the State. For the purposes of this Act, the municipalities of this State are specifically authorized to grant and allocate such sums of money as their respective governing bodies may approve to their appropriate county governments for the support and maintenance of effective probationary programs. All grants, gifts, and allocations of the character and purpose described in this section shall be handled and accounted for separately from other public funds of the county.

Sec. 11. For the purpose of determining when fees are to be paid to any officer or officers, the placing of the defendant on probation shall be considered a final disposition of the case, without the necessity of waiting for the termination of the period of probation or suspension of sentence.

Sec. 12. The provisions of Section 10 and 11 above are also applicable to Article 42.13.

### C. Paroles

Sec. 12. The Board of Pardons and Paroles created by Article 4, Section 11 of the Constitution of this State, shall administer the provisions of this Act respecting determinations of which prisoners shall be paroled from an institution operated by the Department of Corrections, the conditions of such paroles, and may recommend the revocation of paroles by the Governor.

Sec. 13. The members of the Board shall give full time to the duties of their office and shall be paid such salaries as the Legislature may determine in Appropriation Acts. The members of the Board shall elect one of their number as chairman, who shall serve for a period of two years and until his successor is elected and qualified.

The Board shall meet at the call of the chairman and from time to time as may otherwise be determined by majority vote of the Board. A majority of the Board shall constitute a quorum for the transaction of all business.

The Board shall adopt an official seal of which the courts shall take judicial notice. Decisions of the Board shall be by majority vote.

The Board shall keep a record of its acts and shall notify each institution of its decision relating to the persons who are to have been confined therein. At the close of each fiscal year the Board shall submit to the Governor and to the Legislature a report with statistical and other data of its work.

All minutes of the Board and decisions relating to parole, pardon and clemency shall be matters of public record and subject to public inspection at all reasonable times.

Sec. 14. The necessary office quarters shall be provided for the Board in the manner that the same are furnished to other departments, boards, commissions, bureaus and offices of the State.

Sec. 15. The Board is hereby authorized to release on parole, with the approval of the Governor, any person confined in any penal or correctional institution of this State, except persons under sentence of death, who has served one-fourth of the maximum sentence imposed, provided that in any case he may be paroled after serving fifteen years. Time served shall be a total calendar time served and all credits allowed under the laws governing the operation of the Department of Corrections, and executive clemency. All paroles shall issue upon order of the Board, duly adopted and approved by the Governor.

Within one year after a prisoner's admittance to the penal or correctional institution and at such intervals thereafter, as it may determine, the Board shall secure and consider all pertinent information regarding each prisoner, except any under sentence of death, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made.

Before ordering the parole of any prisoner, the Board may have the prisoner appear before it and interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the Board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the institution from which he was released but shall be amenable to the orders of the Board.

The Board may adopt such other reasonable rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of prisoners for parole, the conduct of parole hearings, or conditions to be imposed upon parolees. Whenever an order for parole is issued it shall recite the conditions thereof in clear and intelligible language.

It shall be the duty of the Board at least ten days before ordering the parole of any prisoner or upon the granting of executive clemency by the Governor to notify the sheriff, the district attorney and the district judge in the county where such person was convicted that such parole or clemency is being considered by the Board or by the Governor.

If no parole officer has been assigned to the locality where a person is to be released on parole or executive clemency the Board shall notify the chairman of the Voluntary Parole Board of such county prior to the release of such person. The Board shall request such Voluntary Parole Board, in the absence of a parole office, for information which would herein be required of such duly appointed parole officer. This shall not, however, preclude the Board from requesting information from any public agency in such locality.

Sec. 16. It shall be the duty of any judge, district attorney, county attorney, police officer or other public official of the State, having information with reference to any prisoner eligible for parole, to sign in writing such information as may be in his possession or under his control to the Board, upon request of any member or employee thereof.

Sec. 17. It shall be the duty of all prison officials to grant to the members of the Board, or its properly accredited representatives,

access at all reasonable times to any prisoner, to provide for the Board or such representatives facilities for communicating with and observing such prisoner, and to furnish to the Board such reports as the Board shall require concerning the conduct and character of any prisoner in their custody and any other facts deemed by the Board pertinent in determining whether such prisoner shall be paroled.

Sec. 18. The Board shall formulate rules as to the submission and presentation of information and arguments to the Board for and in behalf of any parolee under the jurisdiction of the Board.

All persons presenting information or arguments to the Board shall submit therewith an affidavit stating whether any fee has been paid or is to be paid for their services in the case, other than a duly licensed attorney, the amount of such fee, if any, and by whom such fee is paid or to be paid.

Sec. 19. The Board shall have power to issue subpoenas requiring the attendance of such witnesses and the production of such records, books, papers, and documents as it may deem necessary for investigation of the case of any person before it. Subpoenas may be signed and oath administered by any member of the Board. Subpoenas so issued may be served by a sheriff, constable, police, parole, or probation officer, or other law enforcement officer, in the same manner as similar process in courts of record having original jurisdiction of criminal actions. Any person who testifies falsely or fails to appear when subpoenaed, or fails or refuses to produce such material pursuant to the subpoena, shall be subject to the same orders and penalties to which a person before a court is subject. Any courts of record having original jurisdiction of criminal actions upon application of the Board, may in their discretion compel the attendance of witnesses, the production of such material and the giving of testimony before the Board, by an attachment for contempt or otherwise in the same manner as production of evidence may be compelled before such courts of record having original jurisdiction of criminal actions.

Sec. 20. The Board shall have the power and duty to make rules for the conduct of persons placed on parole by the Board.

Sec. 21. Upon order by the Governor, the Board is authorized to issue a warrant for the return of any paroled prisoner to the institution from which he was paroled. Such warrant shall authorize all officers named therein to return such paroled prisoner to actual custody in the penal institution from which he was paroled. Pending hearing, as hereinafter provided, upon any charge of parole violation, the prisoner shall remain incarcerated in such institution.

A parolee for whose return a warrant has been issued by the Board shall, after the issuance of such warrant, be deemed a fugitive from justice and if it shall appear that he has violated the provisions of his parole, then the time from the issuing of such warrant to the date of his arrest shall not be counted as any part of the time to be served under his sentence. The law now in effect concerning the right of the State of Texas to extradite persons and return fugitives from justice, and Article 42.11 of this Code concerning the waiver of all legal requirements to obtain extradition of fugitives from justice, from other states to this State, shall not be impaired by this Act and shall remain in full force and effect.

Sec. 22. Whenever a paroled prisoner is accused of a violation of his parole on information and complaint by a law enforcement officer or parole officer, he shall be entitled to be heard on such charges before the Board under such rules and regulations as the Board may adopt; providing, however, said hearing shall be held within forty-

five days of the date of arrest and at a time and place set by the Board. When the Board has heard the facts, it may recommend to the Governor that the parole be continued, or revoked, or modified in any manner the evidence may warrant. When the Governor revokes a prisoner's parole, he may be required to serve the portion remaining of the sentence on which he was released on parole, such portion remaining to be calculated without credit for the time from the date of his release on parole to the date of his arrest or charge of parole violation.

Sec. 23. In order to complete the parole period, a parolee shall be required to serve out the whole term for which he was sentenced, subject to the deduction of the time he had served prior to his parole and to any diminution of sentence earned for good behavior while imprisoned in the Department of Corrections. The time on parole shall be calculated as calendar time. This provision, however, shall not be construed so as to interfere with the constitutional power conferred upon the Governor to grant pardons and to commute sentences.

When any paroled prisoner has fulfilled the obligations of his parole and has served out his term as conditioned in the preceding paragraph, the Board shall make a final order of discharge and issue to the parolee a certificate of such discharge.

Sec. 24. Whenever any prisoner serving an indeterminate sentence, as provided by law, shall have served for twelve months on parole in a manner acceptable to the Board, it shall review the prisoner's record and make a determination whether to recommend to the Governor that the prisoner be pardoned and finally discharged from the sentence under which he is serving.

When any prisoner who has been paroled has complied with the rules and conditions governing his parole until the end of the term to which he was sentenced, and without a revocation of his parole, the Board shall report such fact to the Governor prior to the issuance of the final order of discharge, together with its recommendation as to whether the prisoner should be restored to citizenship.

Sec. 25. On request of the Governor the Board shall investigate and report to the Governor with respect to any person being considered by the Governor for pardon, commutation of sentence, reprieve, or remission of fine or forfeiture, and make recommendations thereon.

#### D. Supervision of Parolees

Sec. 26. The Board of Pardons and Paroles shall have general responsibility for the investigation and supervision of all prisoners released on parole. For the discharge of this responsibility, there is hereby created with the Board of Pardons and Paroles, a Division of Parole Supervision. Subject to the general direction of the Board of Pardons and Paroles, the Division of Parole Supervision, including its field staff shall be responsible for obtaining and assembling any facts the Board of Pardons and Paroles may desire in considering parole eligibility, and for investigating and supervising paroled prisoners to see that the conditions of parole are complied with, and for making such periodic reports on the progress of parolees as the Board may desire.

Sec. 27. All information obtained in connection with prison inmates applying for parole or individuals who may be on parole and under the supervision of the division, or persons directly identified in any proposed plan of release for a parolee, shall be privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the Governor and the Board of Pardons and Paroles upon request. It is further

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provided, that statistical and general information respecting the parole program and system, including the names of paroled prisoners and data recorded in connection with parole services, shall be subject to public inspection at any reasonable time.

Sec. 28. Salaries of all employees of the Division of Parole Supervision shall be governed by Appropriation Acts of the Legislature. The Board of Pardons and Paroles shall appoint a Director of the Division, and all other employees shall be selected by the Director, subject to such general policies and regulations as the Board may approve.

It is expressly provided, however, that no person may be employed as a parole officer or supervisor, or be responsible for the investigations, surveillance, or supervision of persons on parole, unless he meets the following qualifications together with any other qualifications that may be specified by the Director of the Division, with the approval of the Board of Pardons and Paroles; 26 to 55 years of age, with four years of successfully completed education in an accredited college or university, and two years of full time paid employment in responsible correctional work with adults or juveniles, social welfare work, teaching, or personnel work. Additional experience in the above categories may be substituted year for year for the required college education, with a maximum substitution for two years.

Sec. 29. Any parole officer or supervisor employed by the Division of Parole Supervision may, with the approval of the director, be designated as a probation officer by the judge of a court of the State having original jurisdiction of criminal actions. Any proportional part of the salary paid to a parole officer or supervisor so designated, however, in compensation for his service as a probation officer, shall be only with the prior written approval of the director; and all such proportional salary payments shall be periodically reported to the Governor and the Legislature by the director.

Sec. 30. In order to provide supervision of parolees or of persons granted executive clemency who reside in sparsely settled areas of the State and in localities not served by regularly employed parole officers, the Governor of this State is authorized to appoint chairmen of Voluntary Parole Boards for such areas or localities. The appointed chairman may, with the advice and approval of the Director of the Division of Parole Supervision, appoint additional members of such Voluntary Parole Boards. The term of service by such appointed chairmen of Voluntary Parole Boards shall not exceed the term of office of the appointing Governor; and the terms of service of locally appointed additional members of such Voluntary Parole Boards shall not exceed the terms of office of the director. However, it is expressly provided that the terms of service by such chairmen and additional members of Voluntary Parole Boards may be continued by appropriate reappointments. The chairman of the Voluntary Parole Board shall be responsible for assigning supervision of parolees to the members of such board.

Sec. 31. No person who is serving as a sheriff, deputy sheriff, constable, deputy constable, city policeman, Texas Ranger, state highway patrolman, or similar law enforcement officer, or as a prosecuting attorney, shall act as a parole officer or be responsible for the supervision of persons on parole.

Sec. 32. Any parole officer or supervisor employed by the Division of Parole Supervision may, upon request of the Governor or the Board of Pardons and Paroles and by direction of the director, be

responsible for supervising persons placed on conditional pardon or furlough.

**E. General Provisions**

Sec. 33. The provisions of this Act shall not be construed to prevent or limit the exercise by the Governor of powers of executive clemency vested in him by the Constitution of this State.

Sec. 34. The provisions of this Act shall not apply to parole from institutions for juveniles.

Sec. 35. This Article shall not be deemed to alter or invalidate any probationary period fixed under statutes in force prior to the effective date of this Code or to limit the jurisdiction or power of a court to modify or terminate such probationary period. In other respects, persons placed on probation or parole prior to the effective date of this Code shall be amenable to the provisions of this Code insofar as it may be made applicable to them. All other actions pertaining to probations and paroles granted prior to the effective date of this Code shall be regulated according to the law in force at the time the probation or parole was granted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 42.13 Misdemeanor Probation Law**

Section 1. All probation in misdemeanor cases shall be granted and administered under this Article.

**Definitions**

Sec. 2. In this Article, unless the context requires a different definition,

(1) "court" means a county court, or a county court at law or county criminal court or any court with original criminal jurisdiction, and includes the judge of any of these courts;

(2) "probation" means the release by a court under terms and for a period specified by the court of a defendant who has been found guilty of a misdemeanor;

(3) "probationer" means a defendant who is on probation.

**Probation authorized in misdemeanor cases**

Sec. 3. (a) A defendant who has been found guilty of a misdemeanor wherein the maximum permissible punishment is by confinement in jail or by a fine in excess of \$200 may be granted probation if:

(1) he applies in writing to the court for probation before trial;

(2) he has never before been convicted in this or another jurisdiction of a felony or of a misdemeanor for which the maximum permissible punishment is by confinement in jail or exceeds a \$200 fine;

(3) he has not been granted probation nor been under probation under this Act or any other Act in the preceding five years;

(4) he has paid all costs of his trial and so much of any fine imposed as the court directs; and

(5) the court believes that the ends of justice and the best interests of society and of the defendant will be served by granting him probation.

(b) If a defendant satisfies the requirements of Section 3(a) (1), (2), (3), and (4) of this Article, and the jury hearing his case recommends probation in its verdict, the court must grant the defendant probation. The court may, however, extend the term of the proba-

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tionary period to any length of time not exceeding the maximum time of confinement allowed by law. In the event probation is revoked in accordance with Section 6, the judgment of the court shall not prescribe any penalty in excess of that imposed by the jury.

(c) A defendant's application for probation must be made under oath and must also contain statements (1) that he has never before been convicted in this or another jurisdiction of a felony or of a misdemeanor for which the maximum permissible punishment is by confinement in jail or exceeds a \$200 fine, and (2) that he has not been granted probation nor been under probation under this Article or any other Article in the preceding five years. The application may contain what other information the court directs.

(d) When a defendant has applied for probation, the court during the trial of his case must receive competent evidence concerning the defendant's entitlement to probation.

#### Effect of probation

Sec. 4. (a) When a defendant is granted probation under the terms of this Act, the finding of guilt does not become final, nor may the court render judgment thereon, except as provided in Section 6 of this Article.

(b) The court shall record the fact and date that probation was granted on the docket sheet or in the minutes of the court. The court shall also note the period and terms of the probation, and the details of the judgment. The court's records may not reflect a final conviction, however, unless probation is later revoked in accordance with Section 6 of this Article.

#### Terms and supervision of probation

Sec. 5. (a) The period and terms of probation shall be determined by the court granting it. Except as provided in Subsection (d) of this Section, a probationer is under the supervision of the court granting him probation.

(b) The period and terms of probation shall be designed to prevent recidivism and promote rehabilitation of the probationer. The terms must include, but are not limited to, the requirements that a probationer:

- (1) commit no offense against the laws of this or any other state or the United States;
- (2) avoid injurious or vicious habits;
- (3) avoid persons or places of disreputable or harmful character;
- (4) report to the probation officer as directed;
- (5) permit the probation officer to visit him at his home or elsewhere;
- (6) work faithfully at suitable employment as far as possible;
- (7) remain within a specified place;
- (8) pay his fine, if the court so orders and, if one be assessed, in one or several sums, and make restitution or reparation in any sum that the court shall determine not to exceed One Thousand Dollars (\$1,000); and
- (9) support his dependents.

(c) The clerk of a court granting probation shall promptly furnish the probationer with a written statement of the period and terms of his probation. If the period or terms are later modified, the clerk

of the modifying court shall promptly furnish the probationer with a written statement of the modifications. The clerk in either case shall take a receipt from the probationer for delivery of the statement.

(d) After probation has been granted, jurisdiction of the probationer's case may be transferred to another court which can more conveniently supervise the probation. If the other court accepts the transfer, the transferring court shall forward to it all pertinent records in the case. The court accepting the transfer is vested with jurisdiction of the case and may exercise any power conferred by this Act upon the court initially granting probation.

#### Revocation of probation

Sec. 6. (a) If a probationer violates any term of his probation, the court may cause his arrest by warrant as in other cases. The probationer upon arrest shall be brought promptly before the court causing his arrest and the court, upon motion of the state and after a hearing without a jury, may continue, modify, or revoke the probation as the evidence warrants.

(b) On the date the probation is revoked, the finding of guilty becomes final and the court shall render judgment thereon against the defendant. The judgment shall be enforced as in other cases and the time served on probation may not be credited or otherwise considered for any purpose.

#### Discharge from probation

Sec. 7. (a) When the period and terms of a probation have been satisfactorily completed, the court shall, upon its own motion, discharge him from probation and enter an order in the minutes of the court setting aside the finding of guilty and dismissing the accusation or complaint and the information or indictment against the probationer.

(b) After the case against the probationer is dismissed by the court, his finding of guilty may not be considered *for any purpose* except to determine his entitlement to a future probation under this Act, or any other probation Act.

#### Appellate rights

Sec. 8. (a) A probationer, at the time he is granted probation, may appeal his conviction as in other cases. He may also appeal the revocation of his probation, but the revocation may not be set aside on appeal without a clear showing of abuse of discretion by the revoking court.

(b) The refusal of a court to grant probation is not appealable unless the jury hearing the case has recommended probation in its verdict and the defendant has satisfied the requirements of Section 3(a) (1), (2), (3), and (4) of this Article. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 42.14** [782] [866] [844] **In absence of defendant**

The judgment and sentence in a misdemeanor case may be rendered in the absence of the defendant. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 42.15** [783] [867] [845] **As to fine**

When the defendant is only fined the judgment shall be that the State of Texas recover of the defendant the amount of such fine and



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all costs of the prosecution, and that the defendant, if present, be committed to jail until such fine and costs are paid; or if the defendant be not present, that a *capias* forthwith issue, commanding the sheriff to arrest the defendant and commit him to jail until such fine and costs are paid; also, that execution may issue against the property of such defendant for the amount of such fine and costs. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 42.16** [784] [868] [846] **On other judgment**

If the punishment is any other than a fine, the judgment shall specify it, and order it enforced by the proper process. It shall also adjudge the costs against the defendant, and order the collection thereof as in other cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER FORTY-THREE

### EXECUTION OF JUDGMENT

Art.

- 43.01 Discharging judgment for fine.
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### **Article 43.01** [785] [869] [847] **Discharging judgment for fine**

When the judgment and sentence against a defendant is for fine and costs he shall be discharged from the same

1. When the amount thereof has been fully paid; or
2. When remitted by the proper authority; or
3. When he has remained in custody for the time required by law to satisfy the amount thereof. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.02** [786] [870] [848] **Payable in money**

All recognizances, bail bonds, and undertakings of any kind, whereby a party becomes bound to pay money to the State, and all fines and forfeitures of a pecuniary character, shall be collected in the lawful money of the United States only. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.03** [898] [990] [955] **Pay or jail**

When a judgment and sentence have been rendered against a defendant for a pecuniary fine, if he is present, he shall be imprisoned in jail until discharged as provided by law. A certified copy of such judgment and sentence shall be sufficient to authorize such imprisonment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.04** [788] [872] [850] **If defendant is absent**

When a pecuniary fine has been adjudged against a defendant not present, a *capias* shall forthwith be issued for his arrest. The sheriff shall execute the same by placing the defendant in jail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.05** [789] [873] [851] **Capias shall recite what**

Where such *capias* issues, it shall state the rendition and amount of the judgment and sentence and the amount unpaid thereon, and command the sheriff to take the defendant and place him in jail until the amount due upon such judgment and sentence and the further cost of collecting the same are paid, or until the defendant is otherwise legally discharged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.06** [790] [874] [852] **Capias may issue to any county**

The *capias* provided for in this Chapter may be issued to any county in the State, and shall be executed and returned as in other cases, but no bail shall be taken in such cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.07** [791] [875-6] **Execution for fine and costs**

In each case of pecuniary fine, an execution may issue for the fine and costs, though a *capias* was issued for the defendant; and a *capias* may issue for the defendant though an execution was issued against his property. The execution shall be collected and returned as in civil actions. When the execution has been collected, the defendant shall be at once discharged; and whenever the fine and costs have been legally discharged in any way, the execution shall be returned satisfied. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.08** [792] [877] [855] **Further enforcement of judgment**

When a defendant has been committed to jail in default of the fine and costs adjudged against him, the further enforcement of such judgment and sentence shall be in accordance with the provisions of this Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.09** [793] [878] [856] **Fine discharged**

When a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work in the workhouse, or on the county farm, or public improvements of the county, as provided in the succeeding Article; or if there be no such workhouse, farm or improvements, he shall be imprisoned in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him; rating such labor or imprisonment at five dollars for each day thereof; provided, however, that the defendant may pay the pecuniary fine assessed against him at any time while he is serving at work in the workhouse, or on the county farm, or on the public improvements of the county, or while he is serving his jail sentence, and in such instances he shall be entitled to a credit of five dollars for each day or fraction of a day that he has served and he shall only be required to pay his balance of the pecuniary fine assessed against him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.10** [794] **To do manual labor**

Where the punishment assessed in a conviction for misdemeanor is confinement in jail for more than one day, or where in such conviction the punishment is assessed only at a pecuniary fine and the party so convicted is unable to pay the fine and costs adjudged against him, those so convicted shall be required to do manual labor in accordance with the provisions of this Article under the following rules and regulations:

1. Each commissioners court may provide for the erection of a workhouse and the establishment of a county farm in connection therewith for the purpose of utilizing the labor of said parties so convicted;

2. Such farms and workhouses shall be under the control and management of the commissioners court, and said court may adopt such rules and regulations not inconsistent with the laws as they deem necessary for the successful management and operation of said institutions and for effectively utilizing said labor;

3. Such overseers and guards may be employed under the authority of the commissioners court as may be necessary to prevent escapes and to enforce such labor, and they shall be paid out of the county treasury such compensation as said court may prescribe;

4. Those so convicted shall be so guarded while at work as to prevent escape;

5. They shall be put to labor upon the public roads, bridges or other public works of the county when their labor cannot be utilized in the county workhouse or county farm;

6. They shall be required to labor not less than eight nor more than ten hours each day, Sundays excepted. No person shall ever be required to work for more than one year;

7. One who refuses to labor or is otherwise refractory or insubordinate may be punished by solitary confinement on bread and water or in such other manner as the commissioners court may direct;

8. When not at labor they may be confined in jail or the workhouse, as may be most convenient, or as the regulations of the commissioners court may prescribe;

9. A female shall in no case be required to do manual labor except in the workhouse; and

10. One who from age, disease, or other physical or mental disability is unable to do manual labor shall not be required to work, but shall remain in jail until his term of imprisonment is ended, or until the fine and costs adjudged against him are discharged according to law. His inability to do manual labor may be determined by a physician appointed for that purpose by the county judge or the commissioners court, who shall be paid for such service such compensation as said court may allow. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.11** [795] [879] [857] **Authority for imprisonment**

When, by the judgment and sentence of the court, a defendant is to be imprisoned in jail, a certified copy of such judgment and sentence shall be sufficient authority for the sheriff to place such defendant in jail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.12** [796] [880] [858] **Capias for imprisonment**

A capias issued for the arrest and commitment of one convicted of a misdemeanor, the penalty of which or any part thereof is imprisonment in jail, shall recite the judgment and sentence and command the sheriff to place the defendant in jail, to remain the length of time therein fixed; and this writ shall be sufficient to authorize the sheriff to place such defendant in jail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.13** [797] [881] [859] **Discharge of defendant**

A defendant who has remained in jail the length of time required by the judgment and sentence shall be discharged. The sheriff shall return the copy of the judgment and sentence, or the capias under which the defendant was imprisoned, to the proper court, stating how it was executed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.14** [798] **Execution of convict**

Whenever the sentence of death is pronounced against a convict, the sentence shall be executed at any time before the hour of sunrise on the day set for the execution not less than thirty days from the day of sentence, as the court may adjudge, by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application and continuance of such current through the body of such convict until he is dead. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.15** [799] **Warrant of execution**

Whenever any person is sentenced to death, the clerk of the court in which the sentence is pronounced, shall within ten days after sentence has been pronounced, issue a warrant under the seal of the court for the execution of the sentence of death, which shall recite the fact of conviction, setting forth specifically the offense, the judgment of the court, the time fixed for his execution, and directed to the Director of the Department of Corrections at Huntsville, Texas, commanding him to proceed, at the time and place named in the sentence, to carry the same into execution, as provided in the preceding Article, and shall deliver such warrant to the sheriff of the county in which such judgment of conviction was had, to be by him delivered.

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to the said Director of the Department of Corrections, together with the condemned person. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.16** [800] **Taken to Department of Corrections**

Immediately upon the receipt of such warrant, the sheriff shall transport such condemned person to the Director of the Department of Corrections and shall deliver him and the warrant aforesaid into the hands of the Director of the Department of Corrections and shall take from the Director of the Department of Corrections his receipt for such person and such warrant, which receipt the sheriff shall return to the office of the clerk of the court where the judgment of death was rendered. For his services, the sheriff shall be entitled to the same compensation as is now allowed by law to sheriffs for removing or conveying prisoners under the provisions of Section 4 of Article 1029 or 1030 of the Code of Criminal Procedure of 1925, as amended. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.17** [801] **Visitors**

Upon the receipt of such condemned person by the Director of the Department of Corrections, he shall be confined therein until the time for his execution arrives, and while so confined, all persons outside of said prison shall be denied access to him, except his physician and lawyer, who shall be admitted to see him when necessary to his health or for the transaction of business, and the relatives, friends and spiritual advisors of the condemned person, who shall be admitted to see and converse with him at all proper times, under such reasonable rules and regulations as may be made by the Board of Directors of the Department of Corrections. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.18** [802] **Executioner**

The Director of the Department of Corrections at Huntsville, or in case of his death, disability or absence, his deputy, shall be the executioner. In the event of the death or disability or absence of both the Director of the Department of Corrections and his deputy, the executioner shall be that person appointed by the Board of Directors of the Department of Corrections for that purpose. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.19** [803] **Place of execution**

The execution shall take place at the Department of Corrections at Huntsville, Texas, in a room arranged for that purpose. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.20** [804] **Present at execution**

The following persons may be present at the execution: the executioner, and such persons as may be necessary to assist him in conducting the execution; the Board of Directors of the Department of Corrections, two physicians, including the prison physician, the spiritual advisor of the condemned, the chaplains of the Department of Corrections, the county judge and sheriff of the county in which the Department of Corrections is situated, and any of the relatives or friends of the condemned person that he may request, not exceeding five in number, shall be admitted. No convict shall be permitted by

the prison authorities to witness the execution. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.21** [805] **Escape after sentence**

If the condemned escape after sentence and before his delivery to the Director of the Department of Corrections, and be not re-arrested until after the time fixed for execution, any person may arrest and commit him to the jail of the county in which he was sentenced; and thereupon the court by whom the condemned was sentenced; either in term-time or vacation, on notice of such arrest being given by the sheriff, shall again appoint a time for the execution, not less than thirty days from such appointment, which appointment shall be by the clerk of said court immediately certified to the Director of the Department of Corrections and such clerk shall place such certificate in the hands of the sheriff, who shall deliver the same, together with the warrant aforesaid and the condemned person to the Director of the Department of Corrections, who shall receipt to the sheriff for the same and proceed at the appointed time to carry the sentence of death into execution as hereinabove provided. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.22** [806] **Escape from Department of Corrections**

If the condemned person escapes after his delivery to the Director of the Department of Corrections, and is not retaken before the time appointed for his execution, any person may arrest and commit him to the Director of the Department of Corrections whereupon the Director of the Department of Corrections shall certify the fact of his escape and recapture to the court in which sentence was passed; and the court, either in term-time or vacation, shall again appoint a time for the execution which shall not be less than thirty days from the date of such appointment; and thereupon the clerk of such court shall certify such appointment to the Director of the Department of Corrections, who shall proceed at the time so appointed to execute the condemned, as hereinabove provided. The sheriff or other officer or other person performing any service under this and the preceding Article shall receive the same compensation as is provided for similar services under the provisions of Articles 1029 or 1030 of the Code of Criminal Procedure of 1925, as amended. If for any reason execution is delayed beyond the date set, then the court which originally sentenced the defendant may set a later date for execution. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.23** [807] **Return of Director**

When the execution of sentence is suspended or respited to another date, same shall be noted on the warrant and on the arrival of such date, the Director of the Department of Corrections shall proceed with such execution; and in case of death of any condemned person before the time for his execution arrives, or if he should be pardoned or his sentence commuted by the Governor, no execution shall be had; but in such cases, as well as when the sentence is executed, the Director of the Department of Corrections shall return the warrant and certificate with a statement of any such act and his proceedings endorsed thereon, together with a statement showing what disposition was made of the dead body of the convict, to the clerk of the court in which the sentence was passed, who shall record the warrant and return in the minutes of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

For Annotations and Historical Notes, see V.A.T.S.

**Art. 43.24** [808] [888] **Treatment of condemned**

No torture, or ill treatment, or unnecessary pain, shall be inflicted upon a prisoner to be executed under the sentence of the law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.25** [809] [891] [869] **Body of convict**

The body of a convict who has been legally executed shall be embalmed immediately and so directed by the Director of the Department of Corrections. If the body is not demanded or requested by a relative or bona fide friend within forty-eight hours after execution then it shall be delivered to the Anatomical Board of the State of Texas, if requested by the Board. If the body is requested by a relative, bona fide friend, or the Anatomical Board of the State of Texas, such recipient shall pay a fee of not to exceed twenty-five dollars to the mortician for his services in embalming the body for which the mortician shall issue to the recipient a written receipt. When such receipt is delivered to the Director of the Department of Corrections, the body of the deceased shall be delivered to the party named in the receipt or his authorized agent. If the body is not delivered to a relative, bona fide friend, or the Anatomical Board of the State of Texas, the Director of the Department of Corrections shall cause the body to be decently buried, and the fee for embalming shall be paid by the county in which the indictment which resulted in conviction was found. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 43.26** [811] **Preventing rescue**

The sheriff may, when he supposes there will be a necessity, order such number of citizens of his county, or request any military or militia company, to aid in preventing the rescue of a prisoner. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

# APPEAL AND WRIT OF ERROR

## CHAPTER FORTY-FOUR

### APPEAL AND WRIT OF ERROR

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**Article 44.01** [812] [893] [871] **State cannot appeal**

The State shall have no right of appeal in criminal actions. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.02** [813] [894] [872] **Defendant may appeal**

A defendant in any criminal action has the right of appeal under the rules hereinafter prescribed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.03** [814] [898] [875] **Presence in appellate court**

The defendant need not be personally present upon the hearing of his cause in the Court of Criminal Appeals, but if not in jail, he may appear in person. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.04** [815 through 818] [901-904] [875, 876] **Bond pending appeal**

(a) Any defendant who is convicted of a misdemeanor, or who is convicted of a felony and whose punishment is assessed at a fine or confinement not to exceed fifteen years or both, shall be entitled to bail under the rules set forth in this Chapter pending disposition of his motion for new trial, if any, and pending disposition of his appeal, if any, and until his conviction becomes final.

(b) If the defendant is on bail when the trial commences, he shall have the same right to remain on bail during the trial of the case and until the return into court of the verdict as he had under the law before the trial commences.

(c) If the defendant is on bail when the trial commences and is convicted of a misdemeanor appealable to any court where a trial de novo may be had and is on bail when the trial commences, he shall remain at large on such bail and such bail shall not be considered as discharged until his conviction becomes final or he files an appeal bond as required by this Code for appeal from such conviction.

(d) If the defendant is on bail when the trial commences and is convicted of a misdemeanor appealable to the Court of Criminal Appeals or of a felony and his punishment is assessed at a fine or confinement not to exceed fifteen years, or both, he shall remain on such bail and the bail shall not be considered discharged until his conviction has become final, either through his failure to obtain a new trial or to perfect or pursue an appeal or through final affirmance by the appellate court on appeal and the filing of a mandate thereof with the clerk of the trial court.

After conviction, either pending determination of any motion for new trial or pending final determination of the appeal, the court in which he was tried may increase or decrease the amount of his bail, as it deems proper, either upon its own motion or the motion of the State or of the defendant, which bail and the sureties thereon shall be approved by such trial court in the event any additional bond is required.

(e) If the defendant is in custody when the trial commences, and his punishment is assessed at a fine or confinement not to exceed fifteen years, or both, he shall be entitled to bail until his conviction has become final, either through his failure to obtain a new trial or to perfect an appeal or through final affirmance by the appellate court upon appeal and the filing of a mandate thereof with the clerk of the

trial court. Upon application by the defendant, and at any time prior to the time such conviction becomes final, the trial court shall set his bail at such amount as such court deems proper, which bail and sureties on which bond shall be approved by the trial court. Such defendant shall be committed to jail unless he enters into such bail. If he be in custody, his motion for new trial or notice of appeal shall have no effect to release him from such custody unless he enters into such bail.

(f) Any such bail may be entered into and given either in the same or any subsequent term of the court, and shall be sufficient if it substantially meets the requirements of Article 17.09.

(g) In no event shall the defendant and the sureties on his bond be released from their liability on such bond or bonds until the defendant is placed in the custody of the sheriff.

(h) If the punishment assessed exceeds fifteen years confinement, the defendant shall be placed in custody of the sheriff and the bail thereby considered discharged immediately upon the return into court of the verdict as to punishment, or if the minimum punishment possible under the law exceeds fifteen years, then immediately upon the return into court of the verdict of guilty. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.05** [819] [906] **Receipt of mandate**

When the clerk of any court from whose judgment an appeal has been taken in cases wherein bail has been allowed shall receive the mandate of the Court of Criminal Appeals affirming such judgment, he shall immediately file the same and forthwith issue a *capias* for the arrest of the defendant for the execution of the sentence of the court, which shall recite the fact of conviction, setting forth the offense and the judgment and sentence of the court, the appeal from and affirmance of such judgment and the filing of such mandate, and shall command the sheriff to arrest and take into his custody the defendant and place him in jail and therein keep him until delivered to the proper authorities, as directed by said sentence. The sheriff shall forthwith execute such *capias* as directed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.06** [820] [907] **Capias may issue to any county**

Such *capias* may issue to any county of this State, and shall be executed and returned as in other felony cases, except that no bail shall be taken in such cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.07** [821] [908] **Right of appeal not abridged**

The right of appeal, as otherwise provided by law, shall in no wise be abridged by any provision of this Chapter. Act 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.08** [822, 827] [910, 915] [878] **Notice of appeal**

(a) It shall be necessary for defendant, as a condition of perfecting an appeal to the Court of Criminal Appeals, to give notice of appeal. This notice may be given orally in open court or may be in writing filed with the clerk. Such notice shall be sufficient if it shows the desire of defendant to appeal from the conviction to the Court of Criminal Appeals.

(b) In cases where the death penalty has been assessed or in probation cases where imposition of sentence is suspended, such notice shall be given or filed within ten days after overruling of the motion or amended motion for new trial and if there be no motion or amended motion for new trial, then within ten days after entry of judgment on the verdict.

(c) In all other cases such notice shall be given or filed within ten days after sentence is pronounced.

(d) The record on appeal will be deemed sufficient to show notice of appeal was duly given if it contains written notice of appeal showing a date of filing within the time required by law or if the record contains any judgment or sentence or other court order or any docket entry by the court showing that notice of appeal was duly given.

(e) For good cause shown, the trial court may permit the giving of notice of appeal after the expiration of such ten days. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.09 [824] [912] [880] Escape pending appeal**

If the defendant, pending an appeal in the felony case, makes his escape from custody, the jurisdiction of the Court of Criminal Appeals shall no longer attach in the case. Upon the fact of such escape being made to appear, the court shall, on motion of the State's attorney, dismiss the appeal; but the order dismissing the appeal shall be set aside if it is made to appear that the defendant has voluntarily returned within ten days to the custody of the officer from whom he escaped; and in cases where the punishment inflicted by the jury is death or confinement in an institution operated by the Department of Corrections for life, the court may in its discretion reinstate the appeal if the defendant is recaptured or voluntarily surrenders within thirty days after such escape. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.10 [825] [913] [881] Sheriff to report escape**

When any such escape occurs, the sheriff who had the prisoner in custody shall immediately report the fact under oath to the district or county attorney of the county in which the conviction was had, who shall forthwith forward such report to the State prosecuting attorney. Such report shall be sufficient evidence of the fact of such escape to authorize the dismissal of the appeal. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.11 [828] [916] [884] Effect of appeal**

Upon the appellate record being filed in the Court of Criminal Appeals, all further proceedings in the trial court, except as to bond as provided in Article 44.04 and the proceedings in Article 40.09, shall be suspended and arrested until the judgment of the Court of Criminal Appeals is received by the trial court, in cases where the record or any portion thereof is lost or destroyed it may be substituted in the trial court and when so substituted the record may be prepared and transmitted to the Court of Criminal Appeals as in other cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.12 [832] [905-919] Procedure as to bail pending appeal**

The amount of any bail given in any felony or misdemeanor case to perfect an appeal from any court to the Court of Criminal Appeals

shall be fixed by the court in which the judgment and sentence appealed from was rendered. The sufficiency of the security thereon shall be tested, and the same proceedings had in case of forfeiture, as in other cases regarding bail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.13** [833] [921] [889] Appeals from justice and corporation courts

In appeals from the judgments and sentence of justice or corporation courts, the defendant shall, if he be in custody, be committed to jail unless he gives bail, to be approved by the court from whose judgment and sentence the appeal is taken, in an amount not less than double the amount of fine and costs adjudged against him, payable to the State of Texas; provided the bail shall not in any case be for a less sum than fifty dollars. The bond shall recite that in the cause the defendant was convicted and has appealed, and be conditioned that the defendant shall make his personal appearance before the court to which the appeal is taken instanter, if said court be then in session; and if said court be not in session, then at its next regular term, stating the time and place of holding the same, and there remain from day to day and term to term, and answer in said cause in said court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.14** [834] [922] Filing bond perfects appeal

In appeals from justice and corporation courts, when the appeal bond provided for in the preceding Article has been filed with the justice or judge who tried the case, the appeal in such case shall be held to be perfected. No appeal shall be dismissed because defendant failed to give notice of appeal in open court, nor on account of any defect in the transcript. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.15** [835] [923] Appellate court may allow new bond

When an appeal is taken from any court of this State, by filing a bond within the time prescribed by law in such cases, and the court to which appeal is taken determines that such bond is defective in form or substance, such appellate court may allow the appellant to amend such bond by filing a new bond, on such terms as the court may prescribe. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.16** [836] [924] [890] Appeal bond given within what time

If the defendant is not in custody, a notice of appeal as provided in Article 44.13 shall have no effect whatever until the required appeal bond has been given and approved; and such appeal bond shall, in all cases, be given within ten days after the sentence of the court has been rendered, and not afterward. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.17** [837] [925] [891] Trials de novo

In all appeals from justice and corporation courts to the county court, the trial shall be de novo in the trial in the county court, the same as if the prosecution had been originally commenced in that court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.18** [838] [926] [892] **Original papers sent up**

In appeals from justice and corporation courts, all the original papers in the case, together with the appeal bond, if any, and together, with a certified transcript of all the proceedings had in the case before such court shall be delivered without delay to the clerk of the court to which the appeal was taken, who shall file the same and docket the case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.19** [839] [927] [893] **Witnesses not again summoned**

In the cases mentioned in the preceding Article, the witnesses who have been summoned or attached to appear in the case before the court below, shall appear before the court to which the appeal is taken without further process. In case of their failure to do so, the same proceedings may be had as if they had been originally summoned or attached to appear before such court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.20** [840] [928] [894] **Rules governing appeal bonds**

The rules governing the taking and forfeiture of bail shall govern appeal bonds, and the forfeiture and collection of such appeal bonds shall be in the court to which such appeal is taken. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.21** [844] [932-933] **Clerk to make list of cases**

The clerk, immediately after the adjournment of the court at which appeals were taken, shall make out a certificate under his seal showing a list of each cause appealed. This certificate shall show the style of the cause, the offense, the date judgment was rendered, and the date the appeal was taken; and the clerk shall send it to the clerk of the appellate court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.22** [845] [934-935] **Failure to receive record**

When it appears by the clerk's certificate that an appeal has been taken but that the record has not been received by the clerk of the Court of Criminal Appeals within the time required by law for filing the record, such clerk shall immediately notify the clerk of the proper court that the same has not been received, and such clerk without delay shall prepare and forward another record as in the first instance, and notify the clerk of the appellate court by letter of the fact that such record has been forwarded and how and when it was forwarded. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.23** [846] [937, 903] **Appeals, when determined**

The Court of Criminal Appeals shall hear and determine appeals in criminal actions at the earliest time it may be done, with due regard to the rights of parties and proper administration of justice, and no affirmance of a case shall be determined on mere technicalities or on technical errors in the preparation and filing of the record on appeal. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.24** [847] [938] [904] **Presumptions on appeal**

The Court of Criminal Appeals may affirm the judgment of the court below, or may reverse and remand for a new trial, or may reverse and dismiss the case, or may reform and correct the judgment, as the law and nature of the case may require. The court shall pre-

sume that the venue was proved in the court below; that the jury was properly impaneled and sworn; that the defendant was arraigned; that he pleaded to the indictment, that the court's charge was certified by the judge and filed by the clerk before it was read to the jury, unless such matters were made an issue in the court below, or it otherwise affirmatively appears to the contrary from the record. In each case by it decided, the Court of Criminal Appeals shall deliver a written opinion, setting forth in intelligible language the reason for such decision. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.25** [848] [939] [905] **Cases remanded**

The Court of Criminal Appeals may reverse the judgment in a criminal action, as well upon the law as upon the facts. A cause reversed because the verdict is contrary to the evidence shall be remanded for new trial. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.26** [849] [940] [906] **Duty of the clerk after judgment**

When the judgment of the Court of Criminal Appeals is final, the clerk shall make out the proper certificate of the proceedings had and judgment rendered, and mail the same to the clerk of the proper court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.27** [850] [941] [907] **Mandate to be filed**

When the mandate of the Court of Criminal Appeals is received by the proper clerk, he shall file it with the papers of the cause, and note it upon the docket. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.28** [851] [944] [910] **When misdemeanor is affirmed**

In misdemeanor cases where there has been an affirmance, no proceedings need be had after filing the mandate, except to forfeit the bond of the defendant, or to issue a *capias* for the defendant, or an execution against his property, to enforce the judgment of the court, as if no appeal had been taken. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.29** [852] [945] [911] **Effect of reversal**

Where the court of Criminal Appeals awards a new trial to the defendant, the cause shall stand as it would have stood in case the new trial had been granted by the court below. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.30** [853] [946] [912] **Motion in arrest of judgment**

Where the motion in arrest of judgment was overruled, and it is decided on appeal that the same ought to have been sustained, the cause shall stand as if the motion had been sustained, unless the appellate court directs the cause to be dismissed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.31** [854] [947] [913] **Defendant discharged, when**

When the Court of Criminal Appeals reverses a judgment and orders the cause to be dismissed, the defendant, if in custody, must be discharged. The clerk of the appellate court shall at once transmit to the officer having custody of the defendant an order by telegraph or mail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.32** [855] [948] [914] **Bail after reversal**

When a felony case is reversed and remanded for a new trial, the defendant shall be released from custody, upon his giving bail as in other cases when he is entitled to bail. The clerk of the appellate court shall send the officer having custody of the defendant an order to that effect. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.33** [856] [949] [915] **Hearing in appellate court**

The Court of Criminal Appeals may make rules of procedure as to the hearing of criminal actions upon appeal not inconsistent with this Code. After the record is filed in the Court of Criminal Appeals the parties may file such supplemental briefs as they may desire before the case is heard on oral argument by such court. Each party, upon filing any such supplemental brief, shall promptly cause true copy thereof to be delivered to the opposing party or to the latter's counsel. In every case at least two counsel for the defendant shall be heard in the Court of Criminal Appeals if such be desired by defendant.

Appellant's failure to file his brief in the time prescribed shall not authorize a dismissal of the appeal by the Court of Criminal Appeals, nor shall the Court of Criminal Appeals, for such reason, refuse to consider appellant's case on appeal. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.34** [857] [950] [916] **Appeal in habeas corpus**

When the defendant appeals from the judgment rendered on the hearing of an application under habeas corpus, a record of the proceedings in the cause shall be made out and certified to, together with all the testimony offered, and shall be sent up to the Court of Criminal Appeals for review. This record, when the proceedings take place before the court in session, shall be prepared and certified by the clerk thereof; but when had before a judge in vacation, the record may be prepared by any person, under direction of the judge, and certified by such judge. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.35** [857a] **Bail pending habeas corpus appeal**

In any habeas corpus proceeding in any court or before any judge in this State where the defendant is remanded to the custody of an officer and an appeal is taken to an appellate court, the defendant shall be allowed bail by the court or judge so remanding the defendant, except in capital cases where the proof is evident. The fact that such defendant is released on bail shall not be grounds for a dismissal of the appeal except in capital cases where the proof is evident. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.36** [858] [951, 952, 953] **Hearing habeas corpus**

Cases of habeas corpus, taken to the Court of Criminal Appeals by appeal, shall be heard at the earliest practicable time. The defendant need not be personally present, and such appeal shall be heard and determined upon the law and the facts arising upon record. No incidental question which may have arisen on the hearing of the application before the court below shall be reviewed. The only design of the appeal is to do substantial justice to the party appealing. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.37** [859] [954] [920] **Orders on appeal**

The Court of Criminal Appeals shall enter such judgment, and make such orders as the law and the nature of the case may require, and may make such orders relative to the costs in the case as may seem right, allowing costs and fixing the amount, or allowing no costs at all. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.38** [860] [955] [921] **Judgment conclusive**

The judgment of the Court of Criminal Appeals in appeals under habeas corpus shall be final and conclusive; and no further application in the same case can be made for the writ, except in cases specially provided for by law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.39** [861] [957] [923] **Appellant detained by other than officer**

If the appellant in a case of habeas corpus be detained by any person other than an officer, the sheriff receiving the mandate of the Court of Criminal Appeals, shall immediately cause the person so held to be discharged; and the mandate shall be sufficient authority therefor. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.40** [862] [958] [924] **Judgment to be certified**

The judgment of the Court of Criminal Appeals shall be certified by the clerk thereof to the officer holding the defendant in custody, or when he is held by any person other than an officer, to the sheriff of the proper county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.41** [863] [959] [925] **Who shall take bail bond**

When, by the judgment of the Court of Criminal Appeals upon cases of habeas corpus, the applicant is ordered to give bail, such judgment shall be certified to the officer holding him in custody; and if such officer be the sheriff, the bail bond may be executed before him; if any other officer, he shall take the person detained before some magistrate, who may receive a bail bond, and shall file the same in the proper court of the proper county; and such bond may be forfeited and enforced as provided by law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.42** [864] [960] [926] **Appeal on forfeitures**

An appeal may be taken by the defendant from every final judgment rendered upon a personal bond; bail bond or bond taken for the prevention or suppression of offenses, where such judgment is for twenty dollars or more, exclusive of costs, but not otherwise. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.43** [865] [961] [927] **Writ of error**

The defendant may also have any such judgment as is mentioned in the preceding Article, and which may have been rendered in courts other than the justice and corporation courts, reviewed upon writ of error. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 44.44** [866] [962] [928] **Rules in forfeitures**

In the cases provided for in the two preceding Articles, the proceeding shall be regulated by the same rules that govern civil actions where an appeal is taken or a writ of error sued out. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.



## JUSTICE AND CORPORATION COURTS

### CHAPTER FORTY-FIVE

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**Article 45.01 [867] Complaint**

Proceedings in a corporation court shall be commenced by complaint, which shall begin: "In the name and by authority of the State of Texas"; and shall conclude: "Against the peace and dignity of the State"; and if the offense is only covered by an ordinance, it may also conclude: "Contrary to the said ordinance". The recorder need not charge the jury except upon charges requested in writing by the defendant or his attorney, and he may give or refuse such charges. Complaints before such court may be sworn to before any officer authorized to administer oaths or before the recorder, clerk of the court, city secretary, city attorney or his deputy, each of whom, for that purpose, shall have power to administer oaths. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.02 [868] Seal**

The said court shall have a seal with a star of five points in the center and the words "Corporation Court in \_\_\_\_\_ Texas", the impress of which shall be attached to all papers issued out of said court except subpoenas, and shall be used to authenticate the official acts of the clerk and of the recorder. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.03 [869] Prosecutions**

All prosecutions in a corporation court shall be conducted by the city attorney of such city, town or village, or by his deputy. The county attorney of the county in which said city, town or village is situated may, if he so desires, also represent the State in such prosecutions. In such cases, the said county attorney shall not be entitled to receive any fees or other compensation whatever for said services. The county attorney shall have no power to dismiss any prosecution pending in said court unless for reasons filed and approved by the recorder. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.04 [870] Service of process**

All process issuing out of a corporation court shall be served by a policeman or marshal of the city, town or village within which it is situated, under the same rules as are provided by law for the service by sheriffs and constables of process issuing out of the justice court, so far as applicable. Each defendant shall be entitled to at least one days notice of any complaint against him, if such time be demanded. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.05 [871] Commitment**

When the defendant in such cases is committed to custody, he shall be committed to the custody of the chief of police or city marshal

of such city, town or village, to be held by him in accordance with the ordinance providing for the custody of prisoners convicted before such corporation court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.06** [872] **Fines and special expenses**

The governing body of each incorporated city, town or village shall by ordinance prescribe such rules, not inconsistent with any law of this State, as may be proper to enforce, by execution against the property of the defendant, or imprisonment of the defendant, the collection of all fines imposed by such court, and shall also have power to adopt such rules and regulations concerning the practice and procedure in such court as said governing body may deem proper, not inconsistent with any law of this State. All such fines, and the special expenses described in Article 17.04 dealing with the requisites of a personal bond and a special expense for the issuance and service of a warrant of arrest, after due notice, not to exceed \$7.50, shall be paid into the city treasury for the use and benefit of the city, town or village. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.07** [873] **Collection of costs**

No costs shall be provided for by any ordinance of any incorporated city, town, or village, and none shall be collected. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.08** [874] **Jury fees**

The provisions of this Code regulating the amount and collection of jury and witness fees, and for enforcing the attendance of witnesses in criminal cases tried in the justice court shall, so far as applicable, govern such corporation court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.09** [875] **Officers' fees**

Unless provided by special charter, the governing body of each city, town or village by ordinance shall prescribe the compensation and fees which shall be paid to the recorder, city attorney, city secretary and other officers of said court, to be paid out of the municipal treasury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.10** [876] **Appeal**

Appeals from a corporation court shall be heard by the county court except in cases where the county court has no jurisdiction, in which counties such appeals shall be heard by the proper court. In such appeals the trial shall be de novo. Said appeals shall be governed by the rules of practice and procedure for appeals from justice courts to the county court, as far as applicable. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.11** [877] **Disposition of fees**

The fine imposed on appeal and the costs imposed on appeal shall be collected of the defendant, and such fine of the corporation court when collected shall be paid into the municipal treasury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.12** [878] Contempt and bail

The recorder may punish for contempt to the same extent and under the same circumstances as the county judge may punish for contempt of the county court. He shall have power to admit to bail, and to forfeit bonds under such rules as govern such taking and forfeiture in the county court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.13** [879] [969] [934] Criminal docket

Each justice of the peace and each recorder shall keep a docket in which he shall enter the proceedings in each trial had before him, which docket shall show:

1. The style of the action;
2. The nature of the offense charged;
3. The date the warrant was issued and the return made thereon;
4. The time when the examination or trial was had, and if a trial, whether it was by a jury or by himself;
5. The verdict of the jury, if any;
6. The judgment and sentence of the court;
7. Motion for new trial, if any, and the decision thereon;
8. If an appeal was taken; and
9. The time when, and the manner in which, the judgment and sentence was enforced. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.14** [880] [970] [935] To file transcript of docket

At each term of the district court, each justice of the peace shall, on the first day of the term of said court for their county, file with the clerk of said court a certified transcript of the docket kept by such justice, of all criminal cases examined or tried before him since the last term of such district court; and such clerk shall immediately deliver such transcript to the foreman of the grand jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.15** [881] [971] [936] Warrant without complaint

Whenever a criminal offense which a justice of the peace has jurisdiction to try shall be committed within the view of such justice, he may issue his warrant for the arrest of the offender. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.16** [882] [972] [937] Complaint shall be written

Upon complaint being made before any justice of the peace, or any other officer authorized by law to administer oaths, that an offense has been committed in the county which a justice of the peace has jurisdiction finally to try, the justice or other officer shall reduce the same to writing and cause the same to be signed and sworn to by the complainant. It shall be duly attested by the officer before whom it was made; and when made before such justice, or when returned to him made before any other officer, the same shall be filed by him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.17** [883] [973] [938] **What complaint must state**

Such complaint shall state:

1. The name of the accused, if known, and if unknown, shall describe him as accurately as practicable;
2. The offense with which he is charged, in plain and intelligible words;
3. That the offense was committed in the county in which the complaint is made; and
4. It must show, from the date of the offense stated therein, that the offense is not barred by limitation. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.18** [884] [974] [939] **Warrant shall issue**

When the requirements of the preceding Article have been complied with, the justice shall issue a warrant for the arrest of the accused and deliver the same to the proper officer to be executed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.19** [885] [975] [940] **Requisites of warrant**

Said warrant shall be deemed sufficient if it contains the following requisites:

1. It shall issue in the name of "The State of Texas";
2. It shall be directed to the proper sheriff, constable or some other person specially named therein;
3. It shall command that the body of the accused be taken, and brought before the authority issuing the warrant, at the time and place therein named;
4. It must state the name of the person whose arrest is ordered, if it be known, and if not known, he must be described as in the complaint;
5. It must state that the person is accused of some offense against the laws of the State, naming the offense; and
6. It must be signed by the justice, and his office named in the body of the warrant, or in connection with his signature. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.20** [888] [979] [944] **Any person may execute warrant**

A justice of the peace may, when he deems it necessary, authorize any person other than a peace officer to execute a warrant of arrest by naming such person specially in the warrant. In such case, such person shall have the same powers, and shall be subject to the same rules that govern peace officers in like cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.21** [889] [980] [945] **Offenses committed in another county**

Whenever complaint is made before any justice of the peace that a felony has been committed in any other than a county in which the complaint is made, such justice shall issue his warrant for the arrest of the accused, directed as in other cases, commanding that the accused be arrested and taken before any magistrate of the county where such

felony is alleged to have been committed, forthwith, for examination as in other cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.22** [889a] **Offenses in counties of 225,000; venue; fee of constable; penalties**

Sec. 1. No person shall ever be tried in any justice precinct court unless the offense with which he was charged was committed in such precinct. Provided, however, should there be no duly qualified justice precinct court in the precinct where such offense was committed, then the defendant shall be tried in the justice precinct next adjacent which may have a duly qualified justice court. And provided further, that if the justice of the peace of the precinct in which the offense was committed is disqualified for any reason for trying the case, then such defendant may be tried in some other justice precinct within the county.

Sec. 2. No constable shall be allowed a fee in any misdemeanor case arising in any precinct other than the one for which he has been elected or appointed, except through an order duly entered upon the minutes of the county commissioners court.

Sec. 3. Any justice of the peace, constable or deputy constable violating this Act shall be punished by a fine of not less than \$100 nor more than \$500.

Sec. 4. The provisions of this Article shall apply only to counties having a population of 225,000 or over according to the last preceding federal census. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.23** [890] [981] [946] **To try cause without delay**

When the defendant is brought before the justice, he shall proceed to try the cause without delay, unless good ground be shown for a postponement thereof, in which case he may postpone the trial to any time not longer than five days, and may, if he deem proper, require the defendant to give bail for his appearance; and if, when required, he fails to give bail, he shall be kept in custody until the final determination of the cause. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.24** [891] [982] [947] **Defendant may waive jury**

The accused may waive a trial by jury; and in such case, the justice shall hear and determine the cause without a jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.25** [892] [983, 984] **Jury summoned**

If the accused does not waive a trial by jury, the justice shall issue a writ commanding the proper officer to summon forthwith a venire from which six qualified persons shall be selected to serve as jurors in the case. Said jurors when so summoned shall remain in attendance as jurors in all cases that may come up for hearing until discharged by the court. Any person so summoned who fails to attend may be fined not exceeding \$20 for contempt. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722

**Art. 45.26** [893] [985] [950] **Complaint read**

If the warrant is issued upon a complaint made to the justice, the complaint shall be read to the defendant. If issued by the jus-

tice without previous complaint, he shall state to the defendant the accusation against him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.27** [894] [986] [951] **Not discharged for informality**

A defendant shall not be discharged by reason of any informality in the complaint or warrant. The proceeding before the justice shall be conducted without reference to technical rules except as provided in Article 4.15. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.28** [895] [987] [952] **Challenge of jurors**

In all jury trials in the justice court the State and each defendant in the case shall be entitled to three peremptory challenges, and also to any number of challenges for cause, which cause shall be judged of by the justice. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.29** [896] [988] [953] **Other jurors summoned**

If, from challenges or any other cause, a sufficient number of jurors are not in attendance, the justice shall order the proper officer to summon a sufficient number of qualified persons to form the jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.30** [897] [989] [954] **Oath to jury**

The justice shall administer the following oath to the jury: "Each of you do solemnly swear that you will well and truly try the cause about to be submitted to you and a true verdict render therein, according to the law and the evidence, so help you God". Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.31** [898] [990] [955] **Defendant shall plead**

After the jury is impaneled, or after the defendant has waived trial by jury, the defendant may plead guilty or not guilty or may enter a plea of nolo contendere, or the special plea named in the succeeding Article. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.32** [899] [991] [956] **The only special plea**

The only special plea allowed is that of former acquittal or conviction for the same offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.33** [900] [992] [957] **Pleading is oral**

All pleading of the defendant in justice court may be oral or in writing as the defendant may elect. The justice shall note upon his docket the plea offered. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.34** [901] [993] [958] **Plea of guilty**

Proof as to the offense may be heard upon a plea of guilty and a plea of nolo contendere and the punishment assessed by the court or jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.35** [902] [994] [959] **If defendant refuses to plead**

The justice shall enter a plea of not guilty if the defendant refuses to plead. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.36** [903] [995] [960] **Witnesses examined by whom**

The justice shall examine the witnesses if the State is not represented by counsel. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.37** [904] [996] [961] **May appear by counsel**

The defendant has a right to appear by counsel as in all other cases. Not more than one counsel shall conduct either the prosecution or defense. State's counsel may open and conclude the argument. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.38** [905] [997] [962] **Rules of evidence**

The rules of evidence which govern the trials of criminal actions in the district court shall apply to such actions in justice courts. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.39** [906] [998] [963] **Jury kept together**

The jury shall retire in charge of an officer when the cause is submitted to them, and be kept together until they agree to a verdict or are discharged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.40** [907] [999] [964] **Mistrial**

A jury shall be discharged if it fails to agree to a verdict after being kept together a reasonable time. If there be time left on the same day, another jury may be impaneled to try the cause, or the justice may adjourn for not more than two days and again impanel a jury to try such cause. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.41** [908] [1000] [965] **Defendant to give bail**

In case of adjournment, the justice shall require the defendant to give bail for his appearance. If he fails to give bail he may be held in custody. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.42** [909] [1001, 1002] **Verdict**

When the jury has agreed upon a verdict, it shall bring the same into court; and the justice shall see that it is in proper form and shall enter it upon his docket and render the proper judgment and sentence thereon. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.43** [910] [1003] [968] **Defendant placed in jail**

Whenever, by the provisions of this title, the peace officer is authorized to retain a defendant in custody, he may place him in jail or any other place where he can be safely kept. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.44** [911] [1004] [969] **New trial granted**

A justice may, for good cause shown, grant the defendant a new trial, whenever he considers that justice has not been done the defendant in the trial of such case. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.45** [912] [1005] [970] **Motion for new trial**

An application for a new trial must be made within one day after the rendition of judgment and sentence, and not afterward; and the execution of the judgment and sentence shall not be stayed until a new trial has been granted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.



**Art. 45.46** [913] [1006-1007] **Only one new trial granted**

Not more than one new trial shall be granted the defendant in the same case. When a new trial has been granted, the justice shall proceed, as soon as practicable, to try the case again. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.47** [914] [1008] [973] **State not entitled to new trial**

In no case shall the State be entitled to a new trial. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.48** [915] [1010] [975] **Effect of appeal**

When a defendant files the appeal bond required by law with the justice, all further proceeding in the case in the justice court shall cease. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.49** [916] [1011] [976] **Judgments in open court**

All judgments and sentences and final orders of the justice shall be rendered in open court and entered upon his docket. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.50** [917] [1012] [977] **The judgment**

The judgment and sentence, in case of conviction in a criminal action before a justice of the peace, shall be that the State of Texas recover of the defendant the fine and costs, and that the defendant remain in custody of the sheriff until the fine and costs are paid; and that the execution issue to collect the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.51** [918] [1013] [978] **Capias**

If the defendant be not in custody when judgment is rendered, or if he escapes from custody thereafter, a capias shall issue for his arrest and confinement in jail until he is legally discharged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.52** [919] [1014] [979] **Execution**

In each case of conviction before a justice from which no appeal is taken, an execution shall issue for the collection of the fine and costs, which shall be enforced and returned in the manner prescribed by law in civil actions before justices. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 45.53** [920] [1015] [980] **Discharged from jail**

A defendant placed in jail on account of failure to pay the fine and costs can be discharged on habeas corpus by showing:

1. That he is too poor to pay the fine and costs; and
2. That he has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of \$5 for each day.

But the defendant shall, in no case under this Article, be discharged until he has been imprisoned at least five days; and a justice of the peace may discharge the defendant upon his showing the same cause, by application to such justice; and when such application is granted, the justice shall note the same on his docket. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## MISCELLANEOUS PROCEEDINGS

### CHAPTER FORTY-SIX

#### INSANITY AS DEFENSE

Art.

46.01 Mental illness after conviction.

46.02 Insanity in defense or in bar.

#### **Article 46.01** [932-1] Mental illness after conviction

##### **Persons not charged with a criminal offense**

Sec. 1. A person who has been convicted of a criminal offense and sentenced to a term in an institution operated by the Department of Corrections or the county jail and whose sentence has been probated, or suspended, or served or who is on parole, is not by reason of that offense a person charged with a criminal offense as that phrase is used in Article 1, Sections 15 and 15a of the Constitution of the State of Texas, and such a person who is mentally ill may be hospitalized under the same procedures provided for other persons who are mentally ill.

##### **Transfer from Department of Corrections to Mental Hospital**

Sec. 2. (a) The Director of the Department of Corrections may transfer a prisoner not under death sentence who is confined in an institution operated by the Department of Corrections to a State mental hospital if a prison physician is of the opinion that the prisoner is mentally ill and would benefit from treatment in a mental hospital and if he is advised by the head of a State mental hospital that facilities are available for treatment of the prisoner.

(b) A prisoner so transferred remains under the jurisdiction of the Department of Corrections.

(c) The Director of the Department of Corrections shall transport the prisoner to and from the State mental hospital.

##### **Transfer from county jail to mental hospital**

Sec. 3. (a) The county judge may transfer a prisoner who is serving sentence in a county jail to a State mental hospital if the county health officer certifies that the prisoner is mentally ill and would benefit from treatment in a mental hospital and if the judge is advised by the head of a State mental hospital that facilities are available for treatment of the prisoner.

(b) A prisoner so transferred remains under the jurisdiction of the sheriff of the county.

(c) The county from which a prisoner is so transferred shall transport the prisoner to and from the State mental hospital, and shall pay the costs of his support, treatment and maintenance while in the State mental hospital as a prisoner.

##### **Confinement in mental hospital**

Sec. 4. The head of the State mental hospital in which a prisoner is being treated shall take reasonable precaution to prevent the escape of the prisoner and shall not discharge or furlough the prisoner

or transfer him to any mental hospital other than a State mental hospital during the term of his sentence.

#### Escape from mental hospital

Sec. 5. The Director of the Department of Corrections or the sheriff from whose custody the prisoner was transferred is responsible for regaining custody of a prisoner who escapes from a State mental hospital.

#### Recovery before expiration of sentence

Sec. 6. When the head of the State mental hospital determines that a prisoner whose sentence has not expired no longer requires hospitalization for mental illness or will not benefit from continued hospitalization, he shall so notify the Director of the Department of Corrections or the county judge who transferred the prisoner to the State mental hospital. Upon receiving this notice the Director of the Department of Corrections or the county judge shall immediately transport the prisoner from the State mental hospital to the Department of Corrections or county jail to serve the unexpired portion of his sentence.

#### Examination prior to expiration of sentence

Sec. 7. Prior to the date of the expiration of the sentence of a prisoner who is being treated in a State mental hospital, the head of the mental hospital shall have the prisoner examined and shall determine whether he requires further hospitalization as a mentally ill person and whether because of his mental illness he is likely to cause injury to himself or others if not restrained.

(a) The head of the mental hospital shall release the prisoner upon receiving notice of his discharge from the Department of Corrections or from jail, unless he determines that the prisoner requires further hospitalization as a mentally ill person and because of his mental illness is likely to cause injury to himself or others if not restrained.

(b) If the head of the hospital determines that the prisoner requires further hospitalization as a mentally ill person and because of his mental illness is likely to cause injury to himself or others if not restrained, he shall cause to be filed in the county court of the county in which the hospital is located a Certificate of Examination for Mental Illness and an Application for Temporary Hospitalization or Petition for Indefinite Commitment and may detain the person as a patient after his discharge from prison pending order of the court.

(c) If the head of the hospital determines that the prisoner requires further hospitalization as a mentally ill person, he shall so inform a responsible relative of the patient, and may cause an Application for Temporary Hospitalization or Petition for Indefinite Commitment to be filed in the county court of the proper county.

#### Time credited

Sec. 8. The time a prisoner is confined in a State mental hospital for treatment shall be considered time served and shall be credited to the term of his sentence, but he shall not be entitled to any commutation of sentence for good conduct while he is under treatment in a mental hospital.

#### Discharge from prison

Sec. 9. Upon the expiration of the sentence of a prisoner who is being treated in a State mental hospital, he shall receive a discharge

from the Department of Corrections or the county jail as in all other cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 46.02** [932b] **Insanity in defense or in bar**

**No prior trial except by agreement**

Sec. 1. No issue of insanity shall be tried in advance of trial on the merits, except upon written application on behalf of the accused with the consent of the State's attorney and the approval of the trial judge.

**Procedure at trial**

Sec. 2. (a) At the trial on the merits, the trial court shall hear evidence on the issue of present insanity only if prior to the offer thereof there be filed on behalf of the defendant a written motion asking the court to hear evidence on such issue and requesting the court to declare a mistrial because of such insanity in the manner and to the extent provided for in this Article.

(b) When the issue of present insanity is tried, the following rules shall apply:

(1) The issue of present insanity shall be submitted to the jury only if supported by competent testimony.

(2) (a) Instructions submitting the issue of present insanity shall be framed so as to require the jury to state in its verdict whether defendant is sane or insane at the time of the trial.

(b) Instructions submitting the issue of present insanity shall also require the jury, if it finds the defendant presently insane, to state whether the defendant requires hospitalization in a mental hospital for his own welfare and protection or the protection of others.

(3) The charge shall instruct the jury that if it finds defendant is presently insane it will not consider or deliberate upon any other issues except (a) whether the defendant should be committed to a mental hospital; and (b) whether he was sane or insane as of the time of the alleged offense, if such issue be submitted.

(c) When the issue of insanity as of the time of the alleged offense is tried, the following rules shall apply:

(1) The issue of insanity as of the time of the alleged offense shall be submitted to the jury only if supported by competent evidence tending to show that defendant was insane as of the time of the alleged offense.

(2) Instructions submitting the issue of insanity as of the time of the alleged offense shall be framed so as to require the jury to state in its verdict whether defendant was sane or insane as of the time of the alleged offense.

(3) If the jury finds the defendant to have been insane at the time the offense is alleged to have been committed, the defendant shall stand acquitted of the alleged offense.

(d) The following rules shall apply upon defendant's being acquitted by reason of the jury's returning a finding that he was insane as of the time of the alleged offense:

(1) If the jury finds the defendant to be insane at the time of trial, and it further finds that the defendant should be committed to a mental institution, the court shall enter an order committing the defendant to a State mental hospital and placing him in the custody of the sheriff for transportation to a State mental hospital to be con-

For Annotations and Historical Notes, see V.A.T.S.

fined therein until he becomes sane. The court shall further order that a transcript of all medical testimony adduced before the jury, shall be forthwith prepared by the court reporter and such transcript shall accompany the patient to the State mental hospital.

(2) If the jury returns a finding that defendant is sane as of the time of the trial, then the defendant shall be finally discharged.

(3) If there be no jury finding on the issue of present insanity, then the court, if the discharge or going at large of defendant be considered by the court manifestly dangerous to the peace and safety of the people, shall order defendant committed to jail or other suitable place pending the prompt initiation and prosecution by the attorney for the State or other person designated by the court of appropriate civil proceedings to determine whether defendant shall be committed to a mental institution, or the court may give defendant into the care of his friends on their giving satisfactory security for his proper care and protection; otherwise, defendant shall be discharged.

(e) Where the jury finds that the defendant is presently insane, but does not find that he was insane at the time of the offense (either because such issue was not submitted or because the jury failed to find on that issue or because it found that he was not insane at such time), the court shall enter a mistrial as to all issues except the issue of present insanity. If the jury finds that the defendant should be committed to a mental institution, the proper order so committing him shall be entered by the court.

#### **Status of patient acquitted**

Sec. 3. A person committed to a State mental hospital under this Article upon a jury finding of insanity at the time of trial who has been acquitted of the alleged offense is not by reason of that offense a person charged with a criminal offense. In the event the head of the mental hospital to which he is committed is of the opinion that the person is sane, he shall so notify the court which committed the person to the State mental hospital. Upon receiving such notice, the judge of the committing court shall impanel a jury to determine whether the person is sane or insane. If the jury finds the person is sane, he shall be released. If the jury finds the person is insane, the court shall order his return to the State mental hospital until he is so adjudged to be sane at a subsequent jury trial in such committing county.

#### **Insanity as bar to proceedings**

Sec. 4. If the question of the sanity of the defendant is raised after his conviction and prior to the pronouncement of sentence in a felony case or while an appeal from that conviction is pending, and sufficient proof is shown to satisfy the judge of the convicting court that a reasonable doubt exists as to the sanity of the defendant, the judge shall impanel a jury to determine whether the defendant is sane or insane. If the jury finds the defendant is insane, the court shall enter an order committing the defendant to a State mental hospital and placing him in the custody of the sheriff for transportation to a State mental hospital to be confined therein as a person charged with a criminal offense until he becomes sane. If the jury finds the defendant is sane, the proceedings in the case against him shall continue.

#### **Insanity as bar to execution of death sentence**

Sec. 5. If the question of the sanity of a person under death sentence is raised and sufficient proof is shown to satisfy the judge.

of the convicting court or the judge of the district court of the county in which the person is confined that reasonable doubt exists as to his sanity, the judge shall impanel a jury to determine whether the person is sane or insane. If the jury finds the person is insane, the court shall enter an order committing him to a State mental hospital to be confined therein as a person charged with a criminal offense until he becomes sane. If the jury finds the person is sane, the court shall remand him to the proper authority for disposition according to law.

**Suspension of proceedings**

Sec. 6. When a defendant is found to be insane and committed to a State mental hospital under this Chapter, all further proceedings in the case against him shall be suspended until he becomes sane, except that upon motion of a defendant's counsel an appeal from a conviction may be prosecuted.

**Trial on recovery of sanity**

Sec. 7. (a) If the head of a State mental hospital in which a person charged with a criminal offense is confined under this Chapter is of the opinion that the person is sane, he shall so notify the court which committed the person to the State mental hospital.

(b) Upon receiving this notice, the judge of the committing court shall impanel a jury to determine whether the person is sane or insane. If the jury finds the person sane, the proceedings in the case against him shall continue. If the jury finds the person is insane, the court shall order his return to the State mental hospital until he becomes sane.

**Trial on issue of insanity**

Sec. 8. In a trial under this Chapter, the counsel for the defense has the right to open and conclude the argument on the issue of insanity. If the defendant has no counsel, the court shall appoint counsel to conduct the trial for him.

**Medical testimony required**

Sec. 9. No person shall be committed to a mental hospital under this Chapter except on competent medical or psychiatric testimony.

**Time credited**

Sec. 10. The time a person charged with or convicted of a criminal offense is confined in a State mental hospital under this Chapter pending trial, sentencing or appeal may in the discretion of the court be credited to the term of his sentence upon subsequent sentencing or re-sentencing. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER FORTY-SEVEN

### DISPOSITION OF STOLEN PROPERTY

Art.

- 47.01 Subject to order of court.
- 47.02 Restored on trial.
- 47.03 Schedule.
- 47.04 Restored to owner.
- 47.05 Bond required.
- 47.06 Property sold.
- 47.07 Owner may recover.
- 47.08 Written instrument.
- 47.09 Claimant to pay charges.
- 47.10 Charges of officer.
- 47.11 Scope of Chapter.

#### **Article 47.01** [933] [1031] [996] Subject to order of court

An officer who comes into custody of property alleged to have been stolen must hold it subject to the order of the proper court or magistrate. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 47.02** [934] [1032] [997] Restored on trial

Upon the trial of any criminal action for theft, or for any other illegal acquisition of property which is by law a penal offense, the court trying the case shall order the property to be restored to the person appearing by the proof to be the owner of the same.

Likewise, the judge of any court in which the trial of any criminal action for theft or any other illegal acquisition of property which is by law a penal offense is pending may, upon hearing, if it is proved to the satisfaction of the judge of said court that any person is a true owner of the property alleged to have been stolen, and which is in possession of a peace officer, by written order, direct the property to be restored to such owner. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 47.03** [935] [1033] [998] Schedule

When an officer seizes property alleged to have been stolen, he shall immediately file a schedule of the same, and its value, with the magistrate or court having jurisdiction of the case, certifying that the property has been seized by him, and the reason therefor. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 47.04** [936] [1034] [999] Restored to owner

Upon an examining trial, if it is proven to the satisfaction of the magistrate that any person is the true owner of property alleged to have been stolen, and which is in possession of a peace officer, he may upon motion by the state, by written order direct the property to be restored to such owner subject to the conditions that such property shall be made available to the state or by order of any court having jurisdiction over the offense to be used for evidentiary purposes. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 47.05** [937] [1035-6] **Bond required**

If the magistrate has any doubt as to the ownership of the property, he may require a bond of the claimant for its re-delivery in case it should thereafter be shown not to belong to such claimant; or he may, in his discretion, direct the property to be retained by the sheriff until further orders as to its possession. Such bond shall be in a sum equal to the value of the property, with sufficient security, payable to and approved by the county judge of the county in which the property is in custody. Such bond shall be filed in the office of the county clerk of such county, and in case of a breach thereof may be sued upon in such county by any claimant of the property; or by the county treasurer of such county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 47.06** [938] [1037-8] **Property sold**

If the property is not claimed within 30 days from the conviction of the person accused of illegally acquiring it, the same procedure for its disposition as set out in Article 18.30 of this Code shall be followed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 47.07** [939] [1039] [1004] **Owner may recover**

The real owner of the property sold under the provisions of Article 47.06 may recover such property under the same terms as prescribed in Section 4 of Article 18.30 of this Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 47.08** [940] [1040-1] **Written instrument**

If the property is a written instrument, it shall be deposited with the county clerk of the county where the proceedings are had, subject to the claim of any person who may establish his right thereto. The claimant of any such written instrument shall file his written sworn claim thereto with the county judge. If such judge be satisfied that such claimant is the real owner of the written instrument, the same shall be delivered to him. The county judge may, in his discretion, require a bond of such claimant, as in other cases of property claimed under any provision of this Chapter, and may also before such delivery require the written instrument to be recorded in the minutes of his court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 47.09** [941] [1042] [1007] **Claimant to pay charges**

The claimant of the property, before he shall be entitled to have the same delivered to him, shall pay all reasonable charges for the safekeeping of the same while in the custody of the law, which charges shall be verified by the affidavit of the officer claiming the same, and determined by the magistrate of a court having jurisdiction thereof. If said charges are not paid, the property shall be sold as under execution; and the proceeds of sale, after the payment of said charges and costs of sale, paid to the owner of such property. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 47.10** [942] [1043] [1008] **Charges of officer**

When property is sold, and the proceeds of sale are ready to be paid into the county treasury, the amount of expenses for keeping



the same and the costs of sale shall be determined by the county judge. The account thereof shall be in writing and verified by the officer claiming the same, with the approval of the county judge thereto for the amount allowed and shall be filed in the office of the county treasurer at the time of paying into his hands the balance of the proceeds of such sale. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 47.11** [943] [1044] [1009] **Scope of Chapter**

Each provision of this Chapter relating to stolen property applies as well to property acquired in any manner which makes the acquisition a penal offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**CHAPTER FORTY-EIGHT**

**PARDON AND PAROLE**

Art.

- 48.01 Governor may pardon.
- 48.02 Shall file reasons.
- 48.03 Governor's acts under seal.
- 48.04 Power to remit fines and forfeitures.
- 48.05 Reduction of time.

**Article 48.01** [952] [1051] [1016] **Governor may pardon**

In all criminal cases, except treason and impeachment, the Governor shall have power, after conviction, on the written signed recommendation and advice of the Board of Pardons and Paroles, or a majority thereof, to grant reprieves and commutations of punishments and pardons; and upon the written recommendation and advice of a majority of the Board of Pardons and Paroles, he shall have the power to remit fines and forfeitures. The Governor shall have the power to grant one reprieve in any capital case for a period not to exceed 30 days; and he shall have power to revoke paroles and conditional pardons. With the advice and consent of the Legislature, the Governor may grant reprieves, commutations of punishment and pardons in cases of treason. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 48.02** [957] [1053] [1018] **Shall file reasons**

When the Governor remits fines or forfeitures, or grants reprieves, commutation of punishment or pardons, he shall file in the office of Secretary of State his reasons therefor. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 48.03** [958] [1057] [1022] **Governor's acts under seal**

All remissions of fines and forfeitures, and all reprieves, commutations of punishment and pardons, shall be signed by the Governor, and certified by the Secretary of State, under the great seal of State, and shall be forthwith obeyed by any officer to whom the same may be presented. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 48.04** [954] [1052] [1017] **Power to remit fines and forfeitures**

The Governor shall have the power to remit forfeitures of bail bonds. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 48.05** [967] Reduction of time

If a prisoner sentenced to an institution operated by the Department of Corrections is not paroled under the provisions of this title, or if he is only sentenced to serve the minimum term of imprisonment fixed by law, then the general rule shall apply to his sentence, and he is entitled to such reduction of time as provided by law. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER FORTY-NINE

## INQUESTS UPON DEAD BODIES

Art.

- 49.01 When held.
- 49.02 Body disinterred or cremated.
- 49.03 Autopsies and tests.
- 49.04 Liability of physician performing autopsy where order invalid.
- 49.05 Consent to autopsy.
- 49.06 Chemical analysis.
- 49.07 Upon what justice may act.
- 49.08 Death in jail.
- 49.09 Subpoenas.
- 49.10 Testimony.
- 49.11 Private inquest.
- 49.12 Hindering proceedings.
- 49.13 Inquest record.
- 49.14 In homicide class.
- 49.15 Warrant of arrest.
- 49.16 If slayer arrested.
- 49.17 Bail.
- 49.18 Warrant of arrest.
- 49.19 Requisites of warrant.
- 49.20 Officers shall execute warrant.
- 49.21 Arrest pending inquest.
- 49.22 To certify proceedings.
- 49.23 Evidence.
- 49.24 Witnesses to give bail.
- 49.25 Medical examiners; counties of 120,000 or more.

**Article 49.01** [968] When held

It is the duty of the justice of the peace to hold inquests, with or without a jury, within his county in the following cases:

1. When a person dies in prison or in jail;
2. When any person is killed, or from any cause dies an unnatural death, except under sentence of the law; or dies in the absence of one or more good witnesses;
3. When the body of a human being is found, and the circumstances of his death are unknown;
4. When the circumstances of the death of any person are such as to lead to suspicion that he came to his death by unlawful means;
5. When any person commits suicide, or the circumstances of his death are such as to lead to suspicion that he committed suicide;

6. When a person dies without having been attended by a duly licensed and practicing physician, and the local health officer or registrar required to report the cause of death under Rule 41a, Sanitary Code of Texas, Article 4477, Revised Civil Statutes, General Laws, 46th Legislature, 1939, page 343, does not know the cause of death. When the local health officer or registrar of vital statistics whose duty it is to certify the cause of death does not know the cause of death, he shall so notify the justice of the peace of the precinct in which the death occurred and request an inquest;

7. When a person dies who has been attended by a duly licensed and practicing physician or physicians, and such physician or physicians are not certain as to the cause of death and are unable to certify with certainty the cause of death as required by Rule 40a, Sanitary Code of Texas, Article 4477, Revised Civil Statutes, Chapter 41, Acts, First Called Session, 40th Legislature, 1927, page 116. In case of such uncertainty the attending physician or physicians, or the superintendent or general manager of the hospital or institution in which the deceased shall have died, shall so report to the justice of the peace of the precinct in which the death occurred, and request an inquest.

The inquests authorized and required by this Article shall be held by the justice of the peace of the precinct in which the death occurred, but in event the justice of the peace of such precinct is unavailable, or shall fail or refuse to act, then such inquest shall be conducted by the nearest available justice of the peace in which the death occurred. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 49.02** [969] [1059] [1024] **Body disinterred or cremated**

Sec. 1. When a body upon which an inquest ought to have been held has been interred, the justice may cause it to be disinterred for the purpose of holding such inquest.

Sec. 2. Before any body, upon which an inquest is authorized by the provisions of Article 49.01 can lawfully be cremated, an autopsy shall be performed thereon as provided in this Article, or a certificate that no autopsy was necessary shall be furnished by the justice of the peace. Before any dead body can be lawfully cremated, the owner or operator of the crematory shall demand and be furnished with a certificate, signed by the justice of the peace of the justice precinct in which the death occurred showing that an autopsy was performed on said body or that no autopsy thereon was necessary. No autopsy shall be required by the justice of the peace as a prerequisite to cremation in case death was caused by the pestilential diseases of Asiatic cholera, bubonic plague, typhus fever, or smallpox, named in Rule 77, Sanitary Code of Texas, Article 4477, Revised Civil Statutes of Texas, 1925. All certificates furnished the owner or operator of a crematory by any justice of the peace, under the terms of this Article, shall be preserved by such owner or operator of such crematory for a period of two years from the date of the cremation of said body.

Sec. 3. Any person violating any provision of this Article insofar as it relates to the cremation of bodies, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than \$500 and not more than \$1,000, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.03** [970] [1060] **Autopsies and Tests**

The justice of the peace may in all cases call in the County Health Officer, or if there be none or if his services are not then obtainable, then a duly licensed and practicing physician, and shall procure their opinions and their advice on whether or not to order an autopsy to determine the cause of death. If upon his own determination he deems an autopsy necessary, the justice of the peace shall, by proper order, request the County Health Officer, or if there be none or if it be impracticable to secure his service, then some duly licensed and practicing physician who is trained in pathology to make an autopsy in order to determine the cause of death, and whether death was from natural causes or resulting from violence, and the nature and character of either of them. The county in which such autopsy and inquest is held shall pay the physician making such autopsy a fee of not more than \$100, the amount to be determined by the Commissioners Court after ascertaining the amount and nature of the work performed in making such autopsy. In those cases where a complete autopsy is deemed unnecessary by the justice of the peace to ascertain the cause of death, he may by proper order, order the taking of blood samples or any other samples of fluids, body tissues or organs in order to ascertain the cause of death or whether any crime has been committed. In the case of a body of a human being whose identity is unknown, the justice of the peace may, by proper order, authorize such investigative and laboratory tests and processes as are required to determine the identity as well as the cause of death. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.04** [970a] **Liability of physician performing autopsy where order invalid**

A physician authorized to practice medicine in this State who performs an autopsy upon an order of a justice of the peace, or a person who makes a test on a body upon an order of a justice of the peace, who does so in the good faith belief that the order is a valid one, shall not be held liable for damages in the event it is determined that the order was for any reason invalid. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.05** [970b] **Consent to autopsy**

Sec. 1. Consent for a licensed physician to conduct an autopsy of the body of a deceased person shall be deemed sufficient when given by the following: In the case of a married person, the surviving spouse, or if no spouse survive him, by any child of such marriage, or in the event of a minor child of such marriage, the guardian of such child if any there be, or in the absence of such guardian, the court having jurisdiction of the person of such minor; in the event that neither spouse nor child survives such deceased, then permission for an autopsy shall be valid when given by a person who would be allowed to give such permission in the case of an unmarried deceased.

If the deceased be unmarried, then permission shall be given by the following for such autopsy, in the order stated: father, mother, guardian, or next of kin, and in the absence of any of the foregoing, by any natural person assuming custody of and responsibility for burial of the body of such deceased. If two or more of the above-named persons assume custody of the body, consent of one of them shall be deemed sufficient.

For Annotations and Historical Notes, see V.A.T.S.

Sec. 2. For purposes of this Article, "licensed physician" shall be defined as any person duly licensed by the Texas State Board of Medical Examiners, and whose license is current in all respects. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.06** [971] [1061] [1024] **Chemical analysis**

If upon such inquest, it becomes necessary to determine whether the death has been produced by poison, the justice of the peace, upon his own determination, or upon request of the physician performing such autopsy, shall call in to his aid, if necessary, some medical expert, chemist, toxicologist or licensed physician practicing pathology, qualified to make an analysis of the stomach and its contents, together with such other portions of the body as may be necessary to be analyzed and tested, for the purpose of determining the presence of poison in such body. The commissioners court shall pay to such expert or specialist such fee as it may determine reasonable not to exceed \$100. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.07** [972] [1062] [1025] **Upon what justice may act**

The justice shall act in such cases upon information given him by any credible person or upon facts within his knowledge. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.08** [973] [1063] [1026] **Death in jail**

The sheriff and every keeper of any prison shall inform such justice of the death of any person confined therein. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.09** [974] [1064] [1027] **Subpoenas**

The justice may issue subpoenas to enforce the attendance of witnesses upon an inquest and may issue attachments for those subpoenaed who fail to attend. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.10** [975] [1065] [1028] **Testimony**

Witnesses shall be sworn and examined by the justice and their testimony reduced to writing by or under his direction, and subscribed by them. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.11** [976] [1066] [1029] **Private inquest**

Should the justice deem proper, the inquest may be held in private; but in all cases where a person has been arrested, charged with having caused the death of the deceased, such person and his counsel shall have the right to be present at the inquest, and to examine witnesses and introduce evidence. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.12** [977] [1067] [1030] **Hindering proceedings**

If any other person than the justice, the accused and his counsel, and the counsel for the State, are present at the inquest, they shall not interfere with the proceedings. No questions shall be asked a witness, except by the justice, the accused or his counsel, and the

counsel for the State. The justice of the peace may fine any person violating this Article for contempt of court, not exceeding \$20, and may cause such person to be placed in the custody of a peace officer and removed from the presence of the inquest. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.13** [978] [1068] [1031] **Inquest record**

The justice shall keep full and complete records properly indexed, of all the proceedings relating to every inquest held by him. The record shall include:

1. The name of the deceased, if known, or if not, as accurate a description of him as can be given;
2. The time, date and place where the body was found, and the time, date and place where the inquest was held;
3. The testimony taken by the justice, and by whom;
4. The full report and detailed findings of the autopsy, if any;
5. The findings by the justice at the inquest;
6. Whether any person was arrested as a suspect before the inquest, and the person's identity, as well as everything material relating to the arrest. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.14** [979] [1069] [1032] **In homicide cases**

When the justice has knowledge that the killing was the act of any person, or when an affidavit is made that such person has killed the deceased, a warrant may issue for the arrest of the accused before inquest held; and the accused and his counsel shall have the right to be present when the same is held, and to examine the witnesses and introduce evidence before the jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.15** [980] [1070] [1033] **Warrant of arrest**

Any peace officer to whose hands the justice's warrant of arrest shall come is bound to execute the same without delay, and he shall detain the person arrested until his discharge is ordered by the justice or other proper authority. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.16** [981] [1072] [1035] **If slayer arrested**

If it be found by the justice, upon evidence adduced at the inquest, that a person already arrested did in fact kill the deceased, or was an accomplice or accessory to the death, the justice may, according to the facts of the case, commit him to jail or require him to execute a bail bond with security for his appearance before the proper court to answer for the offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.17** [982] [1073] [1036] **Bail**

Bail bond taken before a justice shall be sufficient if it state the grade of offense of which the party is accused, be payable to the State of Texas, be dated and signed by the principal and his surety, if any. Bail may be forfeited, and judgment recovered thereon, and the same collected as in the case of any other bail. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.18** [983] [1074] [1037] **Warrant of arrest**

When by the evidence adduced before a justice holding an inquest, it is found that any person not in custody killed the deceased, or was an accomplice or accessory to the death, the justice shall forthwith issue his warrant of arrest to the sheriff or other peace officer, commanding him to arrest the person accused, and bring him before such justice, or before some other magistrate named in the writ. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.19** [984] [1071-1075] **Requisites of warrant**

A warrant of arrest shall be sufficient if it run in the name of "The State of Texas," give the name of the accused, or describe him when his name is unknown, recite the offense with which he is charged in plain language, and be dated and signed officially by the justice. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.20** [985] [1076] [1039] **Officer shall execute warrant**

The peace officer into whose hands such warrant may come shall forthwith execute the same by arresting the accused and taking him before the magistrate named in the warrant; and the same proceedings shall be had thereon as in other cases where persons accused of offenses are brought before him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.21** [986] [1077] [1040] **Arrest pending inquest**

Nothing contained in this title shall prevent proceedings being had for the arrest and examination of an accused before a magistrate, pending the inquest. When a person accused of an offense has been already arrested under a warrant from the justice, he shall not be taken from the hands of the peace officer by a warrant from any other magistrate. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.22** [987] [1078] [1041] **To certify proceedings**

The justice holding an inquest shall certify to the proceedings, and shall enclose in an envelope the testimony taken, the finding of the justice, the bail, if any, and all other papers connected with the inquest, shall seal up such envelope and without delay deliver it properly endorsed to the clerk of the district court, who shall safely keep the same in his office subject to the order of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.23** [988] [1079] [1042] **Evidence**

The justice shall preserve all evidence that may come to his knowledge and possessions which might in his opinion tend to show the real cause of death or the person who caused such death, and deliver all such evidence to the district clerk, who shall keep the same safely, subject to the order of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.24** [989] [1080] [1043] **Witnesses to give bail**

The justice, if he deems it proper, may require bail of witnesses examined before the inquest to appear and testify before the next grand jury, or before an examining or other proper court, as in other cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 49.25** [989a] **Medical examiners; counties of 120,000 or more**

**Office authorized**

Sec. 1. Subject to the provisions of this Act, the Commissioners Court of any county having a population of more than 500,000 and not having a reputable medical school as defined in Articles 4501 and 4503, Revised Civil Statutes of Texas, shall establish and maintain the office of medical examiner, and in all counties having a population of not less than 120,000, the Commissioners court of such counties may establish and provide for the maintenance of the office of medical examiner. Population shall be according to the last preceding federal census.

**Appointments and Qualifications**

Sec. 2. The commissioners court shall appoint the medical examiner, who shall serve at the pleasure of the commissioners court. No person shall be appointed medical examiner unless he is a physician licensed by the State Board of Medical Examiners. To the greatest extent possible, the medical examiner shall be appointed from persons having training and experience in pathology, toxicology, histology and other medico-legal sciences. The medical examiner shall devote so much of his time and energy as is necessary in the performance of the duties conferred by this Article.

**Assistants**

Sec. 3. The medical examiner may, subject to the approval of the commissioners court, employ such deputy examiners, scientific experts, trained technicians, officers and employees as may be necessary to the proper performance of the duties imposed by this Article upon the medical examiner.

**Salaries**

Sec. 4. The commissioners court shall establish and pay the salaries and compensations of the medical examiner and his staff.

**Offices**

Sec. 5. The commissioners court shall provide the medical examiner and his staff with adequate office space and shall provide laboratory facilities or make arrangements for the use of existing laboratory facilities in the county.

**Death Investigations**

Sec. 6. Any medical examiner, or his duly authorized deputy, shall be authorized, and it shall be his duty, to hold inquests with or without a jury within his county, in the following cases:

1. When a person shall die within twenty-four hours after admission to a hospital or institution or in prison or in jail;
2. When any person is killed; or from any cause dies an unnatural death, except under sentence of the law; or dies in the absence of one or more good witnesses;
3. When the body of a human being is found, and the circumstances of his death are unknown;
4. When the circumstances of the death of any person are such as to lead to suspicion that he came to his death by unlawful means;
5. When any person commits suicide, or the circumstances of his death are such as to lead to suspicion that he committed suicide;



For Annotations and Historical Notes, see V.A.T.S.

6. When a person dies without having been attended by a duly licensed and practicing physician, and the local health officer or registrar required to report the cause of death under Rule 41a, Sanitary Code of Texas, Article 4477, Revised Civil Statutes, General Laws, 46th Legislature, 1939, page 343, does not know the cause of death. When the local health officer or registrar of vital statistics whose duty it is to certify the cause of death does not know the cause of death, he shall so notify the medical examiner of the county in which the death occurred and request an inquest; and

7. When a person dies who has been attended immediately preceding his death by a duly licensed and practicing physician or physicians, and such physician or physicians are not certain as to the cause of death and are unable to certify with certainty the cause of death as required by Rule 40a, Sanitary Code of Texas, Article 4477, Revised Civil Statutes, Chapter 41, Acts, First Called Session, 40th Legislature, 1927. In case of such uncertainty the attending physician or physicians, or the superintendent or general manager of the hospital or institution in which the deceased shall have died, shall so report to the medical examiner of the county in which the death occurred, and request an inquest.

The inquests authorized and required by this Article shall be held by the medical examiner of the county in which the death occurred.

In making such investigations and holding such inquests, the medical examiner or an authorized deputy may administer oaths and take affidavits. In the absence of next of kin or legal representatives of the deceased, the medical examiner or authorized deputy shall take charge of the body and all property found with it.

#### **Reports of Death**

Sec. 7. Any police officer, superintendent of institution, physician, or private citizen who shall become aware of a death under any of the circumstances set out in Section 6 of this Article, shall immediately report such death to the office of the medical examiner or to the city or county police departments; any such report to a city or county police department shall be immediately transmitted to the office of medical examiner.

#### **Removal of Bodies**

Sec. 8. When any death under circumstances set out in Section 6 shall have occurred, the body shall not be disturbed or removed from the position in which it is found by any person without authorization from the medical examiner or authorized deputy, except for the purpose of preserving such body from loss or destruction or maintaining the flow of traffic on a highway, railroad or airport.

#### **Autopsy**

Sec. 9. If the cause of death shall be determined beyond a reasonable doubt as a result of the investigation, the medical examiner shall file a report thereof setting forth specifically the cause of death with the district attorney or criminal district attorney, or in a county in which there is no district attorney or criminal district attorney with the county attorney, of the county in which the death occurred. If in the opinion of the medical examiner an autopsy is necessary, or if such is requested by the district attorney or criminal district attorney, or county attorney where there is no district attorney or criminal district attorney, the autopsy shall be immediately performed by the medical examiner or a duly authorized deputy. In

those cases where a complete autopsy is deemed unnecessary by the medical examiner to ascertain the cause of death, the medical examiner may perform a limited autopsy involving the taking of blood samples or any other samples of body fluids, tissues or organs, in order to ascertain the cause of death or whether a crime has been committed. In the case of a body of a human being whose identity is unknown, the medical examiner may authorize such investigative and laboratory tests and processes as are required to determine its identity as well as the cause of death. In performing an autopsy the medical examiner or authorized deputy may use the facilities of any city or county hospital within the county or such other facilities as are made available. Upon completion of the autopsy, the medical examiner shall file a report setting forth the findings in detail with the office of the district attorney or criminal district attorney of the county, or if there is no district attorney or criminal district attorney, with the county attorney of the county.

#### **Disinterments and Cremations**

Sec. 10. When a body upon which an inquest ought to have been held has been interred, the medical examiner may cause it to be disinterred for the purpose of holding such inquest.

Before any body, upon which an inquest is authorized by the provisions of this Article, can be lawfully cremated, an autopsy shall be performed thereon as provided in this Article, or a certificate that no autopsy was necessary shall be furnished by the medical examiner. Before any dead body can be lawfully cremated, the owner or operator of the crematory shall demand and be furnished with a certificate, signed by the medical examiner of the county in which the death occurred showing that an autopsy was performed on said body or that no autopsy thereon was necessary. It shall be the duty of the medical examiner to determine whether or not, from all the circumstances surrounding the death, an autopsy is necessary prior to issuing a certificate under the provisions of this section. No autopsy shall be required by the medical examiner as a prerequisite to cremation in case death is caused by the pestilential diseases of Asiatic cholera, bubonic plague, typhus fever, or smallpox, named in Rule 77, Sanitary Code of Texas, Article 4477, Revised Civil Statutes of Texas, 1925. All certificates furnished to the owner or operator of a crematory by any medical examiner, under the terms of this Article, shall be preserved by such owner or operator of such crematory for a period of two years from the date of the cremation of said body.

#### **Records**

Sec. 11. The medical examiner shall keep full and complete records properly indexed, giving the name if known of every person whose death is investigated, the place where the body was found, the date, the cause and manner of death, and shall issue a death certificate. The full report and detailed findings of the autopsy, if any, shall be a part of the record. Copies of all records shall promptly be delivered to the proper district, county, or criminal district attorney in any case where further investigation is advisable. Such records shall be public records.

#### **Transfer of Duties of Justice of Peace**

Sec. 12. When the commissioners court for any county having a population of one hundred twenty thousand or more, according to the last preceding Federal Census, shall establish the office of medical examiner, all powers and duties of justices of the peace in such county relating to the investigation of deaths and inquests shall vest

in the office of the medical examiner. Any subsequent General Law pertaining to the duties of justices of the peace in death investigations and inquests shall apply to the medical examiner in such counties as to the extent not inconsistent with this Article, and all laws or parts of laws otherwise in conflict herewith are hereby declared to be inapplicable to this Article.

**Penalty**

Sec. 13. Any person in violation of any provision of this Article, upon conviction, shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than thirty days or both such fine and imprisonment. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER FIFTY

### FIRE INQUESTS

Art.

- 50.01 Investigations.
- 50.02 Proceedings.
- 50.03 Verdict.
- 50.04 Witnesses bound over.
- 50.05 Warrant for accused.
- 50.06 Testimony written down.
- 50.07 Compensation.

#### **Article 50.01** [990] [1081] [1044] **Investigations**

When an affidavit is made by a credible person before any justice of the peace that there is ground to believe that any building has been unlawfully set or attempted to be set on fire, such justice shall cause the truth of such complaint to be investigated. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 50.02** [991] [1082] [1045] **Proceedings**

The proceedings in such case shall be governed by the laws relating to inquests upon dead bodies. The officer conducting such investigations shall have the same powers as are conferred upon justices of the peace in the preceding Articles of this Chapter. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 50.03** [992] [1083] [1046] **Verdict**

The jury after inspecting the place in question and after hearing the testimony, shall deliver to the justice holding such inquest its written signed verdict in which it shall find and certify how and in what manner such fire happened or was attempted, and all the circumstances attending the same, and who are guilty thereof, either as principal or accessory, and in what manner. If such a jury is unable to so ascertain it shall find and certify accordingly. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 50.04** [993] [1084] [1047] **Witnesses bound over**

If the jury finds that any building has been unlawfully set on fire or has been attempted so to be, the justice holding such inquest shall bind over the witnesses to appear and testify before the next

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grand jury of the county in which such offense was committed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 50.05** [994] [1085] [1048] Warrant for accused

If the person charged with the offense, if any, be not in custody, the justice of the peace shall issue a warrant for his arrest, and when arrested, such person shall be dealt with as in other like cases. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 50.06** [995] [1086] [1049] Testimony written down

In all such investigations, the testimony of all witnesses examined before the jury shall be reduced to writing by or under the direction of the justice and signed by each witness. Such testimony together with the verdict and all bail bonds taken in the case shall be certified to and returned by the justice to the next district or criminal district court of his county. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 50.07** [996] [1087] [1050] Compensation

The pay of the officers and jury making such investigation shall be the same as that allowed for the holding of an inquest upon a dead body, so far as applicable, and shall be paid in like manner. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

CHAPTER FIFTY-ONE

FUGITIVES FROM JUSTICE

Art.

- 51.01 Delivered up.
- 51.02 To aid in arrest.
- 51.03 Magistrate's warrant.
- 51.04 Complaint.
- 51.05 Bail or commitment.
- 51.06 Notice of arrest.
- 51.07 Discharge.
- 51.08 Second arrest.
- 51.09 Governor may demand fugitive.
- 51.10 Pay of agent; traveling expenses.
- 51.11 Reward.
- 51.12 Sheriff to report.
- 51.13 Uniform Criminal Extradition Act.

**Article 51.01** [997] [1088] [1051] Delivered up

A person in any other State of the United States charged with treason or any felony who shall flee from justice and be found in this State, shall on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 51.02** [998] [1089-1092] To aid in arrest

All peace officers of the State shall give aid in the arrest and detention of a fugitive from any other State that he may be held sub-

ject to a requisition by the Governor of the State from which he fled. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 51.03** [999] [1090] [1053] **Magistrate's warrant**

When a complaint is made to a magistrate that any person within his jurisdiction is a fugitive from justice from another State, he shall issue a warrant of arrest directing a peace officer to apprehend and bring the accused before him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 51.04** [1000] [1091] [1054] **Complaint**

The complaint shall be sufficient if it recites:

1. The name of the person accused;
2. The State from which he has fled;
3. The offense committed by the accused;
4. That he has fled to this State from the State where the offense was committed; and
5. That the act alleged to have been committed by the accused is a violation of the penal law of the State from which he fled. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 51.05** [1001] [1093, 4, 5] **Bail or commitment**

When the accused is brought before the magistrate, he shall hear proof, and if satisfied that the accused is charged in another State with the offense named in the complaint, he shall require of him bail with sufficient security, in such amount as the magistrate deems reasonable, to appear before such magistrate at a specified time. In default of such bail, he may commit the defendant to jail to await a requisition from the Governor of the State from which he fled. A properly certified transcript of an indictment against the accused is sufficient to show that he is charged with the crime alleged. One arrested under the provisions of this title shall not be committed or held to bail for a longer time than ninety days. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 51.06** [1002] [1096, 7, 8] **Notice of arrest**

The magistrate who held or committed such fugitive shall immediately notify the Secretary of State and the district or county attorney of his county of such fact and the date thereof, stating the name of such fugitive, the State from which he fled, and the crime with which he is charged; and such officers so notified shall in turn notify the Governor of the proper State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 51.07** [1003] [1099] [1062] **Discharge**

A fugitive not arrested under a warrant from the Governor of this State before the expiration of ninety days from the day of his commitment or the date of the bail shall be discharged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

### **Art. 51.08** [1004] [1100] [1063] **Second arrest**

A person who has once been arrested under the provisions of this title and discharged under the provisions of the preceding Article or by habeas corpus shall not be again arrested upon a charge of the

same offense, except by a warrant from the Governor of this State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 51.09** [1005] [1101] [1064] **Governor may demand fugitive**

When the Governor deems it proper to demand a person who has committed an offense in this State and has fled to another State, he may commission any suitable person to take such requisition. The accused, if brought back to the State, shall be delivered up to the sheriff of the county in which it is alleged he has committed the offense. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 51.10** [1006] [1102] [1065] **Pay of agent; traveling expenses**

The officer or person so commissioned shall receive as compensation the actual and necessary traveling expenses upon requisition of the Governor to be allowed by such Governor and to be paid out of the State Treasury upon a certificate of the Governor reciting the services rendered and the allowance therefor.

Sec. 2. The commissioners court of the county where an offense is committed may in its discretion, on the request of the sheriff and the recommendation of the district attorney, pay the actual and necessary traveling expenses of the officer or person so commissioned out of any fund or funds not otherwise pledged. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 51.11** [1007] [1103, 4, 5] **Reward**

The Governor may offer a reward for the apprehension of one accused of a felony in this State who is evading arrest, by causing such offer to be published in such manner as he deems most likely to effect the arrest. The reward shall be paid out of the State Treasury to the person who becomes entitled to it upon a certificate of the Governor reciting the facts which entitle such person to receive it. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 51.12** [1008] **Sheriff to report**

Each sheriff upon the close of any regular term of the district or criminal district court in his county, or within thirty days thereafter, shall make out and mail to the Director of the Department of Public Safety a certified list of all persons, who, after indictment for a felony, have fled from said county. Such lists shall contain the full name of each such fugitive, the offense with which he is charged, and a description giving his age, height, weight, color and occupation, the complexion of the skin and the color of eyes and hair, and any peculiarity in person, speech, manner or gait that may serve to identify such person so far as the sheriff may be able to give them. The Director of the Department of Public Safety shall prescribe and forward to all sheriffs the necessary blanks upon which are to be made the lists herein required. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 51.13** [1008a] **Uniform Criminal Extradition Act**

**Definitions**

Sec. 1. Where appearing in this Article, the term "Governor" includes any person performing the functions of Governor by authority

of the laws of this State. The term "Executive Authority" includes the Governor, and any person performing the functions of Governor in a State other than this State, and the term "State", referring to a State other than this State, includes any other State organized or unorganized of the United States of America.

**Fugitives from justice; duty of Governor**

Sec. 2. Subject to the provisions of this Article, the provisions of the Constitution of the United States controlling, and any and all Acts of Congress enacted in pursuance thereof, it is the duty of the Governor of this State to have arrested and delivered up to the Executive Authority of any other State of the United States any person charged in that State with treason, felony, or other crime, who has fled from justice and is found in this State.

**Form of Demand**

Sec. 3. No demand for the extradition of a person charged with crime in another State shall be recognized by the Governor unless in writing, alleging, except in cases arising under Section 6, that the accused was present in the demanding State at the time of the commission of the alleged crime, and that thereafter he fled from the State, and accompanied by a copy of an indictment found or by information supported by affidavit in the State having jurisdiction of the crime, or by a copy of an affidavit before a magistrate there, together with a copy of any warrant which issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the Executive Authority of the demanding State that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that State; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the Executive Authority making the demand; provided, however, that all such copies of the aforesaid instruments shall be in duplicate, one complete set of such instruments to be delivered to the defendant or to his attorney.

**Governor may investigate case**

Sec. 4. When a demand shall be made upon the Governor of this State by the Executive Authority of another State for the surrender of a person so charged with crime, the Governor may call upon the Secretary of State, Attorney General or any prosecuting officer in this State to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

**Extradition of persons imprisoned or awaiting trial in another State or who have left the demanding State under compulsion**

Sec. 5. When it is desired to have returned to this State a person charged in this State with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another State, the Governor of this State may agree with the Executive Authority of such other State for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other State, upon condition that such person be returned to such other State at the expense of this State as soon as the prosecution in this State is terminated.

The Governor of this State may also surrender on demand of the Executive Authority of any other State any person in this State who is charged in the manner provided in Section 23 of this Act with having violated the laws of the State whose Executive Authority is making the demand, even though such person left the demanding State involuntarily.

**Extradition of persons not present in demanding State at  
time of commission of crime**

Sec. 6. The Governor of this State may also surrender, on demand of the Executive Authority of any other State, any person in this State charged in such other State in the manner provided in Section 3 with committing an act in this State, or in a third State, intentionally resulting in a crime in the State whose Executive Authority is making the demand, and the provisions of this Article not otherwise inconsistent, shall apply to such cases, even though the accused was not in that State at the time of the commission of the crime, and has not fled therefrom.

**Issue of Governor's warrant of arrest; its recitals**

Sec. 7. If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

**Manner and place of execution**

Sec. 8. Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the State and to command the aid of all peace officers and other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this Article to the duly authorized agent of the demanding State.

**Authority of arresting officer**

Sec. 9. Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

**Rights of accused person; application for writ of habeas corpus**

Sec. 10. No person arrested upon such warrant shall be delivered over to the agent whom the Executive Authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this State, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such a writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding State.



**Penalty for non-compliance with preceding section**

Sec. 11. Any officer who shall deliver to the agent for extradition of the demanding State a person in his custody under the Governor's warrant, in wilful disobedience to Section 10 of this Act, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than one thousand dollars or be imprisoned not more than six months, or both.

**Confinement in jail, when necessary**

Sec. 12. The officer or persons executing the Governor's warrant of arrest, or the agent of the demanding State to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding State to whom a prisoner may have been delivered following extradition proceedings in another State, or to whom a prisoner may have been delivered after waiving extradition in such other State, and who is passing through this State with such a prisoner for the purpose of immediately returning such prisoner to the demanding State may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding State after a requisition by the Executive Authority of such demanding State. Such prisoner shall not be entitled to demand a new requisition while in this State.

**Arrest prior to requisition**

Sec. 13. Whenever any person within this State shall be charged on the oath of any credible person before any judge or magistrate of this State with the commission of any crime in any other State and except in cases arising under Section 6, with having fled from justice, or with having been convicted of a crime in that State and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this State setting forth on the affidavit of any credible person in another State that a crime has been committed in such other State and that the accused has been charged in such State with the commission of the crime, and except in cases arising under Section 6, has fled from justice, or with having been convicted of a crime in that State and having escaped from confinement, or having broken the terms of his bail, probation or parole and is believed to be in this State, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this State, and to bring him before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

**Arrest without a warrant**

Sec. 14. The arrest of a person may be lawfully made also by any peace officer or private person, without a warrant upon reasonable information that the accused stands charged in the courts of a State with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

**Commitment to await requisition; bail**

Sec. 15. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and except in cases arising under Section 6, that he has fled from justice, the judge or magistrate must, by warrant reciting the accusation, commit him to the county jail for such time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the Executive Authority of the State having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

**Bail; in what cases; conditions of bond**

Sec. 16. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the State in which it was committed, a judge or magistrate in this State may admit the person arrested to bail by bond, with sufficient sureties and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor in this State.

**Extension of time of commitment; adjournment**

Sec. 17. If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in Section 16, but within a period not to exceed sixty days after the date of such new bond.

**Forfeiture of bail**

Sec. 18. If the prisoner is admitted to bail and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this State. Recovery may be had on such bond in the name of the State as in the case of other bonds given by the accused in criminal proceedings within this State.

**Persons under criminal prosecution in this State at the time of requisition**

Sec. 19. If a criminal prosecution has been instituted against such person under the laws of this State and is still pending, the Governor, in his discretion, either may surrender him on demand of the Executive Authority of another State or hold him until he has been tried and discharged or convicted and punished in this State.

**Guilt or innocence of accused, when inquired into**

Sec. 20. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the Governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the Governor, except as it may be involved in identifying the person held as the person charged with the crime.

**Governor may recall warrant or issue alias**

Sec. 21. The governor may recall his warrant of the arrest or may issue another warrant whenever he deems proper. Each warrant issued by the Governor shall expire and be of no force and effect when not executed within one year from the date thereof.

**Fugitives from this State; duty of Governor**

Sec. 22. Whenever the Governor of this State shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this State, from the Executive Authority of any other State, or from the Chief Justice or an Associate Justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this State, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this State in which the offense was committed, or in which the prosecution for such offense is then pending.

**Application for issuance of requisition; by whom made; contents**

Sec. 23. 1. When the return to this State of a person charged with crime in this State is required, the State's attorney shall present to the Governor his written motion for a requisition for the return of the person charged, in which motion shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the State in which he is believed to be, including the location of the accused therein at the time the motion is made and certifying that, in the opinion of the said State's attorney the ends of justice require the arrest and return of the accused to this State for trial and that the proceeding is not instituted to enforce a private claim.

2. When the return to this State is required of a person who has been convicted of a crime in this State and has escaped from confinement, or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the Governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement, or the circumstances of the breach of the terms of his bail, probation or parole, the State in which he is believed to be, including the location of the person therein at the time application is made.

3. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sen-

tence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the Secretary of State to remain on record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

#### Costs and expenses

Sec. 24. In all cases of extradition, the commissioners court of the county where an offense is alleged to have been committed, or in which the prosecution is then pending may in its discretion, on request of the sheriff and the recommendation of the prosecuting attorney, pay the actual and necessary expenses of the officer or person commissioned to receive the person charged, out of any county fund or funds not otherwise pledged.

#### Immunity from service of process in certain civil cases

Sec. 25. A person brought into this State by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or if acquitted, until he has had reasonable opportunity to return to the State from which he was extradited.

#### Written waiver of extradition proceedings

Sec. 25a. Any person arrested in this State charged with having committed any crime in another State or alleged to have escaped from confinement, or broken the terms of his bail, probation, or parole may waive the issuance and service of the warrant provided for in Sections 7 and 8 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge or any court of record within this State a writing which states that he consents to return to the demanding State; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in Section 10.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this State and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding State, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding State, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding State or of this State.

#### Non-waiver by this State

Sec. 25b. Nothing in this Act contained shall be deemed to constitute a waiver by this State of its right, power or privilege to try such demanded person for crime committed within this State, or of its right, power or privilege to regain custody of such person by

extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this State, nor shall any proceedings had under this Article which result, or fail to result in, extradition to be deemed a waiver by this State of any of its right, privileges or jurisdiction in any way whatsoever.

**No right of asylum, no immunity from other criminal prosecutions  
while in this State**

Sec. 26. After a person has been brought back to this State by, or after waiver of extradition proceedings, he may be tried in this State for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

**Interpretation**

Sec. 27. The provisions of this Article shall be interpreted and construed as to effectuate its general purposes to make uniform the law of those States which enact it. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER FIFTY-TWO

### COURT OF INQUIRY

Art.

- 52.01 Courts of Inquiry conducted by district judges.
- 52.02 Evidence; deposition; affidavits.
- 52.03 Subpoenas.
- 52.04 Rights of witnesses.
- 52.05 Witness must testify.
- 52.06 Contempt.
- 52.07 Stenographic record; public hearing.
- 52.08 Criminal prosecutions.
- 52.09 Costs.

#### **Article 52.01 Courts of Inquiry conducted by district judges**

When a judge of any District Court of this State, acting in his capacity as magistrate, has good cause to believe that an offense has been committed against the laws of this State, he may summon and examine any witness in relation thereto in accordance with the rules hereinafter provided, which procedure is defined as a "Court of Inquiry". Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 52.02 Evidence; Deposition; Affidavits**

At the hearing at a Court of Inquiry, evidence may be taken orally or by deposition, or, in the discretion of the District Judge, by affidavit. If affidavits are admitted, any witness against whom they may bear has the right to propound written interrogatories to the affiants or to file answering affidavits. The District Judge in hearing such evidence, at his discretion, may conclude not to sustain objections to all or to any portion of the evidence taken nor exclude same; but any of the witnesses or attorneys engaged in taking the testimony may have any objections they make recorded with the testimony and reserved for the action of any court in which such evidence is thereafter sought to be admitted, but such court is not confined to objections made at the taking of the testimony at the Court of In-

quiry. Without restricting the foregoing, the Judge may allow the introduction of any documentary or real evidence which he deems reliable, and the testimony adduced before any grand jury. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 52.03 Subpoenas**

The District Judge or his clerk has power to issue subpoenas which may be served within the same territorial limits as subpoenas issued in felony prosecutions or to summon witnesses before grand juries in this State. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 52.04 Rights of Witnesses**

All witnesses testifying in any Court of Inquiry have the same rights as to testifying as do defendants in felony prosecutions in this State. Before any witness is sworn to testify in any Court of Inquiry, he shall be instructed by the District Judge that he is entitled to counsel; that he cannot be forced to testify against himself; and that such testimony may be taken down and used against him in a later trial or trials ensuing from the instant Court of Inquiry. Any witness or his counsel has the right to fully cross-examine any of the witnesses whose testimony bears in any manner against him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 52.05 Witness must testify**

A person may be compelled to give testimony or produce evidence when legally called upon to do so at any Court of Inquiry; however, if any person refuses or declines to testify or produce evidence on the ground that it may incriminate him under the laws of this State, then the District Judge may, in his discretion, compel such person to testify or produce evidence but the person shall not be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter or thing concerning which he may be compelled to testify or produce evidence at such Court of Inquiry. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 52.06 Contempt**

Contempt of court in a Court of Inquiry may be punished by a fine not exceeding One Hundred Dollars (\$100.00) and any witness refusing to testify may be attached and imprisoned until he does testify. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 52.07 Stenographic Record; Public Hearing**

All evidence taken at a Court of Inquiry shall be transcribed by the court reporter and all proceedings shall be open to the public. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 52.08 Criminal Prosecutions**

If it appear from a Court of Inquiry or any testimony adduced therein, that an offense has been committed, the Judge shall issue a warrant for the arrest of the offender as if complaint had been made and filed. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 52.09 Costs**

All costs incurred in conducting a Court of Inquiry shall be borne by the county in which said Court of Inquiry is conducted; provided,

however, that where the Attorney General of Texas has submitted a request in writing to the District Judge for the holding of such Court of Inquiry, then and in that event the costs shall be borne by the State of Texas and shall be taxed to the Attorney General and paid in the same manner and from the same funds as other court costs. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER FIFTY-THREE

### COSTS AND FEES

Art.

- 53.01 Peace officers.
- 53.02 Fees of peace officers.
- 53.03 Fee of State's attorney.
- 53.04 Officers in examining court.
- 53.05 In district and county courts.
- 53.06 Trial fee.
- 53.07 Justice of peace salary.

#### **Article 53.01** [1065] [1173] **Peace Officers**

The following fees shall be allowed the sheriff, or other peace officer performing the same services in misdemeanor cases, to be taxed against the defendant on conviction:

1. For executing each warrant of arrest or *capias*, or making arrest without warrant, \$3.00.
2. For summoning each witness, \$1.00.
3. For serving any writ not otherwise provided for, \$2.00.
4. For taking and approving each bond, and returning the same to the courthouse, when necessary, \$2.00.
5. For each commitment or release, \$2.00.
6. Jury fee, in each case where a jury is actually summoned, \$2.00.
7. For attending a prisoner on *habeas corpus*, when such prisoner, upon a hearing, has been remanded to custody or held to bail, for each day's attendance, \$4.00.
8. For conveying a witness attached by him to any court out of his county, \$5.00 for each day or fractional part thereof, and his actual necessary expenses by the nearest practicable public conveyance, the amount to be stated by said officer, under oath, and approved by the judge of the court from which the attachment issued.
9. For conveying a prisoner after conviction to the county jail, for each mile, going and coming, by the nearest practicable route by private conveyance, fifteen cents per mile, or by railway, fifteen cents per mile.
10. For conveying a prisoner arrested on a warrant or *capias* issued from another county to the court or jail of the county from which the process was issued, for each mile traveled, going and coming, by the nearest practicable route, fifteen cents.
11. For each mile he may be compelled to travel in executing criminal process and summoning or attaching witness, fifteen cents. For traveling in the service of process not otherwise provided for, the sum of fifteen cents for each mile going and returning. If two

or more persons are mentioned in the same writ, or two or more writs in the same case, he shall charge only for the distance actually and necessarily traveled in the same. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 53.02** [1067] [1176] [1129] Fees of Peace Officers

Constables, marshals or other peace officers who execute process and perform services for justices in criminal actions, shall receive the same fees allowed to sheriffs for the same services. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 53.03** [1068] [1177] [1130] Fee of State's Attorney

The attorney representing the state before a justice court shall receive no fee for his appearance before said court in a case involving the violation of any penal statute or of the Uniform Act Regulating Traffic on Highways. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 53.04** [1072] [1182] Officers in Examining Court

Sheriffs and constables serving process and attending any examining court in the examination of a misdemeanor case shall be entitled to such fees as are allowed by law for similar services in the trial of such cases, not to exceed \$3.00 in any one case, to be paid by the defendant in case of final conviction. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 53.05** [1073] [1183] [1133] In District and County Courts

In each criminal action tried by a jury in the district or county court, or county court at law, a jury fee of \$5.00 shall be taxed against the defendant if he is convicted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 53.06** [1074] [1184] [1134] Trial Fee

In each case of conviction in a county court or a county court at law, whether by a jury or by a court, there shall be taxed against the defendant or against all defendants, when several are held jointly, a trial fee of \$5.00, the same to be collected and paid over in the same manner as in the case of a jury fee; and there shall be no trial fee allowed in a justice court in a case involving the violation of any penal statute or of the Uniform Act Regulating Traffic on Highways. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 53.07** Justice of Peace Salary

(a) Every justice of the peace in the State of Texas shall be compensated by salary, the amount of which shall be determined by the commissioners court.

(b) All fines imposed by justices of the peace and all trial fees and other fees which justices of the peace are required by law to collect shall be deposited to the credit of the Officers' Salary Fund of the county, or whichever fund is used to pay the salaries of district, county or precinct officers.



(c) This Article shall not affect the salary of any justice of the peace who received compensation on a salary basis before the effective date of this Code, but such justices of the peace shall continue to receive the salary provided by law.

(d) All justices of the peace compensated on a fee basis before the effective date of this Code shall receive a salary to be determined by the commissioners court of each county, not to exceed the maximum amount of fees which they were entitled by law to retain before the effective date of this Code. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## CHAPTER FIFTY-FOUR

### MISCELLANEOUS PROVISIONS

Art.

54.01 Severability clause.

54.02 Repealing clause.

54.03 Emergency clause.

#### **Article 54.01 Severability Clause**

If any provision, section or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision, section or clause, and to this end the provisions of this Act are declared to be severable. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

#### **Art. 54.02 Repealing Clause**

Section 1. (a) Except as otherwise provided in this Article 54.02, all laws relating to criminal procedure in this State that are not embraced, incorporated, or included in this Act and that have not been enacted during the Regular Session of the 59th Legislature are repealed.

(b) None of the following articles of the Code of Criminal Procedure of Texas, 1925, in force on the effective date of this Act, is repealed: 52; 52-1 through 52-161, both inclusive; 367D through 367K, both inclusive; 781B-1, 781B-2; 944 through 951, both inclusive; 1009 through 1035, both inclusive; 1037 through 1056, both inclusive; 1058 through 1064, both inclusive; and 1075 through 1082, both inclusive.

Sec. 2. (a) All laws and parts of laws relating to criminal procedure omitted from this Act have been intentionally omitted, and all additions to and changes in such procedure have been intentionally made. This Act shall be construed to be an independent Act of the Legislature, enacted under its caption, and the articles contained in this Act, as revised, rewritten, changed, combined, and codified, may not be construed as a continuation of former laws except as otherwise provided in this Act. The existing statutes of the Revised Civil Statutes of Texas, 1925, as amended, and of the Penal Code of Texas, 1925, as amended, which contain special or specific provisions of criminal procedure covering specific instances are not repealed by this Act.

(b) A person under recognizance or bond on the effective date of this Act continues under such recognizance or bond pending final disposition of any action pending against him. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 54.03** Emergency Clause

The fact that the laws relating to criminal procedure in this State have not been completely revised and re-codified in more than a century past and the further fact that the administration of justice, in the field of criminal law, has undergone changes, through judicial construction and interpretation of constitutional provisions, which have been, in certain instances, modified or nullified, as the case may be, necessitates important changes requiring the revision or modernization of the laws relating to criminal procedure, and the further fact that it is desirable and desirable to strengthen, and to conform, various provisions in such laws to current interpretation and application, emphasizes the importance of this legislation and all of which, together with the crowded condition of the calendar in both Houses, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force and effect from and after 12 o'clock Meridian on the 1st day of January, Anno Domini, 1966, and it is so enacted. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

## PART II

### MISCELLANEOUS PROVISIONS

Chap.	Art.
101. Collection of Money	1001
102. Taxation of Costs	1009
103. Costs Paid by the State	1018
104. Costs Paid by Counties	1037
105. Costs to be Paid by Defendant	1061

#### CHAPTER ONE HUNDRED ONE

##### COLLECTION OF MONEY

- Art.
- 1001. Reports of money collected.
  - 1002. Contents of report.
  - 1003. Report of collections for county.
  - 1004. What officers to report.
  - 1005. Report to embrace all moneys.
  - 1006. Money collected paid to treasurer.
  - 1007. Commissions on collections.
  - 1008. Commissions to other officers.

**Art. 1001. 1045, 1010 Reports of money collected**

All officers charged by law with collecting money in the name or for the use of the State shall report in writing under oath to the respective district courts of their several counties, on the first day of each term, the amounts of money that have come to their hands since the last term of their respective courts aforesaid. Acts 1874, p. 182.

Renumbered from C.C.P.1925, art. 944.

**Art. 1002. 1046, 1011 Contents of report**

Such report shall state:

- 1. The amount collected.
- 2. When and from whom collected.
- 3. By virtue of what process collected.
- 4. The disposition that has been made of the money.
- 5. If no money has been collected, the report shall so state.

Renumbered from C.C.P.1925, art. 945.

**Art. 1003. 1047, 1012 Report of collections for county**

A report, such as is required by the two preceding articles, shall also be made of all moneys collected for the county, which report shall be made to each regular term of the commissioners court for each county. Acts 1874, p. 182.

Renumbered from C.C.P.1925, art. 946.

**Art. 1004. 1048, 1013 What officers to report**

The officers charged by law with the collection of money, within the meaning of the three preceding articles, and who are required to

make the reports therein mentioned, are: District and county attorneys, clerks of the district and county courts, sheriffs, constables, and justices of the peace. Acts 1874, p. 182.

Renumbered from C.C.P.1925, art. 947.

**Art. 1005.    1049, 1014 Report to embrace all moneys**

The moneys required to be reported embrace all moneys collected for the State or county other than taxes. Acts 1874, p. 182.

Renumbered from C.C.P.1925, art. 948.

**Art. 1006.    1050, 1015 Money collected paid to treasurer**

Money collected by an officer upon recognizances, bail bonds and other obligations recovered upon in the name of the State under any provision of this Code, and all fines, forfeitures, judgments and jury fees, collected under any provision of this Code, shall forthwith be paid over by the officers collecting the same to the county treasurer of the proper county, after first deducting therefrom the legal fees and commissions for collecting the same. O.C. 806.

Renumbered from C.C.P.1925, art. 949.

**Art. 1007.    1193, 1143 Commissions on collections**

The district or county attorney shall be entitled to ten per cent of all fines, forfeitures or moneys collected for the State or county, upon judgments recovered by him; and the clerk of the court in which said judgments are rendered shall be entitled to five per cent of the amount of said judgments, to be paid out of the amount when collected. Acts 1879, p. 133.

Renumbered from C.C.P.1925, art. 950.

**Art. 1008.    1194, 1144 Commissions to other officers**

The sheriff or other officer, except a justice of the peace or his clerk, who collects money for the State or county, except jury fees, under any provision of this Code, shall be entitled to retain five per cent thereof when collected. Acts 1876, p. 287; Acts 1889, p. 95; Acts 1929, 41st Leg., p. 240, ch. 105, § 1.

Renumbered from C.C.P.1925, art. 951.

**CHAPTER ONE HUNDRED TWO**

**TAXATION OF COSTS**

Art.

1009. Fee books.

1010. Fee book shall show what.

1010a. Receipt books; delivery monthly to County Auditor; penalty.

1011. Extortion.

1012. Costs payable in money.

1013. When costs payable.

1014. Bill of costs to accompany appeal.

1015. Taxing after payment.

1016. Costs retaxed.

1017. Fee book evidence.

**Art. 1009.    1106, 1069 Fee books**

Each clerk of a court, county judge, justice of the peace, sheriff, constable and marshal, shall keep a fee book and enter therein all fees

charged for service rendered in any criminal action or proceeding; which book may be inspected by any person interested in such costs. Acts 1876, p. 203.

**Art. 1010.      1107, 1070 Fee book shall show what**

The fee book shall show the number and style of the action or proceeding in which the costs are charged, and shall name the officer or person to whom such costs are due, and state each item of costs separately.

**Art. 1010a.      Receipt books; delivery monthly to County Auditor; penalty**

Section 1. Each fee officer within this State collecting fines and fees in criminal cases shall be furnished, by the county, in addition to the fee books now provided by law, duplicate official receipts in book form, each of which receipts shall bear a distinct number, and a facsimile of the official seal of the county. Whenever any money is received by any such officer in his official capacity, to be applied on the payment of any fine or costs in any case, the person paying said money shall be given a receipt showing the amount, date, style of case, number of case and purpose for which paid, which receipt shall show the name of the person paying and the official signature of the receiving officer.

Sec. 2. At the close of each month's business the receipt book shall be delivered to the County Auditor and the County Auditor shall thoroughly check said receipt book to see that proper disposition has been made of the money collected, and after such audit, the receipt books shall be returned to the officer, if any portion of the book is unused, but if all the book is used it shall be retained by the County Auditor. Such books shall be open to public inspection.

Sec. 3. Any officer who shall fail or refuse to comply with any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction therefor, may be fined not to exceed Two Hundred Dollars (\$200.00), and may be removed from office upon petition of the County or District Attorney; and the principal of any office shall be responsible for the failure of his Deputies to comply herewith, insofar as the remedy of removal from office shall apply; but the Deputy so failing or refusing to comply herewith shall be liable for the fine herein provided. Acts 1935, 44th Leg., p. 470, ch. 188.

**Art. 1011.      1108, 1071 Extortion**

No item of costs shall be taxed for a purported service which was not performed, or for a service for which no fee is expressly provided by law.

**Art. 1012.      1109, 1072 Costs payable in money**

All costs in criminal actions or proceedings are due and payable in money.

**Art. 1013.      1110, 1073 When costs payable**

No costs shall be payable by any person until there be produced, or ready to be produced, unto the person chargeable with the same, a written bill containing the items of such costs, signed by the officer to whom such costs are due or by whom the same are charged.

**Art. 1014. 1111, 1074 Bill of costs to accompany appeal**

When a criminal action or proceeding is taken by appeal from one court to another, or whenever the same is in any other way transferred from one court to another, it shall be accompanied by a complete bill of all costs that have accrued therein, certified to and signed by the proper officer of the court from which the same is forwarded.

**Art. 1015. 1112, 1075 Taxing after payment**

No further costs shall be taxed against or collected from a defendant after he has paid the costs taxed against him at the time of such payment, unless otherwise adjudged by the court upon a proper motion filed for that purpose.

**Art. 1016. 1113, 1076 Costs retaxed**

Whenever costs have been erroneously taxed against a defendant, he may have the error corrected, and the costs properly taxed, upon filing a written motion for that purpose in the court in which the case is then or was last pending. Such motion may be made at any time within one year after the final disposition of the case in which the costs were taxed, and not afterward. Notice of such motion shall be given to each party to be affected thereby, as in the case of a similar motion in a civil action.

**Art. 1017. 1114, 1077 Fee book evidence**

The items of costs taxed in an officer's fee book shall be prima facie evidence of the correctness of such items.

CHAPTER ONE HUNDRED THREE  
COSTS PAID BY THE STATE

Art.

- 1018. Defendant liable for costs.
- 1019. Conviction for misdemeanor.
- 1019a. Fees in felony cases against same defendant.
- 1020. Fees in examining court.
- 1021. District attorneys of two or more counties.
- 1022. If there are several defendants.
- 1023. Fees in trust cases.
- 1024. Attorney for Dallas and Harris counties.
- 1025. Fees to district and county attorneys.
- 1026. Fees of district clerk.
- 1027. Officers not to be paid fees until case finally disposed of.
- 1028. Sheriff due fees after approval.
- 1029. Fees to sheriff or constable.
- 1030. Fees to sheriff or constable.
- 1030a. Fugitives from justice; allowance to sheriffs and deputies for expenses.
- 1031. Services by officer other than sheriff.
- 1032. Sheriff shall not charge fees, when.
- 1033. Officer shall make out cost bill.
- 1034. Judge to examine bill, etc.
- 1035. Duty of Comptroller.

**Art. 1018. 1136, 1091 Defendant liable for costs**

When the defendant is convicted, the costs and fees paid by the State under this title shall be a charge against him, except when sen-

tenced to death or to imprisonment for life, and when collected shall be paid into the State Treasury. O.C. 956.

**Art. 1019.    1124-1135 Conviction for misdemeanor**

If the defendant is indicted for a felony and upon conviction his punishment is by fine or confinement in the county jail, or by both such fine and confinement in the county jail or convicted of a misdemeanor, no costs shall be paid by the State to any officer. All costs in such cases shall be taxed, assessed and collected as in misdemeanor cases. As amended Acts 1931, 42nd Leg., p. 338, ch. 205, § 1.

**Art. 1019a.    Fees in felony cases against same defendant**

In all felony cases where any officer is allowed fees payable by the State for services performed either before or after indictment, including examining trials before magistrates and habeas corpus proceedings, no officer shall be entitled to fees in more than five cases against the same defendant; provided, however, that where defendants are indicted and tried separately after severance of their cases, said officers shall be entitled to fees in five cases against each of said defendants, the same as if indicted and tried separately for separate offenses; provided further, that cases in which the same defendant has previously been indicted, tried, and convicted prior to the date of any act or acts for which said defendant is again apprehended, indicted, and/or tried shall not be computed in determining the number of cases against such defendant in which such officers are entitled to collect fees. Acts 1931, 42nd Leg., p. 334, ch. 200, § 1; Acts 1935, 44th Leg., p. 697, ch. 297, § 1.

**Art. 1020.    1119-1137 Fees in examining court**

In each case where a County Judge or a Justice of the Peace shall sit as an examining court in a felony case, they shall be entitled to the same fees allowed by law for similar services in misdemeanor cases to Justices of the Peace, and ten cents for each one hundred words for writing down the testimony, to be paid by the State, not to exceed Three and No/100 (\$3.00) Dollars, for all his services in any one case.

Sheriffs and Constables serving process and attending any examining court in the examination of any felony case, shall be entitled to such fees as are fixed by law for similar services in misdemeanor cases in County Court to be paid by the State, not to exceed Four and No/100 (\$4.00) Dollars in any one case, and mileage actually and necessarily traveled in going to the place of arrest, and for conveying the prisoner or prisoners to jail as provided in Articles 1029 and 1030, Code of Criminal Procedure, as the facts may be, but no mileage whatever shall be paid for summoning or attaching witnesses in the county where case is pending. Provided no sheriff or constable shall receive from the State any additional mileage for any subsequent arrest of a defendant in the same case, or in any other case in an examining court or in any district court based upon the same charge or upon the same criminal act, or growing out of the same criminal transaction, whether the arrest is made with or without a warrant, or before or after indictment, and in no event shall he be allowed to duplicate his fees for mileage for making arrests, with or without warrant, or when two or more warrants of arrest or capiases are served or could have been served on the same defendant on any one day.

District and County Attorneys, for attending and prosecuting any felony case before an examining court, shall be entitled to a fee of Five

and no/100 (\$5.00) Dollars, to be paid by the State for each case prosecuted by him before such court. Such fee shall not be paid except in cases where the testimony of the material witnesses to the transaction shall be reduced to writing, subscribed and sworn to by said witnesses; and provided further that such written testimony of all material witnesses to the transaction shall be delivered to the District Court under seal, who shall deliver the same to the foreman of the grand jury and take his receipt therefor. Such foreman shall, on or before the adjournment of the grand jury, return the same to the clerk who shall receipt him and shall keep said testimony in the files of his office for a period of five years. ●

The fees mentioned in this Article shall become due and payable only after the indictment of the defendant for an offense based upon or growing out of the charge filed in the examining court and upon an itemized account, sworn to by the officers claiming such fees, approved by the Judge of the District Court, and said County or District Attorney shall present to the District Judge the testimony transcribed in the examining trial, who shall examine the same and certify that he has done so and that he finds the testimony of one or more witnesses to be material; and provided further that a certificate from the District Clerk, showing that the written testimony of the material witnesses has been filed with said District Clerk, in accordance with the preceding paragraph, shall be attached to said account before such District or County Attorney shall be entitled to a fee in any felony case for services performed before an examining court.

Only one fee shall be allowed to any officer mentioned herein for services rendered in an examining trial, though more than one defendant is joined in the complaint, or a severance is had. When defendants are proceeded against separately, who could have been proceeded against jointly, but one fee shall be allowed in all cases that could have been so joined. No more than one fee shall be allowed to any officer where more than one case is filed against the same defendant for offenses growing out of the same criminal act or transaction. The account of the officer and the approval of the District Judge must affirmatively show that the provisions of this Article have been complied with. Acts 1st C.S.1907, p. 466; Acts 1933, 43rd Leg., p. 219, ch. 99.

### **Art. 1021. 1120 District attorneys of two or more counties**

District Attorneys in all judicial districts composed of two counties or more, shall receive from the State as pay for their services the sum of \$500.00 per annum, and in addition thereto, shall receive from the State as pay for their services, the sum of \$20.00 for each day they attend the Session of the District Court in their respective districts in the necessary discharge of their official duties, and \$20.00 for each day used in necessarily going to and coming from the District Court in one county to the District Court in another county in their respective districts in the necessary discharge of their official duties, and in attending any Session of said Court; and \$20.00 per day for each day they represent the State at examining trials, inquest proceedings and habeas corpus proceedings in vacation; said \$20.00 per day to be paid upon the sworn account of the District Attorney, approved by the District Judge, who shall certify that the attendance of said District Court for the number of days mentioned in his account was necessary, after which said account shall be recorded in the Minutes of the District Court; provided that the maximum number of days for which compensation is allowed shall not exceed one hundred and seventy-five days in any one year. All commissions and fees allowed District



Attorneys under the provisions hereof, in the districts composed of two or more counties, shall, when collected, be paid to the District Clerk of the County of his residence, who shall pay the same over to the State Treasurer. Acts 1925, 39th Leg., p. 406, ch. 173, § 1; Acts 1927, 40th Leg., p. 350, ch. 236, § 1.

**Art. 1022.     1121, 1082 If there are several defendants**

If there be more than one defendant in a case, and they are tried jointly, but one fee shall be allowed the district or county attorney. If the defendants sever, and are tried separately, a fee shall be allowed for each final conviction, except in habeas corpus cases, in which cases only one fee shall be allowed, without regard to the number of defendants or whether they are tried jointly or separately.

**Art. 1023.     Fees in trust cases**

For every conviction obtained under the provisions of the anti-trust laws, the State shall pay to the county or district attorney in such prosecution the sum of two hundred and fifty dollars. If both the county and district attorney shall serve together in such prosecution, such fee shall be divided between them as follows: One hundred dollars to the county attorney, and one hundred and fifty dollars to the district attorney. Acts 1907, p. 458.

**Art. 1024.     Attorney for Dallas and Harris counties**

In addition to the fees allowed by law to other district attorneys for other services, the Criminal District Attorney of Dallas county and the Criminal District Attorney of Harris county shall each receive the following fees:

For all convictions of felony when the defendant does not appeal or dies or escapes after appeal and before final judgment of the appellate court, or when the judgment is affirmed on appeal, thirty dollars for each felony other than felonious homicide, and forty dollars for each such homicide. For representing the State in each case of habeas corpus where the applicant is charged with felony, twenty dollars. Acts 1911, p. 116, Acts 1917, p. 316.

**Art. 1025.     1118-1131 Fees to district and county attorneys**

In each county where there have been cast at the preceding presidential election 3000 votes or over, the district or county attorney shall receive the following fees:

For all convictions of felony when the defendant does not appeal, or dies or escapes after appeal and before final judgment of the appellate court, or when the judgment is affirmed on appeal, twenty-four dollars for each felony other than felonious homicide, and forty dollars for each such homicide.

For representing the State in each case of habeas corpus where the applicant is charged with felony, sixteen dollars.

In each county where less than 3000 such votes have been so cast, such attorney shall receive thirty dollars for each such conviction of felony other than homicide, and fifty dollars for each such conviction of felonious homicide, and twenty dollars for each such habeas corpus case. Acts 1895, p. 148; Acts 1st C.S.1897, p. 5.

**Art. 1026. 1127-1129 Fees of district clerk**

In each county where there have been cast at the preceding presidential election 3000 votes or over, the district clerk or criminal district clerk shall receive the following fees: Eight dollars for each felony case finally disposed of without trial or dismissed, or tried by jury whether the defendant be acquitted or convicted; eight cents for each one hundred words in each transcript on appeal or change of venue; eighty cents for entering judgment in habeas corpus cases, and eight cents for each one hundred words for preparing transcript in habeas corpus cases. In no event shall the fees in habeas corpus cases exceed eight dollars in any one case. In each county where less than 3000 such votes have been so cast, such clerk shall receive ten dollars for each felony case so disposed of, and ten cents for each one hundred words in such transcripts, and one dollar for entering judgment in each habeas corpus. The district clerk of any county shall receive fifty cents for recording each account of the sheriff. Acts 1st C.S.1897, p. 5.

**Art. 1027. Officers not to be paid fees until case finally disposed of**

In all cases where a defendant is indicted for a felony but under the indictment he may be convicted of a misdemeanor or a felony, and the punishment which may be assessed is a fine, jail sentence or both such fine and imprisonment in jail, the State shall pay no fees to any officer, except where the defendant is indicted for the offense of murder, until the case has been finally disposed of in the trial court. Provided the provisions of this Article shall not be construed as affecting in any way the provisions of Article 1019, Code of Criminal Procedure, as amended by Chapter 205, General Laws, Regular Session, Forty-second Legislature; Provided this shall not apply to examining trial fees to County Attorneys and/or Criminal District Attorneys. Acts 1903, p. 112; Acts 1923, p. 402; Acts 1931, 42nd Leg., p. 338, ch. 205; Acts 1933, 43rd Leg., p. 308, ch. 119.

**Art. 1028. 1123-1130 Sheriff due fees after approval**

All fees accruing under the two succeeding articles shall be due and payable at the close of each term of the district court, after being duly approved, except as provided for in subdivisions 7 and 8 of said articles, which shall be paid when approved by the judge under whose order the writ was issued.

**Art. 1029. 1122 Fees to sheriff or constable**

In each county where there have been cast at the preceding presidential election 3000 votes or more, the sheriff and constable shall receive the following fees:

1. For executing each warrant of arrest or capias, for making arrest without warrant when so authorized by law, the sum of one dollar, and in all cases five cents per mile for each mile actually and necessarily traveled in going to the place of arrest; and for conveying each prisoner to jail, he shall receive the mileage provided in subdivision 4.
2. For summoning or attaching each witness, fifty cents.
3. For summoning a jury in each case where a jury is actually sworn in, two dollars.

For Annotations and Historical Notes, see V.A.T.S.

4. For removing or conveying prisoners, for each mile going and coming, including guards and all other necessary expenses, when traveling by railroad, ten cents. When traveling otherwise than by railroad, fourteen cents; provided that where more than one prisoner is so conveyed or removed at the same time, in addition to the foregoing, he shall be allowed eight cents per mile for each additional prisoner.

5. For each mile the officer may be compelled to travel in executing criminal process, summoning or attaching witnesses, five cents; provided that in no case shall he be allowed to duplicate his mileage when two or more witnesses are named in the same or different writs in any case or series of cases against the same defendant, or in companion cases, or otherwise; when it is possible to serve process on them in the same neighborhood or vicinity during the same trip, he shall not charge mileage for serving such witnesses to or from the County seat, but shall charge only one mileage and for such additional miles only as are actually and necessarily travelled in summoning each additional witness. As amended Acts 1933, 43rd Leg., p. 144, ch. 69.

6. For service of criminal process, not otherwise provided for, the sum of five cents a mile going and returning shall be allowed. If two or more persons are mentioned in the same or different writs, the rule prescribed in subdivision 5 shall apply.

7. For conveying witnesses attached by him to any court, or in habeas corpus proceedings out of his county, or when directed by the judge from any other county to the court where the case is pending, one dollar and fifty cents per day for each day actually and necessarily consumed in going to and returning from such courts, and his actual and necessary expenses by the nearest practical route, or nearest practical public conveyance, the amount to be stated by him in an account which shall show the place where the witnesses were attached, the distance to the nearest railroad station, and miles actually traveled to each court; if horses or vehicles are used, from whom hired and price paid and length of time consumed and paid out for feeding horses, and to whom; if meals and lodgings are provided from whom and when, and price paid; provided that officers shall not be entitled to receive exceeding fifty cents per meal, and thirty-five cents per night for lodging for any witness. No item for expenses shall be allowed, unless the officer present with his account to the officer whose duty it is to approve the same, a written receipt for each item of account, except as to such items as are furnished by the officer himself. When meals and lodgings are furnished by the officer in person, conveying the witness, he shall be allowed to receive not exceeding twenty-five cents per meal, and twenty-five cents per night for lodging. Each said receipt shall be filed with the clerk of the court approving such accounts. Said accounts shall also show, before said officer shall be entitled to compensation for expenses of attached witnesses, that, before starting with said witnesses to the foreign court, he carried each of them before the magistrate nearest place of serving the attachment, giving his name and residence, and that said witness made oath in writing before said magistrate, certified copies of which shall be attached to the account, that they were unable to give bond for their appearance at court, or refused to give bond after having been advised by said officer of their right to do so. The officer shall also present to the court the affidavit of the witness to the same effect, or shall show that the witness refused to make the affidavit; and should it appear to the court that the witness is willing and able to give bond, the sheriff shall not be entitled to any compensation for conveying such witness. All accounts for fees in criminal cases, by sheriffs, shall be sworn to by the said officer, and shall state that said account is true, just and correct in every particular, and be presented to the judge, who shall

during such term of court, carefully examine such account and, if found to be correct, in whole or in part, shall so certify and allow the same for such amount as he may find to be correct. If allowed by him in whole or in part, he shall so certify; and such account, with the affidavit of the sheriff, and certificate of the judge, shall be recorded by the district clerk in a book kept by him for that purpose, which shall constitute a part of the proceedings or minutes of the court. The clerk shall certify to the original account, and shall show that the same has been recorded, and said account shall then become due, and the same shall constitute a voucher on which the Comptroller is authorized to issue a warrant, if such account, when presented to the Comptroller, shall be accompanied by a certified copy under the hand and seal of the district clerk, of the returns made on the process for which such officer is claiming fees, corresponding to the amount so claimed in his account. The minutes of the court above provided for, or a certified copy thereof, may be used in evidence against the officer making the affidavit, for perjury, in case said affidavit shall be wilfully false. When the officer receiving the writ for the attachment of such a witness shall take bond for the appearance of such witness, he shall be entitled to receive from the State one dollar for each bond so taken; but he shall be responsible to the court issuing said writ, that the said bond is in proper form, and has been executed by the witness with one or more good and solvent sureties; and said bond shall in no case be less than one hundred dollars. The Comptroller may require from such officer a certified copy of all such process before auditing any account. When no inquest or examining trial has been held at which sufficient evidence is taken upon which to find an indictment, which fact shall be certified by the grand jury, or when the grand jury shall state to the district judge that an indictment cannot be procured except upon testimony of nonresident witnesses, the district judge may have attachments issued to other counties for witnesses not to exceed the number for which the sheriff may receive pay as provided for by law, to testify before grand juries; provided, that the judge shall not approve the accounts of any sheriff for more than one witness to any one fact, nor more than three witnesses to any one case pending before the grand jury, in which case the sheriff shall receive the same compensation as he does for conveying attached witnesses before the court. Subdivision 7 of this article shall apply to the officers affected thereby in all counties in Texas.

8. For attending a prisoner on habeas corpus, for each day, four dollars, together with mileage as provided in subdivision 4 when removing such prisoner out of the county, under an order issued by a district or appellate judge. Acts 1923, p. 399.

### **Art. 1030. 1130 Fees to sheriff or constable**

In each county where there have been cast at the preceding presidential election less than 3000 votes, the sheriff or constable shall receive the following fees when the charge is a felony:

1. For executing each warrant of arrest or *capias*, or for making arrest without warrant, when authorized by law, the sum of one dollar; and five cents for each mile actually and necessarily traveled in going to place of arrest, and for conveying the prisoner or prisoners to jail, mileage, as provided for in subdivision 4 shall be allowed; provided, that in counties that have a population of less than forty thousand inhabitants, as shown by the preceding Federal census, the following fees shall apply: For executing each warrant of arrest or *capias*, or for making arrest without warrant, when authorized by law, three dollars and fifteen cents for each mile actually and neces-

sarily traveled in going to place of arrest, and for conveying prisoners to jail, mileage as provided for in subdivision 4 shall be allowed; and one dollar shall be allowed for the approval of a bond.

2. For summoning or attaching each witness, fifty cents; provided that in counties that have a population of less than forty thousand inhabitants, as shown by the preceding Federal census, the following fees shall apply: For summoning or attaching each witness, fifty cents, and where a bond is required of said witness, for the approval of said bond, one dollar.

3. For summoning jury in each case, where jury is actually sworn in, two dollars.

4. For removing a prisoner, for each mile going and coming, including guards and all other expenses, when traveling by railroad, ten cents; when traveling otherwise than by railroad, fifteen cents; provided, that when more than one prisoner is removed at the same time, in addition to the foregoing, he shall only be allowed ten cents a mile for each additional prisoner.

5. For each mile the officer may be compelled to travel in executing criminal process, summoning or attaching witnesses, five cents; provided that in no case shall he be allowed to duplicate his mileage when two or more witnesses are named in the same or different writs in any case, and he shall serve process on them in the same vicinity or neighborhood, during the same trip; he shall not charge mileage for serving such witness to and from the county seat, but shall only charge one mileage and for such additional miles only as are actually and necessarily traveled in summoning or attaching each additional witness. When process is sent by mail to any officer away from the county seat or returned by mail by such officer, he shall only be allowed to charge mileage for the miles actually traveled by him in executing such process, and the return of the officer shall show the character of the service and miles actually traveled in accordance with this subdivision; and his accounts shall show the facts; provided, that in counties that have a population of less than forty thousand inhabitants, as shown by the preceding Federal census, the following fees shall apply: For each mile the officer may be compelled to travel in executing criminal process, summoning or attaching witnesses, ten cents; provided, that in no case shall he be allowed to duplicate his mileage when two or more witnesses are named in the same or different writs in any case and he shall serve process on them in the same vicinity or neighborhood, during the same trip, he shall not charge mileage for serving such witness to and from the county seat, but shall only charge one mileage, and for such additional miles only as are actually and necessarily traveled in summoning or attaching each additional witness. When process is sent by mail to any officer away from the county seat or returned by mail by such officer, he shall only be allowed to charge mileage for the miles actually traveled by him in executing such process, and the return of the officer shall show the character of the service and the miles actually traveled in accordance with this subdivision; and his accounts shall show the facts.

6. To officers for service of criminal process not otherwise provided for, the sum of five cents a mile going and returning, shall be allowed; provided, if two or more persons are mentioned in the same or different writs, the rules prescribed in subdivision 5 shall apply; provided, that in counties that have a population of less than forty thousand inhabitants, as shown by the preceding Federal census, the following fees shall apply: To officers for service of criminal process not otherwise provided for, the sum of ten cents a mile going and returning shall be allowed; provided, if two or more persons are

mentioned in the same or different writs, the rule prescribed in subdivision 5 shall apply.

7. For conveying a witness attached by him to any court, or grand jury, or in habeas corpus proceeding out of his county, or when directed by the judge from any other county, to the court where the case is pending, one dollar per day for each day actually and necessarily consumed in going and returning from such court, and his actual necessary expenses, by the nearest practicable route or nearest practicable public conveyance, the amount to be stated by him in an account, which shall show the place at which the witness was attached, the distance to the nearest railroad station, and miles actually traveled to reach the court; if horses or vehicles are used, from whom hired, and price paid, and length of time consumed, and the amount paid out for feeding horses, and to whom; if meals and lodging were provided, from whom and when and price paid; provided, that officers shall not be entitled to receive exceeding fifty cents per meal, and thirty-five cents per night for lodging for any witness. Said account shall also show, before said officer shall be entitled to compensation for expenses of attached witnesses, that, before starting with said witnesses to the foreign court, he carried each of them before the magistrate nearest the place of serving the attachment, giving his name and residence, and that said witness made oath in writing before such magistrate, certified copies of which shall be attached to the account, that they were unable to give bond for their appearance at court, or refused to give bond after having been advised by said officer of their right to do so. The officer shall also present to the court the affidavit of the witness to the same effect or shall show that the witness refused to make the affidavit and, should it appear to the court that the witness was able and willing to give bond the sheriff shall not be entitled to any compensation for conveying such witness; and said account shall be sworn to by the officer, and shall state that said account is true, just and correct in every particular, and present same to the judge, who shall, during such term of court, carefully examine such account, and, if found to be correct, in whole or in part, shall so certify, and allow the same for such an amount as he may find to be correct; and, if by him allowed, in whole or in part, he shall so certify; and such account with the affidavit of the sheriff, and certificate of the judge, shall be recorded by the district clerk in a book to be kept by him for that purpose, which shall constitute a part of the proceedings or minutes of the court; and the clerk shall certify to the original account and shall show that the same has been so recorded; and said account shall then become due, and the same shall constitute a voucher, on which the Comptroller is authorized to issue a warrant; and such minutes of the court, or a certified copy thereof, may be used in evidence against the officer making the affidavit, for perjury, in case said affidavit shall be wilfully false. When the officer receiving a writ for the attachment of such witness shall take a bond for the appearance of any such witness he shall be entitled to receive from the State, one dollar for each bond so taken; but he shall be responsible to the court issuing said writ, that said bond is in proper form, and has been executed by the witness with one or more good or solvent securities; and said bond shall, in no case, be less than one hundred dollars. The Comptroller may require from such officer a certified copy of all such process before auditing any such account.

8. For attending a prisoner on habeas corpus, for each day, four dollars, together with mileage as provided in subdivision 5, when removing such prisoner out of the county under an order issued by a district or appellate judge. Acts 1923, p. 402.

**Art. 1030a. Fugitives from justice; allowance to sheriffs and deputies for expenses**

Section 1. Every sheriff, or deputy sheriff, in any county of this State, who shall hereafter arrest, or cause to be arrested, any person, or persons indicted for a criminal offense of the grade of a felony, in the county where such officer is the duly acting sheriff, or deputy sheriff, shall be paid the sum of five cents (5¢) per mile from the state line and return thereto, along the nearest practicable route, to the point where such person or persons has been, or will be, placed under arrest, and in addition thereto, such officer, or officers, shall be paid, not to exceed Five Dollars (\$5) per day, per person, for hotel bills, meals and other expenses necessarily contracted in the performance of such official duty.

Sec. 2. The Comptroller of Public Accounts of the State of Texas is authorized and directed to pay, out of any fund or funds, provided for such purpose, upon the presentment of a duly itemized and verified mileage, per diem and expense account of any such officer, approved by the District Judge of the District where such official duty was performed as provided in the preceding Section, all of such account due, provided that only one (1) claim for mileage shall be paid for any such trip, and further providing that not more than two (2) such officers shall draw per diem and expense accounts for one (1) of such trips.

Sec. 3. In the event the Comptroller of Public Accounts of the State of Texas certifies that no funds are available for the payment of such per diem mileage and expense account, as specified in the preceding Section, then upon presentment of such itemized account duly verified by such officer and approved by the District Judge of the Judicial District in which such county is located, the Commissioners Court is authorized, within its discretion, to pay out of any fund or funds not otherwise pledged, such mileage per diem and expense accounts.

Sec. 4. It is further specifically provided that if the county of the sheriff or deputy sheriff making said trip is operating on a fee basis and no State funds are available, then and in that event, the Commissioners Court is authorized, within its discretion, to pay out of any available funds the mileage and per diem not in excess of the amounts stated in Section 1 of this Act, to said sheriff or deputy sheriff from the county seat to the state line and return.

Sec. 5. The compensation herein provided for the sheriff or any deputy sheriff of the county shall be allowable to such officer as expenses of office, and shall not be included in his compensation, and/or salary paid him, as now authorized by law.

Sec. 6. The provisions of this Act shall be severable, and if any section, subsection, sentence, clause or word of the same shall be held unconstitutional, or invalid for any reason, the same shall not be construed to affect the validity of any of the remaining provisions of this Act. It is hereby declared as the legislative intent that this Act would have been adopted, had such invalid provision not been included therein.

Sec. 7. It is not the intention of the Legislature by the passage of this Act to repeal any existing law providing for the reimbursement of traveling expenses and this Act is cumulative of all other statutes on this subject. Acts 1941, 47th Leg., p. 669, ch. 412.

**Art. 1031. 1125, 1084 Services by officer other than sheriff**

When services have been rendered by any peace officer other than a sheriff, such as are enumerated in the two preceding articles, such

officer shall receive the same fees therefor as are allowed the sheriff. The same shall be taxed in the sheriff's bill of costs, and noted therein as costs due such peace officer; and when received by such sheriff, he shall pay the same to such peace officer. O.C. 953, 954.

**Art. 1032.** 1126, 1085 Sheriff shall not charge fees, when

A sheriff shall not charge fees for arrests made by rangers, or mileage for prisoners transported by rangers, or mileage or other fees for transporting a witness under attachment issued from another county, unless such witness refuses to give bail for his appearance, or files an affidavit with such sheriff of his inability to give bail. Acts 1885, p. 76.

**Art. 1033.** 1132, 1087 Officer shall make out cost bill

Before the close of each term of the district court, the district or county attorney, sheriff and clerk of said court shall each make out a bill of the costs claimed to be due them by the State, respectively, in the felony cases tried at that term; the bill shall show:

1. The style and number of each case.
2. The offense charged against the defendant.
3. The term of the court at which the case was disposed of.
4. The disposition of the case, and that the case was finally disposed of, and no appeal taken.
5. The name and number of defendants; and, if more than one, whether they were tried jointly or separately.
6. Where each defendant was arrested, or witness served, stating the county in which the service was made, giving distance and direction from county seat of county in which the process is served.
7. The court shall inquire whether there have been several prosecutions for a transaction that is but one offense in law. If there is more than one prosecution for the same transaction, or a portion thereof, that could have been combined in one indictment against the same defendant, the judge shall allow fees to sheriffs, clerks and district and county attorneys in but one prosecution.
8. Where the defendants in a case have severed on the trial, the judge shall not allow the charges for service of process and mileage to be duplicated in each case as tried; but only such additional fees shall be allowed as are caused by the severance. Acts S.S.1879, p. 41.

**Art. 1034.** 1133, 1088 Judge to examine bill, etc.

The District Judge, when any such bill is presented to him, shall examine the same carefully, and inquire into the correctness thereof, and approve the same, in whole or in part, or disapprove the entire bill, as the facts and law may require; and such approval shall be conditioned only upon, and subject to the approval of the State Comptroller as provided for in Article 1035 of this Code, and the Judge's approval shall so state therein; and such bill, with the action of the Judge thereon, shall be entered on the minutes of said Court; and immediately on the rising of said Court, the Clerk thereof shall make a certified copy from the minutes of said Court of said bill, and the action of the Judge thereon, and send same by registered letter to the Comptroller. Provided the bill herein referred to shall before being presented to such District Judge, be first presented to the County Auditor, if such there be, who shall carefully examine and check the same, and shall make



whatever recommendations he shall think proper to be made to such District Judge relating to any item or the whole bill.

Fees due District Clerks for recording sheriff's accounts shall be paid at the end of said term; and all fees due District Clerks for making transcripts on change of venue and on appeal shall be paid as soon as the service is performed; and the Clerk's bill for such fees shall not be required to show that the case has been finally disposed of. Bills for fees for such transcripts shall be approved by the District Judge as above provided, and with the same conditions, and when approved shall be recorded as part of the minutes of the last preceding term of the Court. Acts 1903, p. 112; Acts 1931, 42nd Leg., p. 239, ch. 143, § 1.

### **Art. 1035. 1134, 1089 Duty of Comptroller**

The Comptroller upon the receipt of such claim, and said certified copy of the minutes of said Court, shall closely and carefully examine the same, and, if he deems the same to be correct, he shall draw his warrant on the State Treasurer for the amount found by him to be due, and in favor of the officer entitled to the same. If the appropriation for paying such accounts is exhausted, the Comptroller shall file the same away, if found to be correct, and issue a certificate in the name of the officer entitled to the same, stating herein the amount of the claim and the character of the services performed. All such claims or accounts not sent to or placed on file in the office of the Comptroller within twelve (12) months from the date the same becomes due and payable shall be forever barred. Acts 1883, p. 75; Acts 1931, 42nd Leg., p. 239, ch. 143, § 2.

## CHAPTER ONE HUNDRED FOUR

### COSTS PAID BY COUNTIES

Art.

- 1037. County liable for costs.
- 1038. Food and lodging of jurors.
- 1039. Juror may pay his own expenses.
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- 1052. Fees of judge and justice of the peace.
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Art.

1058. Pay of bailiffs.

1058a. Bailiffs of Court of Civil Appeals.

1059. Certificates for pay.

1060. Receivable for taxes.

**Art. 1037. 1139, 1094 County liable for costs**

Each county shall be liable for all expense incurred on account of the safe keeping of prisoners confined in jail or kept under guard, except prisoners brought from another county for safe keeping, or on habeas corpus or change of venue; in which cases, the county from which the prisoner is brought shall be liable for the expense of his safe keeping. O.C. 957.

**Art. 1038. 1140, 1095 Food and lodging of jurors**

The Sheriff of each County shall, with the approval of the Commissioners Court, provide food and lodging for jurors empaneled in a felony case and jurors so empaneled shall be paid as other jurors are paid, in addition to such food and lodging. O.C. 958, as amended Acts 1953, 53rd Leg., p. 918, ch. 380, § 1.

**Art. 1039. 1141, 1096 Juror may pay his own expenses**

A juror may pay his own expenses and draw his script; but the county is responsible in the first place for all expense incurred by the sheriff in providing suitable food and lodging for the jury, not to exceed two dollars a day.

**Art. 1040. 1142 Allowance to sheriff for prisoners**

For the safe keeping, support and maintenance of prisoners confined in jail or under guard, the sheriff shall be allowed the following charges:

1. For the safekeep of each prisoner for each day the sum of fifteen cents, not to exceed the sum of two hundred dollars per month.

2. For support and maintenance, for each prisoner for each day such an amount as may be fixed by the commissioners court, provided the same shall be reasonably sufficient for such purpose, and in no event shall it be less than forty cents per day nor more than seventy-five cents per day for each prisoner. The net profits shall constitute fees of office and shall be accounted for by the sheriff in his annual report as other fees now provided by law. The sheriff shall in such report furnish an itemized verified account of all expenditures made by him for feeding and maintenance of prisoners, accompanying such report with receipts and vouchers in support of such items of expenditure, and the difference between such expenditures and the amount allowed by the commissioners court shall be deemed to constitute the net profits for which said officer shall account as fees of office.

3. For necessary medical bill and reasonable extra compensation for attention to a prisoner during sickness, such an amount as the commissioners court of the county where the prisoner is confined may determine to be just and proper.

4. For reasonable funeral expenses in case of death. Acts 1923, p. 405.

**Art. 1041. 1143 Guards and matrons**

The sheriff shall be allowed for each guard or matron necessarily employed in the safekeeping of prisoners Two Dollars and Fifty Cents

For Annotations and Historical Notes, see V.A.T.S.

(\$2.50) for each day. No allowance shall be made for the board of such guard or matron, nor shall any allowance be made for jailer or turnkey, except in counties having a population in excess of forty thousand (40,000) inhabitants according to the last preceding Federal Census. In such counties of forty thousand (40,000) or more inhabitants, the Commissioners Court may allow each jail guard, matron, jailer and turnkey Four Dollars and Fifty Cents (\$4.50) per day; provided that in counties having a population in excess of seventy thousand (70,000) inhabitants and less than two hundred and twenty thousand (220,000) inhabitants, according to the last preceding Federal Census, the Commissioners Court of such counties may allow each jail guard, jailer, matron and turnkey a salary of not to exceed One Hundred and Eighty-seven Dollars and Fifty Cents (\$187.50) per month; provided further that, in counties having a population in excess of two hundred and twenty thousand (220,000) inhabitants, according to the last preceding Federal Census, each jail guard, matron, jailer, jail bookkeeper and turnkey shall be paid not less than One Hundred and Seventy-five Dollars (\$175) per month. Acts 1921, p. 231; Acts 1937, 45th Leg., p. 7, ch. 7, § 1; Acts 1941, 47th Leg., p. 843, ch. 518, § 1; Acts 1945, 49th Leg., p. 205, ch. 158, § 1; Acts 1947, 50th Leg., p. 166, ch. 104, § 1.

#### **Art. 1041a. Chief jailer or turnkey**

In all counties in this State having a population of one hundred and forty-five thousand (145,000) inhabitants and not more than three hundred thousand (300,000) inhabitants according to the last or any future Federal Census, the Commissioners Court shall allow the chief jailer and/or turnkey who has the care and custody of persons in the County Jail, not to exceed Eight Dollars (\$8) per day, and shall allow each assistant jailer and/or turnkey who has the care and custody of prisoners in the County Jail, not to exceed Six Dollars and Fifty Cents (\$6.50) per day, and not to exceed four (4) assistant jailers and/or turnkeys and a matron for each jail. Acts 1933, 43rd Leg., 1st C.S., p. 151, ch. 51, § 1, as amended Acts 1947, 50th Leg., p. 1011, ch. 429, § 1.

#### **Art. 1042. 1144, 1099 Sheriff reimbursed**

The sheriff shall pay the expenses of jurors impaneled in cases of felony (except when they are paid by the juror himself), the expenses of employing and maintaining a guard, and to support and take care of all prisoners, for all of which, he shall be reimbursed by the proper county according to the rates fixed in the two preceding articles. O.C. 961.

#### **Art. 1043. 1145, 1100 Sheriff shall present account**

At each term of the district court of his county, the sheriff may present to the district judge presiding his accounts for all expenses incurred by him for food and lodging of jurors in case of trials for felony during the term at which his account is presented. Such account shall state the number and style of the cases in which the jurors were impaneled, and specify by name each juror's expenses paid by such sheriff, and the number of days the same were paid, and shall be verified by the affidavit of such sheriff. O.C. 962.

#### **Art. 1044. 1146, 1101 Judge shall examine account**

Such account shall be carefully examined by the district judge; and he shall approve it, or so much thereof as he finds correct. He shall

write his approval of said account, specifying the amount for which it is approved, date and sign the same officially, and shall cause the same to be filed in the office of the district clerk of the county liable therefor. O.C. 963.

**Art. 1045.** 1147, 1102 Judge shall give sheriff draft

The district judge shall give the sheriff a draft upon the county treasurer of the proper county for the amount of each account allowed by him; and the same, when presented to such treasurer, shall be paid in like manner as jury certificates are paid. O.C. 964.

**Art. 1046.** 1148, 1103 Account for keeping prisoners

At each regular term of the commissioners court, the sheriff shall present to such court his account verified by his affidavit for the expense incurred by him since the last account presented for the safe-keeping and maintenance of prisoners, including guards employed, if any. Such account shall state the name of each prisoner, each item of expense incurred on account of such prisoner, the date of each item, the name of each guard employed, the length of time employed and the purpose of such employment.

**Art. 1047.** 1149, 1104 Court to examine account

The commissioners court shall examine such account and allow the same, or so much thereof as is reasonable and in accordance with law, and shall order a draft issued to the sheriff upon the county treasurer for the amount so allowed. Such account shall be filed and kept in the office of such court.

**Art. 1048.** 1150, 1105 Expenses of prisoner from another county

If the expenses incurred are for the safe-keeping and maintenance of a prisoner from another county, the sheriff shall make out a separate account therefor, and submit the same to the county judge of his county, who shall carefully examine the same, write thereon his approval for such amount as he finds correct and sign and date such approval officially.

**Art. 1049.** 1151, 1106 Draft to sheriff

The account mentioned in the preceding article shall then be presented to the commissioners court of the county liable for the same, at a regular term of such court; and such court shall, if the charges therein be in accordance with law, order a draft issued to the sheriff upon the county treasurer for the amount allowed.

**Art. 1050.** 1152, 1107 In case of change of venue

In all causes where indictments have been presented against persons in one county and such causes have been removed by change of venue to another county, and tried therein, the county from which such cause is removed shall be liable for all expenses incurred for pay for jurors in trying such causes. Acts 1881, p. 52.

**Art. 1051.** 1153, 1108 Account in change of venue

The county commissioners of each county at each regular meeting shall ascertain whether, since the last regular meeting, any person has

been tried for crime upon a change of venue from any other county. If they find such to be the case they shall make out an account against such county from which such cause was removed showing the number of days the jury in such case was employed therein, and setting forth the amount paid for such jury service; such account shall then be certified to as correct by the county judge of such county, under his hand and seal, and be, by him, forwarded to the county judge of the county from which the said cause was removed; which account shall be paid in the same manner as accounts for the safe keeping of prisoners: Acts 1881, p. 52.

### **Art. 1052. 1154-1155 Fees of judge and justice of the peace**

Five Dollars (\$5) shall be paid to the County Judge or Judge of the Court at Law and Four Dollars (\$4) shall be paid to the Justice of the Peace for each criminal action tried and finally disposed of before him. Such Judge or Justices shall present to the Commissioners Court of his county at a regular term thereof a written account specifying each criminal action in which he claims such fee certified by such Judge or Justice to be correct and filed with the County Clerk. The Commissioners Court shall approve such account for such amounts as they find to be correct and order a draft to be issued on the County Treasurer in favor of such Judge or Justice for the amount due said Judge or Justice from the county. The Commissioners Court shall not however pay any account or trial fees in any case tried and in which an acquittal is had unless the State of Texas was represented in the trial of said cause by the County Attorney or his assistant, Criminal District Attorney or his assistant and the certificate of said Attorney is attached to said account certifying to the fact that said cause was tried, and the State of Texas was represented, and that in their judgment there was sufficient evidence in said cause to demand a trial of the same. All fees provided herein which are paid to officers who are compensated on a salary basis shall be paid into the Officers Salary Fund. Acts 1st C.S. 1879, p. 40; Acts 1929, 41st Leg., p. 239, ch. 104, § 1; Acts 1929, 41st Leg., 1st C.S., p. 155, ch. 55, § 1; Acts 1949, 51st Leg., p. 917, ch. 496, § 1, as amended Acts 1953, 53rd Leg., p. 852, ch. 344, § 1.

### **Art. 1053. 1156, 1111 Inquest fee**

A Justice of the Peace shall be entitled, for an inquest on a dead body, including certifying and returning the proceeding to the proper court, the sum of Ten Dollars (\$10), to be paid by the county. When an inquest is held over the dead body of a State penitentiary convict, the State shall pay the inquest fees allowed by law of all officers, upon the approval of the account therefor by the Commissioners Court of the county in which the inquest may be held and by the General Manager of the Texas Prison System. Acts 1876, p. 291; Acts 1883, p. 39; Acts 1917, 1st C.S., p. 52; Acts 1947, 50th Leg., p. 745, ch. 369, § 5.

### **Art. 1054. 1157, 1112 Pay for inquest**

Any officer claiming pay for services mentioned in the preceding article shall present to the commissioners court of the county, at a regular term of such court, an account therefor, verified by the affidavit of such claimant. If such account be found correct the court shall order a draft to issue upon the county treasurer in favor of such claimant for the amount due him. Such account shall be filed and kept in the office of the county clerk.

**Art. 1055.    Half costs paid officers**

The county shall not be liable to the officer and witness having costs in a misdemeanor case where defendant pays his fine and costs. The county shall be liable for one-half of the fees of the officers of the Court, when the defendant fails to pay his fine and lays his fine out in the county jail or discharges the same by means of working such fine out on the county roads or on any county project. And to pay such half of costs, the County Clerk shall issue his warrant on the County Treasurer in favor of such officer to be paid out of the Road and Bridge Fund or other funds not otherwise appropriated. Acts 1895, p. 179; Acts 1937, 45th Leg., p. 1323, ch. 488, § 1; Acts 1939, 46th Leg., p. 143, § 1.

**Art. 1056.    1158-60 Pay of jurors**

(a) Each juror in a district or criminal district court, county court, or county court at law is entitled to receive not less than \$4 nor more than \$10 for each day or fraction of a day that he attends court as a juror.

(b) Each juror in a justice court is entitled to receive \$1 for each criminal case in which he serves as a juror. However, no juror in a justice court may receive more than \$2 for each day or fraction of a day that he attends court as a juror.

(c) Each grand juror is entitled to receive not less than \$4 nor more than \$10 for each day or fraction of a day that he serves as a grand juror.

(d) A person, other than a special venireman or talesman, who responds to the process of a district or criminal district court, county court, or county court at law for petit jury duty, but who is excused from jury service by the court for any cause after being tested on voir dire, is entitled to receive not less than \$4 nor more than \$5 for each day or fraction of a day that he attends court in response to such process.

(e) The commissioners court of each county shall determine annually, within the minimum and maximum prescribed in Subsections (a), (c) and (d) of this Article, the amount of per diem for service as a grand juror or petit juror in a district or criminal district court, county court, or county court at law. All payments for jury service, grand and petit, and in whatever court, shall be made out of the jury fund of the county. Acts 1911, p. 110; Acts 1919, p. 35; Acts 1927, 40th Leg., p. 255, ch. 177, § 1; Acts 1945, 49th Leg., p. 371, ch. 239, § 2, as amended Acts 1953, 53rd Leg., p. 917, ch. 379, § 2; Acts 1955, 54th Leg., p. 593, ch. 201, § 1; Acts 1965, 59th Leg., p. 484, ch. 246, § 2.

**Art. 1057.    Repealed.    Acts 1945, 49th Leg., p. 371, ch. 239, § 4****Art. 1058.    1161 Pay of bailiffs**

Each grand jury bailiff appointed as such bailiff shall receive as compensation for his services the sum of Five (\$5.00) Dollars for each day he may serve, and each riding grand jury bailiff appointed in counties of a population of one hundred fifty thousand (150,000) or more, according to the last Federal Census, shall receive as compensation for his services the sum of Six (\$6.00) Dollars for each day he may serve, and shall further receive One (\$1.00) Dollar per day for automobile expense and upkeep; provided, however, that not more than ten (10) such bailiffs shall be employed at any one time; and providing

further, that the sheriff or deputy sheriff attending any County or District Court in counties of over three hundred fifty thousand (350,000), according to the last preceding Federal Census shall be paid the sum of Six (\$6.00) Dollars for each day the sheriff or deputy sheriff shall serve in any of such said courts as bailiffs, and One (\$1.00) Dollar per day as automobile expense and upkeep for each day he may use said automobile.

The compensation herein provided for shall be paid from the General or Jury Fund of the county affected, as may be determined by the Commissioners Court thereof, upon sworn accounts showing the Court in which or the Grand Jury for which, said Bailiff, Sheriff, or Deputy Sheriff serves, with a statement showing the dates on which the service was performed and the amounts due. No such claim shall be paid until approved by the foreman of the Grand Jury or the Judge of the Court for which the service was performed, and said claim shall be presented to the Commissioners Court or to the County Auditor in counties having a County Auditor, and shall be allowed in the manner provided by law for so much thereof as may be found due, and no warrant in payment of the amount due shall be paid unless countersigned by the County Auditor, if any. Acts 1925, 39th Leg., p. 273, ch. 98, § 1; Acts 1927, 40th Leg., p. 320, ch. 217, § 1; Acts 1927, 40th Leg., 1st C.S., p. 154, ch. 54, § 1; Acts 1931, 42nd Leg., p. 222, ch. 130, § 1; Acts 1935, 44th Leg., p. 476, ch. 192, § 1, as amended Acts 1947, 50th Leg., p. 781, ch. 388, § 1.

**Art. 1058a.      Bailiffs of Court of Civil Appeals**

That the Commissioners court of any county, having a population of 210,000 or more, in which is located a Court of Civil Appeals having its quarters in the County Court House, is authorized to pay out of its General Fund, not exceeding fifty dollars per month, to the Bailiff of such Court of Civil Appeals, or other employee of said Court designated by it, as additional compensation for his services as Custodian of the Court Room, Judges Chambers and Library of such Court of Civil Appeals. Acts 1927, 40th Leg., 1st C.S., p. 154, ch. 54, § 1.

**Art. 1059.      1162, 1117 Certificates for pay**

The amount due jurors and bailiffs shall be paid by the county treasurer, upon the certificate of the proper clerk or the justice of the peace, stating the service, when and by whom rendered, and the amount due therefor.

**Art. 1060.      1163, 1118 Receivable for taxes**

Drafts drawn and certificates issued under the provisions of this chapter may be transferred by delivery, and shall without further action or acceptance by any authority, except registration by the county treasurer, be receivable from the holder thereof at par for all county taxes. O.C. 968.

CHAPTER ONE HUNDRED FIVE  
**COSTS TO BE PAID BY DEFENDANT**

1. IN DISTRICT AND COUNTY COURTS

Art.

- 1061. District and county attorneys.
- 1062. Joint defendants.
- 1063. Attorney appointed.
- 1064. District and county clerks.

2. JURY AND TRIAL FEES

- 1075. Jury fee in justice court.
- 1076. Several defendants.
- 1077. Jury fee collected.

3. WITNESS FEES

- 1078. Fees of witnesses.
- 1079. Taxed against defendant.
- 1080. No fees allowed.
- 1081. Witness record.
- 1082. Witness liable for costs.

1. IN DISTRICT AND COUNTY COURTS

**Art. 1061. 1168, 1123 District and county attorneys**

District and county attorneys shall be allowed the following fees in cases tried in the district or county courts, or a county court at law, to be taxed against the defendant:

For every conviction under the laws against gaming when no appeal is taken, or when on appeal, the judgment is affirmed, Fifteen Dollars (\$15.00);

“For every other conviction in cases of misdemeanor, where no appeal is taken, or when, on appeal the judgment is affirmed, Fifteen Dollars (\$15.00). Acts 1876, p. 284; Acts 1955, 54th Leg., p. 1112, ch. 410, § 1.

**Art. 1062. 1170, 1124 Joint defendants**

Where several defendants are tried together, but one fee shall be allowed and taxed in the case for the district or county attorney. Where the defendants sever and are tried separately, a fee shall be allowed and taxed for each trial.

**Art. 1063. 1171, 1125 Attorney appointed**

An attorney appointed by the court to represent the State in the absence of the district or county attorney shall be entitled to the fee allowed by law to the district or county attorney.

**Art. 1064. 1172, 1126 District and county clerks**

The following fees shall be allowed the clerks of the district and county courts:



1. For issuing each *capias* or other original writ, seventy-five cents.
2. For entering each appearance, fifteen cents.
3. For docketing cause, to be charged but once, twenty-five cents.
4. For swearing and impaneling a jury, and receiving and recording the verdict, fifty cents.
5. For swearing each witness, ten cents.
6. For issuing each subpoena, twenty-five cents.
7. For each additional name inserted therein, fifteen cents.
8. For issuing each attachment, fifty cents.
9. For entering each order not otherwise provided for, fifty cents.
10. For filing each paper, ten cents.
11. For entering judgment, fifty cents.
12. For entering each continuance, twenty-five cents.
13. For entering each motion or rule, ten cents.
14. For entering each recognizance, fifty cents.
15. For entering each indictment or information, ten cents.
16. For each commitment, one dollar.
17. For each transcript on appeal, for each one hundred words, ten cents.

## 2. JURY AND TRIAL FEES

### **Art. 1075.    1185, 1135 Jury fee in justice court**

If the defendant is convicted in a criminal action tried by a jury in a justice court, a jury fee of three dollars shall be taxed against him.

### **Art. 1076.    1186, 1136 Several defendants**

Only one jury fee shall be taxed against several defendants tried jointly. A jury fee shall be taxed in each trial if they sever and are tried separately.

### **Art. 1077.    1187, 1137 Jury fee collected**

A jury fee shall be collected as other costs in a case, and the officer collecting it shall forthwith pay it to the county treasurer of the county where the conviction was had.

## 3. WITNESS FEES

### **Art. 1078.    1188, 1138 Fees of witnesses**

Witnesses in criminal cases shall be allowed one dollar and fifty cents a day for each day they are in attendance upon the court, and six cents for each mile they may travel in going to or returning from the place of trial.

### **Art. 1079.    1189, 1139 Taxed against defendant**

Upon conviction, the costs accruing from the attendance of witnesses shall be taxed against the defendant, upon the affidavit of such witness, or of some credible person, stating the number of days that such witness has attended upon the court in the case, and the number of

miles he has traveled in going to and returning from the place of trial. The affidavit shall be filed with the papers in the case. O.C. 457.

**Art. 1080.**      **1190, 1140 No fees allowed**

No fees shall be allowed to a person as a witness fees unless such person has been subpoenaed, attached or recognized as a witness in the case.

**Art. 1081.**      **1191, 1141 Witness record**

Each clerk of the district and county court or county court at law, and each justice of the peace, shall keep a book, in which shall be entered the number and style of each criminal action in their respective courts, and the name of each witness subpoenaed, attached or recognized to testify therein, showing whether on the part of the State or the defendant.

**Art. 1082.**      **1192, 1142 Witness liable for costs**

In any criminal case where a witness has been subpoenaed and fails to attend, he shall be liable for the costs of an attachment, unless good cause be shown to the court why he failed to obey the subpoena. O.C. 979.

## CROSS REFERENCE TABLE

Listing in Column 1 all articles in the Texas Code of Criminal Procedure of 1925, as amended and supplemented through the 1965 Regular Session of the Texas Legislature.

Showing in Column 2 where the subject matter of articles listed in Column 1 is incorporated in the new Vernon's Texas Code of Criminal Procedure or in Vernon's Texas Civil Statutes.

References in Column 2 are to 1965 C.C.P. Articles unless otherwise indicated.

1925 C.C.P. Article	1965 C.C.P. Article	1925 C.C.P. Article	1965 C.C.P. Article
1	1.03	45	2.21
2	1.04	46	2.22
3	1.05	47	2.23
4	1.06	48	3.01
4a, 4b	Repealed 1929	49	3.02
5	1.07	50	3.03
6	1.08	51	4.01
7	1.09	52	Civ.St. 1926-1
8	1.10	52-1 to 52-7	Civ.St. 1926-11
9	1.11	52-8 to 52-11	Civ.St. 1926-13
10	1.12	52-12	Civ.St. 1926-12
10a	1.13	52-13	Civ.St. 1926-13
11	1.14	52-14	Civ.St. 1926-13
12	1.15	52-15	See Civ.St. 199 (14th and 86th Dists.)
13	1.16	52-16 to 52-22	Civ.St. 1926-21
14	1.17	52-23	Civ.St. 1926-26
15	1.18	52-24	Civ.St. 1926-27
16	1.19	52-24a	Civ.St. 1926-22
17	1.20	52-24b	Civ.St. 1926-16
18	1.21	52-24c	Civ.St. 1926-14
19	1.22	52-24d	Civ.St. 1926-15
20	1.23	52-25 to 52-48	Civ.St. 1926-31
21	1.24	52-49 to 52-61	Civ.St. 1926-51
22	1.25	52-61a	Civ.St. 199 (147th Dist.)
23	1.26	52-62	See Civ.St. 199 (28th and 107th Dists.)
24	1.27	52-63	Civ.St. 1926-41
25	2.01	52-64	Civ.St. 1926-42
26	2.02	52-65 to 52-80	Civ.St. 1926-41
27	2.03	52-81 to 52-87	Civ.St. 1926-42
28	2.04	52-87a 1 to 52-87a 10a	Civ.St. 1926-43
29	2.05	52-87b	Civ.St. 1926-44
30	2.06	52-88	Civ.St. 1960-1
31	2.07	52-89	Civ.St. 1960-2
32	2.08	52-90	Civ.St. 1960-3
33	2.09	52-91	Civ.St. 1960-4
34	2.10	52-92 to 52-104	See Civ.St. 1970-1 to 1970-14
35	2.11	52-105 to 52-117	Civ.St. 1970-301g
36	2.12	52-118 to 52-124	See Civ.St. 1970-76 et seq.
37	2.13		
38	2.14		
39	2.15		
40	2.16		
41	2.17		
42	2.18		
43	2.19		
44	2.20		

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1925 C.C.P. Article	1965 C.C.P. Article	1925 C.C.P. Article	1965 C.C.P. Article
52-125 to 52-140	See Civ.St. 1970-95 et seq.	95	8.01
52-141 to 52-144	See Civ.St. 1970-111 et seq.	96	8.02
52-145 to 52-156	Repealed 1933	97	8.03
52-157	Civ.St. 2455-1	98	8.04
52-158	Civ.St. 1926-32	99	8.05
52-158a	Civ.St. 1926-33	100	8.06
52-158b	Civ.St. 1926-34	101	8.07
52-158c	Civ.St. 1926-35	102	8.08
52-159	Civ.St. 1970-31.10	103	8.09
52-159a	Civ.St. 1970-31.11	104	9.01
52-159b	Civ.St. 1970-31.12	105	9.02
52-159c	Civ.St. 1970-31.20	106	9.03
52-160	Civ.St. 1926-61	107	9.04
52-160a	Civ.St. 1926-62	108	9.05
52-160b	Civ.St. 1926-63	109	9.06
52-161	See Civ.St. 199 (37th Dist.)	110	10.01
53	4.03	111	10.02
53a	4.04	112	10.03
54	4.05	113	11.01
55	4.06	114	11.02
56	4.07	115	11.03
57	4.08	116	11.04
58	4.09	117	11.05
59	4.10	118	11.06
60	4.11	119	11.07
60a	4.12	120	11.08
60a-1		121	11.09
60a-2		122	11.10
61	4.13	123	11.11
62	4.14	124	11.12
63	4.15	125	11.13
64	4.16	126	11.14
65	5.01	127	11.15
66	5.02	128	11.16
67	5.03	129	11.17
68	5.04	130	11.18
69	5.05	131	11.19
70	5.06	132	11.20
71	5.07	133	11.21
72	6.01	134	11.22
73	6.02	135	11.23
74	6.03	136	11.24
75	6.04	137	11.25
76	6.05	138	11.26
77	6.06	139	11.27
78	6.07	140	11.28
79	7.01	141	11.29
80	7.03	142	11.30
81	7.04	143	11.31
82	7.05	144	11.32
83	7.06	145	11.33
84	7.07	146	11.34
85	7.08	147	11.35
86	7.09	148	11.36
87	7.10	149	11.37
88	7.11	150	11.38
89	7.12	151	11.39
90	7.13	152	11.40
91	7.14	153	11.41
92	7.15	154	11.42
93	7.16	155	11.43
94	7.17	156	11.44
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		158	11.46

## CROSS REFERENCE TABLE

1925 C.C.P. Article	1965 C.C.P. Article	1925 C.C.P. Article	1965 C.C.P. Article
159	11.47	223	15.06
160	11.48	224	15.07
161	11.49	225	15.08
162	11.50	226	15.09
163	11.51	227	15.10
164	11.52	228	15.11
165	11.53	229	15.12
166	11.54	230	15.13
167	11.55	231	15.14
168	11.56	232	15.15
169	11.57	233	15.16
170	11.58	234	
171	11.59	235	15.18
172	11.60	236	15.19
173	11.61	237	15.20
174	11.62	238	15.21
175	11.63	239	15.22
176	11.64	240	15.23
177	12.01	241	15.24
178	12.02	242	15.25
179	12.03	243	15.26
180	12.04	244	15.27
181	12.05	245	16.01
182	12.06	246	16.02
183	12.07	247	16.03
184	12.08	248	16.04
185	12.09	249	16.05
186	13.01	250	16.06
187	13.02	251	16.07
188	13.03	252	16.08
189	13.04	253	16.09
190	13.05	254	16.10
191	13.06	255	16.11
192	13.07	256	16.12
193	13.08	257	16.13
194	13.09	258	16.14
195	13.10	259	16.15
196	13.11	260	16.16
197	13.12	261	16.17
198	13.13	262	16.18
199	13.14	263	16.19
200	13.15	264	16.20
201	13.16	265	16.21
202	13.17	266	
203	13.18	267	17.01
204	13.19	268	
205	13.20	269	17.02
206	13.21	270	17.05
207	13.22	271	
208	13.23	271a	17.06
209	13.24	271b	17.07
210	13.25	272	
211	13.26	273	17.08
212	14.01	274	17.38
213	14.02	275	
214	14.03	275a	17.09
215	14.04	276	17.10
216	14.05	277	17.11
217	14.06	278	17.12
218	15.01	279	17.13
219	15.02	280	17.14
220	15.03	281	17.15
221	15.04	282	17.16
222	15.05	283	17.17

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1925 C.C.P. Article	1965 C.C.P. Article	1925 C.C.P. Article	1965 C.C.P. Article
284	17.18	345	19.14
285	17.19	346	19.15
286	17.20	347	19.16
287	17.21	348	19.17
288	17.22	349	19.18
289	17.23	350	19.19
290	17.24	351	19.20
291	17.25	352	19.21
292	17.26	353	19.22
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403	21.09	468	24.08
404	21.10	469	24.09
405	21.11	470	24.10
406	21.12	471	24.11
407	21.13	472	24.12
408	21.14	473	24.14
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417	21.24	483	24.24
418	21.25	484	24.25
419	21.26	485	24.26
420	21.27	486	24.27
421	21.28	486a	24.28
422	21.29	487	25.01
423	21.30	488	25.02
424	22.01	489	25.03
425	22.02	490	25.04
426	22.03	491	26.01
427	22.04	492	26.02
428	22.05	493	26.03
429	22.06	494	26.04
430	22.07	494a	26.05
431	22.08	494b	26.06
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442	23.02	505	27.02
445	23.05	506	27.03
446	23.06	507	27.04
447	23.07	508	27.05
448	23.08	509	27.06
449	23.09	510	27.07
450	23.10	511	27.08
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525	28.12	589	34.01 note
526	28.03	590	34.01 note
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528	28.05	592	34.01 note
529	28.06	593	34.01 note
530	28.07	594	34.01 note
531	28.08	595	34.01 note
532	28.09	596	34.02
533	28.10	597	34.01
534	28.11	598	34.01 note
535	28.12	599	34.03 note
536	28.13	600	34.04 note
537	28.14	601	34.04
538	29.01	601a	34.01
539	29.02	602	35.01
540	29.03	603	35.02
541	29.04	604	35.03
542	29.05	605	35.04
543	29.06	606	35.05
544	29.07	607	35.06
545	29.08	608	35.07
546		609	35.08
547	29.09	610	35.09
548	29.10	611	35.10
549	29.11	612	35.12
550	29.12	613	35.13
551	29.13	614	35.14
552	30.01	615	35.15
553	30.02	616	35.16
554	30.03	617	35.18
555	30.04	618	35.18 note
556	30.05	619	35.19
557	30.06	620	35.20
558	30.07	621	35.21
559	30.08	622	35.22
560	31.01	623	35.23
561	31.02	624	35.26 note
562	31.03	625	35.24
563	31.03 note	626	33.09
564	31.03 note	627	35.11 note
565	31.03 note	628	35.11 note
566	31.03 note	629	35.11 note
567	31.04	630	35.16 note
568	Repealed 1926	631	33.09 note
569	31.03 note	632	35.16 note
570	31.05	633	35.14 note
571	31.05 note	634	35.15
572	31.05 note	635	35.15
573	31.06	636	35.25
574	31.06 note	637	35.26
575	31.07	638	33.09 note
576	32.01	639	35.22 note
577	32.02	640	33.09 note
578	33.01	641	35.07 note
579	33.02	642	36.01
580	33.03	643	36.02
581	33.04	644	36.03
582	33.05	645	36.04
583	33.06	646	36.05
584	33.07	647	36.06
585	33.08	648	36.07
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653	36.09 note	717	38.13
654	36.09 note	718	38.14
655	36.11	719	38.06 note
656	36.12	720	38.15
657	36.13	721	38.16
658	36.14	722	38.17
659	36.15	723	38.18
660	36.16	724	38.19
661	36.17	725	38.20
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663	Repealed 1953	727	38.22
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667	36.20	730	38.26
668	35.23 note	731	38.27
669	35.23 note	732	38.28
670	36.21	732a	38.29
671	36.22	733	38.30
672	36.23	733a	38.31
673	36.24	734	39.01
674	36.25	735	39.02
675	36.26	736	39.03
676	36.27	737	39.09
677	36.27 note	738	39.09
678	36.28	739	39.04
679	36.27 note	740	39.05
680	36.29 note	741	39.02 note
681	36.30	742	39.06
682	36.31	743	39.07
683	36.32	744	39.08
684	36.33	745	39.01 note
685	36.27 note	746	39.01 note
686	37.01	747	39.01 note
687	36.29 note	748	39.10
688	37.02	749	39.12
689	37.03	750	39.01 note
690	37.04	751	40.01
691	37.05	752	40.02
692	37.06	753	40.03
693	37.07	754	40.04
694	37.08	755	40.05
695	37.09	756	40.05 note
696	37.10	757	40.06
697	37.11	758	40.07
698	37.12	759	40.08
699	37.07 note	759a	40.09 note
700	37.13 note	760	Repealed 1951 as "originally enacted"
701	37.13	760a	40.09 note
702	37.14	760b	40.09 note
703	38.01	760c	40.10
704	38.02	760d	40.09 note
705	38.03	760e	40.09 note
706	38.04	761	41.01
707	38.05	762	41.02
708	38.06	763	41.03
709	38.07	764	41.04
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769	42.04	818	44.04
770	42.05 note	819	44.05
771	42.05 note	820	44.06
772	42.06	821	44.07
772	42.06	822	44.08
773	42.07	823	40.09 note
774	42.08	824	44.09
775	42.09	825	44.10
775a	Repealed 1957	826	44.02 note
776	42.12 note	827	44.08
776a	42.12 note	828	44.11
777	42.12 note	829	44.02 note
778	42.12 note	830	44.04 note
779	42.12 note	831	44.04 note
780	42.12 note	832	44.12
781	42.12 note	833	44.13
781a	42.10	834	44.14
781b	Repealed 1957	835	44.15
781b-1	Civ.St. 2292-1	836	44.16
781b-2	Civ.St. 2292-2	837	44.17
781c	42.11	838	44.18
781d	42.12	839	44.19
782	42.14	840	44.20
783	42.15	841	40.09 note
784	42.16	842	40.09 note
784a	42.13 note	843	40.09 note
785	43.01	844	44.21
786	43.02	845	44.22
787	43.03	846	44.23
788	43.04	847	44.24
789	43.05	848	44.25
790	43.06	849	44.26
791	43.07	850	44.27
792	43.08	851	44.28
793	43.09	852	44.29
793a	Unconstitutional 1939	853	44.30
794	43.10	854	44.31
794a	Unconstitutional 1939	855	44.32
794b	Unconstitutional 1939	856	44.33
794c	Unconstitutional 1939	857	44.34
794d	Unconstitutional 1939	857a	44.35
795	43.11	858	44.36
796	43.12	859	44.37
797	43.13	860	44.38
798	43.14	861	44.39
799	43.15	862	44.40
800	43.16	863	44.41
801	43.17	864	44.42
802	43.18	865	44.43
803	43.19	866	44.44
804	43.20	867	45.01
805	43.21	868	45.02
806	43.22	869	45.03
807	43.23	870	45.04
808	43.24	871	45.05
809	43.25	872	45.06
810		873	45.07
811	43.26	874	45.08
812	44.01	875	45.09
813	44.02	876	45.10
814	44.03	877	45.11
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881	45.15	949	1006
882	45.16	950	1007
883	45.17	951	1008
884	45.18	952	48.01
885	45.19	953	48.01 note
886	52.01 note	954	48.01
887	52.05 note	955	48.01 note
888	45.20	956	48.01 note
889	45.21	957	48.02
889a	45.22	958	48.03
890	45.23	959	
891	45.24	to	
892	45.25	966	Repealed 1957
893	45.26	967	48.05
894	45.27	968	49.01
895	45.28	969	49.02
896	45.29	970	49.03
897	45.30	970a	49.04
898	45.31	970b	49.05
899	45.32	971	49.06
900	45.33	972	49.07
901	45.34	973	49.08
902	45.35	974	49.09
903	45.36	975	49.10
904	45.37	976	49.11
905	45.38	977	49.12
906	45.39	978	49.13
907	45.40	979	49.14
908	45.41	980	49.15
909	45.42	981	49.16
910	45.43	982	49.17
911	45.44	983	49.18
912	45.45	984	49.19
913	45.46	985	49.20
914	45.47	986	49.21
915	45.48	987	49.22
916	45.49	988	49.23
917	45.50	989	49.24
918	45.51	989a	49.25
919	45.52	990	50.01
920	45.53	991	50.02
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932	Repealed 1957	994	50.05
932-1	46.01	995	50.06
932-2		996	50.07
932a	Repealed 1957	997	51.01
932b	46.02	998	51.02
933	47.01	999	51.03
934	47.02	1000	51.04
935	47.03	1001	51.05
936	47.04	1002	51.06
937	47.05	1003	51.07
938	47.06	1004	51.08
939	47.07	1005	51.09
940	47.08	1006	51.10
941	47.09	1007	51.11
942	47.10	1008	51.12
943	47.11	1008a	51.13
944	1001	1009	1009
945	1002	1010	1010
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1013	1013	1050	1050
1014	1014	1051	1051
1015	1015	1052	1052
1016	1016	1053	1053
1017	1017	1054	1054
1018	1018	1055	1055
1019	1019	1056	1056
1019a	1019a	1057	Repealed 1945
1020	1020	1058	1058
1021	1021	1058a	1058a
1022	1022	1059	1059
1023	1023	1060	1060
1024	1024	1061	1061
1025	1025	1062	1062
1026	1026	1063	1063
1027	1027	1064	1064
1028	1028	1065	53.01
1029	1029	1066	Repealed 1929
1030	1030	1067	53.02
1030a	1030a	1068	53.03
1031	1031	1069	53.03 note
1032	1032	1070	53.03 note
1033	1033	1071	53.07 note
1034	1034	1072	53.04
1035	1035	1073	53.05
1036	35.27	1074	53.06
1037	1037	1075	1075
1038	1038	1076	1076
1039	1039	1077	1077
1040	1040	1078	1078
1041	1041	1079	1079
1041a	1041a	1080	1080
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18	51	2	7589b, §§ 9-15	45	117	4	Severability
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397	819	1	3222b—1	423	868	2	Emergency
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447	910	1	2922-13, subsec. (4)	472	978	5	Emergency
447	910	2	2922-15, § 1	473	979	1, 2	6819a-41
447	910	3	Emergency	473	979	3	Emergency
448	912	1-12	2654-3d	474	980	1	7152
448	912	13	2654-3d note	474	980	2	Emergency
448	912	14	Severability	475	981	1-4	5561d
448	912	15	Emergency	475	981	4a	Severability
449	915	1	6036c	475	981	5	Emergency
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449	915	4	Emergency	476	983	3	Severability
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454	919	1-19	4494q-34	479	992	2	Emergency
454	919	20	Emergency	480	994	1	3726a
455	926	1-16	678f	480	994	2	Emergency
455	926	16	670-672, 679-683 Repealed	481	995	1	P.C. 978f-7
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455	926	17	Severability	482	996	1	4602
455	926	18	678f note	482	996	2	Emergency
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456	941	1	1937	483	996	5	Emergency
456	941	2	Repealer	484	997	1	3886b-1
456	941	3	Severability	484	997	2	Emergency
456	941	4	Emergency	485	998	1	5561c, § 4(c)
457	942	1	P.C. 1436e	485	998	2	Emergency
457	942	2	Emergency	486	999	1	1970-310 note
458	944	1	1659	486	999	2	199-107, § 5a Repealed
458	944	2	Emergency				
460	945	1-20	4494q-35	486	999	3	Emergency
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461	954	1-17	4494q-36	487	999	2	3883i note
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462	962	4	Emergency	489	1002	1	5139E-2
463	963	1	2103b, § 1	489	1002	2	Emergency
463	963	2	Emergency	490	1003	1	2654e, § 1(h)
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464	964	2	5921a Repealed	490	1003	3	Severability
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495	1010	2	1984 Repealed	527	1095	1	2094, subsec. (j)
495	1010	3	1985	527	1095	2	Emergency
495	1010	4	Emergency	528	1096	1-20	8280-311
496	1011	1	1970-348, § 2	528	1096	21	Emergency
496	1011	2	Emergency	529	1105	—	7880-1 note
497	1012	1	1934a-15, § 1(c)	530	1106	1	8280-202, § 1
497	1012	2	Emergency	530	1106	2	8280-202, § 2
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498	1012	7	Emergency	530	1106	4	8280-202, § 6
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500	1016	1	2700c	530	1106	6	8280-202, § 14
500	1016	2	Emergency	530	1106	7	Severability
501	1017	1, 2	2776a	530	1106	8	Emergency
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502	1017	1-3	1970-75a	531	1125	12	Emergency
502	1017	4	Emergency	532	1129	1-10	8280-313
503	1019	1-4	2351g-1	532	1129	11	Emergency
503	1019	4	2351g Repealed	533	1132	1-11	8280-314
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505	1021	1	139, subsec. 2	536	1140	1	4494q-28
505	1021	2	Emergency	536	1140	2	Emergency
506	1021	1	2688m	537	1142	1-22	2338-20
506	1021	2	Emergency	537	1142	23	Severability
507	1022	1-7	P.C. 1176a	537	1142	24	Emergency
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516	1053	1	2351a-5	546	1158	11	Emergency
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517	1054	45	Emergency	548	1161	1-16	5441d
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556	1202	1-17	8280—316	580	1262	2	Tax-Gen. 7.01, § (15)
556	1202	18	Emergency	580	1262	3	Tax-Gen. 7.09
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557	1207	4	Emergency	580	1262	4B	Tax-Gen. 7.23, § (2) Repealed
558	1210	—	8194 note	580	1262	5	Emergency
559	1212	1-11	8280—317	581	1267	1-4	3213a
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607	1336	1	279	637	1450	1	Tax-Gen. 1203
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665	1525	2	695j, § 1, subpar. (j)	680	1569	1	3883i, § 18
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665	1525	4	695j note	681	1570	1	P.C. 666-17, subsec. (14), pars. (b) (c)
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669	1531	3	Emergency	685	1579	1	2792
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670	1532	3	Emergency	685	1579	4	Emergency
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676	1540	3	Emergency	690	1601	4	Emergency
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693	1619	2	7083a, § 2, subsec. (6)	706	1641	1-6	2688i-1
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## ABBREVIATIONS

Bus Corp	Business Corporation Act.
Const	Constitution.
Elec Code	Election Code.
Ins Code	Insurance Code.
PC	Penal Code.
Prob Code	Probate Code.
RCP	Rules of Civil Procedure.
Tax-Gen	Taxation-General.

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